

Review of Food Estate Legal Policy in Maintaining Food Sovereignty Based on State Obligations

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Abstract

This study analyzes the legal framework of Indonesia's Food Estate policy, evaluating its alignment with the constitutional mandate of Food Sovereignty and State Obligations. Employing normative legal research with Regulatory Impact Assessment (RIA) and ROCCIPI frameworks, the study diagnoses regulatory disharmony and effectiveness. The findings reveal a fundamental paradigm shift from "Food Sovereignty" to "Food Security" within the Food Estate regulations, characterized by a corporate-centric approach that marginalizes local farmers. The research identifies critical vertical and horizontal disharmonies, particularly between the Forestry Law and implementing regulations, which facilitate land conversion in protected forests and weaken environmental safeguards through "Fast KLHS" mechanisms. This creates a "state of exception" that risks repeating historical ecological failures. The study concludes that the current policy contains structural legal flaws violating the state's obligation to respect and protect human rights. It recommends an immediate moratorium on land



clearing in protected areas, regulatory harmonization, and a strategic pivot towards a community-based food sovereignty model.

KEYWORDS

Food Estate, Food Sovereignty, State Obligation, RIA, ROCCUPI.

Introduction

Food is the most fundamental human right, a main pillar for individual survival and the foundation of a country's stability and sovereignty. Without food, other human rights become difficult, even impossible, to enjoy. Universal recognition of the right to food is not only rooted in human morality, but also firmly codified in various international legal instruments that are binding on countries around the world. The 1948 Universal Declaration of Human Rights (UDHR), through Article 25, explicitly states that everyone has the right to a standard of living adequate for the health and well-being of themselves and their families, which explicitly includes food, clothing, housing, and health care.¹

This recognition was later reinforced and given legal force through the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11 of the Covenant not only recognizes the right to an adequate standard of living, including adequate food, but also affirms "the fundamental right of everyone to be free from hunger."² Indonesia, as a state party that has ratified this covenant through Law No. 11 of 2005, bears the legal responsibility to realize this right for all its people.³

¹ United Nations, "Universal Declaration of Human Rights | United Nations," <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

² United Nations, "General Comment No. 12 on the Right to Adequate Food," <https://www.ohchr.org/en/documents/general-comments-and-recommendations/ec1219995-general-comment-no-12-right-adequate-food>.

³ Ade C Mutaqin, "Kerangka Hukum Hak Atas Pangan Dan Gizi Di Indonesia," *Jakarta: FIAN Indonesia*, 2018.

More than just calorie availability or satisfying momentary hunger, General Comment No. 12 of the United Nations Committee on Economic, Social and Cultural Rights - CESCR) elaborates on the normative content of the right to food, which includes the aspects of adequacy, availability, accessibility, and sustainability.⁴ This authoritative document affirms that the right to food is realized when every man, woman, and child, individually and in community, has physical and economic access at all times to adequate food or means for its acquisition. States have an obligation to progressively fulfill this right, to the extent that available resources permit.⁵

This holistic understanding emphasizes that fulfilling the right to food is not merely a technical matter of agricultural production, but rather a complex legal obligation that requires states to ensure that food not only exists, but is also safe, nutritious, physically and economically accessible without discrimination, and culturally acceptable. In Indonesia, this guarantee is internalized in the constitution, the 1945 Constitution of the Republic of Indonesia (UUD 1945), specifically Article 28H Section (1), which guarantees the right to physical and spiritual prosperity, and is articulated specifically in Law Number 18 of 2012 concerning Food. The preamble to this law explicitly states that food security is part of the human rights guaranteed by the constitution, placing the state in a central position as the main responsible party.⁶ Thus, every food policy formulated by the state must always be guided by and measured against these universal and constitutional normative standards.

In the Indonesian national context, the discourse on food converges on a noble ideal that goes beyond merely fulfilling basic needs, namely food sovereignty. This concept needs to be clearly distinguished from Food Security. Food Security, as conventionally understood and defined by the

⁴ Pribadi Pribadi and Dian Pratiwi, "Pelatihan Hak Atas Pangan Dan Gizi Pada Masyarakat Dalam Mendukung Pembelaan Terhadap Hak Asasi Manusia," *Jurnal Abdimas Mandiri* 7, no. 2 (2023): 94–104.

⁵ Pribadi and Pratiwi Pribadi and Pratiwi.

⁶ Republik Indonesia, "UU No 18 Tahun 2012 Tentang Pangan" (2012).

FAO, focuses more on the fulfillment of food for the country and for individuals, which is reflected in the availability of sufficient food, both in terms of quantity and quality, that is safe, diverse, nutritious, evenly distributed, and affordable.⁷ In this paradigm, the origin of food is secondary; fulfillment can be achieved either through domestic production or imports, as long as the supply is available in the market and affordable to the purchasing power of the people.⁸

On the contrary, Food Sovereignty offers a more fundamental and political vision. This concept, which has been championed by global peasant movements such as La Via Campesina since 1996, emphasizes the right of people to determine their own food and agricultural systems, as well as the right to produce food independently.⁹ Law No. 18 of 2012 on Food defines it as the right of the state and nation to independently determine food policies that guarantee the right to food for the people and that give the community the right to determine a food system that is in line with local resource potential.¹⁰ The placement of Food Sovereignty as the main principle in Article 3 of the law, above Food Independence and Food Security, is not without meaning; it is a legal and political declaration that the way food is produced and distributed, namely independently, sovereignly, and based on local potential, has a higher priority than simply the availability of food itself. This ideal affirms that Indonesia not only wants to be a nation that is well-fed, but also a sovereign nation that has full control over its own food system, free from intervention and dependence on global market mechanisms that are often unfair and volatile.¹¹ However, achieving this

⁷ Jonathan Siborutorop, "An Analysis of Indonesia's National Food Estate Programme From a Food Sovereignty-Based Perspective.," *Jurnal Politik Indonesia* 9, no. 2 (2023).

⁸ Penabulu Foundation, *Desk Review TANTANGAN PANGAN DAN ENERGI INDONESIA MASA DEPAN*, Penabulu Foundation, 2020, <https://researchinstitute.penabulufoundation.org/wp-content/uploads/2020/10/Desk-Review-Food-And-Energy-9-Oktober-2020.pdf>.

⁹ Manoj Misra, "La Via Campesina: Globalization and the Power of Peasants," *Social Movement Studies* 9, no. 3 (August 1, 2010): 353–54, <https://doi.org/10.1080/14742837.2010.493681>.

¹⁰ Nurbaya, *Kumande Samaturu'berdaulat Pangan Di Kaluppini* (BRIN, 2023).

¹¹ Mohammad Djafar Hafsa, "Ketahanan Pangan Menuju Kedaulatan Pangan Bagi Indonesia Adalah Keniscayaan," *JURNAL 'ULŪM AL-QUR'ĀN: Ilmu Pengetahuan Dan Masyarakat Madani* 1, no. 1 (2024): 41–60.

goal faces serious challenges, such as the high rate of conversion of productive agricultural land, the crisis of farmer regeneration, environmental degradation, and dependence on imports for several strategic commodities (such as wheat, soybeans, and beef), which collectively threaten the foundations of national food sovereignty.¹² The tension between the desire for self-sufficiency and the reality of import dependency often triggers reactive and short-term policies.

The realization of food sovereignty is not a natural process, but rather requires active, planned, and accountable intervention from the state. This is where the theoretical foundation regarding the obligations of the state becomes relevant as a normative benchmark. First, from the perspective of Welfare State theory, Indonesia is constitutionally designed as a state that has an absolute responsibility to ensure the welfare of its people. Within this framework, the state cannot be passive, but must be actively present to guarantee the fulfillment of the fundamental rights of its citizens, ranging from the availability of food and nutrition to access to health, education, and housing.¹³ This concept, which is rooted in the thinking of the nation's founders, rejects the passive notion of a night watchman state (*nachtwachterstaat*).¹⁴ This mandate is clearly stated in the fourth section of the Preamble to the 1945 Constitution to "promote general welfare" and is operationalized through various articles, one of which is Article 33 section (3), which states that the earth, water, and natural resources are controlled by the state and used for the greatest prosperity of the people, as well as Article 34 section (1), which states that "The poor and neglected children are cared for by the state".¹⁵ This constitutional mandate places the fulfillment

¹² Rahmad Supriyanto, Asmara Maharani, and Aditya Alta, "Indonesia's Food Estate in Context: Bridging Past, Present and Future for National Food Security," 2025.

¹³ Laga. Sugiarto and Arif Hidayat, *Hukum Administrasi Negara Teori Dasar Regulatory State & Public Service*, 1st ed. (UNNESPRESS, 2025).

¹⁴ Bismar Nasution, "Position of Employees in the State-Owned Enterprises in Achieving a Welfare State," in *E3S Web of Conferences*, vol. 52 (EDP Sciences, 2018), 8.

¹⁵ Afgha Okza Eriranda and Eny Kusdarini, "Makna Welfare State Ditinjau Dari Implementasi Pasal 34 Ayat (1) Undang-Undang Dasar 1945," *Jurnal Hukum IUS QUIA IUSTUM* 31, no. 3 (2024): 560–84.

of basic rights, including the right to food, not as a policy option or charity, but as an inherent obligation of the state.

This constitutional obligation is reinforced and further detailed by the theory of State Obligations in international human rights law. This theory articulates the responsibilities of the state into three interrelated levels of obligation: the obligation to respect, protect, and fulfill.¹⁶ Starting from the obligation to respect, states are required not to take actions that obstruct or destroy existing community access to food, for example by not forcibly evicting citizens from their agricultural land.¹⁷ Then, the obligation to protect requires the state to take regulatory and law enforcement measures to prevent third parties, such as corporations or other individuals, from violating the food rights of citizens, for example by preventing environmental pollution that damages food sources or market monopolies. Meanwhile, the obligation to fulfill requires the state to proactively take legislative, administrative, budgetary, and promotional measures to facilitate the community in meeting their food needs, and to provide food directly to those who are unable to meet their own needs for reasons beyond their control (such as natural disasters or structural poverty).¹⁸ The combination of the Welfare State mandate of the 1945 Constitution and the State Obligation framework of international law creates a comprehensive double standard. The state is not only obliged to act for the welfare of its people, but its actions must also be in line with the principles of respect for and protection of human rights.

As a manifestation of its efforts to fulfill this national obligation, the Indonesian government launched the Food Estate program as one of its

¹⁶ United Nations, "International Human Rights Law," <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>, n.d.

¹⁷ Rizky Ramadhani Kurniawan, "Urgensi Pengaturan Citizen Lawsuit Terhadap Permasalahan Lingkungan Dalam Kerangka Hak Asasi Manusia (Studi Terhadap Bencana Asap Tahunan Di Provinsi Riau)" (Universitas Islam Indonesia, 2016), <https://dspace.uui.ac.id/handle/123456789/8548>.

¹⁸ United Nations, "About the Right to Food and Human Rights," <https://www.ohchr.org/en/special-procedures/sr-food/about-right-food-and-human-rights>, n.d.

National Strategic Projects (PSN). This status was institutionalized within the framework of national development planning, namely the 2020-2024 National Medium-Term Development Plan (RPJMN), which is regulated through Presidential Regulation No. 18 of 2020. This program is designed as a large-scale integrated food development program, covering agriculture, plantations, and livestock farming in one area, with the main objective of strengthening national food reserves and security.¹⁹ This policy was rolled out with strong arguments of urgency, particularly as an anticipatory response to the potential global food crisis warned by the Food and Agriculture Organization (FAO) as an impact of the COVID-19 pandemic.²⁰ President Joko Widodo even framed this program within the narrative of national defense, stating that food security is an integral part of national defense, which then involves the Ministry of Defense as one of the key actors.²¹ With its status as a PSN regulated under Presidential Regulation No. 109 of 2020, the Food Estate program receives high priority, accelerated implementation (fast-track), and massive resource allocation.

The commitment to the sustainability of this program is reinforced in subsequent planning documents. The country's long-term vision in Law No. 59 of 2024 concerning the 2025-2045 National Medium-Term Development Plan (RPJPN) places "energy, water, and food security" as one of the 17 development directions to achieve the 2045 Golden Indonesia Vision.²² This vision is then operationalized through Presidential Regulation No. 12 of 2025 concerning the RPJMN 2025-2029, which explicitly re-includes the Food Estate program (also known as the Food Production

¹⁹ Ahmad Nizami Fadillah and Mohammad Jafar Loilatu, "The Urgency of Food Estate for National Food Security in the Middle of the COVID-19 Pandemic," *Journal of Government and Political Issues* 1, no. 1 (2021): 35–44.

²⁰ Alsafana Rasman, Eliza Sinta Theresia, and M Fadel Aginda, "Analisis Implementasi Program Food Estate Sebagai Solusi Ketahanan Pangan Indonesia," *Holistic: Journal of Tropical Agriculture Sciences* 1, no. 1 (2023).

²¹ Dimas Novian Hartono, "Food Estate, Menakar Politik Pangan Indonesia Kajian Atas Proyek Food Estate Kalimantan Tengah," *Palangkaraya: Walhi Kalimantan Tengah*, 2021.

²² Republik Indonesia, "Undang-Undang Nomor 59 Tahun 2024 Tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2025-2045" (2024).

Center Area or KSPP) as one of the national priorities to encourage food self-sufficiency. In fact, in the 2025-2029 RPJMN, the government targets an additional 20 million tons of milled dry grain, or the equivalent of 10 million tons of rice, from this program by 2029.²³ Thus, the Food Estate program is legally and politically framed not only as a temporary response but as an integral part of a sustainable national development strategy.

However, along the way, the Food Estate policy has sparked complex public discourse and been met with various fundamental criticisms. Fundamental questions have arisen as to whether this policy instrument, which was rolled out with narratives of "crisis" and "national defense," has been supported by a solid legal foundation and whether it is truly heading in the direction of food sovereignty as mandated by the Food Law. Instead of being a solution, the implementation of this program has been faced with a series of serious problems that indicate a significant gap between the ideal goals and the reality on the ground. History records that similar large-scale agricultural projects in the past, such as the One Million Hectare Peatland Project (PLG) during the New Order era and the Merauke Integrated Food and Energy Estate (MIFEE), left a trail of failure and had a profound impact on environmental damage and social conflict.²⁴ Concerns that this dark history will repeat itself have grown stronger with the emergence of various reports on the negative impacts of the Food Estate program. Crucial issues that have come to the fore include the uncertainty of the legal framework regarding the conversion of forest areas, the potential for massive deforestation and damage to fragile peat ecosystems, increased risk of agrarian conflict and marginalization of indigenous peoples and local farmers,²⁵ as well as a development model that tends to be corporate-centric

²³ Republik Indonesia, "Peraturan Presiden Republik Indonesia Nomor 12 Tahun 2025 Tentang Rencana Pembangunan Nasional Jangka Menengah 2025-2029" (2025).

²⁴ Siti Rakhma Mary H., "Proyek MIFEE: Merampas Tanah Malind-Anim Dan Menurunkan Kualitas Ekosistem Lokal," *Dignitas: Jurnal Hak Asasi Manusia* IX, no. 1 (2014): 31–44, <https://perpustakaan.elsam.or.id/repository/Dignitas.pdf>.

²⁵ Ariani Yestati and Rico Septian Noor, "Food Estate Dan Perlindungan Terhadap Hak-Hak Masyarakat Di Kalimantan Tengah," *Morality: Jurnal Ilmu Hukum* 7, no. 1 (2021): 52–73.

and monocultural, which is considered to distance Indonesia from the principle of food sovereignty based on diversity of local resources and empowerment of farmers.

Responding to the gap between the goal of fulfilling the right to food and the reality of potential violations occurring in the field, a comprehensive legal review is needed to examine the validity and effectiveness of applicable regulations. In order for the analysis to be conducted in a systematic and focused manner, this study focuses on answering two fundamental questions. First, what is the legal framework for food barn policy in Indonesia? This question is asked in order to map the hierarchical structure and harmonization of regulations, from the constitution to technical implementing regulations, in order to identify potential disharmony between norms. Second, what is the scope of food security regulations in Indonesia? This question aims to analyze the substance and orientation of these policies using the Regulatory Impact Assessment (RIA) instrument and the ROCCIPI framework, in order to assess whether the current direction of regulations is in line with the principles of State Obligation and the ideals of Food Sovereignty or whether it has become disoriented.

This problem reveals a systemic paradox: the state's efforts to fulfill the right to food have the potential to violate its obligation to respect the community's rights to land and resources, as well as its obligation to protect citizens and the environment from the adverse effects of large-scale development activities.²⁶ This gap is the main justification for the urgency of conducting in-depth legal research. This normative tension is exacerbated by the track record of failure of large-scale agricultural projects in the past, such as the One Million Hectare Peatland Project (PLG) and the Merauke Integrated Food and Energy Estate (MIFEE), which left behind ecological damage and deep social conflict. Concerns that this dark history will repeat itself are heightened by various reports of deforestation, damage to peat ecosystems, increased risk of agrarian conflict, and a corporate-centric

²⁶ Yestati and Noor.

development model that is seen as distancing Indonesia from the principle of food sovereignty.²⁷ The gap between the goal of fulfilling rights and the potential for rights violations is the main justification for the urgency of conducting in-depth legal research.

Given the complexity of these issues, a comprehensive and systematic legal review is needed to examine the framework of Indonesia's Food Estate policy. This analysis cannot be limited to examining the objectives stated in policy documents, but must delve into two fundamental aspects that form the pillars of this policy. First, it is necessary to clearly map out how the current regulatory structure or legal framework governs the Food Estate program. This includes tracing and analyzing the hierarchy and harmonization of laws and regulations, starting from the constitutional level, sectoral laws (such as the Food Law and Forestry Law), to the implications of Law No. 6 of 2023 concerning the Stipulation of the Job Creation PerPPU into Law. The existence of the Job Creation Law is crucial to analyze because, through the omnibus law approach, this regulation has the potential to become a "red carpet" that facilitates the implementation of large-scale projects such as the Food Estate by simplifying the licensing process.²⁸ This raises critical questions about the potential weakening of environmental and social protection standards that have been strictly regulated in the Food Estate Law and other sectoral laws, thereby reinforcing the urgency of this research in the post-Job Creation Law era. This mapping will answer the first problem formulation. Second, the analysis must go deeper to examine the substance and scope of the Food Estate Legal Policy, which will be the focus for answering the second problem formulation. To be able to dissect these two problem formulations sharply and systematically, this study will use a series of relevant and

²⁷ Ahmad Redi and Kosuke Mizuno, "Benefits and Costs of Legal Policy for the Food Estate Program in Indonesia," *Law Reform* 21, no. 1 (2025): 58–80.

²⁸ admin SPI, "Peringatan Hari Pangan Sedunia, SPI Desak Cabut UU Cipta Kerja Yang Menghambat Kedaulatan Pangan Indonesia - Serikat Petani Indonesia," <https://spi.or.id/peringatan-hari-pangan-sedunia-spi-desak-cabut-uu-cipta-kerja-yang-menghambat-kedaulatan-pangan-indonesia/>, October 16, 2024.

complementary theoretical "surgical tools." To answer the first problem formulation regarding the legal framework, the Theory of Law Formation will be used. This theory provides a framework for analyzing the process, principles, hierarchy, and harmonization in the formation of legal products, as explained by Achmad Ruslan in his book *Theory and Practical Guide to Law Formation in Indonesia*. Using this theory, it will be examined whether the regulations related to the Food Estate have fulfilled the principles of good regulation formation as stipulated in Law Number 12 of 2011.

Next, to answer the second problem formulation regarding the scope of policy direction, Public Policy Formation Theory will be applied. This theory allows for analysis that goes beyond legal texts, by examining the stages of policy from agenda setting to formulation and implementation.²⁹

To sharpen the analysis of the quality and impact of these regulations, this study will also adopt a Regulatory Impact Assessment (RIA) framework. As an instrument that emphasizes evidence-based policy, RIA enables a systematic evaluation of the positive and negative consequences of a policy. Using RIA, this study will comprehensively analyze: (1) the definition of the problem and policy objectives, (2) the identification of alternative policy options, (3) a cost-benefit analysis for the government, business actors, and the community, and (4) a risk assessment and compliance strategy. The integrated use of these two analytical tools enables a multi-dimensional analysis, covering the political process behind it, to the calculation of efficiency and effectiveness that determine the success or failure of its implementation in the real world.³⁰

In addition, this study will also adopt the ROCCIPI (Rules, Opportunity, Capacity, Communication, Interest, Process, Ideology) analytical framework. This framework, which was popularized in Indonesia by Prof. Dr. Riant Nugroho in various works on public policy, allows for a

²⁹ A G Subarsono, *Analisis Kebijakan Publik: Konsep, Teori Dan Aplikasi* (Pustaka Pelajar, 2005), <https://books.google.co.id/books?id=7DhnNQAACAAJ>.

³⁰ Fabrizio De Francesco, *Transnational Policy Innovation: The OECD and the Diffusion of Regulatory Impact Analysis* (ECPR press, 2024).

more granular dissection of the various variables that influence the effectiveness of policies in the field. Using ROCCIPI, this study will systematically analyze: (1) Rules (formal legal regulations), (2) Opportunity (opportunities for actors to comply or refuse), (3) Capacity (implementing resource capacity), (4) Communication (policy dissemination and understanding), (5) Interest (the interests of stakeholders and interests), (6) Process (implementation mechanisms), and (7) Ideology (the values and ideas underlying the policy). The integrated use of these three analytical tools enables a multi-dimensional analysis, covering aspects of formal legality, the political processes behind it, and the concrete factors that determine the success or failure of its implementation in the real world.³¹

Thus, this research is crucial and urgent to be carried out. The Food Estate Program is a large-scale policy with long-term implications for ecology, agrarian social order, and the future of Indonesia's food system. By comprehensively mapping its legal framework and critically analyzing the scope of its policy direction, this study is expected to provide an objective evaluation of the alignment of the Food Estate program with the principles of State Obligation and the noble ideals of Food Sovereignty. The main contribution of this study is to provide constructive policy recommendations for the government and other stakeholders to refine or even correct the direction of the Food Estate regulation so that it can be an effective instrument in realizing food justice and national sovereignty, not the other way around. This research seeks to provide a strong legal basis for analysis to ensure that every effort made by the state to fulfill the right to food does not sacrifice other fundamental rights and remains on the right path towards sovereignty.

Methods

This study uses normative legal research, which focuses on examining

³¹ Subarsono, *Analisis Kebijakan Publik: Konsep, Teori Dan Aplikasi*.

norms in positive law, but does not stop at dogmatic analysis alone. Instead, it is expanded with a public policy perspective to measure the effectiveness of regulations. Normative legal research is the process of finding legal rules, legal principles, and legal doctrines to answer legal issues that arise.³² The main approach used is the statute approach to examine the hierarchy and harmonization of Food Estate regulations, starting from the Job Creation Law. Job Creation Law to technical implementing regulations, as well as a conceptual approach to dissect the concepts of State Obligation and Food Sovereignty, which refer to the view that understanding concepts is the main basis for researchers in constructing legal arguments when existing rules experience gaps or conflicts of norms. The nature of this research is descriptive-analytical with a prescriptive tendency, which aims to provide assessments and recommendations for improvements to existing regulations. This study adopting a qualitative framework, this study analyzes data non-numerically to provide an in-depth understanding of the investigated legal phenomena.³³

The data used is entirely sourced from secondary data collected through library research and strictly classified based on its authority as per the standard guidelines of A Brief Review.³⁴ Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the Food Law, the Environmental Protection and Management Law, and the Food Estate regulatory package. Secondary legal materials are prioritized from reputable legal textbooks and journals to explain primary legal materials, while tertiary legal materials such as legal dictionaries are used as supporting materials to ensure that there are no procedural or substantive flaws in the hierarchy of legal norms.

³² P D M Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017), <https://books.google.co.id/books?id=CKZADwAAQBAJ>.

³³ M McConville and W H Chui, *Research Methods for Law*, Research Methods for the Arts and Humanities (Edinburgh University Press, 2017), <https://books.google.co.id/books?id=yIglswEACAAJ>.

³⁴ S Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (RajaGrafindo Persada, 2001), <https://books.google.co.id/books?id=0fpTMwAACAAJ>.

To provide depth of analysis that goes beyond legal and formal aspects, this study integrates two advanced evaluation techniques. First, regulatory efficiency analysis using Regulatory Impact Assessment (RIA) referring to the OECD framework.³⁵ The RIA method is used to assess the costs and benefits of the Food Estate policy, regulatory risks, and non-regulatory alternatives. Second, to diagnose potential implementation problems in the field.

The ROCCIPI analysis will examine seven categories of issues: Rule (whether the rules are clear and unambiguous), Opportunity (whether the environment allows for deviant behavior), Capacity (the ability of implementers and target audiences), Communication (the effectiveness of rule delivery), Interest (the economic and political interests of the actors involved), Process (decision-making procedures), and Ideology (the values or mindsets that underlie behavior).³⁶ A synthesis of the analysis of the validity of norms (economic efficiency and institutional behavior) will produce a comprehensive conclusion as to whether the Food Estate regulation has fulfilled the principles of fairness, legal certainty, and benefit.

Result and Discussion

1. The Legal Framework Policy of the Food Estate in Indonesia

To address the complexity of legal regulations related to the National Food Estate program, this analysis cannot stop at merely describing the laws

³⁵ De Francesco, *Transnational Policy Innovation: The OECD and the Diffusion of Regulatory Impact Analysis*.

³⁶ A Seidman, R B Seidman, and N Abeyesekere, *Legislative Drafting for Democratic Social Change* (Springer Netherlands, 2001), <https://books.google.co.id/books?id=h9cOXp7hioUC>.

and regulations. It is necessary to dissect the legal structure using a "Mapping the Regulatory Landscape" approach to see how these norms interact vertically and horizontally, and whether there is coherence or fracture in the national legal system.

This analysis is conducted through two main perspectives. First, vertical synchronization, which analyzes the alignment between regulations at the top level and those below. Second, horizontal synchronization, which evaluates consistency among regulations at the same level. This approach is crucial for determining whether downstream policies are supported by a solid foundation.³⁷

The legal framework of policy plays a vital role as a legal basis that provides legitimacy of authority. The effectiveness of this legal framework is highly dependent on legal harmonization, as described in Hans Kelsen's *Stufenbau Theorie*, whereby derivative policies must be in line with higher regulations, as well as horizontal synchronization to prevent overlap between equivalent regulations.^{38f}

Public policy does not stand alone. A horizontal synchronization study examining the relationship between the Mining Law and other sectoral regulations reveals a real risk of inconsistency. Therefore, mapping the legal framework is essential to describe the interaction between these regulations in a structured manner.³⁹

TABLE 1. Legal Framework Of Food Estate Legal Policy

³⁷ Choirul Rohmiyanti Pohan et al., "The Paradox of Mineral Downstreaming: An Economic Analysis of Mining Regulatory Disharmony in Indonesia," *SIGn Jurnal Hukum* 7, no. 1 (2025): 519–43.

³⁸ R.M.N.M. Hans Kelsen, *Hukum Dan Negara: Seri Teori Hukum Murni* (Nusamedia, 2021), <https://books.google.co.id/books?id=YzJxEAAAQBAJ>.

³⁹ Arif Hidayat et al., "Study of Regulatory and Institutional Framework for the Relocation of the National Capital in Indonesia," *Journal of Law and Legal Reform* 5, no. 4 (2024).

No	Legislation	Article	Principle	Status Sinkronisasi	Analisis Disharmoni
1.	1945 Constitution of the Republic of Indonesia (UUD 1945)	Article 33 Section (3)	State Control Rights (HMN); People's prosperity	Constitutional Basis	Serves as a basis for legitimacy, but its implementation (corporate control) has the potential to violate the principle of social justice.
2.	Law No. 59 of 2024 (RPJPN 2025-2045)	Appendix	Food self-sufficiency as a development goal.	Strategic Synchronization	Locking in the Food Estate program as a long-term national agenda, providing political legitimacy above

					technical regulations .
3.	Law No. 18 of 2012 concerning Food	Article 1 point 2, Article 3	Food Sovereignty	Horizontal Disharmony	Food Estate prioritizes Food Security (stocks) that are biased towards imports/corporations, shifting the principle of Food Sovereignty
4.	Law No. 41 of 1999 concerning Forestry	Article 26, Article 38	Prohibition on changing the primary function of protected forests	Vertical Disharmony	Conflicts with Government Regulation No. 23/2021 & Minister of Environment and Forestry Regulation

					No. 7/2021, which allow food estates in protected forests.
5.	Law No. 32 of 2009 concerning Environmental Protection and Management	Article 15, Article 22	Principle of Precaution; Strategic Environmental Assessment (KLHS) & Environmental Impact Assessment (AMDAL)	Horizontal Disharmony	The "Fast KLHS" mechanism and the change from Environmental Permits to Environmental Approvals weaken protection standards.
6.	Law No. 6 of 2023 (Job Creation Law)	Environmental Cluster	Ease of Doing Business; Acceleration of PSN	Source of Disharmony	Legal framework that legitimizes lowering environme

					ntal standards for the acceleration of projects.
7.	Government Regulation No. 23 of 2021 (Forestry Management)	Article 115	The legality of food estates in protected forests (KHKP)	Normative Conflict	Opening up space for exploitation in protected areas prohibited by Law 41/1999.
8.	Presidential Regulation No. 109 of 2020 (PSN)	Appendix	Designation of Food Estate as a National Strategic Project.	Catalyst	Providing privileges ("red carpet treatment") in the form of accelerated permits that bypass normal procedures.

9.	Ministry of Environment and Forestry Regulation No. 7 of 2021	Article 19 (KHKP)	Technical provisions for the provision of forest areas for Food Estate.	Operationalization	Implementing regulations that legalize the clearing of protected forests for large-scale agriculture
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Sources: Authors, 2026

The highest legal and philosophical justification for state intervention in the food sector, including the Food Estate program, is rooted in the constitution. This policy framework is not positioned as merely a technocratic choice, but as a constitutional imperative that is operationalized through long-term development planning documents. The main foundation of this program is drawn from the concept of the Welfare State, which is inherently contained in the 1945 Constitution of the Republic of Indonesia (UUD 1945). The mandate in the fourth section of the Preamble to the 1945 Constitution to "promote general welfare" is the fundamental justification. This mandate is specifically reinforced by Article 33 Section (3) of the 1945 Constitution, which states that "The land, waters and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people".⁴⁰ The phrase "controlled by the state" provides legitimacy for the government to regulate and allocate strategic

⁴⁰ Republik Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945).

natural resources, while the phrase "for the greatest prosperity of the people" becomes the normative benchmark for every policy taken.⁴¹

From a political science perspective, the legitimacy of government intervention in the food estate needs to be examined using the analytical tools of Welfare State Theory as proposed by R. Kranenburg and Bagir Manan. Kranenburg asserts that the modern state is not merely tasked with maintaining order, but must actively promote welfare (*bestuurszorg*) based on the principle of equitable justice for all citizens, not just a select few. Relevant to this, Bagir Manan, in his interpretation of the Indonesian economic constitution, emphasizes that the right to control the state carries a mandatory obligation to ensure that natural resources are truly enjoyed by the people, not marginalized as a public obligation (*publiek verplichting* or public responsibility).⁴² Therefore, if the food estate policy in practice actually transfers land control from local communities to large corporations without any real welfare impact on farmers, then theoretically this policy has deviated from the *ratio legis* of the welfare state envisioned by the constitution.

Layered Legitimacy Strategy The general constitutional mandate is not left abstract, but is systematically operationalized through national development planning documents. This is where Law No. 59 of 2024 on the 2025-2045 National Long-Term Development Plan (RPJPN) plays a crucial role. This law places "energy, water, and food security" as one of the 17 strategic development directions towards the 2045 Golden Indonesia Vision.⁴³ This placement is not merely a formality, but an effort to lock in the food estate program as a long-term state agenda that transcends the period of a particular government regime.

⁴¹ Eriranda and Kusdarini, "Makna Welfare State Ditinjau Dari Implementasi Pasal 34 Ayat (1) Undang-Undang Dasar 1945."

⁴² Bagir Manan, *Teori Dan Politik Konstitusi* (Direktorat Jenderal Pendidikan Tinggi, Departemen Pendidikan Nasional, 2000), <https://books.google.co.id/books?id=QOeaAAAACAAJ>.

⁴³ Indonesia, Undang-Undang Nomor 59 Tahun 2024 tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2025-2045.

The derivatives of this long-term vision are then outlined in a technocratic manner in the National Medium-Term Development Plan (RPJMN). The Food Estate Program is explicitly institutionalized in the 2020-2024 RPJMN through Presidential Regulation No. 18 of 2020, and its continuity is reinforced in the draft 2025-2029 RPJMN (Presidential Regulation No. 12 of 2025), which targets food self-sufficiency with ambitious targets.⁴⁴ This series of justifications from the constitutional level (1945 Constitution) to strategic planning documents (RPJPN/RPJMN) forms a "solid and layered legitimacy strategy." The government frames the food estate not as an ordinary agricultural project, but as a manifestation of the constitutional imperative to fulfill the human right to food. This legal framing effectively protects the policy from criticism, because opposing the food estate is portrayed as opposing the state's efforts to achieve public welfare.⁴⁵

However, the "golden bridge" between the constitution and these planning documents is sharply distorted when it comes to operational regulations, particularly through the National Strategic Projects (PSN) instrument in Presidential Regulation No. 109 of 2020. This PSN regulation creates what is known as a "state of exception." In this state, normal legal procedures and protection mechanisms can be suspended or expedited in the name of national strategic interests.

The most striking vertical distortion is seen in the conflict between Law No. 41 of 1999 on Forestry (as *lex superior*) and its implementing regulations, namely Government Regulation No. 23 of 2021 and Minister of Environment and Forestry Regulation No. 7 of 2021. The Forestry Law explicitly limits the use of Protected Forests to environmental services and non-timber forest products, with a strict prohibition on activities that alter the primary function of the area (Articles 26 and 38).⁴⁶ However, Article 115

⁴⁴ Indonesia, Peraturan Presiden Republik Indonesia Nomor 12 Tahun 2025 tentang Rencana Pembangunan Nasional Jangka Menengah 2025-2029.

⁴⁵ Noer Fauzi Rachman, *Land Reform Dan Gerakan Agraria Indonesia* (INSISTPress, 2017).

⁴⁶ Republik Indonesia, "Undang-Undang (UU) No. 41 Tahun 1999 Tentang Kehutanan" (n.d.).

of Government Regulation No. 23/2021 actually provides legal legitimacy for food estates to enter protected forest areas through the Forest Area for Food Security (KHKP) scheme.⁴⁷

This phenomenon indicates a degradation of legal norms, whereby lower-level regulations (Government Regulations and Ministerial Regulations) "smuggle in" new norms that contradict the spirit of conservation in the parent law. PermenLHK No. 7 of 2021 exacerbates this by giving the Minister broad discretionary authority to designate KHKP areas in protected forests that are considered "no longer fully functional as protected areas," a criterion that is subjective and prone to abuse.⁴⁸ Doctrinally, this violates the principle of *lex superior derogat legi inferiori*, because the technical regulation actually undermines the restrictions set by the higher law in order to facilitate strategic projects that have been locked into the RPJMN.

At the horizontal level, there is acute dissonance between the agrarian/food law regime and the environmental, spatial planning, and defense law regimes. The first conflict arises between the Food Sovereignty paradigm adopted by Law No. 18 of 2012 on Food and the Practice of Food Estates. Article 1(2) of the Food Law defines Food Sovereignty as the right of the state and nation to independently determine its food policy that guarantees the right to food for its people.⁴⁹ However, the centralistic and corporatist design of the food estate reflects the food security paradigm, which is oriented solely towards the availability of physical stocks, often neglecting the independence of local farmers and instead expanding the role of large corporations.

The second crucial horizontal disharmony is the weakening of environmental instruments following the enactment of Law No. 6 of 2023

⁴⁷ Republik Indonesia, "Peraturan Pemerintah Nomor 23 Tahun 2021 Tentang Penyelenggaraan Kehutanan" (2021).

⁴⁸ Permen LHK No. 7 Tahun 2021 - Peraturan BPK, diakses Januari 13, 2026, <https://peraturan.bpk.go.id/Details/235244/permen-lhk-no-7-tahun-2021>

⁴⁹ Indonesia, UU No 18 Tahun 2012 tentang Pangan.

on Job Creation. Prior to the Job Creation Law, Law No. 32 of 2009 (UUPPLH) placed "Environmental Permits" as an absolute requirement and a strong control instrument. However, the Job Creation Law changed the nomenclature and function to "Environmental Approval," which is integrated into Business Licensing. This change is not merely semantic; it reduces the role of the community in the preparation of the Environmental Impact Assessment (EIA). Previously, environmentalists and NGOs had broad rights of appeal and participation, but now participation is limited to "communities directly affected."

In the context of food estate, this weakening is exacerbated by the use of the "Rapid Strategic Environmental Assessment (KLHS)" instrument as stipulated in the derivative regulations of Cipta Kerja and PermenLHK 7/2021. The KLHS, which should be a preventive and scientific instrument to test environmental carrying capacity before a project is planned, has been reduced to an administrative formality carried out hastily to meet the PSN project launch target.⁵⁰ This violates the Precautionary Principle, which is a fundamental principle of global environmental law, placing peat ecosystems and protected forests at risk of irreversible damage that cannot be restored.⁵¹

Furthermore, the third horizontal disharmony arises from the role of the Land Bank Agency, which was established through Government Regulation No. 64 of 2021 as a derivative of the Job Creation Law. The Land Bank is given broad authority to collect, manage, and distribute state land.⁵² Although it claims to support agrarian reform, in practice the Land Bank has the potential to become a new landlord that accumulates land for large-scale investment interests, including food estates, which often overlap with

⁵⁰ Rizkia Diffa Yuliantika, Imamulhadi Imamulhadi, and Supraba Sekarwati, "Analisis Yuridis Terhadap Program Pembangunan Food Estate Di Kawasan Hutan Ditinjau Dari Eco-Justice," *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria* 2, no. 1 (2022): 41–62.

⁵¹ United Nations, "Rio Declaration on Environment and Development, Prinsip 15" (Rio de Janeiro, 1992).

⁵² Republik Indonesia, "Peraturan Pemerintah Republik Indonesia Nomor 64 Tahun 2021 Tentang Badan Bank Tanah" (2021).

community-managed areas or customary lands. This mechanism creates a conflict of norms with the spirit of the 1960 Basic Agrarian Law (UUPA), which prohibits land monopolies and requires land to serve a social function for its cultivators. The existence of the Land Bank provides a "red carpet" for the provision of food estate land by bypassing the complex process of resolving tenure conflicts at the local level.

The next legal anomaly is the involvement of the Ministry of Defense as the leading sector of the Food Estate project (particularly cassava commodities in Central Kalimantan), which is based on the narrative of "non-military defense." Legally, this is not in line with Law No. 3 of 2002 on National Defense and Law No. 34 of 2004 on the Indonesian National Armed Forces. The function of military defense is to deal with threats to sovereignty, while food matters are a civilian domain that is the responsibility of the Ministry of Agriculture. The involvement of the Indonesian National Armed Forces reserve component (Komcad) and military structures in civilian agricultural affairs without a specific legal basis (only based on a Presidential Regulation/Ministerial Regulation) creates a dangerous precedent of "food securitization," in which technical agricultural issues are drawn into the realm of national security, potentially closing the space for transparency and public accountability.⁵³

2. Scope of Food Estate Legal Regulations in Indonesia

Analysis of the scope of legal regulation in the Food estate policy requires more than just reading the normative text; it must systematically apply the basic principles of Regulatory Impact Assessment (RIA). This process must begin with in-depth problem identification to determine the significance of the issues faced and why existing regulations cannot resolve them. Disorientation in implementation in the field needs to be re-

⁵³ Vera Tua Tobing, "Problematic Analysis of the Legal Policy of the Food Estate Program (Government Era 2020-2024)," *Journal of Law, Politic and Humanities* 5, no. 2 (2024): 983–91.

examined through the establishment of government objectives to ensure that policy outcomes are truly relevant to the solution of the problem. Empirical realities in the form of tenure conflicts and ecological damage demonstrate the urgency of impact analysis (cost/benefit), particularly to gauge whether this policy produces the expected benefits or instead triggers unintended consequences for the environment and society.⁵⁴ Finally, this evaluation must ensure that community participation has been carried out substantially and not merely as a formality, given that stakeholder consultation is a mandatory element for obtaining feedback on the feasibility of the selected options.

To address this issue, the ROCCIPI methodology (Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology) will also be applied.⁵⁵ This approach was chosen for its ability to diagnose legislative pathologies and the behavior of role occupants in a complex legal system. This analysis does not stand alone, but is closely integrated with the doctrine of State Obligation in human rights law, the concept of the Welfare State as mandated by the Constitution, and Thomas R. Dye's Elite Theory to dissect the power structures behind policy formulation.

a. Analysis Based on Regulatory Impact Assessment (RIA)

Within the framework of policy evaluation, the use of the Regulatory Impact Analysis (RIA) method serves as an instrument to ensure the quality of regulations through seven systematic stages, ranging from problem identification to public participation. The basic principle of RIA emphasizes that every government action must begin with a clear identification of the

⁵⁴ Laga Sugiarto, "Prinsip Dasar Review Regulasi Dengan Metode Ria," 2024.

⁵⁵ Ann Seidman and Robert B Seidman, "Instrumentalism 2.0: Legislative Drafting for Democratic Social Change," *Legisprudence* 5, no. 1 (June 1, 2011): 95–142, <https://doi.org/10.5235/175214611796404831>.

problem in order to measure the significance of its urgency and the reasons why government intervention is necessary. This method also requires an impact analysis (cost and benefit analysis) to calculate the expected and unexpected consequences, both for the environment, the balance of economic and social objectives, and society as a whole. By requiring public participation as a mandatory element in each stage to obtain perceptions and feedback from stakeholders, the RIA approach provides a sharp analytical tool to dissect the effectiveness of a public policy.⁵⁶

Analysis of the scope of food estate legislation in Indonesia must begin with identifying the fundamental root causes of problems arising from the clash between ideal legal norms and the reality of policy implementation. The main problem identified is the disorientation of the national food law paradigm, which has shifted from the principle of food sovereignty to food security, which is biased towards corporate and global market interests. Law No. 18 of 2012 on Food explicitly mandates food sovereignty as the right of the state and nation to determine their food policy independently. However, regulations implementing the food estate program, such as Presidential Regulation No. 109 of 2020 on National Strategic Projects, actually show a centralistic tendency that marginalizes the role of local farmers.⁵⁷ This problem is exacerbated by regulatory disharmony, particularly after the enactment of the Job Creation Law, which relaxes environmental protection standards in order to accelerate investment.⁵⁸ Good policies must be able to map public issues with precision.⁵⁹ but in the context of food estates, the issue of food scarcity has been responded to with policies that trigger agrarian conflicts and ecological damage, such as the clearing of peatlands

⁵⁶ Sugiarto, "Prinsip Dasar Review Regulasi Dengan Metode Ria."

⁵⁷ Frensita Kesuma Twinsani, "Food Estate for Food Security in Indonesia: An Analysis of Policy Processes, ROCCPI, and RIA," *Yustisia Jurnal Hukum* 14 (January 1, 2026): 256, <https://doi.org/10.20961/yustisia.v14i3.105057>.

⁵⁸ Wahyu Nugroho, "Implementation of the Food Estate Program from the Perspective of Spatial Planning and Environmental Law in Indonesia," *Mulawarman Law Review* 10, no. 2 (2025).

⁵⁹ R Nugroho, *PUBLIC POLICY 6 - Edisi Revisi* (Elex Media Komputindo, 2020), <https://books.google.co.id/books?id=994DEAAAQBAJ>.

and protected forests that are not in line with environmental carrying capacity.

In addition, a crucial legal issue is the weak protection of the rights of indigenous peoples in the process of land acquisition for food estates. The disregard for customary rights and the lack of meaningful participation in determining the location of development often leads to prolonged structural disputes.⁶⁰ In the practice of food estates in Central Kalimantan and North Sumatra, the principle of Free, Prior, and Informed Consent (FPIC) is often ignored in the name of national urgency, creating legal uncertainty and a sense of injustice for local communities who lose access to their natural resources. As a result, legal regulations that are supposed to promote prosperity have the potential to impoverish local communities and create new ecological vulnerabilities that contradict the constitutional mandate.

The purpose of evaluating the direction of legal regulations must be returned to the philosophical and constitutional foundations of the state as stipulated in Article 33 Section (3) of the 1945 Constitution. The main objective is to reconstruct the direction of food estate policy so that it does not merely pursue quantitative production targets, but also realizes social justice and ecological sustainability. The concept of the Green Constitution emphasizes that economic sovereignty cannot be separated from environmental sovereignty, so that every legal product that regulates natural resources must guarantee the preservation of environmental functions for current and future generations.⁶¹ Therefore, the objective of food estate legal regulations must be directed at guaranteeing land rights for tenant farmers and indigenous peoples, as well as ensuring that food production systems are carried out using environmentally friendly methods that are adaptive to climate change.

⁶⁰ Maria S Sumardjono, *Kebijakan Pertanahan: Antara Regulasi Dan Implementasi* (Penerbit Buku Kompas, 2006).

⁶¹ Sekar Anggun Gading Pinilih, "The Green Constitution Concept in the 1945 Constitution of the Republic of Indonesia," *OLD WEBSITE OF JURNAL MIMBAR HUKUM* 30, no. 1 (2018): 200–211.

Furthermore, the objective of this regulation should also include strengthening the sovereignty of farmers as the main subjects of agricultural development, not merely as laborers on corporate land. This is in line with Khudzaifah Dimiyati's thinking, which emphasizes the importance of laws that are responsive to the real needs of the community, not repressive laws that serve the interests of the elite.⁶² Thus, the practical objective of this regulatory reform is to create a harmonious legal framework between sectoral laws (forestry, environment, and agrarian) to prevent overlapping authorities and close loopholes for abuse of discretion by public officials in granting concessions in protected forest areas or vulnerable peatlands.

Within the framework of Regulatory Impact Assessment (RIA), there are several policy options that can be considered to straighten the direction of food estate legal regulations. The first option is to maintain the status quo, namely continuing the food estate policy based on the National Strategic Project (PSN) with the existing regulations. This option relies on a large-scale land extensification approach that is centrally managed with the dominant involvement of corporations and the Ministry of Defense. This approach is based on the assumption that large economies of scale are necessary to achieve rapid food self-sufficiency, despite the high risk of social conflict and environmental damage that has been proven in the history of similar failed projects such as the One Million Hectare Peatland Project (PLG) in the past.

The second option is to carry out partial regulatory reform by imposing a moratorium on new land clearing in forest and peatland areas, as well as requiring strict environmental and social audits of ongoing projects. The third option, which is the most progressive, is to transform the legal paradigm towards community-based food security and agroecology. In this option, the direction of legal regulation is fundamentally changed to

⁶² K Dimiyati, *Teorisasi Hukum: Studi Tentang Perkembangan Pemikiran Hukum Di Indonesia, 1945-1990* (Muhammadiyah University Press, Universitas Muhammadiyah Surakarta, 2004), <https://books.google.co.id/books?id=aktsAAAACAAJ>.

prioritize the intensification of existing agricultural land, the diversification of local foods (such as sago, tubers, and corn), and the redistribution of land to farmers through genuine agrarian reform. This option places small farmers and Village-Owned Enterprises (BUMDes) as the main actors, supported by regulations that facilitate access to capital, appropriate technology, and fair markets, as suggested in public policy studies oriented towards community empowerment.

An impact analysis was conducted to weigh the costs and benefits of each option, not only from an economic perspective, but also from a social and ecological perspective. If the status quo option is maintained, the short-term economic impact may seem promising through infrastructure investment, but the long-term costs are enormous. Studies from the Center for Indonesian Policy Studies (CIPS) and Pantau Gambut show that food estate projects that ignore land suitability, such as planting cassava on sandy soil or rice on peatland, have a high risk of crop failure, leading to inefficient use of the state budget.⁶³ budget.⁶¹ In addition, the cost of environmental restoration due to damage to peatland hydrological functions and deforestation far exceeds the economic value of the harvest, not to mention the social costs of agrarian conflicts that divide social cohesion within communities.

Conversely, if the paradigm shift option is chosen, the positive impacts will be more sustainable and equitable. Takdir Rahmadi, in his book on Environmental Law, emphasizes the importance of the precautionary principle to prevent irreparable damage. By shifting to local food diversification and empowering farmers, environmental costs can be minimized because agricultural practices are adapted to the characteristics of the local ecosystem. Socially, recognition of community land rights will reduce conflict and directly improve farmers' welfare. Although this option

⁶³ Juma Maulana et al., "Field of False," <https://En.Pantaugambut.Id/Publications/Field-of-False>, October 17, 2024.

requires more time for institutional consolidation and assistance, its economic benefits will be enjoyed in an inclusive and manner by the general public, not just a handful of corporations, thus being more in line with the ideals of a welfare state.

Based on an in-depth comparison of impacts, the most rational and constitutional policy option is to transform the direction of legal regulation towards a community-based food estate and food sovereignty model (Option Three). This option is based on the consideration that law should function as a tool of social engineering to achieve public welfare.⁶⁴ This option is in line with the agrarian legal policy described by Mahfud MD, in which the character of legal products must be responsive and participatory, not orthodox and elitist.⁶⁵ Continuing with a centralized large-scale food estate model has proven to have inherent flaws in its legal design and implementation, which risks repeating the failures of the past and violating the principle of intergenerational justice.

To implement these policy options, concrete steps are needed in legal and governance reform. The first step is to harmonize regulations by revoking or revising implementing regulations that conflict with environmental and forestry laws, such as provisions that facilitate the conversion of protected forests into food estate areas. The government needs to draft new legislation that specifically regulates the protection and empowerment of community food estates, which guarantees tenure security and access to resources. In this process, meaningful public participation is an absolute requirement, not just an administrative formality.

Furthermore, a mechanism for periodic monitoring and evaluation (review) must be institutionalized with the involvement of academics, civil

⁶⁴ Mochtar Kusumaatmadja, "Hukum Masyarakat Dan Pembinaan Hukum Nasional: Suatu Uraian Tentang Landasan Pikiran," *Pola Dan Mekanisme Pembaharuan Hukum Di Indonesia*, Jakarta: Putra Bardin, 2000.

⁶⁵ M M M D and P D M Mahfud, *Politik Hukum Di Indonesia* (Rajawali Pers, 2020), <https://books.google.co.id/books?id=pw1ttgAACAAJ>.

society organizations, and farmer representatives. AG Subarsono, in his theory of public policy analysis, emphasizes the importance of evaluation to measure the effectiveness of policies and make corrections if deviations occur.⁶⁶ Independent audits of budget use and environmental impact must be conducted in a transparent and accountable manner. With a strong check and balance mechanism, the direction of food estate legal regulations can be kept on track with the constitution, ensuring that efforts to meet national food needs do not sacrifice nature conservation and human rights, but rather become the foundation for true independence and sovereignty of the nation.

b. Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology-Based Analysis (ROCCIPI)

The ROCCIPI methodology offers a systematic framework for explaining why social actors (government, corporations, and society) behave as they do in response to a legal rule.⁶⁷ The basic premise of Seidman's legislative theory is that its effectiveness is determined by the interaction between the rule and the objective and subjective factors surrounding it. In the context of the food estate, the ROCCIPI analysis will unravel seven categories of determinants that explain why the current direction of legal regulation tends to deviate from the noble ideals of Food Sovereignty.

In the legal architecture of the food estate, there is a phenomenon of systematic "norm degradation" and acute disharmony between laws and regulations. Paradigm Shift from Sovereignty to Industry-Biased Resilience Law Number 18 of 2012 concerning Food (Food Law) explicitly places Food Sovereignty as the main principle, above Food Independence and

⁶⁶ Subarsono, *Analisis Kebijakan Publik: Konsep, Teori Dan Aplikasi*.

⁶⁷ Seidman and Seidman, "Instrumentalism 2.0: Legislative Drafting for Democratic Social Change."

Resilience.⁶⁸ Food sovereignty is defined as the right of the state and nation to determine food policy independently and the right of the community to determine a food system that is in line with local resource potential. However, the direction of food estate regulation, as manifested in Presidential Regulation No. 109 of 2020 concerning the Acceleration of the Implementation of National Strategic Projects (PSN) and its derivative regulations, has shifted the focus towards Food Security, which is narrowly defined as the availability of physical stocks.⁶⁹ In fact, doctrinally, the obligation to fulfill consists of the obligation to facilitate or empower the community to be able to feed themselves and provide food directly in times of emergency. This shift is not merely semantic, but a fundamental change in the direction of the law. While Food Sovereignty places small farmers as the main subjects, the food estate regulatory regime places large-scale agribusiness corporations as the central actors.⁷⁰ This creates ideological disharmony in which lower-level regulations such as Presidential Regulations or Ministerial Regulations distort the philosophical mandate of the parent law, legitimizing a corporate farming model that often displaces local food systems.

The most striking vertical disharmony occurs in the regulation of forest area use. Law No. 41 of 1999 on Forestry in principle prohibits agricultural cultivation activities that alter the landscape in Protected Forest areas.⁷¹ However, in order to facilitate the food estate, the government issued Government Regulation No. 23 of 2021 concerning Forestry Management and Minister of Environment and Forestry Regulation No. 7 of 2021 concerning Forestry Planning.⁷² Article 19 of PermenLHK No. 7 of 2021 controversially introduces the mechanism of "Forest Areas for Food

⁶⁸ Indonesia, Undang-undang (UU) No. 41 Tahun 1999 tentang Kehutanan.

⁶⁹ Redi and Mizuno, "Benefits and Costs of Legal Policy for the Food Estate Program in Indonesia."

⁷⁰ Fuad Abdulgani and Laksmi Adriani Savitri, "State, Capital and Coercion in Indonesia's Food Estates," *Journal of Agrarian Change* 25, no. 4 (2025): e70031.

⁷¹ Indonesia, Undang-undang (UU) No. 41 Tahun 1999 tentang Kehutanan.

⁷² Indonesia, Peraturan Pemerintah Nomor 23 Tahun 2021 tentang Penyelenggaraan Kehutanan.

Security" (KHKP) which can be established in Protected Forest areas that "no longer fully function as protected areas".⁷³ This phrase creates dangerous legal uncertainty. The criterion of "no longer fully functioning as a protected area" is highly subjective and opens up broad executive discretion to legalize deforestation in areas whose hydrological functions should be preserved. From a legislative theory perspective, this can be categorized as legal smuggling, where ministerial-level technical regulations effectively override prohibitions established by law for the sake of strategic projects. From a State Obligation perspective, this regulatory engineering substantially violates the state's obligation to protect. Instead of establishing robust regulatory barriers to prevent the destruction of natural resources by third parties, the state has instead provided formal legitimacy for potential ecological damage that threatens the livelihoods of the people. This can be categorized as smuggling of law, whereby ministerial-level technical regulations effectively override prohibitions established by law in the interests of strategic projects.

Simplification of Environmental Instruments through "Rapid SEA" In the environmental legal regime, Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) are non-negotiable preventive instruments. However, the food estate regulation introduces the concept of "Rapid Strategic Environmental Assessment" (Fast KLHS).⁷⁴ The use of a "rapid" instrument for projects that have massive ecological impacts (such as the clearing of a million hectares of peatland) is a legal anomaly. This drastically lowers environmental safeguards, placing investment speed above the precautionary principle enshrined in Law No. 32 of 2009 on

⁷³ Lingkungan Hidup dan Kehutanan Kementerian, "Peraturan Menteri Lingkungan Hidup Dan Kehutanan Nomor 7 Tahun 2021 Tentang Perencanaan Kehutanan, Perubahan Peruntukan Kawasan Hutan Dan Perubahan Fungsi Kawasan Hutan, Serta Penggunaan Kawasan Hutan" (2021).

⁷⁴ Ditta Wisnu, "Food Estate Program Law Politics: Towards Fulfillment of the Rights of Central Kalimantan Dayak Indigenous Peoples," *Journal of Contemporary Sociological Issues* 2, no. 1 (2022): 76–91.

Environmental Protection and Management (UUPPLH).⁷⁵ This rule creates long-term legal risks in the form of irreversible environmental damage.

The Opportunity factor in ROCCIPI refers to objective environmental conditions that enable or invite certain behaviors that are contrary to the ideal objectives of the law. In the case of the food estate, there are two main forms of opportunity that are exploited, namely situational opportunity and geographical opportunity.

The COVID-19 pandemic and the FAO's warning about a potential global food crisis were used as a "window of opportunity" by policy-making elites to implement emergency measures that bypassed normal procedures.⁷⁶ By labeling the food estate as a National Strategic Project (PSN) that is vital to national defense, the government created a situation of "emergency" that justified the direct appointment of project implementers and the acceleration of land conversion without in-depth review. Giorgio Agamben's theory of the State of Exception is relevant here, whereby normal law is suspended in the name of national security, providing an opportunity for the executive branch to operate without adequate administrative barriers and public control.

The locations of the food estates, most of which are outside Java (Central Kalimantan, Papua, North Sumatra), are often described as "idle land" or "abandoned land".⁷⁷ In fact, according to customary law and reality, these lands are the living spaces of indigenous peoples, customary forests,

⁷⁵ Asrizal Asrizal, "Reduksionisme AMDAL Dan Ancaman Deteriorasi Lingkungan: Perspektif Pembangunan Dalam Undang-Undang Cipta Kerja," *Jurnal Lex Renaissance* 7 (April 1, 2022): 325–39, <https://doi.org/10.20885/JLR.vol7.iss2.art8>.

⁷⁶ Walhi Kalimantan Timur, "Food Estate, Menakar Politik Pangan Indonesia Kajian Atas Proyek Food Estate Kalimantan Tengah Food Estate," https://pantagambut.id/storage/widget_multiple/Food-Estate-Menakar-Politik-Pangan-Indonesia-Compressed-2qshe.Pdf, March 2021.

⁷⁷ Kalimantan Timur.

or peat ecosystems that have vital ecological functions.⁷⁸ The geographical distance from the center of power in Jakarta provides opportunities for project implementers to commit violations in the field (such as land grabbing or illegal forest clearing) with minimal oversight. The vast expanse of forest in Kalimantan and Papua is seen not as a conservation asset, but as an opportunity for timber extraction through land clearing legalized by food estate permits, repeating the pattern of failure of the New Order era's Peatland Project (PLG).⁷⁹

The Capacity Factor examines whether stakeholders have the knowledge, expertise, and resources to implement rules or policies. Analysis of the food estate reveals a severe capacity deficit, both on the part of the government and the affected communities.

One of the peculiarities of the current food estate era is the appointment of the Ministry of Defense (Kemhan) as the leading sector for cassava commodities in Central Kalimantan. From a state administrative law perspective, there is a competency mismatch. The main tasks and functions (Tupoksi) of national defense focus on military threats and territorial sovereignty, not on agricultural cultivation, which requires expertise in agronomy, climatology, and sociology.⁸⁰ Facts on the ground show embarrassing technical failures, such as cassava planted in Gunung Mas failing to grow optimally due to unsuitable land (sandy soil), and ultimately being replaced with corn planted in polybags, an unusual and

⁷⁸ Syofiarti Syofiarti, "Perlindungan Hak Masyarakat Hukum Adat Dalam Pembangunan Food Estate Di Kawasan Hutan Sebagai Ketahanan Pangan Nasional," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 12, no. 2 (2024): 273–98.

⁷⁹ Mevitama Shindi Baringbing, "Problematika Lingkungan Terhadap Regulasi Food Estate Sebagai Program Strategis Nasional Di Desa Gunung Mas & Pulang Pisau Kalimantan Tengah: Environmental Problems with Food Estate Regulations as a National Strategic Program in Gunung Mas & Pulang Pisau," in *Seminar Nasional Hukum Universitas Negeri Semarang*, vol. 7, 2021, 353–66.

⁸⁰ The Society of Indonesian Environmental Journalists Journalists, "Keterlibatan Militer Dalam Proyek Food Estate: Berpotensi Melanggar HAM," *Pusaka* (The Society of Indonesian Environmental Journalists, 2021), [https://siej.or.id/sites/default/files/arsip/Peran Militer dalam Proyek Food Estate.pdf](https://siej.or.id/sites/default/files/arsip/Peran%20Militer%20dalam%20Proyek%20Food%20Estate.pdf).

unscalable method for a national-scale project.⁸¹ The findings of the Supreme Audit Agency (BPK) regarding budget inefficiency and poor planning further confirm that the technical and managerial capacity of the implementing agencies is very weak.⁸² The capacity for evidence-based policy making is absent, replaced by political ambition without careful technical calculation.

On the other hand, the top-down and corporatist food estate model systematically marginalizes the capacity of local farmers. Without capital and market access equal to that of corporations, local farmers are unable to compete and eventually become degraded to laborers on their own land or are completely displaced. This policy demands capacities that industrial-scale farmers do not possess while destroying the capacities they do possess through local wisdom.

In the food estate project, policy communication is characterized by its asymmetrical, manipulative nature and disregard for the right to participation. The FPIC principle is an international and national legal standard to protect the rights of indigenous peoples.⁸³ However, various research and investigation reports (such as from WALHI, Greenpeace, and Pantau Gambut) show that the determination of food estate locations is often done unilaterally without meaningful consultation with indigenous peoples. Communities in Papua (Merauke) and Central Kalimantan often only find out that their land is included in a concession when the company's heavy equipment has already arrived. The "socialization" carried out by the

⁸¹ Yohanes Maharso and Amelia Rahima, "Walhi Sebut Pernyataan Gibran Tak Sesuai Fakta: Food Estate Singkong Gagal, Tidak Pernah Panen | Tempo.Co," <https://www.tempo.co/ekonomi/walhi-sebut-pernyataan-gibran-tak-sesuai-fakta-food-estate-singkong-gagal-tidak-pernah-panen-95132>, January 22, 2024.

⁸² Biro Humas dan Kerja Sama Internasional, "SIARAN PERS BADAN PEMERIKSA KEUANGAN : BPK Serahkan Laporan Hasil Pemeriksaan Kinerja Tahun 2021 Dan Pemeriksaan Dengan Tujuan Tertentu Tahun 2021 Kepada Menteri Pertanian," n.d., <https://www.bpk.go.id/news/bpk-serahkan-laporan-hasil-pemeriksaan-kinerja-tahun-2021-dan-pemeriksaan-dengan-tujuan-tertentu-tahun-2021-kepada-menteri-pertanian>.

⁸³ Cathal M Doyle, *Indigenous Peoples, Title to Territory, Rights and Resources: The Transformative Role of Free Prior and Informed Consent* (Routledge, 2014).

government tends to be one-way (notification), rather than a dialogue to obtain consent.⁸⁴ This directly violates the State Obligation at the level of the obligation to respect, because the state is infringing on the rights of communities to participate in decision-making that affects their lives. On the other hand, the government is actively constructing a narrative of success.

The government actively builds a narrative of success through ceremonial harvests that often do not reflect the reality of actual productivity. The case of the corn harvest in Gunung Mas, which used plants in polybags on land that had failed to grow cassava, is a form of visual manipulation to cover up policy failures. This dishonest public communication hinders the mechanism for policy evaluation and correction, because the data that reaches the highest decision makers and the public has been distorted.

An analysis of the Interest factor is key to understanding the true *raison d'etre* of the food estate policy. Thomas R. Dye's theory in *Understanding Public Policy* provides a sharp analytical framework. Dye argues that "Public policy is not a reflection of mass demands, but rather the preferences and values of the ruling elite".⁸⁵ In this elite model, the people are apathetic and uninformed, while policies flow from the top down to serve the interests of the elite in maintaining power and accumulating resources.

The food estate project, worth trillions of rupiah, creates an arena for rent-seeking. Investigations reveal the involvement of corporate actors with strong political affiliations to the ruling elite. For example, the role of PT

⁸⁴ Baringbing, "Problematika Lingkungan Terhadap Regulasi Food Estate Sebagai Program Strategis Nasional Di Desa Gunung Mas & Pulang Pisau Kalimantan Tengah: Environmental Problems with Food Estate Regulations as a National Strategic Program in Gunung Mas & Pulang Pisau ."

⁸⁵ T R Dye, *Understanding Public Policy* (Pearson, 2017), <https://books.google.co.id/books?id=vDACSWEACAAJ>.

Agro Industri Nasional (Agrinas), whose shares are owned by the Defense Resources Development Foundation (under the Ministry of Defense), in the cassava project in Central Kalimantan.⁸⁶ The company's board of directors is filled with people close to the circle of power and politicians from certain parties. This phenomenon confirms Dye's thesis that public policy serves "elite values," whereby political and business elites collude to secure access to state resources (land and budget) under the umbrella of "national interest".

Electoral Interests and Patronage In the run-up to political years, large-scale infrastructure and agricultural projects are often used as instruments of patronage. The distribution of contracts, permits, and land access to support groups becomes a way to maintain political loyalty. Food estate, with its PSN status, becomes a strategic vehicle for mobilizing logistical and political resources for the contesting elites.⁸⁷

Neglect of the People's Interests (The Apathetic Masses) As in Dye's elite theory, the food estate policy does not respond to the real demands of farmers (such as genuine agrarian reform, price protection, and fertilizer subsidies). Instead, this policy imposes a corporate farming model that is foreign to farmers. The elite view farmers not as actors who must be empowered, but as objects that must be "modernized" or replaced by corporations for the sake of macroeconomic efficiency. This is clear evidence that public policy in Indonesia in the food sector is elitist and exclusive.

The process factor highlights how decisions are made. The process of formulating the food estate regulation was rife with disregard for reasonable democratic and scientific procedures. The main legal basis for the acceleration of the food estate is the Job Creation Law, a law whose

⁸⁶ Abdulgani and Savitri, "State, Capital and Coercion in Indonesia's Food Estates."

⁸⁷ Riwanto Tirtosudarmo, "Peter BR Carey Emeritus Fellow Trinity College, Oxford, UK and Adjunct (Visiting) Professor, Department Of," *ASIA MAIOR* 33 (1989): 177.

formation process was declared "conditionally unconstitutional" by the Constitutional Court due to formal defects and a lack of meaningful public participation.⁸⁸ The Omnibus Law method was used to simultaneously revise dozens of sectoral laws (including Forestry, Environment, and Spatial Planning), removing environmental protection articles that were considered to hinder investment.

In its implementation, the check and balance mechanism has been weakened. The role of the AMDAL Assessment Commission, which involves civil society and academics, has been reduced. The determination of PSN locations is carried out through a Presidential Regulation without specific approval from the DPR for each location, reducing political accountability.⁸⁹ This closed and centralistic process ensures that the interests of the elite (as described in the Interest point) can be secured without interference from public protests or critical scientific studies.

The Ideology factor explores the value system underlying the policy. Here, there is a fierce battle between state ideology and constitutional reality. The regulation of food estate is driven by the ideology of Developmentalism, which views physical economic growth and modernization as the ultimate goal. In this view, nature (forests, peatlands) is merely a commodity or factor of production that must be exploited for growth. This ideology also adopts a Malthusian perspective that sees the food crisis as merely a problem, the solution to which is mass production, ignoring the aspects of distribution and access that are at the heart of the hunger problem.⁹⁰

⁸⁸ Agnes Ruth Febianti, "Relaksasi Perizinan Lingkungan Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Dampaknya Terhadap Kelestarian Lingkungan Dan Bisnis," *Jurnal Hukum Lex Generalis* 3, no. 11 (2022): 855–70.

⁸⁹ Almonika Cindy Fatika Sari, "Proyek Strategis Nasional Bernama Food Estate: Ancaman Otonomi Petani Dan Keragaman Sumber Pangan Lokal Di Desa Uumbu Mamijuk, Sumba Tengah," *Jurnal Pembangunan Hukum Indonesia* 6, no. 3 (2024): 352–75.

⁹⁰ Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford university press, 1982).

Constitutionally, Indonesia adheres to the concept of a welfare state as stipulated in Articles 33 and 34 of the 1945 Constitution, whereby the state is obliged to guarantee the prosperity of its people.⁹¹ However, the food estate presents a paradox. The state is indeed actively present (intervention), but its intervention is not to protect the weak (the poor/farmers), but to facilitate the strong (corporations/elites). Within the framework of the Welfare State, this condition shows that the state has failed to carry out its fundamental function of empowerment. Instead of increasing the people's capacity for self-reliance, this policy has created farmers' dependence on production inputs (such as seeds and fertilizers) from corporations, which ultimately impoverishes them structurally. This phenomenon confirms the form of State Capitalism or Oligarchic Welfare, in which state instruments are used to accumulate wealth for a handful of elites under the pretext of public welfare. The Welfare State ideology has been hijacked to serve the neoliberal agenda..

Conclusion

Analysis of the legal framework of the National Food Barn policy reveals a fundamental paradigm shift from the mandate of “Food Sovereignty” to merely “Food Security,” which tends to be biased towards corporate interests. Vertically, there is a legal inconsistency in which implementing regulations such as Government Regulation No. 23 of 2021 and Ministerial Regulation No. 7 of 2021 actually legalize activities in protected forests, which are in principle prohibited by higher-level regulations, namely the Forestry Law. This situation is exacerbated horizontally by the presence of the Job Creation Law and the “Fast KLHS” instrument, which weaken environmental protection standards and public participation, thereby creating an “exception

⁹¹ Alip Rahman, “The Concept of Welfare State in the 1945 NRI Constitution between Ideas and Reality,” *Migration Letters* 21, no. 3 (n.d.): 1074–82.

space” that prioritizes accelerating investment over ecological sustainability and human rights.

An evaluation of the scope of the policy using Regulatory Impact Assessment (RIA) shows that maintaining the status quo of the current food estate model results in long-term costs that far exceed its economic benefits, mainly due to irreversible ecological damage to peatlands and social conflicts. The implementation of policies without the precautionary principle has proven to be high risk, leading to crop failures and inefficient use of the state budget. Therefore, the impact analysis recommends the need for a radical transformation of the direction of legal regulation, from a centralized corporate estate model to a community-based food barn model and local food diversification in order to achieve social justice and sustainability. Meanwhile, an in-depth diagnosis using the ROCCIPI methodology reveals that the failure to implement policies is driven by the strong interests of elites in rent-seeking and the exploitation of crisis situations as opportunities to bypass legal procedures. This problem is exacerbated by a technical capacity deficit, such as the involvement of the Ministry of Defense, which does not have agronomic competence, as well as asymmetrical and manipulative communication that ignores the principle of Free, Prior, and Informed Consent (FPIC) of indigenous peoples. Fundamentally, this policy is driven by the ideology of developmentalism, which views nature solely as a commodity, contrary to the spirit of the welfare state constitution.

Therefore, as an urgent corrective measure, it is recommended that the President immediately issue a moratorium on new land clearing in all Food Estate locations, especially in protected forests and peatlands, while forming an independent audit team to evaluate the environmental impact and budget utilization. In parallel, the government and the House of Representatives need to harmonize regulations to revoke implementing regulations that conflict with environmental laws and return food management authority fully to the relevant technical ministries using a scientific approach. In the long term, the vision for food development must be radically transformed from a corporate estate model

to a community-based food barn model supported by genuine agrarian reform and local food diversification, in order to ensure the realization of a food system that is not only resilient, but also sovereign, fair, and sustainable in accordance with the mandate of the welfare state constitution.

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