



## THE LEGALITY OF GRANTING LAND CONVERSION PERMITS IN FOOD ESTATE PROJECTS AS AN EFFORT TO REALIZE THE NATIONAL FOOD SECURITY PROGRAM

Suci Trianjani<sup>1</sup>, Virna Amalia Nur Permata<sup>2</sup>, Fahri Indiyartono<sup>3</sup>, Egi Rivaldi Gumilar<sup>4</sup>

Universitas Pembangunan Nasional Veteran Jakarta

e-mail: 2310611201@mahasiswa.upnvj.ac.id

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*Food Estate; Food security; Land Transfer; Legality Analysis.* Currently the food estate project is one of the government's main focuses in implementing the national food security program. The development of a food estate has drawn pros and cons from the community. This raises public concerns that the construction of food estate projects could damage peatlands and protected forests. So this research aims to analyze the government's efforts to realize the national food security program through the construction of a food estate that utilizes peat land as an alternative planting medium as well as analyzing the legality of granting permits to convert peat land within protected forest areas as a follow-up to indications of crimes against the environment. In achieving the research objectives, the juridical-normative writing method was used. The results of this research provide information regarding the need for the government to work together to fulfill four important indicators for building large-scale food estates, which include: (1) agro-climate and soil suitability; (2) infrastructure feasibility; (3) technology; and social aspects of society. The legality of changing the function of peatland and the use of protected forests in food estate projects should be considered more carefully.

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### A. Introduction

Prosperity and welfare of the people are the noble ideals of the founders of the nation that has always been echoed since independence. This is one of the goals of the state in promoting the welfare of the people, as stated in the preamble to the Constitution of the Republic of Indonesia in 1945 (hereinafter referred to as the 1945 Constitution). Furthermore, the objectives stated in Article 33 of the Constitution of the Republic of Indonesia (1945) is the most important foundation of the country's economic system (CNN Indonesia, 2023). In addition, Pancasila as the basis of the state demands the creation of social justice for all Indonesian people contained in the fifth

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precept. Referring to this philosophical foundation, the government should try to build the concept of an independent prosperous state in various fields.

One important sector that needs to grow rapidly is food production. The urgency of meeting food needs prompted the government to look for quick ways to address this problem. President Joko Widodo said, to implement the National Food Security program, the government will develop a food estate project that meets the needs of the community. In 2022, Indonesia's Global Food Security Index (GFSI) data touched 60,2 (Pransuamitra). This achievement shows an increase from 2021 which only obtained 59,2. However, the increase was still below the global average of 62,2 and the Asia-Pacific average of 6,4. Therefore, the president of Indonesia gave direct instructions to the Minister of Defense, Prabowo Subianto, to accelerate the construction of food estates in several regions in order to improve and increase the National Food Security Index.

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Although regulated in the law, the development of food estate still gets pros and cons from the community. First, the regulation of the Minister of Environment and Forestry which regulates the provision of forest areas for the construction of food estates, allows the use of protected forest areas for planting (Imamulhadi, 2022). Second, The Making Of The Strategic Environmental Assessment is too hasty, giving the impression that the program is in a hurry. Third, building a food estate can displace indigenous dwellings in four government priority areas. This stems from the concern of local communities that the construction of food estate projects can damage peatlands and protected forests and conservation forests. This cannot be separated from the historical record and the traumatic impact of the community on the failure of the previous government in the construction of the food estate.

Based on the description above, the author is interested in discussing the legality of granting land conversion permits in the Food Estate project as an effort to realize the National Food Security Program in depth. The previous research that discusses a similar topic is a scientific article entitled "juridical analysis of Food Estate development programs in forest areas reviewed from Eco-Justice " in the Journal of spatial and Agrarian Environmental Law. In addition, there is also an article written by Defense

University students with the title “Food Estate Development Strategy in National Economic Recovery”. The discussion in this paper focuses on the government's efforts in implementing the National Food Security program by establishing a food estate which is projected to utilize peatland as an alternative planting medium. The authors also analyzed the legality of granting permits for the transfer of peatland functions in protected forest areas as a consequence of environmental crimes. Based on the background that has been presented, there are several interesting problem formulations to be discussed thoroughly, including how the government's efforts and role in achieving food security through the food estate policy, then also how the legality of granting land conversion permits in an effort to protect the consequences of environmental impacts generated in the food Estate project.

## **B. Method**

This paper is juridical-normative by conceptualizing the law as a written norm contained in the legislation (law in the books) (Asikin, 2012). Law is conceptualized as a rule or norm that is the main guideline for human behavior. Sources of legal materials in the form of primary or secondary materials because they are qualitative. The data collection technique is a bibliography study based on published written information (Soekanto). The juridical-normative type of writing method is chosen to answer various problems of the main topic. The discussion utilizes primary legal material sources such as laws and other derivative regulations as a foundation. Furthermore, the authors include relevant factual data to reinforce the juridical analysis. Legal materials and secondary data used in this paper are open to the public and released by reliable sources and guaranteed credibility. This paper is expected to provide conclusions as well as theoretical and applicable solutions for the community and/or government derived from academic studies.

## **C. Result & Discussion**

### **1. The Government's Efforts To Realize The National Food Security Program Through The Food Estate Project**

Theoretically, the development of food estate is closely related to the concept of political ecology first proposed by Raymond L. Bryant and Sinead Bailey (hereinafter Bryant and Sinead). Both experts are academics at King's College London who have a focus of study in the field of political ecology. This theory holds the view that natural resource management decisions cannot be realized if they are only seen through technical aspects. Environmental management planning is not only limited to concern for the environment, but there is a share of power that underlies all actions towards environmental sustainability. The theory of political ecology states that environmental management is not strictly neutral, often seasoned by elements of politicization of various levels (F).

The government has a responsibility to maintain stability in the administration of the country. One of the most basic things to maintain the stability of the state administration is the availability of food for the community. High public

consumption has an impact on increasing food needs in Indonesia. Unfortunately, this increase is not directly proportional to the productivity of agricultural land. This is caused by various factors ranging from declining irrigation quality or agricultural and plantation irrigation systems. Not only that, other factors are often caused by human intervention, such as increased food needs that move hand in hand with an increase in population by 1.2 percent, poverty, mismanagement of improper Agricultural Management, land acquisition polemics and so on, therefore an independent, sovereign and sustainable food security system is one of the priority agendas of the national long and medium term plan 2020-2024 (Mutia A.N, 2022).

Problems related to productivity are not the only important factor that threatens agriculture in Indonesia. Socio-political problems also affect the decline in the number of agricultural workers. In fact, at the same time there is an increase in imports of food that should be produced in the country. Generally, imported foodstuffs are often imported such as rice, garlic, and soybeans. This happens because the cost of production in the country is large enough to cause goods produced in the country to have a selling price that is more expensive than the price of imported goods (Imamulhadi, 2022). Therefore, the government is working on the construction of a food barn or food estate project as a solution to guarantee food availability for all Indonesian people.

The government's move to strengthen the foundation of the welfare state in the field of food security is realized through the development of food estate as a national food barn. Food estate is a plant cultivation business with a land area of 25 hectares or more which is implemented through the concept of agriculture as an industrial system based on science and technology, and using modern management concepts (Estate, 2011). The food estate Program is included as one of the National Strategic Program plans 2020-2024 as stated in Presidential Regulation number 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning the acceleration of the implementation of National Strategic Projects. The concept of food estate is based on the integration of sectors and subsectors in an agribusiness system that utilizes resources optimally. Food estate is managed and supported professionally by qualified human resources by utilizing appropriate technology and environmentally sound. The concept of food estate is directed at the rural agribusiness system based on local community empowerment which is an element of regional development (Estate, 2011).

Referring to LHK Ministerial Regulation Number 7 of 2021, it is known that food estate is defined as a wide-scale food business which is a series of activities to manage natural resources through human efforts by utilizing capital, technology, and other resources to produce food products that are expected to meet human needs in an integrated manner including food crops, horticulture, plantations, livestock, and fisheries in a forest area. Based on a long history of efforts to create food security in a community scope, the government through the Indonesian positive law regulates food security as stated In Law Number 8 of 2012 on food which mandates that food security is a condition for the fulfillment of food for the country to individuals which

is reflected in the availability of sufficient food, both in quantity and quality that is safe, diverse, nutritious, equitable, and affordable and does not conflict with religion, belief, and culture of the community to be able to live healthy, active, and productive sustainably. Of course, this is a legitimacy for the government to move actively to alleviate the problems of national food needs through the construction of food estate projects by utilizing the natural wealth and fertility of Indonesian soil.

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Judging from the food estate project development program, the adverse impact on the environment cannot be considered trivial. Environmental damage will disrupt the balance of ecosystems. On the other hand, people who are affected are also vulnerable to being marginalized. The development of a national-scale program involving large companies imposes sustainable food security on farmers. This is considered unfair, given the potential risks that are not balanced with the certainty of benefits for the community and farmers themselves. Looking at the current condition of Indonesian farmers, the average only has a land area of less than 0,5 hectares (A, 2021). In fact, the construction of a food estate project requires a very large area of land. Therefore, there is a discourse to use peatland as an alternative planting medium.

In fact, the food estate project can be used as an effort to improve national food security. However, the government must meet the four criteria for measuring food security set by the Food and Agriculture Organization (FAO) to realize this, namely the fulfillment of the aspects of availability, access, utility, and stability. The availability aspect measures the availability of food supplies that can meet the needs of the community; access measures the ability of the community to obtain the food needed; utility concerns the study of nutritional intake of food consumed; and stability estimates people's ability to access the food they need. Therefore, the government needs to work together to meet four important indicators for building a large-scale food estate which include: (1) agroclimate and soil feasibility; (2) infrastructure feasibility; (3) technology; and social aspects of the community.

If there are enough human resources willing to work as farmers, food estate projects can attract more workers to produce food. Having enough manpower will increase production efficiency and accelerate the development of food estate. The decline in interest in working in agriculture is different from that in China. China's primary sector employment is again showing improvement as migrants

return to the agricultural sector. While in Indonesia, many young people do not want to be farmers. About 176,6 million people, or about 24,1 million workers in China, worked in agriculture, fishing, forestry, mining and other activities related to the exploitation of Natural Resources in 2022, according to China's population and employment yearbook. Statistics in 2023, Jokowi said, 71% of Indonesian farmers are currently aged 45 and over, while only 29% are under 45 years old. The government is now determined to make the agricultural sector profitable. The young generation that goes into agriculture is expected to continue to decline. The low welfare of farmers does make the younger generation reluctant to become farmers.

## **2. The Legality of Granting Land Use Change Permits in Food Estate Projects with Suspected Environmental Consequences**

Mark J. Smith's view on the relationship between humans and nature is known as the theory of ecological justice (hereafter referred to as eco-justice). The eco-justice theory emphasizes the quality of life of the biosphere that takes into account the rights of all creatures inhabiting the biosphere. This theory openly criticizes anthropocentrism that views nature as satisfying human needs. In fact, moral humans must respect the rights of non-human beings in order to coexist. Based on the theory of eco-justice, a set of rules must consider the rights of other living beings. Thus, ecological justice can be felt not only by the current generation, but also by future generations (Imamulhadi, 2022).

Guided by Law No. 19 of 2004 on the Stipulation of Government Regulation in Lieu of Law No. 41 of 1999 on Forestry into Law, which explains that forests as national development capital have real benefits for the lives and livelihoods of the Indonesian people, both in terms of ecological, socio-cultural, and economic benefits in a balanced and dynamic manner. Forests must be managed, protected, and utilized sustainably in order to realize the welfare of the people. Forests as part of the ecosystem need to be preserved because forests also have the right not to be destroyed by humans. This is an interpretation of the concept of ecological justice that regulates human relationships with the surrounding nature, including forests as the lungs of the world.

The food estate project was launched to anticipate a food crisis by turning protected forests and peatlands into food production centers for strategic logistics reserves for national defense. This project is a national strategic program that is expected to become a pillar of national food security, contributing to economic stability, politics and national security. The development of the food estate project was initiated by the government through cooperation between the Ministry of Public Works and Public Housing, the Ministry of Agriculture, the Ministry of Environment and Forestry, and the Ministry of State-Owned Enterprises. The development of food estate projects requires the synergy of all components of the central and regional governments, supported by good and accountable supervision, and sufficient financing. Synergy can start from upstream, on farm, to downstream, to market distribution to increase the capacity and diversification of food products (A, 2021).

Based on the Regulation of the Minister of Environment and Forestry Number P.24/MENLHK/SETJEN/KUM.1/10/2020 concerning the Provision of Forest Areas for Food Estate Development, it is stated that food estate is a large-scale food business. This could lead to significant deforestation as a result of extensive and massive land conversion. This project also has implications for the destruction of peatland ecosystems because at the beginning of development, no new land clearing was carried out. Peatlands themselves have different characteristics from mineral soils, so to ensure the sustainability of land management, proper handling and utilization through environmentally sound management is required. Degraded peatlands will become dry and flammable, especially in the dry season. Improper peatland management triggers the release of large amounts of carbon into the atmosphere and rivers, potentially causing floods during the rainy season.

This condition was exacerbated by the issuance of the Minister of Environment and Forestry Regulation Number 7 of 2021 concerning Forestry Planning, Changes in Forest Area Designation, and Changes in Forest Area Function, as well as the Use of Forest Areas, which essentially states that food estate development is only carried out with the mechanism of determining forest areas for food security (KHKP). This indicates that the mechanism for changing the designation of forest areas (PPKH) is not being reused. In fact, Regulation of the Minister of Environment and Forestry Number P.24/MENLHK/SETJEN/KUM.1/10/2020 concerning Provision of Forest Areas for Food Estate Development, regulates two ways of providing land for the development of food estate areas, namely through the mechanism of changing the designation of forest areas or determining forest areas for food security, before it was finally revoked by Regulation of the Minister of Environment and Forestry Number 7 of 2021 concerning Forestry Planning, Changes in Forest Area Designation, and Changes in Forest Area Function, and Use of Forest Areas (Imamulhadi, 2022).

Looking at the policy study issued by the Indonesian Center for Environmental Law (ICEL), the Regulation of the Minister of Environment and Forestry Number P.24/MENLHK/SETJEN/KUM.1 /10/2020 concerning Provision of Forest Areas for Food Estate Development as amended by Regulation of the Minister of Environment and Forestry Number 7 of 2021 concerning Forestry Planning, Changes in Forest Area Designation, and Changes in Forest Area Function, as well as the Use of Forest Areas, contradicts Law Number 19 of 2004 concerning the Stipulation of Government Regulations in Lieu of Law Number 41 of 1999 concerning Forestry into Law, which regulates limited utilization of protected forests, for example in terms of area utilization, environmental services, and collection of non-timber forest products (A, 2021).

In addition to contradicting higher laws and regulations, Minister of Environment and Forestry Regulation No. 7 of 2021 on Forestry Planning, Forest Area Designation Change, and Forest Area Function Change, as well as Forest Area Use, also contradicts the concept of eco-justice theory. Through this theory, humans are required to be fair not only to fellow humans, but also to other non-human

beings. This is why the conceptualization of eco-justice theory explains that it is humans who must adjust their rules in order to create a harmonization, where humans can meet their needs by utilizing nature. However, it does not necessarily damage the condition of nature itself. This regulation shows the opposite, as if nature has to adjust itself to meet human needs. Therefore, the legality of peatland conversion and the utilization of protected forests in food estate projects should be questioned and considered more carefully.

The conversion of peatlands and protected forest areas into food estate areas is feared to accelerate the rate of deforestation which contradicts the environmentally sound policies that have been implemented as a form of Indonesia's commitment to preventing climate change. This is an embodiment of the 13th goal of the Sustainable Development Goals (SDGs) on handling climate change which targets all countries in the world to actively participate in efforts to strengthen the capacity of resilience and adaptation to hazards related to climate change and natural disasters. Climate change has a negative impact on the environment because it can trigger natural disasters. Food estate projects often fail due to poor management planning. The million-hectare peatland development program in Central Kalimantan Province during the reign of President Soeharto, the Merauke Integrated Food and Energy Estate initiated by President Susilo Bambang Yudhoyono, and the Ketapang Food Estate planned by the Minister of BUMN, Dahlan Iskan, in 2012-2014 are concrete evidence of the failure of food estate programs that have been worked on by the government.

#### **D. Conclusion**

Food and agricultural development is actually a step to guarantee sustainable food provision which is expected to be able to provide sufficient, affordable, nutritious, safe, diverse food for all levels of society in order to then be able to realize an independent, sovereign, sustainable and prosperous food security system for the people where this is realized through food estate development. Looking at the food estate project development program, the adverse impact on the environment cannot be taken lightly. The government needs to synergize to fulfill four important indicators to build a large-scale food estate which include: (1) agro-climatic and soil feasibility; (2) infrastructure feasibility; (3) technology; and social aspects of the community. The government also needs to meet the four criteria for measuring food security set by the Food and Agriculture Organization (FAO) to realize this, namely fulfilling the aspects of availability, access, utility and stability. The legality of peatland conversion and protected forest utilization in food estate projects should be questioned and considered more carefully. It is feared that the conversion of peatlands and protected forest areas into food estate areas will accelerate the rate of deforestation, which contradicts the environmentally sound policies that have been implemented as a form of Indonesia's commitment to preventing climate change and natural disasters.

This condition is exacerbated by the revocation of the previous regulation through the issuance of Minister of Environment and Forestry Regulation Number 7 of

2021 concerning Forestry Planning, Changes in Forest Area Designation, and Changes in Forest Area Function, as well as the Use of Forest Areas, which essentially states that food estate development is only carried out with the mechanism of determining forest areas for food security. This regulation contradicts eco-justice theory and Law No. 19 of 2004 on the Stipulation of Government Regulation in Lieu of Law No. 41 of 1999 on Forestry into Law, which regulates limited utilization of protected forests, for example in terms of area utilization, environmental services, and collection of non-timber forest products.

Indonesia has a long history of food estate failures caused by immature management planning during the administration of President Soeharto and President Susilo Bambang Yudhoyono. Therefore, the legality of the conversion of peatland and the use of protected forests in food estate projects deserves to be questioned and considered more carefully so that of course this project can be in accordance with national ideals in realizing a sustainable food security system with an emphasis on community welfare and of course still paying attention to balance. nature in the process.

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