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LEGAL PLURALISM IN RURAL LAND RESILIENCE: TOWARDS SUSTAINABLE FOOD SECURITY IN INDONESIA^{1*}

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Article Info	Abstract
<p>Keywords: <i>Food Security, Land Resilience, Legal Pluralism, Sustainable Agriculture, Village</i></p> <p>History of Article: Received: 06-05-2024 Reviewed: 07-05-2024 Accepted: 12-05-2024 Published: 13-05-2024</p> <p>DOI: - 10.56282/jsdi.v2i1.496</p>	<p>The prevailing Food Law, Sustainable Agricultural Land Law, and Village Law have yet to be effectively implemented, considering that the sustainable fulfilment of the country's food needs can only be optimally achieved based on the diversity of local resources. The Food Law, Sustainable Agricultural Land Law, and Presidential Regulation Number 59 of 2019 have yet to address the consistency in the declining contribution of food crops to GDP from 1990 to 2019 and have not rectified the decrease in agricultural land between 2013-2018. A concept of legal reform has been developed, emphasizing a system or order in land resilience in villages to strengthen sustainable food security in Indonesia. Legal reform of this system or order can prevent and handle all forms of ongoing misuse of agricultural land. The transformation of its universal</p>

¹ This article is a private scientific study of the researcher and does not reflect the institution's opinion/policy.

values begins with enacting public opinions as monitoring and corrective actions originating from the village community itself, filtered through village deliberation institutions, followed by collective decision-making and accountability, resulting in developmental actions from supra-village governments.

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A. INTRODUCTION

The government must anticipate a food crisis by relying on a food security program, which is considered an essential solution. This program will only be successful if every village in Indonesia has land resilience; based on the Minister of Home Affairs Decision Number 050-145 of 2022 regarding the Provision of Codes, Administrative Area Data, and Islands for 2021, the number of villages in Indonesia reached 74,961 in 2021. Land resilience in villages aligns with the strategic role of the village, strengthened by the significant revenue and expenditure realization of village governments (Village Government Budget - *APB Desa*) throughout Indonesia. The *APB Desa* in 2019-2021 amounted to IDR 117.44 trillion and IDR 113.69 trillion in 2019 (Central Bureau of Statistics, 2021), IDR 121.83 trillion and IDR 121.92 trillion in 2020, and IDR 124.88 trillion and IDR 124.97 trillion in 2021 (Central Bureau of Statistics, 2021).

The substantial amount of *APB Desa* and the need to consider additional land for food through villages, while the village is the smallest governmental structure in Indonesia and closest to the community (Kushandajani, 2018), will face challenges concerning the implementation of Law Number 41 of 2009 on Sustainable Agricultural Land Protection (Sustainable Agricultural Land Law) and Law Number 18 of 2012 on Food, as last amended by Law Number 6 of 2023 on the Establishment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law (Food Law), and Law Number 6 of 2014 on Villages (Village Law). The enactment of legal pluralism as a legal reform emphasizing systems or orders is necessary to change reality towards a desired or envisioned situation as a logical consequence of choosing to defend the people's legal order (Simarmata, 2013). This reform is needed to consider the power factors of the central and/or regional governments through the Food Law and Sustainable Agricultural Land Law, which potentially disregard the independence and sovereignty of villages as regulated in the Village Law. It is evident from the Food Law and Sustainable Agricultural Land Law, potentially creating an imbalance in resource distribution and perpetuating a system that is not fair and democratic,

privileging state laws over non-state laws within village communities, thus making the people victims (Simarmata, 2013). Given that in the arena of legal pluralism, there are state laws on one side.

Conversely, people's laws are separate from the state, consisting of customary law, religion, habits, or other social conventions regarded as law (Irianto, 2013); this study needs to answer the following two problem formulations. **First**, how is the regulation of land resilience and food security in villages in Indonesia? **Second**, what is the concept of legal reform emphasizing systems or orders in land resilience in villages to strengthen sustainable food security in Indonesia?

Overview of Villages and Its Prevailing Law in Indonesia

The most basic and universal aspect for all villages is recognizing and institutionalizing the rights they have owned despite diversity. This recognition and institutionalization of rights are the right of the village to own and control natural resources for the development of areas conducted by the government or private sector (Barus and Sinaga, 2023). This basic and universal aspect of the village indicates that the role of the village is very strategic both politically and sociologically, making the village an accurate and important starting point for development towards a prosperous Indonesia (Barus and Sinaga, 2023), including the development of food security.

One of the considerations of the Village Law asserts that villages that have developed in various forms need to be protected and empowered to become strong, advanced, independent, and democratic villages to create a solid foundation for the government to implement development towards a fair, prosperous, and welfare society. It shows that the principles of recognition, subsidiarity, accountability, and participation are requirements of the Village Law so that the governance and management of villages are conducted strictly, controlled, professionally, and with integrity. Implementing these principles will ensure that the organization of village governance has been carried out as planned and is also a corrective activity and improvement if deviations are found that will disrupt the achievement of objectives (Simanjuntak *et al.*, 2020).

The principle of recognition is the acknowledgement of original rights. In contrast, the principle of subsidiarity is the determination of local-scale authority and local decision-making for the benefit of the Village community, as defined in the Village Law. This consideration shows that the concept of village development based on the principles of recognition-subsidiarity must strengthen the village's independence by making two adjustments (Simanjuntak, 2021). **First**, rank the villages that are ready, semi-ready, and not ready for independent financial supervision and treatment of the supervisory institution/agency. The analysis shows three types of villages in this treatment: Full Autonomy Villages, Mid-Autonomy Villages, and Low

Autonomy Villages, each with its criteria. **Second**, regulations that govern the role of each related institution and the procedure of conducting coordinative development with the main goal that village financial supervision can run well and shed the habits of supra-village surveillance that may still be carried over in carrying out coordinative development tasks (Simanjuntak, 2021).

Meanwhile, the principle of accountability refers to institutions and checks and balances processes in government administration through its members who bear the mandate and trust given by the citizens. A Village Government is called accountable if it performs its duties well, does not deviate, does not commit corruption, does not sell village treasury land for personal interests, and so on. Furthermore, the principle of participation is the administration of village government that involves village institutions and elements of the village community, and the principle of order and discipline in the budget is the management of village finances must refer to the rules or guidelines that underlie it (Simanjuntak *et al.*, 2020).

Overview of Land Resilience and Sustainable Food Security

Agriculture in villages is inseparable from the vision of Indonesian agricultural development formulated by the Ministry of Agriculture (2021) for 2020-2025, which is "to realize a sustainable, competitive industrial agricultural system that can ensure food security and farmers' welfare". Guided by this vision, the goal of food security in villages is to improve the following three aspects: 1) food availability, both from the production of village communities and from village food storages; 2) food affordability for village community members, and 3) diverse, balanced, safe, hygienic, high-quality food consumption that does not conflict with the religion, beliefs, and culture of the community, and is based on local resource potential (Sarimekar Village, 2022). Food security in Indonesia must be sustainable, meaning Indonesia must seriously realize its targets set in the sustainable development goals declaration because food is closely related to meeting basic human needs and is also required for human development at individual and group levels (Husnah *et al.*, 2022).

Furthermore, to achieve food security in villages, the Ministerial Decision of the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration of the Republic of Indonesia Number 82 of 2022 on Guidelines for Food Security in Villages stipulate the fulfilment of underlying principles, consisting of the principles of participation, cooperation, equality, self-sufficiency, independence, integration, and sustainability (Sinaga, 2023). The principle of participation is "the active involvement of the village community in data collection, planning, implementation, and supervision of food security policies in the village". The principle of cooperation is that "food security in the village is managed by prioritizing a culture of helping each other in a spirit of equality and cooperative awareness". The principle of equality is "the

implementation of food security in the village is managed by prioritizing the fulfilment of the rights and interests of all village communities without discrimination based on ethnicity, race, group, religion, and class". The principle of self-sufficiency is "food security in the village is organized by respecting and prioritizing the ability of the village community to manage agricultural, plantation, forestry, fishery, livestock, water, and air resources for food sufficiency". The principle of independence is "food security in the village is organized by prioritizing the utilization of all development resources in the village to build sustainable agriculture, plantations, forestry, fisheries, and livestock". The principle of integration refers to the village's ability to build food security so that no one in the village community goes hungry. The principle of sustainability refers to the village's duty to protect the agricultural, plantation, forestry, fishery, livestock, water, and air systems for the benefit of the present and future generations of the village community through the protection and management of agricultural, plantation, forestry, fishery, livestock, water, and air resources in the village area.

Food security in Indonesia is regulated under the Food Law. Food security differs from food sovereignty or food independence, as can be seen in Article 1 numbers (2), (3), and (4) of the Food Law (Sinaga and Barus, 2023). Food security is the condition of fulfilling food for the country down to individuals, reflected in the availability of sufficient food in quantity and quality, safe, diverse, nutritious, equitable, affordable, and not in conflict with the religion, beliefs, and culture of the community, to live a healthy, active, and productive life sustainably. Food sovereignty is "the right of a country 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 the potential of local resources". In contrast, food independence is "the ability of a country and nation to produce diverse Food domestically that can guarantee sufficient Food needs up to the individual level by utilizing the potential of natural, human, social, economic resources, and local wisdom in a dignified manner". It indicates that at the national level, food security is the ability of a country to ensure sufficient food, decent quality, and safety, and is based on the optimization of utilization based on the diversity of local resources for all its residents (Setiarto, 2016).

Critical Review of Village Law Regarding Land Resilience and Food Security Regulation in Indonesia

Village Law has set universal standards to be included in every option, namely incorporating values of democracy, pluralism, transparency, accountability, and participation. Although these universal values are intended to prevent feudalism in village governance (Simanjuntak, 2021), deviations can still occur, as identified by Simanjuntak (2022) in four factors. First, the limited involvement and understanding of villagers in the village

development process, related to the competence and integrity of village government officials and supra-village supervisors, the need for more transparency, and inadequate inherent supervision. Villagers have been involved in the planning and implementation of village development. However, their involvement still needs to be improved, while village institutions like the village consultative body (BPD) still need to optimize their supervisory role in the village fully. Second, the limited access of villagers to information, such as asset data, village regulations, and the truth about Village Budgets that should be published, discourages active participation, resulting in minimal and ineffective supervision of village development due to a lack of monitoring by the village community. Third, the limited capacity and unpreparedness of village heads and village officials to manage the village, including its finances (Simanjuntak, 2022). Fourth, weak supervision and lack of active participation by villagers, the hierarchy in managing village resources, the central government's distant control over village governments under regional governments, and the need for more transparency in village government. However, many stakeholders have the right and obligation to be involved in managing and supervising village finances (Simanjuntak et al., 2020 a).

The inadequacy of resources, insufficient information, and limited time to address issues (Barus, 2022) of land resilience in enhancing food security in villages shows the need for the principle of recognition-subsidiarity inherent in villages in realizing the availability, affordability, and utilization of food for the community. The principle of recognition-subsidiarity indicates that the existence of villages, possibly long-standing, including all customs and customary laws owned by local communities, must be recognized by the state (Simanjuntak, 2023). Recognition of the existence of villages in terms of food security also extends to village efforts to realize their villages without poverty, hunger, in health and prosperity, with appropriate infrastructure and innovation, environmental concern, partnerships for village development, and dynamic institutions and adaptive culture (Decision of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 82 of 2022, 2022). It indicates that some provisions in the prevailing Sustainable Agricultural Land Law still ignore the recognition-subsidiarity inherent in villages, as some of its provisions can be explained as follows:

- a. The enforcement of central and regional government power in the creation of the Sustainable Agricultural Land Protection Plan in the RPJP, RPJM, and RKP for certain villages, although Village Law guarantees a recognition and subsidiarity scheme for the interests of village communities and villages no longer follow a delegation scheme of some authority from districts/cities.
- b. Licensing and land control mechanisms are primarily carried out by the central and regional governments, even though village law has regulated

- the recognition of ancestral rights and established local-scale authority and local decision-making for the benefit of village communities.
- c. Supervision the achievement of Sustainable Agricultural Land Protection implemented in stages by the government, provincial, regional governments, and district/city regional governments according to their authority.
 - d. Farmers in each village have their own experiences over generations in farming and maintaining their environment, so food security policies through corporate permits, as referred to in the Sustainable Agricultural Land Law, have the potential to cause social conflict with indigenous/village communities and/or threaten the extinction of food sovereignty of certain villages due to monoculture expansion and standardization of food for business interests only (Hidayat, 2023). It shows that natural law concepts are still inherent in village communities, based on the tendency of village communities to be social beings who form communal life (Hermawan and Barus, 2022).
 - e. Some provisions in the Food Law and Sustainable Agricultural Land Law still adhere to a market-friendly paradigm that still needs to be represented. Among them is the authority of central and/or regional governments that legitimize corporations through legislation to narrow the management area of village farmers. For example, the allocation of 36 million hectares of forest for mining permits, monoculture plantations, etc., and 6 million hectares of forest released for palm oil corporations (Walhi, 2023), the absence of maximum landholding limits for corporations in villages in Indonesia (Komnas HAM, 2020), and unrestricted imports of food types that are the mainstay of production in certain villages in Indonesia.

The simultaneous enforcement of the Food Law, Sustainable Agricultural Land Law, and Village Law as state legal institutions used to measure legal normativity in regulating sustainable agricultural land in villages in Indonesia will potentially face opposition or compete with other legal institutions (Kleinhans and McDonald, 2013). To avoid societal conflicts in villages due to these prevailing state legal institutions, the state law must accept the reality that community actions always occur in diverse contexts, semi-autonomous social fields that overlap, which, in practice, maybe a dynamic condition (Barus and Hermawan, 2022). Thus, the goal of food security through land resilience in villages in Indonesia should not only see and interpret the implementation of the law as a structure of legislation that always resolves issues by applying written rules (Pramugar and Sinaga, 2022) or seems only to fulfil formal justice, but shift to upholding the realization of substantive justice and public welfare (Zaman and Alam, 2022).

Legal Pluralism as the Basis for Land Resilience in Villages Strengthening Sustainable Food in Indonesia

Law is fundamentally based on society, and to understand the existence and functioning of law, it must emerge as a distinctive fact that emphasizes the empirical, expression, or social behaviour of its society (Suryatni, 2013). It is also true in building land resilience that strengthens food security in Indonesia, considering that law is not merely a product of individuals or a group of people in the form of legislation or an institution isolated from other cultural aspects but is also a product of social relations within the life system of the community (Suryatni, 2013).

Food security in villages shows that the order of land resilience in villages and its strengthening for sustainable food based on Village Law requires legal pluralism as a framework of analysis, given the ability of legal pluralism to adapt the diversity of village financial, legal cultures progressively and non-hierarchically (Simanjuntak, 2022). The challenge becomes apparent in implementing the prevailing Food Law and Sustainable Agricultural Land Law within the prevailing Village Law, which must be linked with legal pluralism, as legal pluralism is one approach that ensures the making of legal rules for supervision and adjudication is not controlled by the state. Legal pluralism shows how all these legal systems “operate” together in daily life (Irianto, 2013). It means in what context a village community chooses (a combination of) certain legal rules, explaining how the Food Law, Sustainable Agricultural Land Law, and Village Law together regulate land resilience in villages in support of sustainable food security in Indonesia, considering the undeniable reality of other legal systems outside of state law (Irianto, 2013).

The term pluralism refers to more than one entity in a specific area. In legal pluralism, the existence of more than one law is absolute. However, legal pluralism cannot be interpreted as applying more than one rule to the “same” situation, as this is normative and not empirical, because such a situation only identifies that law is not uniform but does not demonstrate legal pluralism (Griffiths, 2013). Legal pluralism is a set of social territories and not a “law” or “legal system”. Thus, the effort to formulate a descriptive theory of legal pluralism must confront the reality in various fields of community life where legal provisions can operate. Legal pluralism occurs when a social territory has more than one source of law and more than one legal order (Griffiths, 2013), so the law must still be broadly understood as cognitive and normative rules taken and perpetuated in a social context like in villages (Meinzen-Dick and Pradhan, 2013).

At the point of discourse on the prevailing Food Law, Sustainable Agricultural Land Law, and Village Law, legal pluralism becomes a binder in tracing the moral order or ethics in the Village that legitimizes the will and rights of village communities in managing village land. Legal pluralism

recognizes the diversity of management legal cultures in village life; even public opinions on supervision and corrective actions originate from the village community, filtered through consultative institutions and produced developmental actions from supra-village governance (Simanjuntak, 2022). It demonstrates the implementation of legal pluralism in villages is intended so that the administration of power (central and/or regional governments) recognizes the rights and authorities of villages to organize their legal order for food, agriculture, and agricultural land. Certain provisions in the Food Law and Sustainable Agricultural Land Law in villages apply as long as they do not create dominant relations. Thus, they need to transform universal values (Simarmata, 2013) in Village Law and the legal order of village communities in the Food Law and Sustainable Agricultural Land Law.

B. CONCLUSION

This study yields two conclusions following the introduction, analysis, and discussion. **First**, the prevailing Food Law, Sustainable Agricultural Land Law, and Village Law still need to be aligned, even though the optimal fulfilment of sufficient and sustainable food for the country can only be based on the diversity of local resources available to the village population in Indonesia. The Food Law, in effect since 2012, the Sustainable Agricultural Land Law, effective since 2009, and Presidential Regulation Number 59 of 2019 have not been able to address the decline in the contribution of food crops to GDP from 12.21% in 1990 to 4.33% in 2019, nor the decrease in land area from 8.13 million hectares in 2013-2018 to 7.1 million hectares, even though the land needed for food is estimated to reach 13.17 million hectares by 2025. **Second**, legal reform emphasizing the system or order in land resilience in villages to strengthen sustainable food security in Indonesia involves transforming the universal values of Village Law and the legal order of village communities. Implementing diverse legal cultures and legal orders in the administration and management of food, agriculture, and village agricultural land is a means to prevent and handle all forms of misuse of sustainable agricultural land. Legal reform of this system or order transforms the following universal values: it begins with public opinions as supervision and corrective actions originating from the village community itself, then filtered through village consultative institutions, followed by collective decisions and accountability, and subsequently resulting in developmental actions from supra-village governance. Implementing this legal pluralism will strengthen the rights of villages to own and control natural resources for the development of sustainable agricultural land areas by the government and private sector.

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