



# LEGAL POLICY OF THE NATIONAL FOOD GRANARY PROGRAM (FOOD ESTATE) ON PEAT LAND IN CENTRAL KALIMANTAN WHICH IS ENVIRONMENTALLY INVESTIGENT

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## Abstract

Facing the world food crisis President Joko Widodo's government created a national food storage program (Food Estate), as part of the Acceleration of Implementation of National Strategic Projects. The Food Estate program was implemented on the land of a former peatland development project (PLG) in Central Kalimantan. The new paddy fields printing program aims to maintain the need for national food stocks, especially rice, with a priority on the intensification and extensification of paddy fields. The first formulation of the problem, is there legal policy synchronization between laws and regulations made in the national food storage program (Food Estate) in Central Kalimantan which is environmentally sound? Second, what is the ideal form of legal policy in the future in the National Food Estate program in Central Kalimantan that synergizes with environmental insights? The method in this research is socio-legal, namely normative legal research supported by field data as supporting material. The results of the study show: First, there is an asymmetry in legal policy in the National Food Estate Program in Central Kalimantan, namely between Presidential Regulation Number 3 of 2016 as amended by Presidential Decree Number 109 of 2020 and the Corruption Eradication Law Number 20 of 2001 Jo Law Number 31 of 1999, the PPLH Law deals with the principles of sustainability and sustainability; the principle of harmony and balance, the principle of local wisdom. Then with the Forestry Law Article 38 Paragraph (1) and Paragraph (2), as well as the Plantation Law. Second, the form of legal policy in the future ideal policy in the National Food Barn Program (Food Estate) in Central Kalimantan which synergizes with environmental insights in the form of an Act Not a Presidential Regulation, because if it is in the form of a Presidential Regulation then if there is a violation in the implementation of the Granary Program National Food (Food Estate), then there are no criminal provisions, different in the form of a law there is a regulation of criminal sanctions in it.

**Keywords:** Legal Policy, Food Estate, Environmentally Friendly.

## INTRODUCTION

In response to a report from the Food and Agriculture Organization (FAO) which provides a warning of the impact of the COVID-19 pandemic on food security. The Indonesian government created a program called Food Estate. Food estate is a food development concept that is carried out in an integrated manner based on horticulture, plantations, livestock and food crops, in an area. It is planned that this food estate will become one of the National Strategic Programs (PSN) 2020-2024, which is said to be a super priority program to make Indonesia a Food Barn (Wikipedia, 2023). So this Food Estate program can be said to be a Food Barn Program National.

Based on a report released by the Global Network Against Food Crisis (GRFC) and the Food and Agriculture Organization (FAO) at the end of 2019, at least 135 million people in 55 countries are experiencing an acute food crisis. This caused 75 million children's growth to be disrupted and 17 million others to be affected by malnutrition in 2019. The data released shows the highest number of impacts of the food crisis and malnutrition since the first report in 2017 (FAO Reports, 2020).

Then in a release by the UN Secretary General, António Guterres stated that currently the global community is on the verge of an acute food crisis for at least the next 50 years. "It is quite clear that there is a global food emergency which, if not addressed, will have long-term impacts on millions of children and the elderly. Action is needed now to avoid the worst scenario in a pandemic," said António in June 2020 (Fiona Harvey, 2023).

Based on these conditions, President Joko Widodo (Jokowi) took a red signal for a threatening food emergency. President Jokowi officially appointed the Minister of Defense of the Republic of Indonesia Prabowo Subianto as the 'leading sector' in the national food storage project or 'food estate' on 13 July 2020. In his meeting with journalists, Jokowi also explained the position of the Indonesian Ministry of Agriculture (Kemtan) led by Syahrul Yasin Limpo who continues to contribute to this Food Estate project. Jokowi also emphasized that the national food storage program which is named 'Food Estate' is a response to the potential threat of a food crisis posed by FAO (Lula Lasminigrat and Efriza, 2002).

The legal basis for the Food Estate Program is stated in Presidential Regulation Number 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of Implementation of National Strategic Projects, as one of the 2020-2024 National Strategic Program Plans. In the early stages, the government will start with 30 thousand hectares in Central Kalimantan (for the intensification program, namely in Kapuas and Pulang Pisau districts, and the extensification program in Gunung Mas district), to be planted with food crops and horticulture (Ady Thea DA, 2023). Actually the development of this land is an anticipation of shrinking land in Java and at the same time to encourage development outside Java (Rosiyana Haryanti, 2023). Likewise, apart from land in Central Kalimantan, the government will also develop food estates for North Sumatra, East Nusa Tenggara, Papua, NTT and South Sumatra (Ady Thea DA, 2023). The Food estate is the concept of developing food production which is carried out in an integrated manner and consists of agriculture, plantations, and even animal husbandry in large areas of land (Setyo, P. and Elly, J, 2018).

Following up on the Acceleration of Implementation of National Strategic Projects through the Food Estate program, the Ministry of Environment issued Minister of Environment and Forestry Regulation Number P.24/MENLHK/SETJEN/KUM.1/10/2020 concerning Provision of Forest Areas for Food Estate Development, the provisions of which are currently slightly changed in the Ministerial Regulation LHK Number 7 of 2021 concerning Forestry

Planning, Changes in Allotment of Forest Areas and Changes in Functions of Forest Areas and Use of Forest Areas, where Provision of Forest Areas for Food Estate Development or later written as Forest Areas for Food Security allows production forest areas and/or forest areas protection is used for the Food Estate project (An Nissa Ayu Mutia, Ida Nurlinda, and Nadia Astriani, 2022).

Dedi Mulyadi as Deputy Chair of Commission IV DPR RI, emphasized that this policy goes beyond the role of the Ministry of Environment and Forestry which should restore the function of protected forests as ecosystem supports and prevent ecological disasters such as floods and landslides (BBC News Indonesia, 2023). In the records of Forest Watch Indonesia (FWI) in 2019, there are 1.5 million hectares of neglected HGU land. Meanwhile, 344,000 hectares of HGU land are still in the form of forest. Those abandoned lands, said Dedi, can be returned to the government by referring to Government Regulation Number 10 of 2010 concerning Ordering and Utilization of Abandoned Land which can then be used for the development of a Food estate (Nur Fitriatus Sholihah, 2023).

The Republic of Indonesia Ministry of Defense's Food Estate Program in the Central Kalimantan region is in Gunung Mas Regency, Kapuas Regency, and Pulang Pisau Regency with a total area of 33,700 Ha, consisting of 2,037 Ha of Released Convertible Production Forest Areas and 31,663 Ha of Production Forest. Meanwhile, 600 hectares of land in the Production Forest area has been processed (Reza, 2023).

The policy of the national food storage program (Food Estate) in Central Kalimantan certainly deserves our appreciation as a form of national food security. This program certainly aims for the long term, not only for short term projects, in the long term Central Kalimantan Province is a buffer zone for the Capital City of the Archipelago (IKN). The national food storage program (Food Estate) in Central Kalimantan on the land of a former peatland development project (PLG) in Central Kalimantan. The new rice field printing program aims to maintain the need for national food stocks, especially rice, with a priority for rice field intensification and extensification activities. However, this policy must pay attention to environmental sustainability, which will be a legacy for our future generations.

Reflecting on the failure of the one million hectare peatland development project (PLG) in 1995 in Central Kalimantan during the New Order era by President Soeharto, it was continued under Susilo Bambang Yudhoyono in 2008 with the Merauke Integrated Food and Energy Estate (MIFEE) program. Then the Ketapang Food Estate (KFE) project launched by the Minister of BUMN Dahlan Iskan in 2012-2014. The land area was originally planned to be 100,000 ha, but only around 0.1 percent (100 ha) was realized in Sukamaju Village, Ketapang (Pantau Gambut, 2021).

The food security policy was started in 2012, in the provisions of Article 1 point 4 of Law Number 18 of 2012 concerning Food (hereinafter referred to as the Food Law), it states that Food security is a condition of fulfilling food for the State up to individuals, which is reflected in the availability of food. sufficient, both in quantity and quality, safe, diverse, nutritious, equitable, and affordable and not contrary to the religion, belief, and culture of the community, to be able to live a healthy, active, and productive life in a sustainable manner.

In realizing food security carried out by the government together with the community, Government Regulation Number 17 of 2015 concerning Food Security and Nutrition was born (hereinafter referred to as PP Food Security and Nutrition). The Government Regulation regulates the availability, reserves, diversification of food, prevention and management of food problems, the role of the Central, Regional and Community Governments as well as the development of human resources and international cooperation.

The National Food Estate program in Central Kalimantan is one of the National Strategic Projects (PSN) as stipulated through Presidential Regulation no. 109 of 2020 concerning the third amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of the Implementation of the National Strategy Project referred to in Program Number 8, namely the National Food Supply Improvement Program (Food Estate). This program involves cross ministries and government agencies, even involving the TNI and Polri. Various policies were issued including at the Ministry of Environment, namely the issuance of Minister of Environment and Forestry Regulation Number P.24/MENLHK/SETJEN/KUM.1/10/2020 concerning Provision of Forest Areas for Food Estate Development which was later amended by Minister of Environment and Forestry Regulation Number 7 of 2021 concerning Forestry Planning, Changes in Allocation of Forest Areas and Changes in Functions of Forest Areas and Use of Forest Areas.

Based on a study by the Indonesian Center for Environmental Law (ICEL), it found that this regulation contradicts Law (UU) No. 41/1999 concerning Forestry which has limited the utilization of protected forests, namely for the utilization of areas, environmental services, and collection of non-timber forest products. Clause Article 38 Law no. 41 of 1999 concerning Forestry, it is clear that it requires selective determination for development in protected forest areas and prohibits activities that can cause serious damage and loss of function of the forest in question. Even though Article 19 of Permen LHK No. 24/2020 states that protected forest areas that can be utilized are those that are no longer fully functional according to statutory provisions, but there is no explanation about the determination process until finally these protected forests really cannot function as they should (Taufik Azis, 2023).

Provisions in the Regulation of the Minister of LHK Number P.24/MENLHK/SETJEN/KUM.1/10/2020 Article 30 paragraph (1) which stipulates that the Ministerial Decree on the Management of Forest Areas for Food Security (KHKP) can apply as a timber utilization permit (IPK). This means that trees in protected forest areas can be cut down and the wood used on the basis of KHKP. In fact, referring to Law no. 41/1999, utilization in protected forest areas is only limited to non-timber forest products (Pantau Gambut, 2021)

Apart from contradicting other laws and regulations, Permen LHK No. 24/2020 also resulted in legal uncertainty with the use of the Rapid KLHS (Strategic Environmental Assessment) instrument for changes in the designation of forest areas. There is no comprehensive explanation why the government chose the Fast KLHS. In fact, the Fast KLHS only relies on qualitative analysis from an expert's point of view, thereby reducing the essence of the KLHS which should contain comprehensive, systematic and collaborative analysis to ensure the principles of sustainable development are integrated into regional development. The implementation of the Fast KLHS really needs to be criticized given the track record of food estate projects on peatlands which in the end have caused serious environmental damage (Pantau Gambut, 2021)

In addition, the national food storage program (Food Estate) in Central Kalimantan, must pay attention to the existence of Law Number 41 of 1999 concerning Forestry, Law Number 32 of 2009 concerning Protection of Dan. Environmental Management, Plantation Law 39 of 2014 concerning Plantations, as well as paying attention to the local wisdom of the local community.

Regarding the settlement of legal issues in the implementation of the National Strategy Project, based on the provisions of Presidential Decree Number 3 of 2016 Article 31 paragraph (1) the settlement prioritizes administrative settlement in accordance with the provisions in the government administration laws. To be more complete, the contents of the provisions of Article 31 paragraph (1) of Presidential Decree 3 of 2016 are as follows:

*“In the event that there are reports and/or complaints from the public to the heads of ministries/agencies, governors or regents/mayors as executors of the National Strategic Project or to the Attorney General's Office or the Indonesian National Police regarding irregularities or abuse of authority in the implementation of the National Strategic Project, the settlement shall be carried out by prioritize administrative processes in accordance with the provisions of laws and regulations in the field of government administration.”*

## **RESEARCH METHODS**

### **Types of Research**

This study uses the socio-legal research method (Sulistyowati Irianto and Shidarta. (eds), 2011), namely normative legal research supported by field data as supporting material. The use of this approach is intended to answer legal issues, so that the law is really present to bring a solution. The use of this type of research is in accordance with the formulation of the problem, namely: the first formulation of the problem uses the type of normative legal research with a statute approach, because the first formulation of the problem concerns whether there is synchronization of legal policies between statutory regulations made in the national food storage program (Food Estate) in Central Kalimantan which is environmentally sound. The second formulation of the problem uses a conceptual approach (Conceptual Approach) which examines how the ideal form of legal policy in the future in the national food storage program (Food Estate) in Central Kalimantan synergizes with environmental insights at the ius constituendum level (the desired law) be the findings in this study.

### **Research Sites**

The research location is Central Kalimantan Province as the area for implementing the food security program (food estate). Central Kalimantan Provincial Agriculture Office, Pangkalpinang District Agriculture Service, Kapuas Agriculture Service. and the non-governmental organization Forum for the Environment (Walhi) Central Kalimantan as community representatives who are vocal in criticizing government policies in the food estate program that have an impact on the environment.

### **Data Collection Technique**

Secondary data is data needed to complement primary data. The secondary data is in the form of legal materials. The legal materials used in this study consist of primary legal materials, secondary legal materials and tertiary legal materials that support the issues under study. Primary legal materials are binding legal materials consisting of statutory regulations, official treaties, and official state documents. Secondary Law Materials are legal materials obtained from textbooks written by legal experts, legal journals, legal cases, jurisprudence and symposium results related to research topics. Tertiary legal materials are legal materials that provide instructions, or meaningful explanations of primary and secondary legal materials such as legal dictionaries and encyclopedias and others.

Primary data collection in this study was conducted by means of interviews, which were conducted with relevant agencies related to the food estate program. As for the collection of secondary data collected through searches on related literature, archives and periodic reports and annual reports.

The entire data obtained, both primary and secondary data were processed and analyzed qualitatively, that is, the data obtained was arranged systematically to achieve clarity of the issues discussed. Qualitative data analysis is a way of research that produces descriptive

analysis data, namely by explaining and interpreting logically and systematically the data obtained from the research results.

### **Data Analysis Technique**

Data analysis uses the theoretical basis used in this study as an analytical knife, so that a policy formulation is found in the form of a new concept. Then from the analysis a conclusion is drawn, which is the answer to the problems raised in this study.

The TKT type of this research is Social Humanities with 3 stages of indicators fulfilled namely: The basic principles of research have been observed and reported; Initial data support, hypotheses, design and R&D procedures have been explored; and complete research design and methodology.

## **RESULTS AND DISCUSSION**

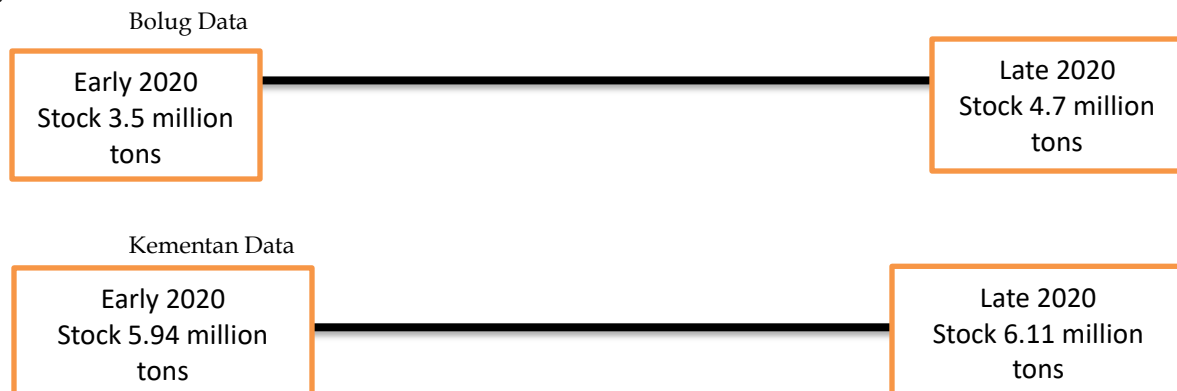
### **Synchronization of Legal Policies Between Laws and Regulations Made in the National Food Barn Program (Food Estate) in Central Kalimantan with an Environmental Insight**

In 2019, based on reports from the Food and Agriculture Organization (FAO) and also the Global Network Against Food Crisis (GRFC) regarding the impact of the COVID-19 pandemic, 135 million people in 55 countries experienced an acute food crisis. This causes 75 million children's growth to be disrupted and 17 million others to be affected by malnutrition (FAO Reports, 2020).

The food estate program is a government program that has the concept of food development which is carried out in an integrated manner covering agriculture, plantations, and even animal husbandry in an area. This policy program is included in one of the 2020-2024 National Strategic Programs (PSN).

The development of the food estate area is intended as land expansion to increase national food reserves. Currently, the food estate program has been developed in several regions, such as North Sumatra, Central Kalimantan, South Sumatra, and East Nusa Tenggara (Sekretariat Kabinet, 2022).

When viewed from the national rice stock in 2020, based on estimates of rice production and demand by the Logistics Agency (Bulog) and the Ministry of Agriculture (Kementan) in 2020, Indonesia's rice stock will be safe.



Source: Data from the Agency for Food Security, Ministry of Agriculture of the Republic of Indonesia

More details at the beginning of 2020 Stock: 3.5 million tonnes Production: 11.87 million tonnes Requirement: 7.61 million tonnes Production: 7.97 million tonnes Requirement: 7.49 million tonnes Production: 6.52 million tonnes Requirement: 9.99 million tonnes Late 2020 Stock surplus: 4.7 million tonnes May 2020 Stock: 7.7 million tonnes August 2020 Stock: 8.25

million tonnes Early 2020 Stock: 5.94 million tonnes Production: 30.26 million tonnes Requirement: 30.08 million tons End of 2020 Surplus stock: 6.11 million tons Bulog estimate Estimates from the Ministry of Agriculture (Pantau Gambut, 2020)

Actually, if the Food Security Program (Food Estate) is successful, it is very good for a long-term program, not just to fulfill food needs within 1 or 2 years, but for the long term in the next 10 to 25 years, so that Indonesia becomes a world food exporter.

The legal basis for the National Food Estate policy in Central Kalimantan begins in 2020. This program is included in the National Strategic Project (PSN) based on Presidential Regulation No. 109 of 2020 concerning the third amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of the Implementation of the National Strategy Project referred to in Program Number 8, namely the National Food Supply Improvement Program (Food Estate).

The Food Security Program (Food Estate) is included in the National Strategy Acceleration Project, the same as toll road projects, high-speed rail, ports, and others. It seems that the Food Security Program (Food Estate) is prioritizing the economy as the spearhead of President Joko Widodo's government, not making law the commander in chief, as mandated in the 1945 Constitution Article 1 paragraph (3) it is emphasized that "Indonesia is a country of laws". "So Indonesia as a unit is that we are a Republic, the Republic is a Unitary State and the Unitary State is based on law, so that we become a country that must be based on legal principles. However, it seems that the National Strategic Project (PSN) prioritizes economic development.

If there are problems in the National Strategy Project, including in this case the Food Estate Program, administrative law settlement will be prioritized. This is contained in Article 31 Paragraph (1) Presidential Decree Number 3 of 2016 it states that:

*(1) In the event that there are reports and/or complaints from the public to heads of ministries/agencies, governors or regents/mayors as executors of National Strategic Projects or to the Attorney General's Office or the Indonesian National Police regarding irregularities or abuse of authority in the implementation of National Strategic Projects, settlement is carried out by prioritizing administrative processes in accordance with the provisions of laws and regulations in the field of government administration;*

*(2) In the event that reports and/or complaints from the public as referred to in paragraph (1) are submitted to the Attorney General's Office or the Indonesian National Police, the Attorney General's Office or the Indonesian National Police shall forward/submit the community reports to the heads of ministries/agencies, governors, or the regent/mayor to carry out an inspection and follow-up on the settlement of the community's report within a maximum period of 5 (five) days after the community's report is received.*

In Article 31 paragraph (5) regarding the National Strategy Project regarding the results of the government's internal supervision can be in the form of errors against the National Strategy Project which can be in the form of:

- a. administrative errors that do not cause state losses;
- b. administrative errors that cause state losses; or
- c. non-administrative crimes.

Then in the provisions of Article 31 Paragraph (7) if the results of an examination by the Government's internal supervisory apparatus are in the form of an administrative error which causes state losses as referred to in paragraph (5) letter b, the settlement is carried out through

administrative improvements and restitution of state losses no later than 10 (ten) working days since the results of the inspection by the Government Internal Supervisory Apparatus have been submitted. Thus if in the Food Security Program which is part of the National Strategy Program there are losses to state finances, then what is put forward is an administrative settlement by returning state financial losses, not prioritizing criminal law enforcement.

Furthermore, Article 31 paragraph (8) confirms that the results of the inspection of the Government Internal Supervisory Apparatus as referred to in paragraphs (6) and (7) are submitted by the heads of ministries/agencies, governors or regents/mayors to the Attorney General's Office or the Indonesian National Police. as referred to in paragraph (2) no later than 5 (five) working days.

Based on the provisions of Article 31 paragraph (7) of Presidential Decree Number 3 of 2016, there is a discrepancy with the criminal law on corruption, namely Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, namely against criminal acts of corruption that detrimental to state finances, then the provisions of Article 2 paragraph (1) and Article 3 will be imposed.

With regard to the results of the examination by the Government Internal Supervisory Apparatus in the form of a Criminal Act which was not due to an administrative error as referred to in Article 31 paragraph (5) letter c, the heads of ministries/agencies, governors, or regents/mayors within a maximum period of 5 (five) working days submit it to the Attorney General's Office or the Indonesian National Police as referred to in paragraph (2), to be followed up in accordance with the provisions of the laws and regulations.

Based on the provisions of Article 31 Paragraph (9) of Presidential Decree Number 3 of 2016, namely against criminal acts that are not due to administrative errors, then they will be followed up in accordance with statutory regulations. The researcher tries to trace several provisions of laws and regulations relating to the National Strategy Project in the form of Food Security (Food Estate) Program activities, namely Law No. 32 of 2009 concerning Environmental Protection and Management (UU PPLH), Law Number 41 of 1999 concerning Forestry, Law Number 39 of 2014 concerning Plantations, Law Number 18 of 2012 concerning Food.

Based on information from various sources, the Food Security Program in Central Kalimantan has an environmental problem, because this Food Estate project uses one million hectares of ex-Peatland Development land. In addition, there are areas in Gunung Mas using protected forest areas.





Figure 1. Food Estate in Gunung Mas Regency [The cassava plantation stands are estimated to be ~600 hectares in Tewai Baru Village, Gunung Mas, Central Kalimantan (Quin Pasaribu BBC News Indonesia, 2023)]

The picture above is a cassava plantation, one of the projects of the National Strategy Program in the form of a Food Security Program (Food Estate) (Quin Pasaribu, 2023).

Of the 3 areas implementing the Food Security Program (Food Estate) in Central Kalimantan, the focus of environmental activists is the Gunung Mas area, because the Food Estate project has the potential to cause environmental damage and environmental problems. According to information from the ministry of agriculture, the food estate project in Gunung Mas Regency is the responsibility of the Ministry of Defence.

For food estate activities in the form of land intensification in Kapuas Regency and Pulang Pisau Regency, namely cultivation development activities on farmers' existing agricultural land. In this activity the government provides assistance in the form of land preparation and production facilities (seeds, fertilizers, soil repairers and pesticides). From the environmental aspect this is not a problem, it can even increase the productivity of agricultural products for farmers.

Indeed, based on information from the ministry of agriculture, in the food estate program they are only responsible for the Central Kalimantan region in the Pulang Pisau Regency and Kapuas Regency. Time is increasingly pressing for the target to develop the Central Kalimantan Food Estate (FE) covering an area of 30 thousand hectares. Located in Pulang Pisau Regency covering an area of 10 thousand hectares and Kapuas 20 thousand hectares (Humas Kementan, 2020).

The success of the food estate program in the form of agricultural intensification can be seen from the data on the location of the food estate, namely: Production at development sites in 2020 on an area of more than 29 thousand hectares reached 114,611 tons of dry milled unhusked rice (GKG), while at development locations in 2021 on an area of more than 13 thousand hectares it reached 47,589 tons of GKG (Erika Dyah, 2022).

Based on the results of milled dry unhulled grain production from land intensification locations in 2020 and 2021, there is an increase in production compared to production before the Central Kalimantan food estate land intensification activities. He revealed that the increase in production reached 15.3% for production in 2020 and 11.5% for production in 2021. Apart from

that, there were also other achievements in the form of increasing the planting index in certain locations which increased by around 37% (Erika Dyah, 2022)

Then in 2022, the location being developed will enter the harvest season. As for several locations of rice fields that are being harvested in the Bataguh District with a rice field area of 3,677 ha, they include the Villages of Terusan Mulya, Terusan Karya, and Terusan Makmur. The area that has been harvested is 420 ha with hybrid rice varieties whose yields per hectare reach 7 tonnes per ha. Meanwhile, the rice fields in Warna Sari Village, Tamban Catur District have also started to enter the harvest season in March 2022 (Erika Dyah, 2022).

The Food Estate Program in the form of agricultural land intensification can indeed be said to be not a problem for the environment. What has the potential to become an environmental problem is the Food Estate Program in the form of extensification, namely printing new rice fields. Various problems did arise, starting from the expertise of local farmers, the wrong planting time, budget problems, changes in farmer culture.



Figure 2: Food Estate in Kapuas Regency (Wahana for the Environment, Prints New Paddy Fields in Kapangai Kapuas Regency)

In the agricultural land extension program that creates new rice fields, if the rice fields that are printed come from PLG land, of course according to the researcher there is little chance of causing environmental problems. The worst possibility is caused by various technical problems, such as farmer expertise, seeds, local farmer knowledge, budget delays that affect the supply of raw materials in the form of seeds and others. This problem only creates problems for state finances and social problems for the community, in contrast to the Food Estate program in the form of extensification of agricultural land by converting protected forest areas, this is of course a legal problem. Legal issues related to the Law on Environmental Protection and Management, the Forestry Law, the Plantation Law.



Figure 3: Food Estate in Kapuas Regency (Quin Pasaribu BBC News Indonesia, 2023)

Back to the synchronization of legal policies between laws and regulations made in the Environmentally Friendly National Food Barn Program (Food Estate) in Central Kalimantan. Is this program in sync with laws and regulations related to the environment? Researchers try to analyze it.

The first is synchronization with UUPPLH, in UUPPLH there are several actions that cause environmental damage and pollution. From the Food Estate activities mentioned above, has the Program Implementation violated the provisions in the UUPPLH? in Article 2 UUPPLH has the principle of environmental protection and management carried out based on the principles of:

- a. state responsibility;
- b. sustainability and sustainability;
- c. harmony and balance;
- d. cohesiveness;
- e. benefit;
- f. caution;
- g. justice;
- h. ecoregions;
- i. biodiversity;
- j. polluter pays;
- k. participatory;
- l. local wisdom;
- m. good governance; And
- n. regional autonomy.

Based on the principle in UUPPLH linked to the National Food Estate Program in Central Kalimantan which converts protected forest areas into cassava plantations, it appears that this program is not in accordance with the principles of sustainability and sustainability. In the environmental management policy set forth in Article 1 point 2 UUPPLH, states

"Environmental protection and management are systematic and integrated efforts made to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and law enforcement". So in protecting and managing the environment systematic efforts are made in order to preserve the environment and prevent environmental pollution and damage, starting from planning, utilization, control, maintenance and law enforcement.

Then the UUPPLH instructs that development must be sustainable or think about the next generation, this is stated in Article 1 point 3, namely: "Sustainable development is a conscious and planned effort that combines environmental, social and economic aspects into a development strategy to ensure the integrity of the environment as well as the safety, capability, welfare, and quality of life of the present and future generations. Based on the principles of sustainability and sustainability, in realizing the program, the National Food Barn Program (Food Estate) converted Protected Forest areas in Tewai Baru Village, Sepang District, Gunung Mas Regency, Central Kalimantan Province, not in accordance with the principles of sustainability and sustainability, because the implementation of the program actually damaged protected forest which is the place where people depend for their lives. So that in its implementation this program has violated the principles of sustainability and sustainability of Article 2 letter b UUPPLH.

Then based on the principles of harmony and balance, the implementation of the national food storage program (Food Estate), in the form of extensification, namely creating new rice fields by converting protected forest areas, which occurred in Tewai Baru Village, Sepang District, Gunung Mas Regency, Central Kalimantan Province. Not in accordance with the principles of harmony and balance, with the conversion of forests into cassava plantations, eventually the community can no longer take advantage of the protected forest where they have lived with nature, for example using wood for the purposes of making places of worship, bridges, houses, utilization of protected forests based on community stories they have lived side by side with the protected forest for a long time, which means that so far harmony and balance of people's lives with nature have been established. With the implementation of the national food storage program (Food Estate), in the form of extensification, namely creating new rice fields by converting protected forest areas, it has violated the principles of harmony and balance in Article 2 letter c UUPPLH.

Next, based on the principle of integration in letter d UUPPLH, the national food storage program (Food Estate) in Central Kalimantan is implemented in 3 (three) regions, namely in the Pulang Pisau Regency and Kapuas Regency and Gunung Mas Regency. However, different ministries are in charge. Based on information from the ministry of agriculture that in the food estate program they are only responsible for the Central Kalimantan area in the Pulang Pisau Regency and Kapuas Regency. Time is increasingly pressing for the target to develop the Central Kalimantan Food Estate (FE) covering an area of 30 thousand hectares. Located in Pulang Pisau Regency covering an area of 10 thousand hectares and Kapuas 20 thousand hectares (Kementan Public Relations: 2020). So the implementation of the national food barn (Food Estate) in Central Kalimantan is not in accordance with the principle of integration in UUPPLH.

Then based on the principle of local wisdom in letter i UUPPLH, based on the concept of Article 1 number 30 UUPPLH, local wisdom is noble values that apply in the governance of community life to protect and manage the environment in a sustainable manner. In the implementation of the national food storage (Food Estate) in Central Kalimantan in one of the villages in Tewai Baru Village, Sepang District, Gunung Mas Regency, the implementation was

by converting a protected forest into a cassava plantation, even though so far the community has lived in harmony with the protected forest, and with the local wisdom of the community. maintaining protected forests. With the loss of protected forests due to cassava plantations being planted, this program does not pay attention to the local wisdom of the people that has been built so far. Thus the implementation of the national food storage program (Food Estate) in one of the areas in Central Kalimantan, namely the village in Tewai Baru Village, Sepang District, Gunung Mas Regency, is not in accordance with the principles of local wisdom based on UUPPLH.

After examining the contents of the criminal provisions in the PPLH Law, it seems that there are no criminal provisions in the UUPPLH that can be imposed on the national food storage program (Food Estate) for failure or environmental damage, because in the Food Estate program this is a direct program from the central government through Presidential Decree No.3 of 2016 as amended by Presidential Decree Number 109 of 2020. There are normative constraints because it is based on the concept of environmental destruction in the PPLH Law Article 1 point 16 namely "Destroying the environment is the action of people who cause direct or indirect changes to physical, chemical, and/or biological environment so that it exceeds the standard criteria for environmental damage". The legal subject in the UUPPLH referred to as a person in Article 1 number 32 is: "Every person is an individual or a business entity, whether incorporated or not".

The implementers of the national food storage program (Food Estate) are the Ministry of Agriculture and the Ministry of Defence, which are legal subjects in the form of business entities, but seeing the form of offenses from the UUPPLH is very difficult to apply, because fulfilling the elements of an act results in exceeding the standard criteria for environmental damage, this requires examination, Likewise regarding the official who issued the Amdal permit, whether the National Food Estate program in Gunung Mas which converts protected forest areas into agriculture has gone through an Amdal study, it is very difficult, because in terms of Legal Policy Through Presidential Decree No. 3 of 2016 as amended by Number 109 of 2020, the gap to be challenged has been sued with provisions as a matter of administrative error.

According to the researcher, the implementation of the national food storage program (Food Estate) which encroaches on protected forests, is not in accordance with the principles of management and protection of the environment, namely the principles of sustainability and sustainability; the principle of harmony and balance, the principle of integration, the principle of local wisdom. By observing the implementation of Food Estates that encroach on protected forest areas, it means that this national food storage program (Food Estate) does not pay attention to the principles of sustainability and sustainability of protected forests as a life support for local communities, who have so far lived dependent on and needed the existence of forests. Likewise with the principle of harmony and balance because forest areas are a balance to people's lives. The national food storage program (Food Estate) violates the principle of local wisdom, with this program not paying attention to protected forests which are nature, where people live and make a living in the traditional way, so that people's wisdom is lost.

Synchronization with Law Number 41 of 1999 concerning Forestry. We know that the national food storage program (Food Estate) was implemented in the middle of 2020 on the legal basis of Presidential Decree No. 3 of 2016 as amended by Presidential Decree No. 109 of 2020, meaning that this Presidential Decree was born after the Forestry Law, so legal policies that are prepared must conform to Forestry Law.

Activities using forest areas for development purposes can only be carried out in production forest areas and protected forest areas, but the use of these forest areas for development purposes without changing the main function of forest areas. This is confirmed in the provisions of Article 38 of Law Number 41 of 1999 as follows:

- 1) The use of forest areas for development purposes other than forestry activities can only be carried out in production forest areas and protected forest areas.
- 2) The use of forest area as referred to in paragraph (1) can be carried out without changing the main function of forest area.
- 3) The use of forest areas for mining purposes is carried out through the granting of a borrow-to-use permit by the Minister taking into account the limitations of a certain area and period of time as well as environmental sustainability.
- 4) In protected forest areas it is prohibited to carry out mining with an open mining pattern.
- 5) The granting of a borrow-to-use permit as referred to in paragraph (3) which has an important impact and a broad scope and strategic value is carried out by the Minister with the approval of the People's Representative Council.

In the Explanation of Article 38 paragraph (1) of the Forestry Law it is stated that: *“Development interests other than forestry that can be carried out in protected forest areas and production forests are determined selectively. Activities that can cause serious damage and result in the loss of function of the forest in question are prohibited. Development interests other than forestry are activities for strategic purposes that cannot be avoided, including mining activities, construction of electricity networks, telephone and water installations, religious interests, and security and defense interests.”*

So the provisions of Article 38 paragraph (1) strictly prohibit activities for development purposes which result in the loss of forest functions. But the Ministry of Environment and Forestry.

In order to support the national food storage program (Food Estate), the Minister of Environment and Forestry issued a Minister of Environment and Forestry Regulation (Permen LHK) Number. 24/2020 which allows the use of forest areas for the construction of Food Estates.

In Article 19 of the Minister of Environment and Forestry No. 24/2020 states that protected forest areas that can be utilized are those that are no longer fully functional in accordance with statutory provisions, but there is no explanation about the determination process until finally these protected forests really cannot function as they should. Then in Article 30 paragraph (1) which stipulates that the Ministerial Decree on the Management of Forest Areas for Food Security (KHKP) can apply as a timber utilization permit (IPK). This means that trees in protected forest areas can be cut down and the wood used on the basis of KHKP. In fact, referring to Law no. 41/1999, utilization in protected forest areas is only limited to non-timber forest products.

Apart from contradicting other regulations, Permen LHK No. 24/2020 also resulted in legal uncertainty with the use of the Rapid KLHS (Strategic Environmental Assessment) instrument for changes in the designation of forest areas. There is no comprehensive explanation why the government chose the Fast KLHS. In fact, the Fast KLHS only relies on qualitative analysis from an expert's point of view, thereby reducing the essence of the KLHS which should contain comprehensive, systematic and collaborative analysis to ensure the principles of sustainable development are integrated into regional development. The

implementation of the KLHS needs to be criticized considering the track record of Food Estate projects on peatlands which in the end have the potential to cause serious environmental damage, as happened in the Gunung Mas Regency area of Central Kalimantan.

Then for the criminal provisions relating to Article 38 of the Forestry Law, it only relates to violations of Article 38 paragraph (4) of the Forestry Law and the criminal provisions are regulated in Article 78 paragraph (6) namely "Anyone who deliberately violates the provisions referred to in Article 38 paragraph (4) or Article 50 paragraph (3) letter g, is punishable by a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah)".

Thus, the legal policies of the Food Security Program (Food Estate) as well as technical policies through Permen LHK Permen LHK No. 24/2020 contradicts Article 38 paragraph (1) and paragraph (2) of the Forestry Law/UU Number 41 of 1999, so that the Food Security Program (Food Estate) policy does not have the potential to cause environmental damage.

Then synchronization with Law Number 39 of 2014 concerning Plantations. The Food Security Program (Food Estate) should be synchronized with the Plantation Law, so it is not a program from the central government (top down). This is because in the provisions of Article 50 of the Plantation Law it states that: "Ministers, governors and regents/mayors authorized to issue Plantation Business Permits are prohibited from:

- a. issue 1 permit that is not in accordance with the designation: and/or
- b. issue permits that are not in accordance with the terms and conditions of laws and regulations.

The criminal provisions are contained in Article 106 of the Plantation Law, namely: Ministers, governors and regents/mayors who have the authority to issue plantation business permits that:

- a. issue permits that are not in accordance with the designation; and/or
- b. issue permits that are not in accordance with the terms and conditions of laws and regulations;

As referred to in Article 50 shall be subject to imprisonment for a maximum of 5 (five) years or a fine of a maximum of Rp. 5,000,000,000.00 (five billion rupiahs)

Regional Governments who know their regions better understand which areas can be used for the Food Estate Program, but the provisions in the Plantations Law cannot be implemented because the Food Estate Program is through Presidential Decree No. 3 of 2016 as amended by Presidential Decree Number 109 of 2020, then at the Ministry level there is Permen LHK No. 24/2020. So that the Criminal provisions in the Plantation Law cannot be imposed on Ministers, Governors, Regents/Mayors, because this program comes directly from the President.

As for Law Number 18 of 2012 concerning Food, this provision regulates processing, production, distribution, food business, so it has nothing to do with the Food Security Program (Food Estate) made in Presidential Decree Number 3 of 2016 as amended by Presidential Decree Number 109 of 2020 namely in the form of extensification and intensification of agricultural land.

Based on the description above, the researcher draws conclusions, namely: there is an asymmetry in legal policies in the National Food Barn Program (Food Estate) in Central Kalimantan which is environmentally sound, namely between Presidential Regulation Number

3 of 2016 as amended by Presidential Regulation Number 109 of 2020 with the Eradication Law Corruption Law Number 20 of 2001 in conjunction with Law Number 31 of 1999, the PPLH Law relates to the principles of sustainability and sustainability; the principle of harmony and balance, the principle of local wisdom. Then with the Forestry Law Article 38 Paragraph (1) and Paragraph (2), as well as the Plantation Law.

### **The Ideal Form of Legal Policy in the Future in the National Food Barn Program (Food Estate) in Central Kalimantan that Synergizes with Environmental Perspectives**

Making legal policies so that they can be used nationally, even if they are based on cases in a region. To make an ideal legal policy in the Food Estate Program, of course we have to learn from past policies.

Food Security Program policies (Food Estate) on peatlands have been implemented, namely (Pantau Gambut, 2020)

First, the Development of a Million Hectare Peat Land (PLG) in 1995 during the Soeharto government. This program failed and resulted in huge losses. The PLG program should have targeted a planned area of 1.45 million ha, only around 110 thousand ha of land could be realized. The impact issues arising from this project are:

#### 1. Environmental Issues

- a. This project was implemented without a thorough environmental impact analysis.
- b. The unsuitability of the peat environment to be cultivated into agricultural land.
- c. A lot of land is abandoned because it cannot be managed into agricultural land and causes abandoned land to be prone to fires
- d. It was recorded that large forest and land fires arose as a result of the massive clearing of peatlands at that time. Nearly 80% of the PLG area burned heavily during the 1997/1998 dry season. Fires in the PLG area alone release emissions of 0.12–0.15 Gt of carbon into the atmosphere.
- e. The construction of 187 km of canals during the PLG program period resulted in pyrite being exposed which made the soil very acidic (pH < 3.5). The conditions made it difficult for plants to grow and the mass death of fish in the Mangkatip River and tributaries of the Barito River in 1997.

#### 2. Social Issues

The transmigrants had difficulty cultivating peatlands due to a lack of understanding of the condition of the land and the incompatibility of the peat environment for cultivation into agricultural land. Land that should have been cultivated and planned to be planted with rice instead became idle land which was difficult to manage, thus making the community prefer to carry out illegal logging of peat forests (Pantau Gambut, 2020)

Second, Merauke Integrated Food and Energy Estate (MIFEE). The MIFEE project started during the era of President Susilo Bambang Yudhoyono in 2008 which allocated more than 1 million ha of land as a national food center. This project was also considered a failure. Realization of land that still survives until now is only 400 ha. Some of the issues faced and the impacts caused by this project are (Pantau Gambut, 2020):

##### 1. Environmental Issues

Drastic changes in landscape. Forest area of 3,000 ha cleared within one year.

##### 2. Social and Health Issues

- a. The MIFEE project gave rise to agrarian conflicts because the land cleared was sacred customary land, so it was constrained by formal and customary land release.



- b. Conflicts and social inequality arise between local communities and immigrants.
- c. Labor of children and women. The conversion of forest land for the MIFEE project has caused local people who previously depended on forests as a source of food, to no longer be able to meet their needs. As a result, children and women are forced to work to sell gambir wood to middlemen.
- d. The emergence of various diseases such as ARI, HIV / AIDS, and malnutrition. The influx of migrants brings prostitution and circulation of alcohol which previously did not exist in the village. This resulted in the emergence of new diseases among the village community

Third, the Ketapang Food Estate, namely the rice field printing program in Ketapang, West Kalimantan, was planned by the Minister of BUMN, Dahlan Iskan, in 2012-2014. The land area was originally planned to be 100,000 ha, but only about 0.1 percent (100 ha) was realized in Sukamaju Village, Ketapang. The obstacles and issues faced by this program that led to failure were (Pantau Gambut, 2020).

1. Corruption Issues

This paddy field printing program failed and was terminated due to allegations of corruption which caused losses to state finances of up to Rp. 67.69 billion.

2. Social Issues

- a. Labor issues. Because they could not find people with the appropriate expertise, the program that was originally planned to be carried out by mechanization, was finally done manually. This program employs too many workers. At that time, the recruitment system and work contracts were not clear, which had an impact on the inadequate guarantee of life and safety for workers.

- b. Problems of land provision and land overlapping. As much as 38% of the planned area goes into Production Forest and Convertible Production Forest when the spatial and territorial plans (RTRW) have not been revised, 42% is included in non-forestry areas, Areas for Other Use with ownership by residents through land certificates (SKT) and non -SKT and 20% of the land are Cultivation Rights on the basis of the Plantation Law.

3. Technology and Knowledge Issues

- a. Irrigation networks that are not in accordance with the management of peatlands in the locations where this program is implemented have resulted in water scarcity in the dry season and flooding in the rainy season.

- b. Cultivation problems, including: 1) Expensive mechanization costs; 2) Opening of new land causes pest attacks; 3) The type of rice planted is not in accordance with the land; and 4) The land clearing technique is not suitable because it is carried out by a road contractor.

Based on food security programs on peatlands in the past, it can be seen that their management always ended in failure and almost never provided space for the local community's socio-cultural integration process. In addition, there are always changes in the natural landscape on a large scale, thereby destroying the balance of the ecosystem. Management of food estates by corporations also creates space for brokers/free riders who only benefit the social elite and harm the position of society as a whole by increasing social

inequality, as well as giving rise to corrupt practices that are detrimental to the state (Patau Gambut, 2020).

If the analysis of the potential failure of the implementation of the Food Estate Program by way of extensification of rice fields on peat land is proven, then this is a practice that is not accompanied by a complete study, adequate technological improvements, and not accompanied by capacity building of farmers and the right farming model. – then it is not impossible that the rice field food estate plan will not produce optimal results or will even repeat the failure of the food estate project that has been carried out on the same land for the last 24 years (Patau Gambut, 2020).

It should be noted that peatlands are very vulnerable to damage, namely in terms of physical damage (subsidence and non-return dryness) and chemical damage (nutrient deficiencies and toxic elements). Inappropriate management of peatlands, including water management and peat-friendly land management, will cause peatlands to become increasingly damaged and prone to fire (Patau Gambut, 2020).

The form of legal policy in the future ideal policy in the National Food Barn Program (Food Estate) in Central Kalimantan which synergizes with environmental insights in the form of an Act Not a Presidential Regulation, because if it is in the form of a Presidential Regulation then if there is a violation in the implementation of the Food Barn Program National (Food Estate), then there is no criminal provision, different in the form of a law there is an arrangement of criminal sanctions in it.

Then the substance of the law must contain the following matters: First, the National Food Estate Program (Food Estate) in Peat lands must properly pay attention to its aspects and understand the characteristics of the land and local communities. Second, the contents of the law must be in synergy with the PPLH Law as a legal umbrella in maintaining environmental sustainability. Third, the law must be in synergy with the Forestry Law and the Plantation Law so that there are no justifications for forest exploitation under the pretext of implementing the National Food Barn Program (Food Estate). Fourth, the content of the law must be in synergy with the Corruption Crime Eradication Law, because the implementation of the National Food Estate Program has the potential to be misused and detrimental to state finances.

## **CONCLUSSION**

There is an unsynchronized legal policy in the National Food Barn Program (Food Estate) in Central Kalimantan which has an environmental perspective, namely between Presidential Regulation Number 3 of 2016 as amended by Presidential Regulation Number 109 of 2020 and the Law on the Eradication of Corruption, the PPLH Law is related to the principle sustainability and sustainability; the principle of harmony and balance, the principle of local wisdom. Then with the Forestry Law Article 38 Paragraph (1) and Paragraph (2), as well as the Plantation Law.

The ideal form of legal policy in the future is in the form of a national food storage program (Food Estate) in Central Kalimantan that synergizes with environmental insights, in the form of an Act Not a Presidential Regulation, because if it is in the form of a Presidential Regulation then if there is a violation in the implementation of the Food Barn Program National (Food Estate), then there is no criminal provision, different in the form of a law there is an arrangement of criminal sanctions in it

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