

Abide by WTO, Omnibus Law Threatens Food Sovereignty

Jakarta, 12 March 2020 - Omnibus Law “stripped” four important laws in food sector namely Law No. 18 of 2012 concerning Food, Law No. 19 of 2013 concerning Farmer Protection and Empowerment, Law No. 18 of 2009 concerning Animal Husbandry and Animal Health, and Law No. 13 of 2010 concerning Horticulture in response to Decision of the *World Trade Organization* (WTO) due to Indonesia's defeat from the lawsuit by the United States, New Zealand and Brazil regarding food import policies.

The United States, New Zealand and Brazil consider the four laws to be inhibiting their export products to Indonesia. Import rules in Indonesia are still limited at the harvest time and when domestic food needs are still met by production and national food reserves. For these countries, this is considered to be contradictory with WTO provisions which require Indonesia to be more lenient on its food import policies.

Through the *WTO Dispute Settlement Body* (DSB) these countries demanded that Indonesia abolished the phrase “domestic” in a number of articles in all four material of the Act. Even though the phrase refers and aims to protect national economic interests in which it is nothing but the implementation of the constitutional mandate.

In a joint press conference with *Bina Desa Sadajiwa*, Indonesia for Global Justice (IGJ), Indonesian Peasant Alliance (API), People's Coalition for Food Sovereignty (KRKP), FIAN Indonesia, Rural Swabina Community Network (JKSP), Nusantara Rural Women's Network (JPP Nusantara), Thursday (12/3).

The Chairperson of the Village Management Board, **Dwi Astuti** stated that, *"The development of agri-food relying on the strength of foreign investment and imports will worsen the conditions of poverty of the people who are already poor, starving, malnourished and various other problems relating to food which generally affects women and children. In addition to the loss of access and control of women, women's institutions and diverse experience, both personally and together with other women in managing biodiversity and natural wealth are also being stripped away"*.

The revision of the four laws as in the Omnibus Law (Job Creation Draft Bill) is proven to unbind food import regulations. In the Food Law, in the article 1 number 7 concerning the definition of Food Availability, explicitly mentions the existence of terms and conditions for imports, which can be done if the food is from domestic production and National Food Reserves are inadequate. Meanwhile, in the Omnibus Law terms and conditions, the condition is eliminated. Therefore, the position of imported food becomes equal with food produced in the country and National Food Reserves.

In addition to the definition of all related articles namely articles 14, 15, 36, 39 and so on, which all substantially annulled the spirit of protection and the prioritization of domestic production. The Job Creation Draft Bill also amends a number of articles in the Law on Protection, it even abolishes article 101 concerning criminal threats for businesses people of importing agriculture products when domestic consumption needs are fulfilled. This affects the falling prices domestically triggering the economic downturn. The pacifying of national food

protection also nullifies article 36 of the Law of Animal Husbandry and Animal Health. Whereas this article crucially regulates government support for the growth of domestic animal husbandry businesses and consumption assurance of animal protein for the people. Article 36A which states terms and conditions of animal husbandry exports which must be based on domestic sufficiency is also removed. While article 36B is sustained with significant changes as in the Food Law, for instance there is no requirement of sufficient conditions for animal husbandry supply and animal products in the country for import activities.

Furthermore, the Horticulture Law was also amended. Article 15 does not prioritize the utilization of human resources from inside the country. There is no other interpretation besides that of domestic labors of horticulture sector are equivalent to abroad. This matter exacerbated by changes to article 100 concerning foreign investment that is no longer limited anymore, from the previous which is maximum of 30%. This proves that Omnibus Law has adopted a free market regime both the decree made by the WTO and in a free trade agreement. The free market regime demands that food liberalization in Indonesia widely opened and fully submitted to the market mechanism.

According to the President of FIAN Indonesia, **Iwan Nurdin**, *"Food is a human right that must be fulfilled and protected by the state. The obligation to protect this means that the state must issue regulations or legal instruments relating to the fulfillment of the food rights of its citizens which are insightful to the interests of the people in general, not just give advantage to individuals, investors or importers, and implement it consistently. Omnibus Law removes all of this. The state is ignorant in fulfilling the food rights and submit it to the market mechanism"*.

Since import of food are increasingly open wide, provisions regarding food safety import will also be deleted. Article 87 of the Job Creation Draft Bill will revise Article 87 of the Food Law, removing food provisions must pass laboratory testing before being distributed. As a result, food that will be consumed by the public is not guaranteed for its safety and quality. Efforts to ease import will pose a serious threat to national food sovereignty and can marginalize local producers, especially small farmers because there are no assurance of the protection from the State for farmers.

According to the 2018 agricultural census data (BPS), the total number of farm households in Indonesia is 27.682.117. Based on the total area of owned land (in hectares), the number of farmers who own 0.5 hectares is 16.257430. Furthermore, those who own 0.50-1 Ha are 4.498.332; the owner of 1-2 Ha are 3.905.819; who own 2-3 Ha is 1.627.602; owners of 3-4 hectares are 607.908; owning of 4-5 Ha is 323.695; those who own 5-10 hectares are 374.272 and those who own over 10 hectares are 87.059. Heretofore, to meet national food needs (especially rice), 96 percent has been *supplied* by small farmers with land tenure > 0.5 - 1 Ha.

According to the API Production Management Coordinator, **M. Rifai**, *the role of farmers is utmost important in maintaining national food sustainability and providing raw materials of processing industry as well as providing employment for rural communities and young workers. Farmers invest a large value for food, which is 485.85 trillion/year to plant rice; 98.99 trillion for plants of horticultural product; and 50 trillion for corns. Not to mention the plantation products.*

For this reason, it is necessary to correct misguided thinking stating that investment must mean foreign capital which entered Indonesia for the agricultural sector. The small farmers are

mostly live in the countryside with all the cultural wealth and knowledge that they have, heretofore, try to rise up to break the dependence in the production chain, build equality and balanced cooperation between men and women with alignments to ecological protection - agricultural ecosystems are the one and true Food investor.

“The existence of Omnibus Law will awfully threaten the sovereignty of farmers and food in Indonesia. Food sovereignty places farmers as "subjects" of agricultural development and food. The Omnibus Law actually establishes farmers as mere objects, meanwhile the capital owner becomes their master. If this law is passed then this regime will deny the ideals of the proclamation, namely social justice for all Indonesian people, including farmers in it,” the statement of the Coordinator of the People's Coalition for Food Sovereignty (KRKP) , **Said Abdullah**.

If the Government and the House of Representatives enforce the Omnibus Law which regulates policies of unbinding food imports is passed on, hence this will have a serious impact upon food inflation and the rupiah exchange rate. It was noted, that food importing countries would be difficult in controlling inflation and the rupiah exchange rate (ADB, 2018). On the contrary, the exporting country is able to control inflation and the exchange rate of its currency. Thus, the solution of opening the gate for the food import policy in the Omnibus Law becomes extremely dangerous both for the sustainability of farmers and the national food vision, even for the exchange rate Rupiah in the future.

IGJ's Research and Advocacy Coordinator, **Rahmat Maulana Sidik** , emphasized, *“Omnibus Law clearly adopted a free market regime established by the WTO. Proven in the Job Creation Draft Bill to open the liberalization of food import to its fullest extent is submitted to the mechanism market. This definitely brings a serious threat to the sustainability of farmers and national food. Meanwhile, the State does not care about the sustainability of the fate of farmers and national food. Not only that, opening a food import gate has a serious impact on food inflation and an unstable rupiah exchange rate. Food importer countries will be difficult to control inflation and the rupiah exchange rate”*.

Bina Desa Sadajiwa, Indonesia for Global Justice (IGJ), Aliansi Petani Indonesia (API), Koalisi Rakyat untuk Kedaulatan Pangan (KRKP), FIAN Indonesia, Jaringan Komunitas Swabina Pedesaan (JKSP), Jaringan Perempuan Pedesaan Nusantara (JPP Nusantara)

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