



Reconstructing the Right to Food as a Constitutional Right in Indonesia: Fulfilling Social Justice and Sustainable Food Security

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ABSTRACT: The right to food is a fundamental part of human rights guaranteed by the constitution, but in practice in Indonesia it is still declarative in nature and has not yet been established as a constitutional right that can be enforced by law (justiciable right). This study aims to analyze the constitutional dimensions of the right to food, identify regulatory implementation barriers, and formulate a legal reconstruction model that affirms the right to food as a constitutional responsibility of the state. The method used is normative juridical with a conceptual, legislative, and comparative international law approach. The results of the study show that Article 28A, Article 28H paragraph (1), and Article 33 paragraph (3) of the 1945 Constitution have provided a philosophical and normative basis for the recognition of the right to food, but the absence of enforcement mechanisms makes it non-justiciable. Institutional fragmentation and regulatory disharmony, such as in the implementation of Law No. 18 of 2012 on Food, further weaken the effectiveness of the protection of these rights. Through a comparative analysis of practices in South Africa, India, and Brazil, the urgency of constitutional reconstruction that places the right to food within a rights-based approach framework with the support of effective oversight and litigation mechanisms was found. This study recommends constitutional affirmation, regulatory harmonization, and the establishment of a human rights-based food justice system. These findings emphasize that the recognition and enforcement of the right to food are prerequisites for social justice and national sovereignty in the vision of Indonesia Emas 2045.

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1. INTRODUCTION

Food is the most basic necessity in human life (Husnain Gondal & Tayyiba, 2022). Food is not merely an economic commodity traded in Indonesia, but a fundamental human right that supports the existence of humans as dignified beings. The availability and affordability of adequate food not only determines the survival of individuals, but also has a direct impact on the social, political, and economic stability of a nation (García-Díez et al., 2021; Simelane & Worth, 2020). Therefore, the right to food is essentially a constitutional right inherent to every citizen, and it is the responsibility of the state to fulfill this right in a fair and sustainable manner (Hasrul et al., 2022). In this context, Indonesia does not merely act as a regulator, but also as a guarantor and protector of its citizens so that they do not fall into hunger, malnutrition, or food inequality.

At the global level, recognition of the right to food has become part of the international legal system in efforts to alleviate poverty, end hunger, and support life (Canfield et al., 2021). Article 25 of the 1948 Universal Declaration of Human Rights (UDHR) states that everyone has the right to a standard of living adequate for their health and well-being, including food, clothing, and housing (Singh, 2021). This recognition is reinforced in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) 1966, which obliges state parties to respect, protect, and fulfill the right to adequate food for all their inhabitants. Indonesia has ratified this covenant through Law No. 11 of 2005, which means that legally, the state has a legal obligation to uphold this right in its national policies. Thus, fulfilling the right to food is not merely a moral choice, but a constitutional and international legal obligation that must be carried out by the state in practice.

In the national context, the 1945 Constitution provides a strong constitutional basis for the fulfillment of the right to food. Articles 28A and 28H paragraph (1) guarantee the right of every citizen to physical and spiritual prosperity, while Article 33 paragraph (3) affirms that the earth, water, and natural resources contained therein are controlled by the state and used to the greatest extent possible for the prosperity of the people. These three articles form the philosophical and juridical basis that food is part of the welfare

that must be guaranteed by the state. The right to food is further regulated in Law Number 18 of 2012 concerning Food, which states that the state is responsible for realizing food sovereignty, food independence, and food security. Similarly, Law No. 39 of 1999 on Human Rights affirms that everyone has the right to a decent standard of living, including adequate and nutritious food.

However, the reality on the ground shows that this normative recognition has not been fully followed by effective implementation. Based on the food insecurity scale measured by the Central Statistics Agency, Indonesia's FIES value in 2023 is 4.5%, meaning that the Indonesian population experiences moderate to severe food insecurity (Nasional, 2023). Meanwhile, the 2025 Global Hunger Index places Indonesia in the "serious" category with a score of 14.6, indicating that hunger and malnutrition remain real problems (Index, 2025). This situation reveals a gap between *das sein* (reality) and *das sollen* (legal norms), where the right to food has not yet been fully articulated as a constitutional right that can be demanded or defended through legal instruments.

This issue stems not only from economic factors or food production alone, but also from weaknesses in the legal system and policy governance. The National Human Rights Commission (2022) notes that the fulfillment of the right to food in Indonesia is still sectoral, fragmented, and lacks a clear enforcement framework (Ekonomi, 2025). As a result, the right to food is often positioned as part of government social programs, rather than as a legal obligation that can be held accountable. This reveals a legal vacuum in the national legal system that makes the right to food difficult to defend legally, even though it is guaranteed morally and constitutionally.

The fundamental problem in Indonesian law is not a lack of regulations, but rather weak political commitment and consistency in their implementation. This is reflected in national food governance, where there is an overlap of authority between the Ministry of Agriculture, the Ministry of Trade, the National Food Agency, and local governments. The absence of an integrated legal mechanism means that food policies are often partial and do not prioritize the fulfillment of citizens' rights. In fact, from the perspective of a democratic state based on the rule of law, the fulfillment of the right to food should be a key indicator of the performance of the constitution and legal instruments themselves.

Social rights such as food, education, and health must be placed on an equal footing with civil and political rights. Such recognition is important so that the state no longer delays their fulfillment on the grounds of limited resources. Within the framework of the welfare state, the state's responsibility for the right to food is a manifestation of the principle of social justice as stated in the fourth paragraph of the Preamble to the 1945 Constitution. This means that the state's failure to guarantee adequate access to food constitutes a violation of the constitution itself.

Previous studies have highlighted food issues from various perspectives. For example, Widjaja & Dhanudibroto (2025) analyzed strategies for strengthening food security policies, while Hariri (2025) examined legal issues related to transparency in the establishment of LP2B and its implications for national food security. However, the majority of these studies stop at the implementational level and do not touch on the root of the problem at the constitutional level. There are not many studies that explicitly place the right to food as a justiciable constitutional right, which can be enforced and tested through legal mechanisms. This gap indicates an important research gap that needs to be filled so that the paradigm of food fulfillment can shift from merely a social policy to a constitutional responsibility.

This void raises fundamental questions about the extent to which the constitution can be used as a legal instrument to guarantee the fulfillment of the right to food. Is this right merely declarative, or does it have legally enforceable binding force? This is an important basis for the need to reconstruct the law on the right to food in Indonesia. This reconstruction is intended to establish a new paradigm in law enforcement that places the right to food on par with the right to life and other welfare rights. Using a normative juridical approach, this study not only aims to examine the suitability of norms, but also to develop a conceptual model that affirms the role of the state as the primary guarantor of citizens' constitutional rights to food.

The research gap lies in the effort to reconstruct the legal and constitutional framework for the fulfillment of the right to food, by placing food not merely as a basic need, but as a right that has binding legal dimensions. This research also seeks to explore comparisons of constitutional practices in several countries, such as South Africa and India, which have already made the right to food an enforceable right in court. This approach is expected to give rise to a new conceptual model that can be used to strengthen legal guarantees for the right to food in Indonesia, while also making a real contribution to the vision of Indonesia Emas 2045, which is sovereign, fair, and socially just.

II. METHOD

This study uses a normative juridical approach, which is a method that focuses on the examination of positive legal norms, legal principles, and applicable constitutional principles. This approach was chosen based on the conceptual nature of the issue, namely assessing the position and strength of the right to food as a constitutional right of citizens in the Indonesian legal system. The normative juridical approach allows for an in-depth analysis of legal texts, regulatory logic, and the relationship between constitutional norms and their implementation in national policy. To enrich the analytical framework, conceptual and comparative

approaches are also applied. The conceptual approach helps to explore the substantive meaning of the right to food in the perspective of social justice and the philosophy of the welfare state. Meanwhile, the comparative approach is carried out by examining constitutional models in several countries, such as South Africa, India, and Brazil, which have already established the right to food as a right that can be enforced through judicial channels. Through comparative analysis, it is hoped that a picture will emerge of an enforcement model that is relevant to the Indonesian context.

The legal sources used include primary, secondary, and tertiary legal materials. Primary legal materials consist of laws and regulations that form the basis of analysis, such as the 1945 Constitution, Law No. 11 of 2005 concerning the Ratification of ICESCR, Law No. 18 of 2012 on Food, Law No. 39 of 1999 on Human Rights, and a number of Constitutional Court (MK) decisions related to social and economic rights. Secondary legal materials include scientific literature, law textbooks, academic journals, official reports from government agencies and international institutions such as the FAO, Komnas HAM, and publications from the United Nations Human Rights Council (UNHRC) that are relevant to the fulfillment of the right to food and sustainable development. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources that help explain key terms or concepts in the analysis. The process of collecting legal materials is carried out through literature studies.

Analysis of legal materials using descriptive analytical and prescriptive approaches. The descriptive stage aims to describe the content and structure of applicable laws related to the right to food, both at the constitutional and legislative levels. The analytical stage focuses on assessing the relationship between norms, vertical and horizontal harmony of regulations, and identifying any disharmony or legal gaps. The prescriptive stage is directed at formulating a conceptual model for legal reconstruction that strengthens the position of the right to food as a constitutional right that can be enforced through legal instruments. With this approach, it is hoped that a comprehensive picture can be obtained of how the Indonesian legal system should respond to the challenges of fulfilling the right to food in the future. In an effort to deepen understanding of the social context and moral values behind the norms, a legal hermeneutics approach is also applied. This approach serves to interpret the text of the constitution not only grammatically, but also based on the spirit and values it contains. Thus, the right to food is understood not merely as a rigid legal sentence, but as a manifestation of the state's responsibility towards human dignity. The hermeneutic approach allows for a more humanistic and contextual interpretation of the law, in line with the ideals of substantive justice in the Preamble to the 1945 Constitution.

The validity of the study results is maintained through the application of the principle of triangulation of sources and concepts, namely by comparing various legal sources, expert opinions, and previous research results to obtain a consistent and objective understanding. This step ensures that the arguments constructed are not speculative, but rather rooted in a systematic analysis of legal norms and constitutional theory. Overall, the method used is expected to produce a comprehensive, logical, and applicable legal review. Through a normative legal framework combined with conceptual, comparative, and hermeneutic approaches, this study aims to reinforce the right to food as a binding constitutional right, while offering ideas for legal reform oriented towards social justice and people's welfare. Thus, the results of the analysis are expected to make a real contribution to strengthening the national legal system towards a 2045 Golden Indonesia that is food sovereign, just, and humane.

III. RESULTS AND DISCUSSION

The Constitutional Dimension of the Right to Food in Indonesia

Philosophically, the right to food is rooted in the basic principles of Pancasila, particularly the second principle of just and civilized humanity, which emphasizes the importance of respect for human dignity. This principle places the fulfillment of basic needs, including food, as a prerequisite for a dignified life. The state, therefore, is not only responsible for maintaining economic sustainability and political stability, but also for ensuring that the basic rights of every citizen are fulfilled as a form of social justice. In the constitutional context, the right to food falls under the category of economic, social, and cultural rights (ESCR) which are explicitly recognized in Article 28A, Article 28H paragraph (1), and Article 33 paragraph (3) of the 1945 Constitution. These three norms create a strong legal basis that access to food is not a government favor, but rather an inalienable constitutional right that is inherent and cannot be reduced under any circumstances.

However, historically, constitutional provisions regarding the right to food in Indonesia have remained declarative in nature and lack operational power. Unlike civil and political rights, which can be enforced through judicial mechanisms, social rights such as the right to food are often considered non-justiciable because they are regarded as matters of policy. In fact, in the development of modern legal theory, there has been a paradigm shift: economic and social rights are now seen as an integral part of human rights that must be guaranteed and can be legally enforced. Setiawan et al (2025) emphasize that limiting the justiciability of social rights contradicts the principle of the rule of law in a welfare state.

In this context, it is important to adopt the theory of constitutionalization of social rights proposed by Darajati & Syafei (2020) , which states that social rights must be elevated to constitutional rights in order to have legal force equal to civil and political rights. Through this constitutionalization, the right to food is no longer merely an aspirational right, but a claimable right that can be used

as a basis for demanding the state's legal responsibility. At the legislative level, Law Number 18 of 2012 concerning Food has affirmed the state's responsibility in ensuring the availability, affordability, and utilization of food for all people. However, these norms are still declarative in nature and do not yet place the right to food within the framework of constitutional rights that can be enforced legally. In practice, food policy is often reduced to a technocratic matter between ministries, rather than a constitutional mandate directly related to the fulfillment of human dignity. As a result, when there are violations of the right to food, such as shortages of basic commodities or unreasonable price increases, the public has no legal mechanism to demand the restoration of their rights. This situation creates a serious gap between the normative recognition and legal effectiveness of the right to food. Implementation Challenges: Regulatory Fragmentation and Weak Enforcement

The problem of food rights in Indonesia is not solely caused by a lack of production or natural resources, but rather by weak coordination and regulatory fragmentation in food governance. FAO (2023) notes that although Indonesia is one of the largest rice producers in Southeast Asia, distribution inequality, price volatility, and high levels of food insecurity still occur in a number of regions, especially in island and disadvantaged areas. This situation shows that food policy has not yet been fully based on the paradigm of fulfilling rights, but is still dominated by a fragmented sectoral approach.

Food affairs in Indonesia are spread across various ministries and agencies—such as the Ministry of Agriculture, the Ministry of Trade, the Ministry of Maritime Affairs and Fisheries, and the National Food Agency. The lack of strong coordination between these institutions has led to overlapping policies, particularly with regard to food imports, fertilizer subsidies, and the setting of maximum retail prices (HET). This phenomenon is known as legal disconnection, a condition in which the legal system fails to integrate norms between the food, trade, and human rights subsystems. Within the framework of a state based on the rule of law and social justice, this kind of disharmony has direct implications for the loss of the law's effectiveness in guaranteeing the people's right to food. Weak implementation is also evident in the absence of clear legal oversight and accountability mechanisms. There are no legal indicators that can measure violations of the right to food in legal terms. For example, when rice import policies harm local farmers, or when food aid distribution is not on target, the affected communities have no legal recourse to file a lawsuit. Indonesian National Human Rights Commission (Komnas HAM) 2024 assesses that this situation reflects a serious legal vacuum and can erode public trust in the state's role as a protector of basic rights. This kind of void not only affects the legitimacy of the state, but also hinders the achievement of social justice as enshrined in the Preamble to the 1945 Constitution. The above conditions show that the food issue is not merely a matter of production, but a reflection of structural problems in law and governance. Thus, a paradigm shift is needed from food policy as an administrative issue to the fulfillment of rights as a constitutional mandate.

The Urgency of Reconstruction: Affirming the Right to Food as a Justiciable Right

To address this issue, legal reconstruction is necessary so that the right to food obtains justiciable status. In the context of international law, the International Covenant on Economic, Social and Cultural Rights (ICESCR) affirms the principle of progressive realization, namely the obligation of states to take concrete, measurable, and sustainable steps to realize social rights, including the right to food. This principle affirms that resource constraints are not a reason to delay the fulfillment of rights, but rather a basis for gradual action with clear measures of progress.

A number of countries have successfully implemented this principle. South Africa, through Section 27(1)(b) of the Constitution of the Republic of South Africa 1996, explicitly guarantees the right of every citizen to adequate food, and allows citizens to sue the state if this right is not fulfilled (South African Government, 1996). India, through the People's Union for Civil Liberties vs. Union of India 2001 ruling, interprets the right to food as part of the constitutionally guaranteed right to life (Pasayat, 2007). Brazil also amended its constitution in 2010 to include the right to food as a social right in Article 6.

The success of these countries shows that the right to food can be legally enforced without causing tension between the executive and judicial branches of government. The effectiveness of social rights protection depends on the courage of the state to make it a legal responsibility, not just a moral one. For Indonesia, this step means establishing a legal system that allows for constitutional litigation over food rights violations, whether through the Constitutional Court, the State Administrative Court, or class action mechanisms. By making the right to food claimable, the state strengthens its constitutional legitimacy while providing space for public participation in upholding social justice.

Constitutional Reconstruction Model: Integration, Enforcement, and Social Justice

Legal reconstruction of the right to food can be carried out through three main pillars. First, constitutional norms can be strengthened through progressive interpretation by the Constitutional Court (MK), without having to wait for formal amendments. This interpretation can broaden the meaning of Articles 28A and 28H paragraph (1) of the 1945 Constitution as an explicit basis that the right to food is part of the right to life and welfare. The MK acts as the guardian of social rights, ensuring that state policies do not violate the principles of social justice and humanity. Second, the harmonization of legislation needs to be directed so that all food policies are in line with the principles of human rights and sustainable development goals (SDG 2: Zero Hunger). The Food Law No. 18 of 2012 needs to be revised to emphasize the enforceable nature of the right to food and strengthen coordination between

institutions through the National Food Agency as the central authority in planning, monitoring, and reporting on the fulfillment of the right to food. Third, a participatory and transparent enforcement mechanism needs to be established. The establishment of a Food Rights Complaint Center under the coordination of Komnas HAM can be a national instrument that receives reports from the public and systematically monitors food rights violations. In addition, a technology-based Food Justice Platform system can be developed to monitor data on food availability, prices, and distribution in real time, so that violations of the right to food can be identified early on. This approach is not only reactive but also preventive, ensuring that the state is always in an active position to fulfill its obligations. This reconstruction model is in line with the Human Development Report (2024) which emphasizes that food security is the foundation of social justice and sustainable development. Without food justice, the vision of Indonesia Emas 2045 will lose its moral and social substance.

Direction and Legal Implications

The reconstruction of the right to food as a constitutional right has transformational consequences for governance. The state needs to change the paradigm of its policy from a sectoral approach to a rights-based approach, which places the people as subjects of law and the center of public policy. Every food policy, from production and distribution to supervision, must be tested based on the principles of justice, sustainability, and the fulfillment of human rights. Thus, fulfilling the right to food is not only an administrative obligation, but also a legal and moral responsibility of all elements of the nation. Within this framework, the law functions not only as an instrument of control, but also as a means of empowering the people to demand their rights. If this paradigm is applied consistently, then the ideal of Indonesia Emas 2045 will not merely be a slogan for economic development, but will become a reality of life with justice, where every citizen is guaranteed a life free from hunger, with their dignity protected by law.

The right to food is essentially not merely a matter of public policy or the economic sector, but rather a moral and legal foundation for the preservation of human dignity. Within the national legal framework, the 1945 Constitution provides a strong constitutional basis through Article 28A, Article 28H paragraph (1), and Article 33 paragraph (3), which implicitly affirm that every citizen has the right to a decent life, including access to food. However, substantively, the right to food has not yet obtained the status of a justiciable right, namely a right that can be enforced through formal legal mechanisms. This situation creates a gap between normative recognition and actual legal protection. Social and regulatory conditions indicate that the main problem is not the absence of laws, but rather the weakness of the enforcement system and cross-sector coordination. Fragmented food policies, overlapping institutional authorities, and the absence of rights-based oversight mechanisms render these constitutional guarantees ineffective. The state has indeed regulated the right to food in Law No. 18 of 2012, but its substance emphasizes administrative and technocratic aspects rather than the constitutional rights of citizens. In fact, the rule of law paradigm in a welfare state requires that every social right have legal consequences that can be enforced.

A comparison with the constitutional practices of other countries shows that the right to food can be institutionalized as a legally enforceable right. South Africa, India, and Brazil have successfully established legal systems that provide scope for litigation in cases of violations of the right to food. Through these precedents, it can be concluded that formal recognition is not enough without accompanying enforcement mechanisms and state accountability. Therefore, Indonesia needs to develop a more progressive constitutional model, in which the right to food is placed on par with the rights to education and health as part of the state's legal responsibility to its people.

IV. CONCLUSION

The reconstruction offered is not merely a normative revision, but a paradigm shift. The state must move from a policy-based approach to a rights-based approach, in which the people are no longer positioned as recipients of policy, but as legal subjects who hold rights. Thus, the fulfillment of the right to food becomes the main measure of the state's presence in ensuring social justice as mandated in the Preamble to the 1945 Constitution. The state's failure to fulfill the right to food must be considered a constitutional violation, not merely an administrative failure. Thus, it can be asserted that the right to food must be recognized as a constitutional right that is justiciable and has legal force. This concept places food not only as a biological necessity, but as a fundamental right that measures the success of Indonesia's legal civilization towards Indonesia Emas 2045. By making the right to food a main pillar of legal development, this nation not only ensures food availability, but also guarantees the sustainability of human dignity, social justice, and civilized humanity.

The state needs to make a normative affirmation in the constitution or constitutional interpretation by the Constitutional Court that the right to food is part of the right to life and welfare. This affirmation is important to dispel the notion that the right to food is merely declarative. Limited amendments or progressive interpretations by the Constitutional Court can pave the way for stronger constitutional recognition. The Food Law No. 18 of 2012 should be revised to explicitly place the right to food within the framework of human rights. In addition, the Indonesian government must strengthen institutional integration and harmonization of crosssectoral food policies. The establishment of a National Food Council or the strengthening of the National Food Agency should be directed so that they not only function administratively, but also have the authority to conduct rights-based monitoring and evaluation.

Coordination between the Ministries of Agriculture, Trade, Maritime Affairs and Fisheries, and Social Affairs must be carried out within an integrated legal framework. In the long term, the government needs to make sustainable food security a key indicator in the National Long-Term Development Plan (RPJPN) and a benchmark for the success of Indonesia Emas 2045. The fulfillment of the right to food must be viewed not only from an economic perspective, but also from the perspective of social justice and respect for human dignity.

Rights-based monitoring mechanism. The establishment of a Food Rights Complaint Center under the National Human Rights Commission could be a strategic step to ensure that there are legal channels for the public when food rights are violated. In addition, the integration of a digital system based on national food data will strengthen public accountability and transparency. An approach to educating and raising public awareness of food rights. Law schools, research institutions, and civil society organizations must be part of an ecosystem that encourages public oversight of the fulfillment of these rights. Social rights-based legal education will strengthen constitutional culture among citizens. Finally, treating the right to food as an enforceable constitutional right is not merely an academic demand, but a moral and legal obligation for a country based on fair and civilized humanity. Indonesia will not truly be sovereign until every citizen has access to adequate food. Only by upholding food justice can this nation move towards a future of justice, sovereignty, and dignity—in line with the ideals of Indonesia Emas 2045.

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