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Food Safety in the Protection of the Right to Health

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Abstract. Food safety is still not getting the attention it should; therefore the condition of food safety in Indonesia is still a concern. WHO reports that around 2 million of the world's population die every year due to unsafe food. In Indonesia, Indonesia Agency of Drug and Food Control (BPOM) reported that the outbreak of food poisoning caused the death of 2500 people and as many as 411,500 people sick each year. Food safety is a right for the community but has not been accomplished until now. The study aimed to describe food safety in the protection of the right to health. The research method used was literature review and analysis used descriptive research. The results of the study showed that the condition of food safety in Indonesia still lacks good quality with the number of the outbreak of poisoning cases. Protection of the right to health as regulated in the Health Law Number 36 of 2009 has not been well carried out. Food safety in the protection of the right to health has not been realized because there are still many dangerous food products circulating in the market so that there needs to be strict regulation from stakeholders in protecting the right to health for the community.

Keywords: *food safety, right to health, legal protection*

1. Introduction

Everyone needs to be healthy. However, not everyone knows how exactly live healthily. The recent change of lifestyle is expected to be able to improve the healthy environment. Healthy doesn't always mean physically but also related to food. Food is important for everyone's life [1]. Food safety is one of the significant factors as the requirement to produce high qualified and nutritious food. Food safety should be one of the criteria of the food consumed by people. As we know, the distributed food is the food produced by the producers. Therefore, food producer is also one of the determinant factors to fulfill the government's standard of food quality and food safety. Food producer takes a big role in making sure that the food being produced is qualified and safe to be consumed [2].

However today, many food producers are unable to guarantee food safety. The unsafe food starts to create some problems such as poisoning and the use of poor-quality food ingredients.



Food unsafety has become serious global problems which represent the government's lack of attention in providing food safety and making sure that people live a healthy life. The changes in this globalization era including climate change and unhealthy eating habit, food vulnerability becomes even more challenging for people life.

Food safety is one of the essential indicators from independent and wealthy food security. Food safety has not got enough attention so that Indonesia still has a poor food safety level. WHO (World's Health Organization) reported that about 2 million people of world citizen dead each year because of the unsafe food. In Indonesia, BPOM or the National Agency of Drug and Food Control of Indonesia reported that there were 2500 people dead and 411.500 people ill because of poisoning cases [3].

Food safety should be simultaneously handled to solve related health problems. The complexity of food safety's multidimension is unlimited to make sure that the food produced is enough. It is also related with the assurance and availability of nutritious food, as stated by some international organization such as WHO (World's Health Organization), WFP (World's Food Program), and FAO (Food and Agriculture Organization). FAO emphasizes that nutrition is the essential human right to health and wealth. It helps to protect people from illness. As public health related to nutrition and food issues, food safety and nutrition problems should be simultaneously handled to improve health output [4].

The right to health is regulated by 1945 Constitution article number 28A about people's right to live and the right to defend their life. Article number 28H verse 1 about people's right to live a wealthy life physically and mentally, including proper housing and environment, also the right to health care. In Health Law number 36 of 2009, verse 4 describes that everyone has the right to health. food safety is included in the right to health, as food safety significantly influence people's health [5].

2. Method

The research method used in this research was literature review about the theories, findings, and the other research material as the references during the data collection. Descriptive analysis was used as the method to analyze the research result to present the description about the subject of the research related with the variable obtained from the tested subject and which was not involved for the hypothesis test.

3. Result and discussion

3.1. Food Security Condition of Indonesia

People are presented by the publication about the food and beverage unsafety, as it is illegal or contain the harmful substance. This problem is not only happened in Indonesia. Based on the survey from Global Security Index in 2015, it is quite surprising that Indonesia with its all kinds of food potency, quality and safety is on the sixth level out of eight

ASEAN countries [6]. From the food poisoning outbreak reported by BPOM in 2016, the main cause of the outbreak is the existence of microbiology (30% suspected and 3.33% confirmed). From the etiology side, the confirmed microbe is *Bacillus cereus* and *Staphylococcus aureus*. Meanwhile, the suspected bacteria are *Salmonella spp*, *Clostridium perfringens*, *Pseudomonas aeruginosa*, *B.cereus* and *S. aureus*. Most of the microbe found in homemade cooking (49.15%), street food (20.34%), catering (15.25%) and processed food (15.25%) [7].

It is strongly indicated that food unsafety problem comes from food produced by small-medium food enterprise, and this condition nearly doesn't change up to now. It is ironic, as small-medium food enterprise is the most potential supplier of Indonesian food. Data from BPOM consistently showed that most of the health problems caused by microbes. It indicated that food processing, especially in small-medium enterprises did not apply the sanitation hygiene standard and good manufacturing practice or GMP. In other words, good food processing in Indonesia did not properly applied [8].

The food unsafety in Indonesia is also represented by the export rejection data about Indonesian food in the global market. It is due to food safety has become a legitimate requirement for international trading. So that, food safety will also directly affect the food product export performance of a country. Based on a data collected by USFDA, the Indonesian food rejection is happened due to food safety reason were 1451 cases or about 30 cases per month. International trading is one of the important sectors for Indonesia, especially as the source of national income. However, the recent globalization initiated new emerging contaminants, especially for the exported food product [9].

To solve this problem, the government needs to reconstruct the national food safety system. In article 126 of Law No. 18/2012 about food, it is stated that to realize the national food wealth, independence, and security, a National Department is formed. It is directly under and responsible to the President. It should be an effective effort for the government to reconcile the food safety diplomacy in any international forum, especially about the polemic of international food safety standard [10].

3.2. Protection of right to health

Health is a condition which enables someone to be physically, mentally, and socially productive. It is because health is one of the basic requirements for someone to be acknowledged. Without health, someone is not able to pursue his or her rights. Someone who is not healthy might unable to do his or her work properly and unable to enjoy the life properly as human. Health is important as a condition to fulfill the rights and it is internationally acknowledged [11]. Right to health includes the right to get proper life and

occupation, also the right to health care. Article 25 of Universal Declaration of Human Rights (UDHR) stated that everyone has a right to get proper life to health and wealth for oneself and the family. It includes the right to food, clothes, housing, health service, and public service.

Human right assurance in Indonesia is regulated in some laws. Article 28A-28J contains the rights and duty of human right. One of the constitution messages is about right to health in article 28H of Constitution 1945 which is further elaborated in Law No. 36/1999 about human rights and Law No 36/2009 about Health. In that constitution, the right, duty, and responsibility of government in providing safe, qualified, and affordable health service for the citizen [12]. Health problem is not a single problem [13]. Otherwise, it is strongly related to other problems in human life. Indonesian constitution states that this country is responsible and must actively provide health service to the citizen in concordance with the value of Pancasila [14].

Article 4 of Law No. 36/2009 about health also regulates about the point that everyone has a right to health [15]. food safety is a normative assurance for the right to health. the right to food is right to health which represents the high awareness in improving citizens' life quality. As the fundamental right of human, right to health in term of food safety cannot be simply neglected. Just like the right to life, right to health cannot be substituted by another in any condition [16]. The state has an absolute responsibility to the wealth of the citizen by applying food safety policy. Right to life, right to health, right to education, and so on are correlated with the effort to achieve proper life quality, and strongly related to food safety and food availability.

3.3. Food safety within the protection of the right to health

Right to food is a right for the citizens which include children, women, and men to get sufficient food [17]. Focusing on food safety, CESC (Committee on Economic, Social and Cultural Rights) correlate food with health by assuring that the food comes from the proper ingredient and processing. Food safety represents the modernized right to health is equal to the understanding of health determinants. It is contained in article 12 of ICESCR (International Committee on Economic Social and Cultural Rights) that right to health includes various social-economy factors which promote people's healthy life and extends to the other health determinant factors such as food and nutrition, housing, proper and sufficient access to clean water, sanitation, healthy workplace, and healthy environment. CESC includes food safety right under the right to health which correlates the quantity and quality of food as required by food safety standard.

Right to food and right to health meet in certain point which represents their dependency and correlation to health. it also deals with how a state is responsible to solve the problem of food scarcity as the effort to fulfill the need of nutrition. The other components of human right deal with the rights for women and children [18].

Right to health can be realized by improving availability, accessibility, acceptance, and framework quality to elaborate the norms about right to health. it is also the same with right to food, in term of availability, accessibility, sufficiency, and sustainable framework for right to food. It is represented by providing physical and economical access to sufficient and culturally acceptable food, sustainably consumed for the next generation, and focus on the holistic application of the right for health danger [19].

Conceptualizing right to food safety and nutrition which represents the definition of food security and codification from the developed right to food, will include the right of the household to get sufficient nutrition from sustainable foods. The need of food in term of the right to food and health, also collective right to food security and nutrition move along exceeding the need of food to stay alive and healthy [20]. The understanding about food security has developed in line with the developed focus on nutrition as the fundamental requirement for health. however, it is the duty of human right to transfer understanding of food security. Right to health has thoroughly solved this normative problem, just need some improvement to assure the realization [21]. When the paradigm about food and nutrition safety is not represented, human rights can be used to represent the understanding about the contemporary threat to human dignity and wealth [22].

Right to health and proper life quality draw the fundamental point to develop new right reflection form the health determinant as the principle. The rights consist of:

- 3.3.1. Availability which enables the stability and continuity of national food supply. The availability of food security affects national agriculture product and the global food market. In global food market, the collective concern about the availability of food demands the attention of global food safety determinants, including economic development policy, market system, and sustainable agriculture [23].
- 3.3.2. Accessibility should adjust to the global food market which becomes more integrated. It is important to assure that food should be geographically and financially accessed by every household without any household distribution discrimination [24].
- 3.3.3. Quality or sufficiency moves outside the quantity to fulfill the concept of sufficient nutrition, as the determinant point for health [25]. The focus on food sufficiency correlates right to food and food safety. Either right to food and right to health meet in a certain point as the fundamental point for health [26].

From the representation of human right in a form of right to food for food safety protection under international law requires national policy to meet with the international policy of food safety [27]. Food safety is assured by the food wealth and assumed as "the right of citizens to get healthy and culturally suitable food which is produced through sustainable and ecological friendly process, also the right to define their own food and agriculture system". The wealth of food is one of the requirements for the right to food [28] and act as the fundamental point of which a state can perform a strong effort in adapting from the globalization in food production and distribution. The shift of food system implicates the meeting point of those rights in national policy [29].

4. Conclusion

The condition of food in Indonesia is still poor. It is represented by the outbreaks in food poisoning and the internationally declined food export for the global food market with food safety issue as the reason. Food safety is a normative assurance which reflects the high awareness in improving citizens life quality. As the fundamental human right, the right to health in term of food safety cannot be simply neglected and it is protected by Law No. 36/2009 about health. food safety is also a form of right to health which should be protected as the fundamental factors of health determinant. The right to health is collective rights related to food for staying alive and the need of nutrition to achieve wealthy citizens.

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