

Selection of Articles on Food Law and Policy

Organised by Faculty of Law, Universitas Airlangga Surabaya Indonesia
Under the VLIR-UOS Short Initiatives Academic Project 2023-2025,
collaboration between Vrije Universiteit Brussels and Universitas Airlangga
on "Empowering Women Farmers to Actualize Rights to Seed for
Sustainable and Resilient Food System in East-Java Indonesia"

Editors
Intan Innayatun Soeparna
Indria Wahyuni

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**Food Law
and Policy**

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Foreword

Food law and policy represents the complex and evolving network of regulations, legal frameworks, and government actions that govern the entirety of the food system, from initial production to final consumption and waste disposal. Its primary goals are multifaceted and often involve balancing competing interests, including ensuring food safety and security, promoting nutritional guidelines, supporting economic development within the food industry and minimizing environmental impact. This multidisciplinary field draws upon law, science, economics, and public health to create a framework that supports a safe, sustainable, equitable, and resilient food supply. Implementation occurs through a variety of instruments at local, national, and international levels, including legislation, detailed regulations crafted by specialized agencies, mandatory and voluntary standards and policies related to subsidies and trade. The ongoing development and effectiveness of food law and policy are shaped by numerous actors and are constantly adapting to emerging challenges.

As understanding of the interconnectedness of food systems grew, agricultural policy began to broaden its scope. The rise of environmental concerns led to the incorporation of environmental regulations into agricultural policy, addressing issues like climate change, soil erosion, and water pollution. This marked a shift towards more sustainable agricultural practices, reflected in food law through stricter regulations on agricultural chemicals and the promotion of organic farming standards. Simultaneously, the concept of food security evolved beyond simply producing enough food to include ensuring access to nutritious food for all. This led to the integration of nutrition considerations into agricultural policy, such as promoting the production of diverse and nutritious crops, supporting smallholder farmers, and linking agricultural programs to nutrition interventions.

The development of agricultural policy is fundamentally intertwined with both food law and policy and the pursuit of Sustainable Development Goal 2 (Zero Hunger), acting as the operational link between broad societal food goals and on-the-ground farming practices. Initially focused on maximizing production, agricultural policy has evolved to encompass environmental sustainability, equitable access to food, and improved nutrition, reflecting a broader understanding of food systems and the holistic aims of SDG 2. Modern agricultural policies, supported and

enforced by food law, now prioritize sustainable intensification, climate change adaptation and mitigation, empowerment of smallholder farmers, biodiversity conservation, food loss and waste reduction, and the crucial link between agriculture and nutrition. While agricultural policy sets the strategic direction and provides incentives for practices like sustainable farming and climate resilience, food law and policy provide the necessary regulatory framework and enforcement mechanisms, covering areas like land use, pesticide regulation, food labelling, and trade, ensuring that agricultural practices align with the goals of food security, nutrition, and environmental sustainability inherent in achieving Zero Hunger. The two are thus inseparable, working in tandem to create a functioning, just, and sustainable food system.

The development of food law and policy, intertwined with agricultural policy and driven by the pursuit of Sustainable Development Goal 2 (Zero Hunger), formed the backdrop for the 3rd International Conference on Food Law and Policy. This conference, hosted by the Faculty of Law, Universitas Airlangga, on 20 November 2024, in Surabaya, Indonesia, is a testament to the visionary leadership of Professor Kim Van der Borch (Vrije Universiteit Brussels). His unwavering dedication and foresight in recognizing the urgent need for interdisciplinary collaboration have been instrumental in establishing this conference as an annual tradition. This tradition, focused on critical themes, aims to catalyse impactful change and collaboration within this vital field.

This conference is a key component of the VLIR-UOS Short Initiatives Academic Project 2023-2025, a collaboration between Vrije Universiteit Brussels and Universitas Airlangga focused on “Empowering Women Farmers to Actualize Rights to Seed for a Sustainable and Resilient Food System in East Java, Indonesia.” This two-year project aims to empower smallholder and women farmers to exercise their right to seed, thereby contributing to a more sustainable agricultural system in East Java. The long-term vision is to enable smallholder and women farmers to fully realize their right to seed, guided by the principles of SDG 2 (Zero Hunger), SDG 13 (Climate Action), and SDG 5 (Gender Equality). VLIR-UOS, Short Initiatives projects support academic collaborations addressing specific sustainable development challenges and promote the uptake of new knowledge by development actors.

Editors:

Dr. Intan Innayatun Soeparna

Indria Wahyuni, Ph.D.

Preface

In a world facing the intertwined challenges of food insecurity, climate change, and growing health disparities, the intersection of food law and policy with agricultural development has never been more critical. The pursuit of Sustainable Development Goal 2 – Zero Hunger – demands a fundamental rethinking of how we produce, distribute, and consume food. It is within this crucial context that the 3rd International Conference on Food Law and Policy, on 20 November 2024, convened hybrid by Faculty of Law, Universitas Airlangga in Surabaya, brought together a remarkable assembly of researchers, policymakers and advocates to explore the multifaceted landscape of food law and policy.

For decades, agricultural policy often prioritized maximizing production, with food law primarily focused on basic safety. However, a more holistic understanding has emerged, recognizing that sustainable agriculture, equitable access to nutritious food, and robust regulatory frameworks are inseparable. This conference, and the papers collected in this book, represent a vital contribution to this evolving understanding. The participants, representing diverse disciplines and geographies with over 100 attendees including 35 speakers from Indonesia, Australia, Malaysia, Belgium, Netherland and Italy, engaged in rigorous discussions spanning a wide range of critical topics: from the intricacies of international trade agreements and their impact on local food systems, to the challenges of regulating novel food technologies and addressing food fraud. The discussions delved deep into the complexities of land tenure rights, the role of subsidies in shaping agricultural practices, and the urgent need for climate-resilient food systems.

This book encapsulates the essence of those crucial discussions, providing not only an overview of the current state of the field, but also a strategic framework for future action. The included fifteen papers offer cutting-edge research on a diverse range of topics, extending beyond food and agricultural policy to encompass the intersection of law and sustainable development. Consequently, the book is structured into two chapters. Chapter One presents selected papers on Food and Agricultural Law and Policy, while Chapter Two features selected papers on Law and Sustainable Development.

The first chapter consists nine collection of articles that explores critical issues at the intersection of food security, agriculture, and law in Indonesia and beyond. Several studies

analyse Indonesia's food security challenges, advocating for diversification of staple crops like sorghum to enhance resilience against climate change and achieve Zero Hunger (SDG 2). Others delve into the complex role of nuclear technology in agriculture, weighing its potential benefits against safety and regulatory concerns. The research also examines Indonesia's implementation of the Convention on the Rights of the Child concerning children's access to nutritious food, highlighting the need to address poverty and inequality. Further studies investigate the impact of agrarian laws on women farmers' access to land, proposing legal reforms for a more equitable and inclusive agrarian system. Finally, the collection addresses the interplay between agricultural protectionism, international trade, and food security in Indonesia, emphasizing the need for a balanced approach that considers both domestic needs and global market integration.

The first article discusses technology that supports agricultural insurance, titled "*Legal Framework on Smart Agricultural Insurance in Indonesia: Opportunity and Challenge*." Blockchain-based smart contract technology can provide a unique opportunity to bring greater efficiency to the agricultural insurance sector. This technology is likely to be a promising solution for the long process of claims and pay-outs in agricultural insurance in Indonesia. However, blockchain-based smart contracts for agricultural insurance are still unknown and unfamiliar in Indonesia. Limited research and information regarding blockchain technology restrict its adoption in the agricultural insurance process. Therefore, this article examines the opportunity to apply blockchain-based smart contracts in agricultural insurance and further analyzes the legal considerations to apply this technology based on existing laws to determine its binding nature in Indonesia.

The second article titled "*Good Corporate Governance (GCG) Policy Based on Quadruple Helix for BUMDes Agriculture and Sustainable Economies*," discusses the implementation of Indonesian Village Minister's Regulation Number 4 of 2015 concerning the Establishment, Management, and Dissolution of Village-Owned Enterprises (BUMDes). Article 3 of this regulation states that BUMDes are established to improve the village economy, create employment, and increase community businesses involved in managing village economic potential, ultimately improving community welfare. However, of the approximately 32,000 BUMDes that have been formed, most lack competent human resources and good governance, preventing them from running optimally. As a result, programs created by BUMDes often fail. Therefore, Good Corporate Governance (GCG), which includes Transparency, Accountability, Responsibility, Independence, and Fairness, is needed to improve BUMDes governance. Furthermore, a conceptual approach based on the Quadruple Helix model – which maps the roles of intellectuals, the private sector (business), the government, and the community – is necessary to achieve BUMDes goals through multi-stakeholder support. By implementing the five pillars of Good Corporate Governance, informed by a Quadruple Helix approach, the management of agricultural BUMDes can be maximized, creating a sustainable economy that positively impacts the welfare of rural communities. This paper utilizes a descriptive qualitative research method based on literature studies.

The third article, "*The Urgency of Sorghum Development as a Substitute for Rice and Corn: A Legal Review of Food Law in Indonesia*", investigates the potential of sorghum (*Sorghum bicolor* L. Moench) to mitigate Indonesia's food security risks associated with its dependence on rice and corn, particularly in the context of increasing climate pressures and water scarcity. The

study highlights sorghum's inherent advantages, including its drought tolerance, low water requirements, and high nutritional value, making it a viable crop for arid and marginal lands. Through a legal review of Indonesia's food security policies, the research identifies key policy interventions, such as subsidies, farmer training programs, infrastructure development, and public awareness campaigns, to promote sorghum cultivation and integration into the national food system. The article argues that diversifying staple crops with sorghum will enhance Indonesia's climate resilience and contribute to the achievement of Sustainable Development Goal 2: Zero Hunger. The study concludes by emphasizing the necessity of a robust policy framework and strategic investment to establish a diversified and sustainable food system centred on sorghum.

The fourth article, *“Nuclear Technology for Climate-Resilient Food Security: Opportunity or Risk?”*, explores the complex role of nuclear technology in addressing climate-induced food security challenges. This study employs a descriptive qualitative approach, based on a comprehensive literature review, to analyse the potential benefits and risks of nuclear applications in agriculture. It aims to identify specific applications, associated challenges, and opportunities for sustainable farming and climate adaptation, including effective waste management. Findings indicate that while nuclear techniques offer potential benefits, such as the development of drought-resistant crops and sustainable pest management, they also present significant risks, including safety concerns, public perception issues, and regulatory hurdles. Successful implementation necessitates prioritizing education, securing adequate funding, strengthening regulatory frameworks, and fostering collaborations between governments, research institutions, and the private sector. Furthermore, developing countries can learn from South Africa's approach to nuclear waste management. This involves establishing a robust legislative and regulatory framework and clearly delineating the roles of relevant organizations in implementation and oversight. The independence of the regulator, waste generators, and repository operator, coupled with a commitment to transparency, is essential for ensuring an integrated and sustainable long-term waste management strategy.

The fifth article, *“Fulfilment of Indonesian Children's Rights to Access Nutritious Food in Sorong, West Papua”*, evaluates Indonesia's compliance with the Convention on the Rights of the Child (CRC), specifically concerning children's nutritional rights as outlined in Article 24. Focusing on the challenges in Sorong, West Papua, the study analyzes the alignment of domestic legal frameworks and government programs with the CRC. It identifies key implementation barriers, including poverty, inequality, and infrastructure deficits, which contribute to widespread malnutrition. By examining best practices from other nations, the research aims to pinpoint gaps and provide actionable recommendations for policymakers, civil society organizations, and international partners to strengthen children's access to nutritious food.

The sixth article focuses on *“Women Farmers, Land Rights, and Food Security: A Legal Approach to Achieving Zero Hunger”*. It examines the critical nexus between women farmers' access to land rights and the realisation of Sustainable Development Goal 2: Zero Hunger. Recognising women's strategic role in agriculture, the study analyses how structural barriers within agrarian law and policy implementation perpetuate gender inequality in land ownership. Employing an interdisciplinary legal approach, the article proposes gender-responsive legal reforms to secure

women farmers' access to agricultural land, thereby bolstering global food security. Ultimately, it advocates for an inclusive, sustainable, and equitable agrarian system as essential for achieving a world without hunger.

The seventh article, "*The Role of Export Credit Agencies in Supporting Smallholder Farmers: Legal Structures for Financial Aid in the Cocoa Trade of West Africa*," examines how Export Credit Agencies (ECAs) can address the financial challenges faced by West African cocoa smallholders. These farmers, vital to global supply chains and local economies, struggle with persistent financial barriers that limit their productivity. While ECAs are key players in international trade finance, their potential to support these farmers remains largely unexplored. This study analyses legal structures that enable ECAs to provide accessible and sustainable financial assistance. Using a mixed-methods approach combining legal analysis and ECA-funded case studies, the research identifies necessary legal frameworks and financial instruments. Findings indicate that policy adaptations, such as revised risk-sharing mechanisms and customized credit facilities, can significantly enhance ECA support for smallholders, promoting sector resilience and sustainability. The study recommends reforming ECA policies to prioritize smallholder access to finance and sustainable practices, thereby fostering an equitable and resilient West African cocoa supply chain and promoting socio-economic and environmental sustainability.

The eighth article, "*The Relationship between Humans and Land According to the Customary Agrarian Law of the Alor Community of East Nusa Tenggara*," examines the Alor people's customary land relationships. It highlights that land is integral to human identity, reflecting theological and cultural origins. While the Basic Agrarian Law of 1960 acknowledges customary law, unwritten local customs, such as those of the Alor tribe, persist. *Alor ulayat* land, inherited through genealogical ties or acquired through past conflicts, defines community membership. This study argues that agrarian law should bridge national and customary law, with local customs serving as a comprehensive subsidiary framework.

The ninth article, "*Agricultural Protectionist Policy and Food Security: A Challenge for Indonesia under the WTO*", analyses the interplay between agricultural protectionism, international trade, and food security in Indonesia. It examines how Indonesia balances domestic agricultural policies with its obligations under the World Trade Organization's Agreement on Agriculture (AoA). While protectionist measures can safeguard domestic production and food sovereignty, they can also distort trade. This study assesses the impact of Indonesia's agricultural policies on food security and WTO compliance. It explores strategies for balancing agricultural protection with a more open trade regime, advocating for a nuanced approach that addresses Indonesia's specific needs while promoting global market integration.

This collection of articles argues for a multifaceted approach to food security, highlighting that it is not merely about production, but also access, equity, and sustainability. The studies advocate for diversifying staple crops like sorghum to enhance resilience against climate change, while cautiously exploring the potential of nuclear technology in agriculture. They emphasize addressing child malnutrition by tackling poverty and inequality, and empowering women farmers through land rights reforms. Furthermore, the research underscores the need to balance agricultural protectionism with international trade rules to ensure both domestic food security

and a more equitable global trade regime. Ultimately, the collection argues that achieving food security demands a holistic strategy integrating agricultural innovation, legal reforms, social justice, and international cooperation to build sustainable, equitable, and resilient food systems.

The second chapter of this book consists of six articles that delves into diverse legal and policy issues related to environmental sustainability, economic development, and judicial decision-making. Several articles analyse Indonesia's environmental law enforcement, highlighting the need for stronger preventive measures and regulatory frameworks to address climate change and ensure compliance with environmental protection mandates. Others examine waste management challenges in ASEAN, suggesting that adopting EU strategies like circular economy principles could enhance sustainability. The research also explores EU-Pakistan trade relations, emphasizing the importance of GSP+ and the need for Pakistan to overcome structural inefficiencies and diversify its economy. Finally, the collection analyses a Supreme Court decision on the bankruptcy status of a hospital foundation, raising concerns about adherence to legal provisions and the implications for creditor rights and legal certainty.

The tenth article, *"Strengthening Administrative Law Enforcement as a Strategic Mechanism for Climate Change Mitigation and Regulatory Compliance,"* examines Indonesia's environmental law enforcement, particularly the role of preventive measures. It argues that while the Indonesian Constitution mandates environmental protection, inconsistent enforcement and regulatory frameworks hinder effective governance. Using a normative legal research method, the study analyses the principle of state responsibility and identifies preventive and repressive enforcement mechanisms. Findings highlight the importance of preventive enforcement in deterring violations and mitigating environmental damage. The study recommends strengthening preventive administrative law enforcement to ensure proactive state intervention, aligning legal instruments with sustainability principles, and upholding Indonesia's constitutional commitment to environmental protection.

The eleventh article, *"Can ASEAN Achieve Environmental Sustainability? Insights from European Union's Policy Frameworks,"* examines the feasibility of ASEAN adopting EU waste management strategies to address its growing waste problem. Rapid urbanization and industrialization have led to severe environmental degradation. Using a desk study methodology, the research compares ASEAN's challenges with the EU's approaches. Findings reveal significant barriers in ASEAN, including fragmented policies and inadequate public awareness. However, the study suggests that adopting key EU strategies, such as circular economy principles and extended producer responsibility, could enhance sustainability. It emphasizes regional cooperation, policy alignment, and education to achieve effective waste management in ASEAN.

The twelfth article, *"The EU—Pakistan Trade Relations and Sustainable Development: Challenges and Opportunities under Global Trading,"* analyses the complexities of EU-Pakistan trade relations. It highlights the significance of the Generalized System of Preferences Plus (GSP+) for Pakistan's access to the EU market, emphasizing the need for adherence to governance, environmental, and labour standards under sustainable development perspective. The study examines Pakistan's challenges, including structural inefficiencies, over-reliance on textile exports, and difficulties diversifying into high-value sectors. It also explores the impact of political instability and

infrastructure limitations on trade performance. To enhance Pakistan's trade position, the article proposes strategies such as strengthening institutions, negotiating new agreements, and fostering regional cooperation. By addressing these challenges, Pakistan can unlock its economic potential and establish a sustainable and mutually beneficial trade partnership with the EU.

The thirteenth article discusses "*the Reconstructing the Right to a Safe Climate: A Framework for Eco centric Policy Integration*". It argues that the Indonesia's legal framework inadequately addresses the right to a safe climate. While Article 28H of the Constitution recognises environmental rights, it lacks explicit provisions for climate-related rights, hindering effective climate action and impeding progress toward SDG 13. This study examines Indonesia's climate legal framework and international instruments to delineate the parameters of this right. Using a descriptive-analytical methodology and case-based analysis, the research explores integrating the right to a safe climate into Indonesian law, asserting its status as a fundamental human right. By strengthening the legal basis for climate governance, the study aims to foster policies that align with global sustainability objectives.

The fourteenth article, "*Mineral and Coal Mining Businesses in the Context of Environmental Conservation: A Balance that Must Be Maintained*", examines the environmental impact of Indonesia's mineral and coal mining industry. While the sector contributes significantly to the national economy, it also poses environmental challenges. Law No. 4 of 2009 mandates environmental management and resource conservation, but weak supervision and enforcement lead to imbalances. This study highlights regulatory gaps and advocates for stricter oversight, stringent sanctions, and strengthened environmental supervision to achieve a sustainable balance between economic benefits and environmental preservation in the mining sector.

The final article, "*Legal Analysis: Reversal of Sandi Karsa Hospital Foundation's Bankruptcy Status under Law 37/2004*", examines the Supreme Court's decision to annul the bankruptcy status of the Sandi Karsa Hospital Foundation. Using a normative legal research approach and case analysis, the study scrutinizes the alignment of Supreme Court Decision Number 1262 K/Pdt. Sus-Bankruptcy/2022 with Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations. It evaluates the decision's implications for bankruptcy law application and creditor rights protection. Findings suggest the decision deviates from legal provisions by overlooking the foundation's debt obligations. The study emphasizes the importance of judicial decisions adhering to applicable laws to ensure legal certainty and fairness in bankruptcy proceedings.

These studies collectively underscore the critical importance of robust legal frameworks, effective enforcement mechanisms, and adherence to legal principles in achieving sustainable development, environmental protection, and economic progress. They highlight the need for continuous evaluation and improvement of legal and policy frameworks to address emerging challenges and ensure equitable outcomes. Furthermore, the research emphasizes the value of learning from international best practices and fostering regional cooperation to address complex issues like waste management and trade relations. By strengthening legal and institutional capacities, promoting transparency and accountability, and prioritizing sustainable practices, nations can foster a more just and resilient future.

It is our sincere hope that this book will serve as an invaluable resource for all those working to build a more just, sustainable, and food-secure world. The ideas and evidence presented here offer a powerful call to action, reminding us that effective food law and policy, informed by sound science and a commitment to equity, are essential for achieving Zero Hunger and creating a healthier future for all. We encourage you to engage deeply with the insights contained within these pages and to join the ongoing effort to transform our food systems for the better.

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Sincerely,

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