

## Chapter 39

# Indonesian Legal Perspectives on Biotechnology and Intellectual Property Rights

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### ABSTRACT

*The authors focus their attention on the structure of Indonesian law and policies on biotechnology issues; they also address some issues related to bioethics and research activities and economic activities, such as the issue of bioprospecting and biopiracy on Indonesian biodiversity, and how the legal and governance structure within Indonesia are designed to cope with this issue. An issue that looms large is about intellectual property rights.*

### INTRODUCTION

This chapter will discuss the existing laws, regulations, arrangement, and policies on the field of biotechnology in Indonesia.

In Indonesia, those areas are developing not at a rapid pace. The main concern, for the time being, is more on the economic and poverty reduction issues. In fact, the development of laws and policies in this area in Indonesia did not intend

to address the biotechnology issues exclusively; they serve various kinds of issues. Nevertheless, they play an important role when it comes to the issue of biotechnology.

By writing this chapter, the writers are trying to describe the structure of Indonesian law and policies on biotechnology issues. The writing will also address some issues related to bioethics and research activities and economic activities, such as the issue of bioprospecting and biopiracy.

The areas of discussion in this chapter will embrace several fields as follows:

DOI: 10.4018/978-1-4666-2136-7.ch039

- Law and policies on biodiversity, biosafety, and biotechnology. This section will explain the issues and connections between those fields.
- Intellectual property rights (IPR issues). This part will discuss and explain the IPR legal frameworks on patent, trade secret, and plant variety protection.
- Bioprospecting and biopiracy issues. This section will raise the attention to the emerging but neglected issues in protecting biodiversity in Indonesia.

## **INDONESIAN LAW AND POLICIES ON BIODIVERSITY, BIOSAFETY, AND BIOTECHNOLOGY**

Laws and policies on biodiversity, biosafety, and biotechnology are interdependent and interconnected. This section will explain the relationship between policies in those fields. Besides, the section will also discuss the challenges faced by the government and the stakeholders.

### **Implementation of UN CBD and Challenges**

Indonesia is a member United Nation's Convention on Biological Diversity of CBD. The country also ratified the Convention in 1994 (Law No. 5/1994).

At the national level, Indonesia had implemented CBD member's obligations through strategy-making, policymaking and its implementation. However, according to the Indonesian third national report, the country is still struggling to achieve some targets in the implementation part.

At the policy making level, there are more than 15 biodiversity-related-laws that are related to biological diversity issues. These are, among others:

- Law No. 5/1990 on Conservation of Bio-Nature Resources and Ecosystem.

- Law No. 16/1992 on Plant and Animal Quarantine.
- Law No. 12/1992 on Plant Breeding System.
- Law No. 5/1994 on Ratification of United Nations Convention on Biological Diversity
- Law No. 6/1994 on Ratification of United Nations Framework Convention on Climate Change
- Law No. 7/1996 on Food.
- Law No. 23/1997 on Environmental Management.
- Law No. 41/1999 on Forestry.
- Law No. 29/2000 on Plant Variety Protection.
- Law No. 18/2002 on National System of Research, Development, and Application of Science and Technology.
- Law No. 7/2004 on Water Resource.
- Law No. 32/2004 on Regional Development.
- Law No. 21/2004 on Ratification of Cartagena Protocol on Biosafety to the Convention on Biological Diversity.
- Law No. 4/2006 on Ratification of International Treaty on Plant Genetic Resources for Food and Agriculture
- Law No. 26/2007 on Spatial Management.
- Law No. 27/2007 on Coastal Areas and Small Islands Management.

Concerning UN-CBD, the Environmental Management Ministry is the national focal point and the leading sector in Indonesia. The role is to coordinate the national agenda to achieve the targets of CBD. This is a huge task for the ministry, which has no vertical office at the provincial and district government level. No wonder, some members of parliament demand for the strengthening of the position of the ministry.

CBD needs to be implemented in an integrated manner. In reality, at least there are around five ministries that handle the implementation of UN

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