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# Indonesia's Palm Oil Plantation Regulations for Promoting Community Protection and Justice

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## Abstract

*The expansion of palm oil plantations in Indonesia has generated complex legal issues related to community protection around Cultivation Rights areas, land tenure conflicts, and the effectiveness of justice mechanisms in natural resource governance. Although agrarian, plantation, environmental, and human rights regulations formally recognise community protection, empirical evidence shows recurring agrarian conflicts and unequal benefit distribution. This study aims to: (1) analyse legal instruments governing community protection in palm oil plantation management; (2) evaluate the effectiveness of justice mechanisms and the role of state institutions in regulatory enforcement; and (3) formulate justice-based regulatory reconstruction through an international comparative approach. This research applies an empirical juridical method with a socio-legal approach, combining statutory analysis and fieldwork conducted in the operational areas of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda in Bengkulu Province. The analysis applies Rawl's distributive justice, the social function of land rights, and law as social engineering. The findings show that Indonesia faces a legal gap between regulation and implementation, marked by administrative legality dominance, fragmented institutions, and procedural participation. Although justice mechanisms formally exist, unequal access limits the availability of substantive remedies. Comparative insights from the Netherlands, Canada, and Norway emphasise integrated governance, binding community consent, transparency, and restorative grievance systems. Strengthening community protection, therefore, requires shifting from administrative legality toward social legitimacy and distributive justice through institutional integration and stronger enforcement.*

**Keywords:** Agrarian Justice; Community Protection; Palm Oil Governance; Social Legitimacy;

## Introduction

The constitutional basis for regulating natural resources in Indonesia, including the palm oil plantation industry, is rooted in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used to the greatest prosperity of the people.<sup>1</sup> This provision emphasises that the palm oil plantation sector is not merely an economic activity or investment, but an object of state control that must be managed to realise collective social welfare.<sup>2</sup> These constitutional principles were then implemented through Law Number 5 of 1960 on Basic Agrarian Regulations (UUPA), which serves as the foundation of national agrarian law. Article 2 of the UUPA grants the state the authority to control and regulate land use, while Article 28 of the UUPA regulates the Cultivation Right (*Hak Guna Usaha* or HGU) as a legal instrument for land use for agricultural and plantation business activities,

<sup>1</sup> Dara Salsabila, 'Degradasi Kekuatan Hak Guna Usaha Untuk Perkebunan Kelapa Sawit Yang Terindikasi Tumpang Tindih Dengan Ketetapan Pengukuhan Kawasan Hutan', *Jurnal Pertanian*, 14.2 (2024), 159–173 <<https://doi.org/10.53686/jp.v14i2.234>>.

<sup>2</sup> Herdis Herdiansyah and Randi Mamola, 'Palm Oil Conflict and Social Transformation: Exploring the Intersection of Farmer Autonomy and Conflict Resolution', *Trees, Forests and People*, 21 (2025), 100934 <<https://doi.org/https://doi.org/10.1016/j.tfp.2025.100934>>.



including oil palm plantations. The establishment of the UUPA aims to create legal certainty over land, ensure the equal distribution of control over agrarian resources, and realise social justice in the land sector. Agrarian law is essentially aimed at ensuring a fair distribution of land to prevent the domination of capitalist groups over people's land, thereby maintaining the social function of land.<sup>3</sup>

From a human rights perspective, protection of communities in the agrarian and plantation sectors is legitimised through Law Number 39 of 1999 concerning Human Rights. Articles 36 and 37 guarantee every citizen's right to own and use land as part of basic human rights. Therefore, the state has a constitutional and legal obligation to respect, protect, and fulfil the agrarian rights of communities, including those living around oil palm plantations. This obligation emphasises that economic development through the palm oil industry must be implemented in line with the principles of social justice, community protection, and respect for human rights. In line with these state obligations, it is important to recognise that the palm oil industry has legal and social dimensions and makes significant economic contributions at both the national and global levels. The sector's strategic position is evident in the development of Indonesian palm oil production, trade, and economic contributions, as presented in Table 1 below.<sup>4</sup>

Table 1. Data on Indonesian Palm Oil Production and Trade in the Global Market 2023–2025

Indicator	2023	2024	2025
Palm oil production	±46 million tons	47.47 million tons	±46 million tons (global projection)
Global production share	±57%	±58%	±58%
Export volume	26.13 million tons	21.64 million tons	23.61 million tons
Export value	US\$22.69 billion	US\$20.05 billion	US\$24.42 billion
Labor absorbed	±16 million people	±16 million people	>16 million people
Contribution of non-oil and gas exports	Main commodities	Main commodities	Main commodities

Source: processed by the author from BPS, USDA, and Ministry of Agriculture data 2024–2026

The data in table 1 shows that Indonesia consistently maintains its position as the world's largest producer and exporter of palm oil, with a stable share of global production at around 57–58 per cent. National production, at around 46–47 million tons per year, underscores the significant dependence of the national economy on this sector. Despite fluctuations in export volume in 2024, export value increased again in 2025 to reach USD 24.42 billion, confirming the strategic role of palm oil as a major contributor to foreign exchange and non-oil and gas exports. Furthermore, this sector employs more than 16 million people, thereby directly impacting the community's social welfare, particularly in rural and plantation areas.<sup>5</sup>

The significant economic contribution of the palm oil industry, as reflected in the table, demonstrates that plantation regulations cannot be solely oriented toward economic growth. The economic dominance of the palm oil sector actually strengthens the state's responsibility to ensure that its management adheres to the principles of social justice, protection of community rights, and environmental sustainability, as mandated by the constitution and

<sup>3</sup> Gita Mulyasari and others, 'Social-Life Cycle Assessment of Oil Palm Plantation Smallholders in Bengkulu Province, Indonesia', *Heliyon*, 9.8 (2023), e19123 <<https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e19123>>.

<sup>4</sup> Marcel Gatto, Meike Wollni and Matin Qaim, 'Oil Palm Boom and Land-Use Dynamics in Indonesia: The Role of Policies and Socioeconomic Factors', *Land Use Policy*, 46 (2015), 292–303 <<https://doi.org/https://doi.org/10.1016/j.landusepol.2015.03.001>>.

<sup>5</sup> Herry Purnomo and others, 'Advancing Palm Oil Sustainability to Address the Climate Crisis: Leveraging Theory of Change and System Dynamics Model at the Jurisdictional Level', *Forest Policy and Economics*, 181 (2025), 103594 <<https://doi.org/https://doi.org/10.1016/j.forpol.2025.103594>>.



human rights instruments.<sup>6</sup> This relationship between economic power and legal protection obligations is a crucial basis for assessing the effectiveness of palm oil plantation regulations in Indonesia. These issues are both conceptual and empirically reflected in agrarian conflicts in oil palm plantation areas in Bengkulu Province, particularly in the buffer villages surrounding PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda. Research findings indicate overlapping land ownership claims between communities that have traditionally managed the land and areas where the company has administratively granted HGU. Furthermore, the implementation of the obligation to develop plasma plantations as an instrument of community empowerment has not been optimal, hence the plantations' economic benefits are not fully felt by the surrounding community. In the dispute resolution process, communities often face obstacles in providing legal evidence because the land they manage lacks formal legal status, thereby weakening their legal position compared to HGU holders. This conflict, involving tens of thousands of buffer village communities, demonstrates that the issue of legal protection is not merely a lack of norms but also a failure of regulatory implementation to guarantee substantive agrarian justice.<sup>7</sup>

Normatively, various Indonesian legal instruments have established an obligation to protect communities in the operation of oil palm plantations. However, in practice, there remains ambiguity in the regulations regarding the boundaries and forms of legal protection for communities residing within and around HGU areas.<sup>8</sup> This ambiguity is particularly evident in issues such as control over community-owned land, which has been socially managed for generations but is not always recognised in the formal land administration system; the suboptimal implementation of plasma plantation development obligations; and the unclear legal status of communities living adjacent to plantation concession areas. This situation indicates that existing regulations place more emphasis on the administrative legality of granting business permits than on substantive protection of the social rights of affected communities.<sup>9</sup>

Within the framework of state administrative law, the granting of an HGU provides legal certainty for business actors through the formal legitimacy of land ownership, but it is not accompanied by adequate preventive and corrective protection mechanisms for the community. As a result, the law often serves as an instrument of permit-based legitimacy for land ownership, rather than as a means of substantive agrarian justice. This situation demonstrates the imbalance between the administrative legality approach, which emphasises procedural certainty, and the need for substantive justice, which demands real protection for vulnerable groups. In other words, plantation law tends to provide certainty for investment, but does not fully deliver distributive justice, as is the basic objective of national agrarian law.<sup>10</sup>

This situation also demonstrates a legal gap between the idealised principles of social justice in Indonesia's agrarian legal system and the sectoral regulatory structure, which, in practice, remains oriented toward economic efficiency and investment acceleration. This gap

<sup>6</sup> Nugroho A Pambudi and others, 'The Future of Wind Power Plants in Indonesia: Potential, Challenges, and Policies', *Sustainability*, 2025 <<https://doi.org/10.3390/su17031312>>.

<sup>7</sup> Petir Papilo and others, 'Palm Oil-Based Bioenergy Sustainability and Policy in Indonesia and Malaysia: A Systematic Review and Future Agendas', *Heliyon*, 8.10 (2022), e10919 <<https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e10919>>.

<sup>8</sup> Yang Pan and Xihao Wu, 'The Role of Local Governments in Tax Enforcement and Tax Avoidance by Local State-Owned Enterprises: Evidence from China', *Journal of Contemporary Accounting & Economics*, 22.1 (2026), 100541 <<https://doi.org/https://doi.org/10.1016/j.jcae.2026.100541>>.

<sup>9</sup> Meti Ekayani and others, 'Policy Forum: Reducing Expansion of Oil Palm Plantations into Forests through Land Intensification, Agroforestry, and Added Value Creation of Processed Palm Oils', *Forest Policy and Economics*, 178 (2025), 103582 <<https://doi.org/https://doi.org/10.1016/j.forpol.2025.103582>>.

<sup>10</sup> Afrizal, Eka Vydia Putra and Linda Elida, 'Poor Performance of West Sumatran Governments in Resolving Palm Oil Conflicts: A Procedural Justice Perspective', *World Development*, 200 (2026), 107278 <<https://doi.org/https://doi.org/10.1016/j.worlddev.2025.107278>>.



is not only normative but also structural, occurring at the level of policy formulation, institutional coordination, and law enforcement mechanisms in the field. The absence of clear protection standards for communities in HGU areas has led to recurring agrarian conflicts without comprehensive resolution, thereby depriving the law of its corrective function as a tool of social engineering.<sup>11</sup> This legal gap raises fundamental questions about the effectiveness of regulations on legal protection for communities surrounding oil palm plantation cultivation rights in Indonesia. The main problem is that regulations that normatively address community protection are not fully grounded in the value of justice in their implementation.<sup>12</sup> Furthermore, it is necessary to identify substantial and structural weaknesses in the regulations that result in legal protection that is less than optimal, across norm formulation, institutional coordination, and oversight mechanisms. Furthermore, it is crucial to formulate regulatory reconstruction that can integrate legal certainty, economic benefits, and social justice in a balanced manner in oil palm plantation governance.<sup>13</sup>

A number of previous studies have examined legal conflicts in the palm oil plantation sector with varying focuses. Inas Zulfa Sulasno and Farina Firda Eprilia<sup>14</sup> examined customary rights conflicts within the context of palm oil plantations in South Kalimantan. Their study demonstrates that customary rights are recognised through three main elements: the existence of indigenous communities, customary territories, and the social relations between the two. This study emphasises that ongoing conflicts arise from sectoral legal regulations and differing perspectives on land rights recognition. Therefore, legal protection for indigenous communities requires collaborative policies that simultaneously involve the state, business actors, and communities. Furthermore, Dara Salsabila's research<sup>15</sup> highlights legal issues from the perspective of the certainty of the rights of Cultivation Rights holders. The study finds a normative conflict due to overlapping policies between the land and forestry sectors, especially after the implementation of forest area determination policies that affected plantation areas already holding HGU legality. This study shows that disharmony among sectoral regulations can create legal uncertainty and infringe on the constitutional rights of business permit holders who have obtained state administrative legitimacy.

Another research by Muhammad Rifqi Rafi Drajat, Amalia Nurfitriya Syukur, and Mutiara Panjaitan<sup>16</sup> shows that legal conflicts in the palm oil sector are also influenced by differences in the interpretation of authority between ministries. The study identified conflicts between legal norms that create licensing uncertainty for plantation companies, especially when areas that already have HGU are subsequently designated as forest areas under sectoral policies. These three studies show that legal issues in oil palm plantations are generally examined from the perspectives of recognising the rights of indigenous peoples, ensuring legal certainty for business actors, and addressing conflicts of authority between state institutions.

<sup>11</sup> Ada Na'bila Acobta and others, 'Mapping Ecosystem Services Change under Land Use Change for Oil Palm Expansion', *Cleaner and Circular Bioeconomy*, 12 (2025), 100176 <<https://doi.org/https://doi.org/10.1016/j.clcb.2025.100176>>.

<sup>12</sup> Muhammad Mutawalli and others, 'Implementation of FLEGT Licensing Scheme in Deforestation Law Enforcement: Improvements and Handling in Indonesia', *Jurnal Hukum Unissula*, 39.2 (2023), 130–56 <<https://doi.org/10.26532/jh.v39i2.32210>>.

<sup>13</sup> Nisa Novita and others, 'Strong Climate Mitigation Potential of Rewetting Oil Palm Plantations on Tropical Peatlands', *Science of The Total Environment*, 952 (2024), 175829 <<https://doi.org/https://doi.org/10.1016/j.scitotenv.2024.175829>>.

<sup>14</sup> Inas Zulfa Sulasno and Farina Firda Eprilia, 'Menakar Eksistensi Dan Perlindungan Hukum Terhadap Sengketa Hak Atas Tanah Masyarakat Hukum Adat Berdasarkan Hukum Positif Indonesia (Studi Kasus Perkebunan Sawit Di Kalimantan Selatan)', *Jurnal Hukum Lex Generalis*, 3.3 (2022), 180–98 <<https://doi.org/10.56370/jhlg.v3i3.197>>.

<sup>15</sup> Salsabila.

<sup>16</sup> Muhammad Rifqi Rafi Drajat, Amalia Nurfitriya Syukur and Mutiara Panjaitan, 'Kesepahaman Makna Kawasan Hutan Dalam Mewujudkan Kepastian Hukum Bagi Perizinan Usaha Perkebunan Kelapa Sawit Di Indonesia', *Bina Hukum Lingkungan*, 10.1 (2025), 22–42 <<https://doi.org/10.24970/bhl.v10i1.400>>.



Although previous studies have addressed legal conflicts in the oil palm plantation sector, they tend to be partial and have not specifically focused on the legal protection of communities' rights to cultivate areas from an agrarian justice perspective. Therefore, this study has three main objectives. First, it analyses and identifies the reasons why regulations on legal protection for communities surrounding HGU areas of oil palm plantations in Indonesia are not fully based on justice values. The analysis examines the gap between normative regulations that guarantee community protection and their implementation in practice, particularly regarding environmental impacts, social changes in local communities, and potential human rights violations arising from oil palm plantation activities.<sup>17</sup>

Second, this study identifies weaknesses in current legal protection regulations, including their legal substance, institutional structure, and law enforcement effectiveness. The study focuses on issues of community land control and ownership in HGU areas, the implementation of partnership and community empowerment obligations by plantation companies, and limited community access to complaint and dispute resolution mechanisms. Through this analysis, this study aims to assess whether plantation law has served as an instrument for community protection or has prioritised administrative certainty for business activities. Hence, this goal is to determine if this focus has led to an imbalance between investment certainty and the protection of community social rights.<sup>18</sup>

Third, this study proposes a reconstruction of legal protections for communities surrounding oil palm plantations in HGU areas, grounded in the value of justice and informed by a comparative approach, drawing on lessons from developed countries with strong community protection and natural resource governance systems. The Netherlands serves as a reference for its successful implementation of a spatial planning and administrative oversight system that bases land use permit decisions on public interest. Canada serves as a benchmark through its recognition of indigenous peoples' rights and the application of the principle of free, prior, and informed consent before resource exploitation. Meanwhile, Norway demonstrates natural resource governance practices that emphasise transparency, corporate accountability, and social responsibility in protecting local communities. The experiences of these three countries serve as a conceptual reference for formulating a model to strengthen regulations and legal protection mechanisms that are more oriented towards substantive justice in Indonesia.<sup>19</sup>

## Method

This study employs empirical legal research with a sociological approach oriented toward legal analysis, to analyse the effectiveness of legal norms governing the protection of communities surrounding oil palm plantation Cultivation rights areas.<sup>20</sup> The research examines the law as a written norm (*law in books*) and evaluates its application in practice (*law in action*) to assess the suitability of the legislation's provisions to the reality of legal protection received by the community. The sociological approach is intended to utilise empirical data and understand how agrarian and plantation regulations, particularly Law Number 5 of 1960 on Basic Agrarian Regulations, Law Number 39 of 2014 on Plantations, and regulations related to Land Use Rights, are applied. An empirical approach aims to assess the effectiveness of the social function of land, the obligation to empower communities, and the

<sup>17</sup> Mulyasari and others.

<sup>18</sup> Idsert Jelsma and others, 'Collective Action, Replanting and Resilience; Key Lessons from 40 Years of Smallholder Oil Palm Cultivation in the Ophir Plantation, Indonesia', *Agricultural Systems*, 213 (2024), 103801 <<https://doi.org/https://doi.org/10.1016/j.agsy.2023.103801>>.

<sup>19</sup> Afrizal, Eka Vidya Putra and Linda Elida, 'Palm Oil Expansion, Insecure Land Rights, and Land-Use Conflict: A Case of Palm Oil Centre of Riau, Indonesia', *Land Use Policy*, 146 (2024), 107325 <<https://doi.org/https://doi.org/10.1016/j.landusepol.2024.107325>>.

<sup>20</sup> Akhmad Hidayatno and others, 'Exploring the Food-versus-Fuel Debate in Indonesia's Palm Oil Industry toward Sustainability: A Model-Based Policymaking Approach', *Energy Nexus*, 19 (2025), 100511 <<https://doi.org/https://doi.org/10.1016/j.nexus.2025.100511>>.



protection of agrarian rights in the practice of managing plantation businesses. The research took place in Bengkulu Province, within the buffer zones of three oil palm plantation companies: PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda. The location was appointed based on the presence of legal conflicts between the community and the HGU holders, reflecting issues in the implementation of community protection regulations. Primary data were collected through open interviews with the community around the HGU area, with a sample of 100 respondents selected using the Slovin formula and proportional random sampling. Secondary data were obtained through a literature review of relevant laws and regulations, legal doctrines, and academic literature. This study applies three main legal theoretical frameworks. First, Rawls' theory of distributive justice is used to assess the distribution of economic benefits and social burdens of the palm oil industry. Second, the theory of the social function of land rights in agrarian law is used to evaluate the social responsibility of HGU holders towards the surrounding community. The final one is Pound's theory of social engineering, which assesses the effectiveness of regulations in resolving conflicts and realising agrarian justice.

## Results and Discussions

### *The Impact of Palm Oil Plantations on Communities*

The expansion of oil palm plantations in Indonesia has impacted the economy, society, and the environment due to weaknesses in the regulatory framework for forest management and land use.<sup>21</sup> Forest area use is regulated by Law Number 41 of 1999 on Forestry and related regulations, including Government Regulations 6 of 2007, 10 of 2010, and 23 of 2021, all emphasising sustainable forest management and environmental sustainability. However, in practice, this regulatory framework demonstrates weak coordination and a lack of harmonised norms, which directly contribute to environmental degradation in oil palm plantation areas.<sup>22</sup>

One of the main environmental impacts stems from the overlap between Cultivation Rights and forest areas, demonstrating a failure to synchronise agrarian and forestry laws.<sup>23</sup> Data show that of the approximately 16.38 million hectares of oil palm plantations in Indonesia, more than 3.3 million hectares are located within forest areas. This condition led to the conversion of production forests and protected forest areas into plantation cultivation areas, thereby triggering deforestation and reducing ecological carrying capacity. Legally, this phenomenon reflects the weak spatial verification process in permit issuance and the use of administrative maps that do not always reflect on-the-ground conditions. Hence, regulations designed to maintain sustainability open legal space for environmental damage.<sup>24</sup>

Table 2. Dualism of State Control Authority in the UUPA and the Forestry Law

Regulatory Aspects	UUPA (Law No. 5 of 1960)	Forestry Law (Law No. 41 of 1999)	Legal Implications
Basic concept of state control	Article 2 paragraph (1): The state controls the earth, water and space	Article 4 paragraph (1): All forests are controlled by the state	The state has two regimes of control

<sup>21</sup> Stephanie Duke, Matthew S Smith and Michael Ashley Stein, 'Chapter 34 - Disability Climate Justice in the Courts: Strategies for Harnessing Disability-Specific Legal Protections to Catalyze Disability-Inclusive Climate Action', in *Climate Change and Disability*, ed. by Marcalee Alexander, Alexandra E Fogarty, and Carl Froilan D Leochico (Academic Press, 2026), pp. 259–70 <<https://doi.org/https://doi.org/10.1016/B978-0-443-31568-8.00015-5>>.

<sup>22</sup> Ryan B Edwards, 'Export Agriculture and Rural Poverty: Evidence from Indonesian Palm Oil', *Journal of International Economics*, 159 (2026), 104209 <<https://doi.org/https://doi.org/10.1016/j.jinteco.2025.104209>>.

<sup>23</sup> André Vilela Komatsu and Simone Kühn, 'The Effect of the Physical Environment on Adolescents' Sense of Justice', *Journal of Environmental Psychology*, 103 (2025), 102582 <<https://doi.org/https://doi.org/10.1016/j.jenvp.2025.102582>>.

<sup>24</sup> Rosanne E de Vos and others, 'Shortening Harvest Interval, Reaping Benefits? A Study on Harvest Practices in Oil Palm Smallholder Farming Systems in Indonesia', *Agricultural Systems*, 211 (2023), 103753 <<https://doi.org/https://doi.org/10.1016/j.agsy.2023.103753>>.



			over the same spatial object
State authority	Article 2 paragraph (2): Regulates the designation, use and legal relations over land	Article 4 paragraph (2): Regulate and determine the status of forest areas	There is an overlap of administrative authority
Implementing authority	Land administration through ATR/BPN	Forestry administration through the Ministry of Environment and Forestry	Dualism of land management institutions
Rights instruments	Article 28 paragraph (1): Cultivation Rights (HGU) for agricultural/plantation businesses	Determination of forest areas through forestry policies	HGU can be located above an area that is then designated as forest.
Settings object	State land	Forest areas (which are also physically land)	Conflicts over spatial status and land use
Impact of implementation	Legal certainty for investors	Protection of the ecological function of forests	Overlapping permits and agrarian-environmental conflicts

Source: Processed by the author based on Law Number 5 of 1960 concerning Basic Agrarian Regulations and Law Number 41 of 1999 concerning Forestry

The table demonstrates the conceptual dualism in state control over land space in Indonesia. Article 2 of the UUPA positions land as an object of agrarian regulation that can be granted utilisation rights, including the Right to Cultivate as stipulated in Article 28, paragraph (1). Conversely, Article 4 of the Forestry Law grants the state the authority to designate and manage forest areas with an ecological protection orientation. The similarity of the concept of “state control” in both legal regimes, without a mechanism for integrating authority, leads to administrative overlap between the ATR/BPN and the Ministry of Environment and Forestry. As a result, an area can be legally granted an HGU under agrarian law, yet at the same time remain categorised as a forest area under forestry law. This condition demonstrates regulatory fragmentation that contributes to land use conflicts and increases the risk of environmental damage due to unclear operational spatial status.<sup>25</sup>

Table 3. Environmental and Social Impacts of Oil Palm Plantations in the Research Area in Bengkulu Province

Company	Legal & Regulatory Issues	Empirical Evidence (Documents & Interviews)	Environmental Impact	Social & Economic Impact on Society	Legal Analysis
PT Agri Andalas (Seluma)	Overlapping of HGU with community-certified land; failure to realize 20% of plasma	Tarman interview: 11 ha of certified land taken; company stops harvesting activities	Changes in land cover and loss of community management space	Loss of livelihood, criminalization of citizens, agrarian conflict	Demonstrates the failure of land administration to guarantee certainty of rights (De Soto, 2006)
PT Bio Nusantara Technology (Central Bengkulu)	Dualism of land certificates between the community and companies	Zulmadi interview: community certificates are the same as	Pressure on the buffer village ecosystem due to land expansion	Uncertainty of land rights and inequality of economic benefits	Evidence of the lack of synchronization between the formal land

<sup>25</sup> Annisa Joviani Astari, Jon C Lovett and Meditya Wasesa, ‘Sustainable Pathways in Indonesia’s Palm Oil Industry through Historical Institutionalism’, *World Development Sustainability*, 6 (2025), 100200 <<https://doi.org/https://doi.org/10.1016/j.wds.2024.100200>>.



			company claims			registration system and social reality (Enemark, 2017)
PT Pamor Ganda (North Bengkulu)	The absence of plasma realization and demands for compensation for environmental impacts	Interview with Tamrin Marzuki & Samidi: people do not get plasma and suffer losses	Deterioration of environmental quality and disturbance of living space	Compensation demands and ongoing conflict	Violation of partnership obligations of Permentan No. 18/2021	
The Three Companies	Weak transparency of HGU data and supervision	Access to HGU information is restricted (Minister of ATR/BPN Regulation No. 3/1997; KIP Law Article 17)	Expansion without optimal ecological controls	Recurring agrarian conflicts and unfair distribution of benefits	Administrative regulations protect permits more than the public.	

Source: Processed from empirical research findings in buffer villages of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda

This study finds that the lack of synchronisation between the agrarian and forestry legal regimes results in administrative problems and directly impacts ecological conditions and community life.<sup>26</sup> The dual regulatory framework established by Law Number 5 of 1960, which addresses Basic Agrarian Regulations, and Law Number 41 of 1999 which pertains to Forestry, results in unclear operational spatial boundaries in the field. In the areas operated by PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda, unclear land status has triggered conflicts over spatial boundaries and permits, leading to the clearing of ecological buffer zones for nearby village communities. These changes in land cover highlight permit issues and a lack of coordination among legal systems to protect the region's ecological functions.<sup>27</sup>

The ecological impacts of these conditions are manifest in the environmental degradation directly experienced by communities, including declining soil and water quality, increased pressure on local ecosystems, and diminished access to natural resources that have historically underpinned their livelihoods. In the case of PT Agri Andalas, for example, land tenure conflicts overlapping with community land have resulted in the loss of traditional production areas. Meanwhile, in the buffer zones of PT Bio Nusantara Teknologi and PT Pamor Ganda, communities in villages are reporting changes in environmental conditions attributable to company operations and increased land-use intensity. This situation demonstrates that regulatory deficiencies and inadequate state oversight allow plantation expansion to proceed without adequate ecological controls, despite regulations that mandate environmental protection and community empowerment.<sup>28</sup>

<sup>26</sup> Qiang Li and Lin Zhang, 'How Does Local Policy Attention Reshape Environmental Justice?', *Ecological Economics*, 241 (2026), 108864 <<https://doi.org/10.1016/j.ecolecon.2025.108864>>.

<sup>27</sup> Rakhmawati Nabila and others, 'Oil Palm Biomass in Indonesia: Thermochemical Upgrading and Its Utilization', *Renewable and Sustainable Energy Reviews*, 176 (2023), 113193 <<https://doi.org/10.1016/j.rser.2023.113193>>.

<sup>28</sup> Jing Zhao and others, 'Replanting and Yield Increase Strategies for Alleviating the Potential Decline in Palm Oil Production in Indonesia', *Agricultural Systems*, 210 (2023), 103714 <<https://doi.org/10.1016/j.agsy.2023.103714>>.



When land-use violations are not accompanied by effective monitoring and sanction mechanisms, a moral hazard arises in natural resource governance.<sup>29</sup> Companies tend to expand their operations because the legal risks are relatively low compared to the economic benefits obtained. The weak transparency of Land Use Rights (Hak Guna Usaha) information and limited public access to concession data further reinforce the legal imbalance between communities and permit holders. As a result, environmental impacts extend beyond mere ecological damage and escalate into ecological conflicts, where communities are compelled to endure greater environmental and social risks than the economic benefits they receive. This situation demonstrates the lack of internalisation of the precautionary principle *and* the principles of sustainable development in plantation licensing practices.<sup>30</sup>

The cases of these three companies ultimately illustrate the unequal distribution of benefits and risks within the palm oil industry.<sup>31</sup> The economic advantage of the palm oil sector is predominantly concentrated among business actors and national macroeconomic growth indicators, while local communities contend with environmental degradation, insecure land rights, and diminished access to land and livelihoods. Therefore, the ecological impacts of palm oil plantations cannot be perceived solely as environmental issues; rather, they should be recognised as the result of the failure of legal governance to effectively integrate environmental protection and community welfare. In this context, environmental concerns directly reflect the legal gap between administrative certainty regarding permits and substantive justice, which should be the primary goal of Indonesian agrarian law.<sup>32</sup>

Ecological changes resulting from the expansion of oil palm plantations, as seen in the research area, impact the physical environment and trigger social transformations in the lives of buffer village communities.<sup>33</sup> The loss of access to cultivated land, forest space, and natural resources that previously underpinned the local economy has led to a shift in community livelihoods from subsistence to economic dependence on company activities. In the operational areas of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda, communities no longer have full control over traditional production areas, resulting in decreased economic independence and increased social vulnerability. This condition indicates that changes in land use resulting from the granting of HGU impact ecological matters and create social disruptions that alter the community's relationship with its living space.<sup>34</sup>

These social impacts are further exacerbated by the suboptimal implementation of company partnership obligations, particularly concerning the development of plasma plantations as mandated by Minister of Agriculture Regulation No. 18 of 2021. Empirical findings indicate that communities in buffer villages associate with the three companies have not yet received real access to plasma plantations or the economic benefits promised under the partnership scheme. Consequently, there is an unequal distribution of development benefits, with communities located in production areas of high-value commodities

<sup>29</sup> Atikah Mardhiya Rohmy, Hartiwiningsih and I Gusti Ayu Ketut Rachmi Handayani, 'Judicial Mafia and Ecological In-Justice: Obstacles to Policy Enforcement in Indonesian Forest Management and Protection', *Trees, Forests and People*, 17 (2024), 100613 <<https://doi.org/https://doi.org/10.1016/j.tfp.2024.100613>>.

<sup>30</sup> Bahruddin and others, 'Scaling-up Sustainable Commodity Governance through Jurisdictional Initiatives: Political Pathways to Sector Transformation in the Indonesian Palm Oil Sector?', *World Development*, 176 (2024), 106504 <<https://doi.org/https://doi.org/10.1016/j.worlddev.2023.106504>>.

<sup>31</sup> Minkun Chen and others, 'Integrating Ecosystem Service Spillovers and Environmental Justice in Ecological Compensation: A Pathway to Effective Ecological Protection in China', *Ecological Indicators*, 174 (2025), 113455 <<https://doi.org/https://doi.org/10.1016/j.ecolind.2025.113455>>.

<sup>32</sup> Afrizal, Eka Vidya Putra and Elida.

<sup>33</sup> Meg Parsons and others, 'Climate Adaptation Justice as Lived Experience: Insights from Aotearoa New Zealand', *Global Environmental Change*, 97 (2026), 103134 <<https://doi.org/https://doi.org/10.1016/j.gloenvcha.2026.103134>>.

<sup>34</sup> Ekayani and others.



experiencing no significant improvement in their welfare.<sup>35</sup> This situation has triggered prolonged social conflict, increased demands for compensation, and a growing public distrust of state institutions and business actors. Thus, the emerging social issues are not merely a consequence of the market economy, but rather a reflection of the failure to implement legal norms designed to ensure social justice in plantation management.<sup>36</sup>

These conditions indicate indications of human rights violations in the structural management practices of oil palm plantations.<sup>37</sup> Land tenure conflicts between communities and companies, restrictions on access to land historically managed by communities, and the weak bargaining position of communities in dispute resolution demonstrate how the administrative legality of Land Use Rights can result in social exclusion through formal legal mechanisms. This situation has the potential to violate the rights to ownership and a decent living, as guaranteed in Article 36, paragraph (1), and Article 37, paragraph (1), of Law Number 39 of 1999 concerning Human Rights, because communities lose their economic base and living space without adequate legal protection.<sup>38</sup>

This phenomenon can be analysed through the perspective of John Rawls's theory of distributive justice, which emphasises that social and economic inequality can be justified only if it maximises benefits for the most vulnerable groups (*the difference principle*).<sup>39</sup> Empirical findings in the research area actually show the opposite: the economic benefits of the palm oil industry accrue to business actors and macroeconomic growth, while local communities bear social and ecological burdens, including loss of land access, environmental degradation, and livelihood uncertainty. Thus, the plantation regulatory structure does not meet the principle of distributive justice because the distribution of benefits and risks of development is disproportionate.<sup>40</sup>

Within this framework, social and human rights issues in the palm oil industry reflect the imbalance between administrative investment certainty and substantive agrarian justice. Regulations that prioritise the legality of permits over the distribution of social benefits fail to fulfil their corrective function as instruments of justice. Consequently, local communities find themselves in a structurally vulnerable position, where economic development proceeds without a just redistribution mechanism as envisioned by the theory of distributive justice and the principle of the social function of land rights in Indonesia's agrarian legal system.<sup>41</sup>

### ***Community Protection Measures in Palm Oil Plantations***

Normatively, the Indonesian land law system has established a multi-layered national agrarian legal framework to protect community land ownership and control rights in the right to cultivate areas. Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) establishes that the state is not the landowner but rather the party that exercises the state's right to control land. This is stipulated in Article 2, paragraph (1), which states this authority must be directed towards achieving the greatest possible prosperity for the people.

<sup>35</sup> Julia Loginova and others, 'Enabling Indigenous-Centred Decision-Making for a Just Energy Transition? Lessons from Community Consultation and Consent in the Circumpolar Arctic', *Energy Research & Social Science*, 120 (2025), 103928 <<https://doi.org/https://doi.org/10.1016/j.erss.2025.103928>>.

<sup>36</sup> Astuti and others.

<sup>37</sup> Yuko Osakada, 'Pitfalls of the Green Transition: Towards a Genuine Understanding of the Right to Free, Prior and Informed Consent of the Indigenous Peoples', *Polar Science*, 44 (2025), 101119 <<https://doi.org/https://doi.org/10.1016/j.polar.2024.101119>>.

<sup>38</sup> Fatma Ulfatun Najicha, 'Oil and Natural Gas Management Policy in Realizing Equal Energy in Indonesia', *Journal of Human Rights, Culture and Legal System*, 1.2 (2021), 71–80 <<https://doi.org/10.53955/jhcls.v1i2.8>>.

<sup>39</sup> Katie Quail, Donna Green and Ciaran O'Faircheallaigh, 'Large-Scale Renewable Energy Developments on the Indigenous Estate: How Can Participation Benefit Australia's First Nations Peoples?', *Energy Research & Social Science*, 123 (2025), 104044 <<https://doi.org/https://doi.org/10.1016/j.erss.2025.104044>>.

<sup>40</sup> Mulyasari and others.

<sup>41</sup> Budiman and Abdul Kadir Jaelani, 'The Policy of Sustainable Waste Management Towards Sustainable Development Goals', *Journal of Human Rights, Culture and Legal System*, 3.1 (2023), 70–94 <<https://doi.org/10.53955/jhcls.v3i1.73>>.



This concept theoretically limits the granting of land rights to business actors to avoid eliminating community access to livelihood sources. Thus, the granting of HGU should be positioned as a socio-economic land management instrument rather than an exclusive spatial privatisation mechanism.<sup>42</sup>

Recognition of customary law communities is also an important element in the design of this protection. Article 3 of the UUPA recognises customary rights if they are still alive and in accordance with the national interest, which is then strengthened constitutionally through Article 18B paragraph (2) of the 1945 Constitution, which requires the state to respect the unity of customary law communities and their traditional rights. These two norms systematically establish the principle that social rights arising from hereditary control have legal legitimacy that must be considered before the state grants land-use rights to other parties. This means that, normatively, Indonesian agrarian law protects both individual rights based on certificates and communal rights embedded in social practices.<sup>43</sup> This protection is further emphasised in Law Number 39 of 2014 concerning Plantations, specifically Article 12, which requires business actors to consult with customary law communities holding customary rights before using land for plantation activities. This provision demonstrates that the legitimacy of companies' land use stems not only from state administrative permits but also from the social consent of affected communities. In other words, plantation law intended to integrate the principles of community participation and consent as both moral and legal requirements for granting plantation business permits.<sup>44</sup>

The land administration system, through the land registration mechanism, is designed as a technical instrument to ensure legal certainty of ownership and prevent agrarian conflicts. Land registration aims to create a single rights information system that provides certainty regarding the subject, object, and boundaries of land parcels. Consequently, each new grant of rights, including HGU, should be based on verification of existing land status. Ideally, this system serves as a conflict-prevention mechanism, as the state can grant rights only to land whose legal status is clear and does not result in overlapping ownership. However, the structure of normative protection exhibits an internal paradox. On the one hand, agrarian law emphasises the social function of land and the recognition of community rights. On the other hand, the plantation licensing regime continues to provide a dominant space for state administrative legality in determining land use. This tension between social protection and administrative logic has subsequently opened space for HGU conflicts across various regions. The desired protection is the creation of certainty of land rights for local communities, the prevention of overlapping ownership, and the assurance that the granting of HGU does not eliminate the rights of communities who have managed the land for generations. The land cadastral and registration system should function as an instrument of social stability by providing information on rights, boundaries, and responsibilities for each plot of land, thereby preventing conflict from the licensing stage onward. Thus, the granting of HGU should ideally go hand in hand with protecting community rights through land status verification, consultation, and the recognition of pre-existing social rights. However, this study indicates a reality that differs from this normative design. In the buffer villages of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda, overlapping land certificates were found between community land titles and the company's HGU permits. Field interviews revealed that community landowners who already held certificates still lost access to their land after the company obtained the HGU permits, due to restrictions on

<sup>42</sup> Lego Karjoko, 'Pembadanan Asas Fungsi Sosial Hak Guna Usaha Dalam Pengaturan Perkebunan Yang Mensejahterakan Rakyat' (Universitas Sebelas Maret, 2017).

<sup>43</sup> Rahmat Ramadhani, 'Pendaftaran Tanah Sebagai Langkah Untuk Mendapatkan Kepastian Hukum Terhadap Hak Atas Tanah', *SOSEK: Jurnal Sosial Dan Ekonomi*, 2.1 (2021), 31–40 <<https://doi.org/10.55357/SOSEK.V2I1.119>>.

<sup>44</sup> Muhammad Bakri, 'Unifikasi Dalam Pluralisme Hukum Tanah Di Indonesia (Rekonstruksi Konsep Unifikasi Dalam UUPA)', *Kerta Patrika*, 33.1 (2008).



community land management activities. The case of 11 hectares of land belonging to residents that could no longer be harvested despite having certificates, as well as the existence of dual certificates between the community and the company, demonstrates the failure of the land administration system to guarantee certainty of rights, as is the original purpose of land registration.<sup>45</sup>

This lack of substantive protection is fundamentally linked to the weak position of communities in the decision-making process, from the planning stage to the granting of plantation business permits. In other words, land rights issues stem from ownership conflicts and from limited opportunities for community participation in determining the use of their living space. Therefore, analysis of community protection cannot stop at the mere recognition of ownership rights but must also examine the extent to which the legal system provides effective mechanisms for public consultation and participation in decision-making processes related to oil palm plantation management.<sup>46</sup>

According to Rawls's theory of distributive justice, community participation in decision-making is a crucial means of ensuring the equitable distribution of development benefits and burdens. The difference principle holds that social inequality can be justified only if it provides the greatest benefits to the most vulnerable groups. In the case of oil palm plantations, local communities are the group most directly affected by land-use changes, making their involvement in decision-making a prerequisite for distributive justice. When communities lack equal participation in planning, development decisions tend to reflect the economic interests of permit holders rather than a balanced distribution of social benefits. Therefore, the weakness of community consultation mechanisms indicates that the regulatory structure fails to uphold the principle of distributive justice, as the groups bearing the greatest risks have the least influence in decision-making.<sup>47</sup>

The Indonesian legal system has accommodated the principle of community consultation and participation in decision-making regarding the management of oil palm plantations. Although the regulations are scattered across various sectoral legal regimes, they have not yet formed a single, integrated participation mechanism. First, Law Number 39 of 2014 concerning Plantations, specifically Article 12, paragraph (1), requires plantation business actors to consult with customary law communities holding customary rights before using land for plantation purposes. This provision normatively requires community consent as a social prerequisite for land use, which is conceptually in line with the principle of the social function of land rights in agrarian law. Land is not viewed solely as an economic object, but as a living space with social and communal dimensions, so its use must consider the interests of the surrounding community.<sup>48</sup> However, this law does not regulate in detail the procedural standards for deliberation, the form of approval, or the mechanism for public objections if deliberations are not carried out equally. From the perspective of the theory of the social function of land rights, this lack of regulation indicates that the social function of land has not been operationalised in the licensing mechanism. The right to cultivate, which is conceptually limited by social interests, in practice serves more as a legitimization of control

<sup>45</sup> Januar Rahadian Mahendra, Rizal Akbar Aldyan and Silas Oghenemaro Emovwodo, 'Examining Indonesian Government Policies in Tackling Deforestation: Balancing Economy and Environment', *Journal of Law, Environmental and Justice*, 2.1 (2024), 42–62 <<https://doi.org/10.62264/jlej.v2i1.93>>.

<sup>46</sup> Juliadi Rusydi, Januri Januri and Rika Santina, 'Tanggungjawab Pemerintah Dalam Penegakan Hukum Lingkungan Hidup Di Tinjau Dari Persepektif Hukum Administrasi Negara', *Audi Et AP: Jurnal Penelitian Hukum*, 2.01 (2023), 54–63 <<https://doi.org/10.24967/jaeap.v2i01.2064>>.

<sup>47</sup> Riswandha Imawan and Al Yasir, 'Hak Menguasai Negara: Konsep Dan Implikasinya Terhadap Penggunaan Energi Terbarukan Di Indonesia', *Jurnal Konstitusi*, 21.1 (2024), 153–68 <<https://doi.org/10.31078/jk2119>>.

<sup>48</sup> Rahadyan Widarsadhika Wisnumurti, 'Authority Of Local Governments In Issuing Environmental Impact Assessment Permits Kewenangan Pemerintah Daerah Dalam Penerbitan Izin Analisa Dampak Lingkungan', 10.1 (2024), 227–36 <<https://doi.org/https://doi.org/10.37676/jhs.v10i1.5934>>.



over space through administrative permits, without ensuring the community's direct involvement as the affected subject.<sup>49</sup>

Second, the principle of public participation is also regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, specifically Article 26 paragraph (2), which states that the preparation of Environmental Impact Analysis (Analisis Dampak Lingkungan or AMDAL) documents must involve communities directly affected. Within the framework of distributive justice, the AMDAL mechanism should serve as a corrective instrument to balance power relations between business actors and the community by enabling preventive participation before environmental decisions are taken. However, in practice, community participation often occurs after the investment direction has been determined, hence the participatory function becomes a procedural formality (procedural compliance) without substantive influence on the final decision.<sup>50</sup>

Third, the principle of community involvement is also strengthened through Law Number 14 of 2008 concerning Public Information Disclosure, particularly Article 2 paragraph (1), which guarantees the public's right to obtain public information as a basis for participation in policymaking. Theoretically, access to information on concessions, business permits, and HGU boundaries is a prerequisite for realising the social function of land, as the community can only defend its rights if it has adequate information about the status of its living space. However, restrictions on access to HGU data under land administration regulations deprive communities of the necessary information base, thereby preventing the achievement of equality of legal standing.<sup>51</sup>

Although these legal instruments demonstrate the formal existence of community participation norms, the primary legal issue is the regulations' partial and non-operational design. The absence of legal standards regarding free, prior, and informed consent (FPIC), the procedural nature of AMDAL participation, and limited access to land information indicate that community participation has not been designed as a mechanism for distributing power in decision-making. From a Rawlsian perspective, this situation creates institutional inequality because the most affected groups lack fair equality of opportunity to influence policies that determine the fate of their living spaces.<sup>52</sup> The issue lies not in the absence of norms, but in the legal system's failure to operationalise the principles of distributive justice and the social function of land rights simultaneously. Regulations provide normative consultation obligations but fail to establish mechanisms to guarantee equality between communities and business permit holders. As a result, community participation tends to be symbolic and does not yet serve as an instrument of social control over plantation land-use decisions.<sup>53</sup>

Access to complaint and dispute resolution mechanisms is a crucial element in protecting communities surrounding oil palm plantations, as rights without effective redress mechanisms lose their substantive legal protection. Normatively, the Indonesian legal system provides several instruments that enable communities to file complaints or seek resolution

<sup>49</sup> Hudali Mukti and Bobur Baxtishodovich Sobirov, 'Environmental Justice at the Environmental Regulation in Indonesia and Uzbekistan', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 476–512 <<https://doi.org/10.53955/jhcls.v3i3.171>>.

<sup>50</sup> T. Safitri, N., Akbar, S. S., & Nur Yacub, 'Examining Community Participation in the AMDAL Preparation Process Post-Job Creation Law Viewed from a Human Rights Perspective Menilik Partisipasi Masyarakat Dalam Proses Penyusunan AMDAL Pasca Undang-Undang Cipta', *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, 4.1 (2024), 103–18 <<https://doi.org/https://doi.org/10.15294/ipmhi.v4i1.74681>>.

<sup>51</sup> Winny Sanjaya, 'Dampak Kebijakan Satu Peta/One Map Policy Di Bidang Pertanahan Terhadap Sertipikat Sebagai Bukti Kepemilikan Hak Atas Tanah Di Indonesia', *LITRA: Jurnal Hukum Lingkungan Tata Ruang Dan Agraria*, 2.2 (2023) <<https://doi.org/https://doi.org/10.23920/litra.v2i2.1291>>.

<sup>52</sup> Arvin Asta Nugraha, I Gusti Ayu Ketut Rachmi Handayani and Fatma Ulfatun Najicha, 'Peran Hukum Lingkungan Dalam Mencegah Kerusakan Dan Pencemaran Lingkungan Hidup', *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 7.2 (2021), 283–98 <<https://doi.org/10.55809/tora.v7i2.8>>.

<sup>53</sup> Rusydi, Januri and Santina.



to agrarian conflicts and the social impacts of plantations. Law No. 39 of 2014 concerning Plantations provides the basis for monitoring business actors and allows the imposition of administrative sanctions on companies that violate legal obligations, including those related to community empowerment and environmental management. Furthermore, land dispute resolution mechanisms are regulated by land administration regulations issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (*Kementerian Agraria dan Tata Ruang/Badan Pertahanan Nasional* or ATR/BPN), while Law No. 32 of 2009 concerning Environmental Protection and Management provides communities with the right to file complaints regarding environmental pollution or damage. Within the framework of human rights, Law No. 39 of 1999 also guarantees every citizen the right to obtain legal protection and justice for any rights violations they experience.<sup>54</sup>

Conceptually, the existence of the various mechanisms ensures the availability of effective remedies for affected communities, whether through administrative mechanisms, litigation, or non-litigation resolution. From a social function perspective on land rights, the complaint mechanism serves as a corrective instrument to ensure that land use by Land Use Rights holders remains within the limits of the community's social interests. With an effective complaint mechanism, the state is expected to balance power relations between community and business actors and prevent the abuse of permit legality.<sup>55</sup> However, this study indicates that community access to grievance mechanisms remains constrained by structural barriers. Land dispute resolution processes tend to rely on formal administrative evidence, while many communities control land based on a history of hereditary management that is not fully legally documented. Furthermore, limited access to information on HGU makes it difficult for communities to prove concession boundaries or violations. Interviews with communities in buffer villages of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda revealed that deliberation efforts often fail to produce equitable solutions because the companies hold stronger licensing documents than the communities' legal standing. This situation demonstrates that formally available grievance mechanisms are not yet fully accessible to affected communities.<sup>56</sup>

Hence, the primary problem lies not in the absence of a complaint's mechanism, but rather in an institutional design that fails to guarantee the community fair and effective access. A legal gap arises when the legal system provides normative dispute-resolution channels but fails to ensure the community's capacity to use them effectively. This situation demonstrates that community protection in oil palm plantation governance remains procedural, while the law's function as an instrument of substantive protection and restoration of justice has not yet been optimally implemented.<sup>57</sup>

### ***Justice Mechanisms for Palm Oil Plantation Issues***

When preventive legal protection for communities surrounding HGU areas is ineffective, the Indonesian legal system normatively provides various remedial justice mechanisms through agrarian, civil, environmental, human rights, and state administrative law. However, the existence of these legal instruments does not automatically ensure substantive justice, as their effectiveness depends on community access to legal mechanisms and on the balance of power between the parties in the dispute-resolution process. In the land regime, conflict

<sup>54</sup> Ting Ma and others, 'Policy Perceptions and Local Stakeholder Engagement in Forest Co-Management in the Yarlung Tsangpo River Basin, China', *Forest Policy and Economics*, 181 (2025), 103655 <<https://doi.org/https://doi.org/10.1016/j.forpol.2025.103655>>.

<sup>55</sup> Aliya Assubayeva and others, 'Transdisciplinary Research on Water Security in Transboundary River Basins', *IScience*, 28.12 (2025), 113944 <<https://doi.org/https://doi.org/10.1016/j.isci.2025.113944>>.

<sup>56</sup> Yanto Rochmayanto and others, 'Devolution of Forest Management to Local Communities and Its Impacts on Livelihoods and Deforestation in Berau, Indonesia', *Heliyon*, 9.5 (2023), e16115 <<https://doi.org/10.1016/j.heliyon.2023.e16115>>.

<sup>57</sup> Alfath Satria Negara Syaban and Seth Appiah-Opoku, 'Unveiling the Complexities of Land Use Transition in Indonesia's New Capital City IKN Nusantara: A Multidimensional Conflict Analysis', *Land*, 13.5 (2024), 606 <<https://doi.org/10.3390/land13050606>>.



resolution can be pursued through administrative mechanisms within the Ministry ATR/BPN, as stipulated in Regulation of the Minister of State for Agrarian Affairs Number 1 of 1999 concerning Procedures for Handling Land Disputes. This mechanism is designed as a non-litigation, mediation-based resolution. However, this study finds that the mediation process tends to be dominated by formal evidence, such as certificates or company permit documents. Communities that have inherited land but lack administrative legitimacy are in a weak evidentiary position; therefore formal legality is prioritised over the reality of social control over the land.<sup>58</sup>

In litigation, communities can file civil lawsuits under Article 1365 of the Civil Code concerning unlawful acts to seek compensation for land acquisition or economic losses. Although this avenue is available, judicial practice shows that proof relies mostly on state-authorised documents. In HGU conflicts, companies generally possess complete administrative legitimacy, while communities only possess historical evidence of land management. This imbalance in the evidentiary structure makes litigation access formally open but substantively difficult for communities. Environmental legal instruments, including Law Number 32 of 2009, also provide for class action and citizen lawsuits for environmental damage. This norm broadens the legal standing of communities and recognises the right to a healthy and good environment. However, obstacles arise from the need for scientific evidence and high litigation costs, including difficulties in obtaining environmental data and information on company concessions, making this mechanism rarely effective for communities in the research area.<sup>59</sup>

All these pathways demonstrate that the Indonesian legal system does not suffer from a normative vacuum in providing access to justice. However, empirical findings in Bengkulu demonstrate structural barriers, including the dominance of administrative legality, inequities in the provision of evidence, and limited access to information, placing the public in a weaker position than business permit holders. As a result, remedial law focuses more on administrative formalities than on substantive justice in social relations and land ownership history. Based on John Rawls's theory of distributive justice, this condition reflects inequality of institutional opportunity, which is unequal access to justice institutions due to institutional designs that do not provide equal opportunities for vulnerable groups. Legal channels are procedurally available, but the institutional structure favours those with administrative, economic, and informational resources. Hence, the primary problem with justice mechanisms in the palm oil plantation sector is not the lack of legal means, but rather unequal access to justice, which prevents the law from fulfilling its corrective function in realising agrarian justice.<sup>60</sup>

The effectiveness of community protection is largely determined by the performance of state institutions that exercise licensing and oversight authority. Plantation management involves the Ministry of ATR/BPN, the Ministry of Environment and Forestry, local governments, the Ministry of Agriculture, and the Indonesian Ombudsman. Normatively, this division of authority is intended to create a *checks-and-balances mechanism*, but research this study indicates that this fragmentation o results in a failure of coordination, directly impacting community protection.<sup>61</sup> The Ministry of ATR/BPN, as the authority granting

<sup>58</sup> Dody Susanto and Diana Haiti, 'Kepastian Hukum Sertipikat Tanah Elektronik Terhadap Pinjaman Yang Tidak Didaftarkan Hak Tanggungan', *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3.4 (2025), 4117–27 <<https://doi.org/10.61104/ALZ.V3I4.1898>>.

<sup>59</sup> Salsabila.

<sup>60</sup> Lila Juniyanti and Rospita Odorlina Pilianna Situmorang, 'What Causes Deforestation and Land Cover Change in Riau Province, Indonesia', *Forest Policy and Economics*, 153.December 2022 (2023), 102999 <<https://doi.org/10.1016/j.forpol.2023.102999>>.

<sup>61</sup> Reza Andriansyah Putra and Atik Winanti, 'Urgensi Dan Kendala Dalam Penerbitan Dokumen Sertifikat Tanah Elektronik Pasca Peraturan Menteri ATR/BPN Nomor 3 Tahun 2023', *Jurnal Usm Law Review*, 7.2 (2024) <<https://doi.org/https://doi.org/10.26623/julr.v7i2.9178>>.



HGU, should guarantee legal certainty and the social function of land as stipulated in Article 6 of the UUPA. However, the emergence of overlapping certificates in the areas of PT Agri Andalas and PT Bio Nusantara Teknologi indicates that land administration functions more as a formal legalisation of rights than as a social verification of community land ownership. On the other hand, the Ministry of Environment and Forestry (*Kementerian Lingkungan Hidup dan Kehutanan* or KLHK) has authority over forest areas based on Law No. 41 of 1999. However, the lack of synchronisation of spatial data between the agrarian and forestry regimes has led to unclear spatial boundaries and triggered structural conflicts.

Regional governments have a role in overseeing corporate social obligations, particularly the development of plasma plantations, as stipulated in Ministerial Regulation No. 18 of 2021. However, research shows weak monitoring of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda, resulting in ineffective redistribution of economic benefits. Meanwhile, the Ministry of Agriculture's oversight remains administratively oriented and rarely imposes substantive sanctions for social violations. The Indonesian Ombudsman serves as a watchdog for maladministration, but its non-binding authority limits its corrective power.<sup>62</sup>

The structure demonstrates that the state plays a more dominant role as a permit issuer than a guarantor of social justice. The fragmentation of authority has transformed administrative law into an instrument for legalising spatial control, rather than a mechanism for controlling economic power over land. From the perspective of the social function of land rights, this situation demonstrates the state's failure to ensure that land provides social benefits to the wider community. This analysis aligns with Rawls's distributive theory, emphasising that social institutions should protect the most vulnerable members of society. Fragmented institutional design creates unequal institutional opportunities, with companies having greater access to bureaucracy and legal legitimacy than local communities. Therefore, the issue of community protection in the palm oil plantation sector is not simply an individual violation but rather a reflection of governance failure, where the state is strong in granting permits but weak in ensuring justice. Regulatory reform is inadequate if it only introduces new norms; it should rebuild institutional coordination to ensure the state effectively protects community rights.<sup>63</sup> In assessing the effectiveness of community protection in oil palm plantation governance, international standards should be used not merely as a normative comparison but as a benchmark of justice to test whether national legal systems have provided substantive protection for affected communities. Unlike national regulatory approaches, which tend to emphasise the administrative legality of permits, international standards place social legitimacy and the protection of community rights as primary prerequisites for natural resource exploitation.<sup>64</sup>

The principle of Free, Prior and Informed Consent (FPIC) is the most relevant international standard, developed within Indigenous rights law and strongly implemented in Canada.<sup>65</sup> FPIC requires communities to provide informed consent before project implementation, with legal consequences for refusal. In contrast, Article 12, paragraph (1), of Law Number 39 of 2014 on Plantations acknowledges community consultation but does not establish binding standards for consent. Business legitimacy is based on state permits, not on the social consent of affected communities. The second standard is reflected in the

<sup>62</sup> Johan Miyatani and Charlotta Söderberg, 'Enabling Environmental Education – Value Hierarchies of Sustainability Objectives for Upper-Secondary School', *Cleaner Production Letters*, 2025, 100122 <<https://doi.org/https://doi.org/10.1016/j.clpl.2025.100122>>.

<sup>63</sup> Riccardo Losa, 'Public Policies on Circular Economy: A Systematic Review', *Ecological Economics*, 228 (2025), 108452 <<https://doi.org/https://doi.org/10.1016/j.ecolecon.2024.108452>>.

<sup>64</sup> Loginova and others.

<sup>65</sup> Joshua Matanzima, "'Disempowered by the Transition': Manipulated and Coerced Agency in Displacements Induced by Accelerated Extraction of Energy Transition Minerals in Zimbabwe', *Energy Research & Social Science*, 117 (2024), 103727 <<https://doi.org/https://doi.org/10.1016/j.erss.2024.103727>>.



RSPO Principles and Criteria, which require companies to provide independent, transparent, and accessible grievance mechanisms. Within the RSPO framework, conflict resolution is an integral part of corporate governance and places communities on an equal footing with other stakeholders. In Indonesia, grievance mechanisms are scattered across fragmented state administrative channels, making access to redress dependent on communities' ability to navigate complex formal legal procedures.<sup>66</sup> Furthermore, the United Nations Guiding Principles on Business and Human Rights (UNGPs) emphasise the right to access remedy through three main pillars: the state's obligation to protect, the corporation's responsibility to respect, and the victim's right to an effective remedy. Although Indonesia provides various legal channels, empirical findings indicate that rights redress still relies on administrative proof, which is easier for companies to fulfil than for communities. This comparison shows that Indonesia has normatively adopted participation through deliberation and community involvement in AMDAL but has not yet developed a substantive consent mechanism. The main legal gap lies in the distinction between procedural participation and substantive consent: participation is a procedural obligation but has not yet become an effective instrument for controlling decisions on the use of community living space.<sup>67</sup>

An empirical evaluation of the operational areas of PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda in Bengkulu Province demonstrates this gap through a *negative compliance case study approach*. Normatively, Minister of Agriculture Regulation No. 18 of 2021 requires the development of at least 20% of plasma plantations to redistribute economic benefits. However, research shows that this obligation has not been effectively implemented, leading to inadequate oversight and insufficient sanctions for violations of redistributive norms. The obligation to consult under Law No. 39 of 2014 also does not always result in equal consultation. Community interviews indicate that deliberations take place on unequal terms because companies already have formal permit legitimacy. As a result, deliberations have shifted from a social consent mechanism to an administrative licensing formality. The protection of land rights guaranteed by the Basic Agrarian Law and the Human Rights Law has not prevented agrarian conflicts, as evidenced by overlapping certificates and HGU claims that place company permit documents above historical community control.<sup>68</sup>

Table 4. Legal Gap of Community Protection in the Governance of HGU Palm Oil Plantations

Protection Aspects	Legal Norms	Empirical Reality
20% plasma plantation	Mandatory (Ministry of Agriculture Regulation 18/2021)	Not realized
Community deliberation	Mandatory (Law 39/2014)	Not equal
Protection of land rights	Guaranteed by UUPA & HAM Law	Conflicts continue to occur
Community participation	Recognized by regulations	Procedural in nature
Restoration of rights	Legal avenues are available	Difficult to access for the public

Source: Processed by the author based on analysis of legislation and empirical research findings in the buffer zone of oil palm plantations in Bengkulu Province

<sup>66</sup> Ernawati Apriani and others, 'Non-State Certification of Smallholders for Sustainable Palm Oil in Sumatra, Indonesia', *Land Use Policy*, 99 (2020), 105112 <<https://doi.org/https://doi.org/10.1016/j.landusepol.2020.105112>>.

<sup>67</sup> Safitri, N., Akbar, S. S., & Nur Yacub.

<sup>68</sup> Osakada.



These findings indicate that the primary problem is not the absence of regulations, but rather weak compliance and oversight of their implementation.<sup>69</sup> The state has succeeded in creating administrative certainty for investment, but has yet to ensure substantive justice for communities surrounding plantations. According to John Rawls' theory of distributive justice, this situation reflects a failure to fulfil the difference principle, as the inequality in the palm oil industry does not provide the greatest benefits to the most vulnerable groups. From the perspective of the social function of land rights, HGU does not serve as an instrument of social welfare but rather as a mechanism for exclusive control over space. These findings can then be analysed through Roscoe Pound's theory of law as a form of social engineering. Ideally, the law balances individual, social, and public interests. In the context of oil palm plantations, individual interests relate to community rights to land, social interests concern environmental sustainability and local communities, while public interests are realised through national economic development. Plantation regulations are essentially designed to harmonise these three through obligations of deliberation, planning, and environmental protection.<sup>70</sup>

However, this research shows that the law primarily serves as an administrative legitimation for granting permits rather than as an instrument of social engineering. The state is strongly present at the stage of investment legalisation, but weak in ensuring the distribution of social benefits.<sup>71</sup> This condition reflects the gap between law on the books and law in action, where protective norms exist but fail to produce equitable social change. Effective law, as a social engineering tool, should be preventive and capable of directing social behaviour toward a balance of interests.<sup>72</sup> The lack of integration of institutional authority, weak oversight of plasma plantations, and limited access to complaints indicate that regulations have not been able to carry out this reconstructive function. Therefore, the main problem in oil palm plantation governance is not a lack of legal norms, but rather the failure of the law to fulfil its social function. Regulatory reconstruction should enhance oversight, empower community participation, and ensure institutional integration, allowing the law to serve as a true instrument of agrarian justice rather than just ensuring administrative certainty for investment.<sup>73</sup>

### ***Discussions on Justice Mechanisms: Further Analysis***

Discussions on justice mechanisms in the palm oil plantation sector should focus not only on legal instruments and dispute-resolution channels, but also on their effectiveness in improving the social and legal standing of affected communities. In the context of this research, various remedial mechanisms exist through land disputes, administrative complaints, civil lawsuits, and human rights mechanisms. Normatively, this mechanism demonstrates the procedural access available to communities to seek justice. However, empirical findings indicate that this mechanism has not yet led to substantive rights restoration for communities in villages surrounding plantations.<sup>74</sup>

<sup>69</sup> Ida Bagus and others, *The Impact of Environmental Permitting with a Risk-Based Approach on Investments Based on the Job Creation Law* (Atlantis Press SARL, 2023) <<https://doi.org/10.2991/978-2-38476-180-7>>.

<sup>70</sup> Quail, Green and O'Faircheallaigh.

<sup>71</sup> Michael Krug and others, 'Mainstreaming Community Energy: Is the Renewable Energy Directive a Driver for Renewable Energy Communities in Germany and Italy?', *Sustainability*, 14.12 (2022) <<https://doi.org/10.3390/su14127181>>.

<sup>72</sup> Thanh T Ho and Abdul Fikri Angga Rekso, 'Environmental Policy in Indonesia from the Post-New Order Era to the Present: Positive Adjustments and Limitations', in *Media, Politics and Environment: Analyzing Experiences from Europe and Asia*, ed. by Detlef Briesen and Sarada Prasanna Das (Cham: Springer International Publishing, 2023), pp. 189–212 <[https://doi.org/10.1007/978-3-031-31252-6\\_14](https://doi.org/10.1007/978-3-031-31252-6_14)>.

<sup>73</sup> Paikene Mangani, Ghulam Dastgir Khan and Naseer Ahmad, 'Sustainable Governance, Conflict and Environmental Justice in Critical Mineral Extraction in Latin America and Africa', *Peace and Sustainability*, 1.3 (2025), 100017 <<https://doi.org/https://doi.org/10.1016/j.nerpsj.2025.100017>>.

<sup>74</sup> Abdul-Rasheed Amidu, Alirat Olayinka Agboola and Muhammed Bolomope, 'How Do Key Actors and Governance Structures Interact in Large-Scale Land Acquisition? An Institutional Theory Perspective', *Land Use Policy*, 164 (2026), 107963 <<https://doi.org/https://doi.org/10.1016/j.landusepol.2026.107963>>.



First, the agrarian conflicts involving communities and PT Agri Andalas, PT Bio Nusantara Teknologi, and PT Pamor Ganda demonstrate a recurring pattern of conflict despite various resolution processes. Available justice mechanisms tend to be reactive and case-specific, rather than corrective to the structural roots of the conflict. Dispute resolution generally stops at administrative mediation or informal negotiations, without changing the land tenure structure or the distribution of economic benefits, thus preventing the conflict from being truly resolved and instead reproducing it in new disputes.<sup>75</sup> Second, the effectiveness of justice mechanisms is hampered by declining public trust in state institutions. Reliance on administrative evidence, dominated by company permit documents, disadvantages the public who has evidence of socio-historical mastery in a weak legal position. This situation reinforces the perception that the state functions more as a permit-granter than a protector of citizens' rights, leading people to rely on informal negotiations and social pressure rather than formal legal channels.<sup>76</sup>

Third, available redress mechanisms are not restorative. Dispute resolution rarely results in ecological restoration, the return of living space, or the equitable redistribution of economic benefits.<sup>77</sup> Even when conflicts are administratively resolved, communities continue to lose access to natural resources and experience changes in livelihood structures that cannot be reversed through existing legal instruments. Thus, the justice system functions more as an administrative resolution procedure than as an instrument for restoring social justice.<sup>78</sup> This situation reveals that the justice system in the palm oil plantation sector operates effectively in terms of procedural justice but fails in distributive outcomes. According to John Rawls's theory of distributive justice, legal institutions should provide greater protection to the most vulnerable groups. However, this study indicates that access to justice depends on the administrative capacity and legal resources of the parties; hence, legal mechanisms are unable to address the structural injustices at the root of agrarian conflicts in palm oil plantation areas. To assess whether such failures are normative or institutional, a comparison is needed with legal systems that have successfully operationalised community protection in natural resource governance.<sup>79</sup>

Table 5. Comparison of Community Protection Models in Natural Resource Governance: Indonesia, the Netherlands, Canada, and Norway

Protection Aspects	Indonesia	Dutch	Canada	Norway	Implications for Community Protection
Legal basis for land ownership	UUPA (UU No. 5 of 1960) – the state controls land	Spatial Planning Act (Wet ruimtelijke ordening)	Constitution Act 1982 & Indigenous Rights Jurisprudence	Petroleum Act & Planning and Building Act	Developed countries place state control as a <b>public trust</b> , not just administrative authority.
Community consultation before permit	Deliberation (Article 12 of Law 39/2014) without	Public consultation is mandatory in spatial planning	<b>FPIC</b> (Free, Prior and Informed Consent) is mandatory for	Local community consultation in	Canada and Norway make consultation a <b>condition for</b>

<sup>75</sup> Gerald E Arhin, 'Same Project, Different Responses: Unravelling Varied Community Consent to Mining-Induced Displacement in Ghana's Lithium Sector', *The Extractive Industries and Society*, 24 (2025), 101716 <<https://doi.org/https://doi.org/10.1016/j.exis.2025.101716>>.

<sup>76</sup> Vigya Sharma and Mayank Aggarwal, 'Can Meaningful Consultation and Consent Advance Fair and Equitable Large-Scale Renewable Energy Development? Reflections from India', *Energy for Sustainable Development*, 85 (2025), 101613 <<https://doi.org/https://doi.org/10.1016/j.esd.2024.101613>>.

<sup>77</sup> Herdiansyah and Mamola.

<sup>78</sup> Laurence Klein, María Jesús Muñoz-Torres and María Ángeles Fernández Izquierdo, 'Free, Prior, and Informed Consent and Human Rights Impact Assessments: Lessons from Repsol's Operations in Wayuu Territories in La Guajira, Colombia', *Resources Policy*, 106 (2025), 105554 <<https://doi.org/https://doi.org/10.1016/j.resourpol.2025.105554>>.

<sup>79</sup> Matanzima.



	operational standards		indigenous communities	resource projects	<b>legitimizing permits</b> , not a formality.
Community consent	There is no binding consent mechanism	Space decisions can be publicly challenged before permits are issued.	Indigenous consent could halt the project	Substantive participation through public hearings	The comparison country shifted participation → <b>limited veto rights of the community</b>
Transparency of land/concession data	Access to HGU data is limited	Open cadastre system (public cadastre)	Public open land use data	Transparency of contracts and exploitation permits	Transparency strengthens the community's bargaining position in disputes.
Grievance mechanism	BPN Mediation, Ombudsman, Litigation	Administrative court is fast and accessible	Special Tribunal for Indigenous Claims	Ombudsman + environmental complaint system	A quick mechanism to prevent conflict from becoming structural
State supervision	Fragmentation of ATR/BPN-KLHK	National integrated spatial planning system	Federal-provincial co-governance	Integrated regulation of energy & environment	Institutional integration reduces conflicts of authority
Corporate social responsibility	CSR (Article 74 of the Limited Liability Company Law) is general in nature	Mandatory social impact assessment	Impact Benefit Agreements (IBA) with indigenous communities	Strict corporate accountability	Protection of society becomes part of a legal contract, not a voluntary one.
Restoration of community rights	Depends on lengthy litigation	Effective administrative judicial review	Compensation and restitution of customary land	Public funds for social impact	The remedial system is <b>restorative</b> , not merely procedural.
Orientation of the legal system	Legality of permit	Public interest	Collective rights of indigenous peoples	State social accountability	Developed countries place social justice as a parameter of permission

Source: Processed by the author from a comparative analysis of national regulations and natural resource governance practices in Indonesia, the Netherlands, Canada, and Norway

The table shows that the main difference between Indonesia and the other countries lies not in the existence of community protection norms, but rather in the level of operationalisation of these protections in the licensing and oversight processes. Indonesia has normatively recognised community deliberation, corporate social responsibility, and public participation through various sectoral regulations. However, these mechanisms remain procedural and do not yet establish community consent as a substantive requirement for the legitimacy of land use. In contrast, the Netherlands integrates community protections through a spatial planning system that places the public interest as the basis for permit issuance; Canada applies the principle of Free, Prior, and Informed Consent (FPIC), which provides a real legal standing for indigenous communities; and Norway strengthens community protections through transparency, corporate accountability, and coordinated state oversight from the planning stage. This comparison demonstrates a shift in the legal



paradigm: business permits are no longer assessed solely on administrative compliance, but also on the fulfilment of social legitimacy and public justice.<sup>80</sup>

This research confirms that the issue of community protection in oil palm plantations in Indonesia is not primarily caused by a lack of legal norms, but rather by the design of law enforcement and institutional governance that has failed to integrate investment certainty with social justice.<sup>81</sup> The HGU licensing system has provided administrative certainty for business actors, but has not been balanced by effective social and ecological oversight mechanisms. From the perspective of the social function of land rights, this condition demonstrates the state's failure to ensure that land use benefits the community, as mandated by Article 6 of the Basic Agrarian Law.<sup>82</sup> The dominance of the permits paradigm also leads land administration law to operate primarily to validate spatial control through formal documents rather than to substantively evaluate social impacts.<sup>83</sup> Therefore, regulatory rebalancing is needed to permit legitimacy to stem from administrative procedures and from the fulfilment of corporate social obligations. Empirical experience shows that community participation remains at the formal consultation level, necessitating a reconstruction toward a substantive consent model through the Free, Prior, and Informed Consent (FPIC) approach, as implemented in Canada, where community consent is a concrete prerequisite for resource exploitation.

Furthermore, the weak institutional synchronisation between the Ministry of ATR/BPN and the Ministry of Environment and Forestry underscores the need to integrate the national spatial management system.<sup>84</sup> NELessons from the Netherlands demonstrate that protecting public interests is effective only when spatial planning is based on an integrated system and a single policy map. Spatial data integration is key to preventing overlapping permits and agrarian conflicts. Furthermore, complaint and dispute resolution mechanisms need to be designed to be more inclusive and pro-vulnerable by recognising social and historical evidence from the community, as demonstrated by the transparency and accountability practices in natural resource governance in Norway, which strengthen the community's position in relations with business actors.<sup>85</sup>

This situation emphasises the need for regulatory improvements and strengthened enforcement, not merely normative but institutional.<sup>86</sup> First, regulatory reform needs to shift the licensing paradigm from an administrative legality model to a social legitimacy model, where the sustainability of a business permit is determined not only by the completeness of administrative documents but also by the company's fulfilment of social obligations to the surrounding community. Second, community participation mechanisms must be reconstructed from procedural consultation to substantive agreement through standards that approximate the principle of free, prior, and informed consent (FPIC), so that communities have a real legal position in determining the use of their living space. Third, strengthened enforcement requires institutional integration among the Ministry of ATR/BPN, the Ministry of Environment and Forestry, local governments, and sectoral ministries through

<sup>80</sup> Rudolph C Ryser, 'A Framework for Implementing the Principle of Free, Prior, and Informed Consent (FPIC) - Comity or Conflict', *Fourth World Journal*, 21.2 (2021), 124–45 <<https://doi.org/https://search.informit.org/doi/10.3316/informit.364660212930550>>.

<sup>81</sup> Nugrahapsari and others.

<sup>82</sup> Donna Okthalia Setiabudhi and others, 'The Role of Land Management Paradigm Towards Certainty and Justice', *BESTUUR*, 11.1 (August) (2023), 43 <<https://doi.org/10.20961/bestuur.v11i1.71710>>.

<sup>83</sup> Bahrudin and others.

<sup>84</sup> Christopher Amechi Ofozor and others, 'Does Deforestation Endanger Energy Security? A Panel GMM Evidence from 47 Sub-Saharan African Countries', *Environment, Development and Sustainability*, 2024 <<https://doi.org/10.1007/s10668-023-04412-5>>.

<sup>85</sup> Linda Gröning and Slavka Dimitrova, 'Criminal Insanity in Bulgaria and Norway: Analysing the Prospect of a Common Approach', *International Journal of Law and Psychiatry*, 87 (2023), 101866 <<https://doi.org/https://doi.org/10.1016/j.ijlp.2023.101866>>.

<sup>86</sup> Wulandari, Testriono and Karim.



an integrated spatial management system to prevent overlapping authorities, which have long been a source of structural conflict.<sup>87</sup>

Furthermore, complaint and dispute resolution mechanisms need to adopt a more inclusive, restorative approach. Evidence systems that rely too heavily on administrative documents need to be complemented by recognition of social and historical evidence of community land ownership, so that access to justice is not limited to those with stronger administrative resources. Strengthening concession data transparency and corporate accountability obligations are also essential prerequisites for effective community participation in land use oversight.<sup>88</sup> According to Pound's social engineering theory, these improvements represent an effort to restore the law's function as an instrument for balancing interests among the state, business actors, and society.<sup>89</sup> Law's role as a provider of administrative legitimacy for investment is insufficient; it must also direct social change toward a more equitable distribution of benefits. Therefore, increasing the effectiveness of regulation and enforcement in the palm oil plantation sector is ultimately a step towards transforming agrarian law from a permit-oriented system to one oriented toward substantive agrarian justice.<sup>90</sup>

## Conclusion

The problem of community protection in oil palm plantation governance in Indonesia is not primarily caused by the absence of legal norms, but rather by the failure to operationalise the law in institutional practice and regulatory enforcement. Several legal instruments have recognised community rights, public participation, and corporate social responsibility, but empirical findings show a wide lacuna between the norms and the legal practices. Preventive and remedial protection mechanisms are procedurally available, but access to justice is unequal due to the dominance of administrative legality, unequal access to evidence, and fragmentation of authority among state institutions. As a result, the law functions more as an instrument of legitimising control of space than as a mechanism for social protection. From the view of distributive justice, this condition reflects inequality of institutional opportunity, while from the perspective of the social function of land rights, it demonstrates the state's failure to ensure that land use provides social benefits to the wider community. Based on these findings, strengthening community protection requires institutional reconstruction of regulations and law enforcement. The licensing paradigm needs to shift from administrative legality to social legitimacy, where the sustainability of business permits is determined not only by administrative compliance but also by the fulfilment of corporate social obligations. Community participation mechanisms need to be reconstructed toward substantive agreement through an approach that aligns with the principle of Free, Prior, and Informed Consent (FPIC), while institutional integration between the Ministry of ATR/BPN, the Ministry of Environment and Forestry, local governments, and sectoral ministries is a prerequisite for preventing structural conflicts resulting from overlapping authorities.

This study reflects that the effectiveness of community protection is not determined by the number of regulations but by the institutional design that enables the law to function as a means of social engineering, as argued by Pound. Comparisons with the Netherlands, Canada, and Norway demonstrate that the legitimacy of natural resource utilisation in developed countries rests on social justice and public consent, rather than mere administrative legality. Therefore, reform of oil palm plantation governance in Indonesia

<sup>87</sup> Reich and Musshoff.

<sup>88</sup> Mulyasari and others.

<sup>89</sup> Astuti and others.

<sup>90</sup> N Humaida, *Dasar-Dasar Pengetahuan Lingkungan Berbasis Perubahan Iklim Global*, ed. by Dienny R. Rahmani, Edisi Pert (Banjarmasin, Kalimantan Selatan: UrbanGreen Central Media, 2024) <<https://books.google.co.id/books?id=po4HEQAAQBAJ>>.



needs to be directed at transforming the role of law from a tool for legitimising investment to an instrument for distributing substantive agrarian justice.

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