

The Control Right of Palm Oil Natural Resource and Its Impact on Society and the Environment.

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Abstract

Natural resources play a very important role in the survival of mankind. The fact is that the availability of natural resources is not evenly distributed in all countries in the world and this cannot be denied. Oil palm plantations are one of the productive natural resources that is very promising in the market sphere, but in their management there are still many deviations from the values of Pancasila and their implications for the environment. purposes of the research is to determine the impact of oil palm plantations on the environment. This research uses an empirical legal research method, namely a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior carried out through direct observation. The results of the research show that the regulation of control rights over natural resources in oil palm plantations is not based on the values of justice contained in Pancasila because there are no sanctions or supervision carried out on the Company so that in its implementation the Company does not carry out its responsibility to fulfill its obligations as it should. can improve the welfare of the people who entrust their country's land to be leased and used as oil palm plantations. The implications for society and the environment if it is not managed based on the values of justice are that the welfare of the community is not met which results in increased poverty and impacts on the environment where water pollution and drought occur due to oil palm planting.

I. Introduction

Natural resources are crucial for the existence and sustainability of human life. They can be classified into two categories: natural capital resources, which include land, rivers, lakes, coastlines, forests, and more. Additionally, there are renewable natural resources, such as wood, rattan, water, minerals, fish, and others. In understanding and interpreting the concept of natural resources closely correlates with their treatment, characteristics, potential, capacity, and carrying capacity. This needs to be positioned within a clear framework, as ultimately it determines how to utilize and manage said natural resources. Therefore, within the concept of natural resources, there is a distinct and clear division between renewable and non renewable resources.

The fact that the availability of natural resources is uneven across all countries in the world cannot be denied. However, natural resources are a fundamental asset or a crucial factor that determines the economic growth engine of each country. Natural resources are always oriented towards productivity in achieving economic growth. In many cases, the efforts for growth and economic development of each country are also accompanied by global economic demands and needs. This encourages and triggers the search for natural resources worldwide. For countries abundant in natural resources like Indonesia, they will undoubtedly become targets for exploration and exploitation by larger and more advanced nations, in terms of financial strength, technology, and even human resources. The presence of these countries is typically in the form of multinational corporations, focused on managing large-scale natural resources such as mining, oil, plantations, forestry, and fisheries. The natural resources mentioned above always remain a favorite, due to their vital role in achieving profitable global economic growth in the international market. Oil palm plantations are one of the productive natural resources that hold great promise in both domestic and global markets.

Involving multiple stakeholders, including the public, government, and private sector, in the management of these productive natural resources. Private business operators typically obtain concessions to operate through government-private partnership models or profit-sharing arrangements. Upon closer examination, concessions generally refer to the granting of rights, permits, or land by the government, companies, individuals, or other legal entities. Concessions are applied, among other things, to mining and logging activities. The common concession model is used in government-private partnerships or profit-sharing contracts. Certainly, the law governing concessions is the Law No. 30 of 2014 concerning Government Administration, which has been amended by Law No. 11 of 2020 concerning Job Creation, as explained in Article 175 :

Concession is a decision by an authorized government official as a form of approval from an agreement between an entity and/or government official with other entities and/or government officials in the management of public facilities and/or natural resources and other management in accordance with the

provisions of laws and regulations.

In Maluku, it has been found that there are many locations used for oil palm plantation, including several villages such as Karlutu Kara and Latea in the West North Seram Regency. Meanwhile, the companies granted concessions for opening oil palm plantations are Nusa Ina Company and Wana Karya Utama. From initial observations, it appears that these companies are opening oil palm plantations on land belonging to indigenous communities in the mentioned villages. The presence of oil palm plantations on indigenous land is suspected to benefit the companies more than the indigenous communities. Furthermore, the degradation of the environment due to palm oil waste being released into nature without proper and planned disposal systems, based on environmental principles, also exacerbates the situation and contaminates the environment, including water, soil, and other elements.

In essence, promising oil palm plantations should be an effort towards improving livelihoods, with its achievement instrumentally through development. Development that benefits everyone must be grounded in legal provisions that align with the national goals as stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia. Making Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia the basis for emphasizing natural resource management is not the sole determinant. In the explanation by Bagir Manan, the right to govern and manage the State lies solely with the State, which only performs administrative acts and does not engage in proprietary acts. Indonesian law must guarantee and embody the values contained in the formulation of Pancasila, as stated in the preamble of the 1945 Constitution and its interpretation within the body of the 1945 Constitution.

However, in the faced reality, this oil palm plantation does not prioritize and emphasize balanced ownership rights with a perspective of justice based on Pancasila. This is reflected in the dominance of the State's favoritism towards business actors, both foreign investors and domestic, rather than towards the community, which is the State's obligation and responsibility. The mandate of Pancasila, with its fair treatment and upholding of human values through the four categories of justice mentioned above, at least serves as a legal framework for the State's actions.

2. Research Method

This research is the category of empirical research, specifically field research. Empirical Legal Research is a legal research method that utilizes empirical facts obtained from human behavior, including verbal behavior gathered from interviews and actual behavior observed through direct observation. Empirical research is also

used to observe the outcomes of human behavior in the form of physical artifacts or archives. The approach used is the statutory approach and the conceptual approach. The legal materials obtained through this research are then identified and collected based on the formulated issues, and classified according to their sources and hierarchical structure in a comprehensive manner for analysis and discussion. The collection of legal materials is carried out through a literature study, which includes inventorying, i.e. collecting legal materials relevant to the research object.

3. Results and Discussion

General Overview of the Environment

The awareness of environmental issues cannot be separated from the global role. In 1972, the United Nations Conference resulted in the Stockholm Declaration on the environment. This conference laid the foundation for environmental law development. Gatot P. Soemartono noted that the Stockholm Declaration provided clear direction in addressing environmental issues, including regulation through legislation. As well as the Stockholm Declaration, the Rio Declaration also encompasses principles considered as sources of environmental law development at the national and international levels. One key principle is the principle of justice and responsibility.

The protection of the environment becomes a logical consequence of the damage to natural ecosystems themselves. It also serves as a preventive measure against even greater damage to natural ecosystems. Environmental issues, which extend to a global level, have led to a worldwide movement to pay greater attention to the environment. This is due to the fact that the environment has become a shared concern for the international community in order to ensure the survival of life on Earth.

The environment that was discussed in the Stockholm conference is the physical environment of the planet Earth where we live. With the advancement of science and technology, the international community's perspective on the environment has expanded to include the airspace (atmosphere) that envelops this Earth, which must also have clear regulations to ensure its sustainability for the well-being of humanity. After the Stockholm Declaration in 1972, Indonesia took several steps to improve environmental management, including the issuance of the first Law No. 4 of 1982 concerning basic provisions for environmental management, which was later replaced by Law No. 23 of 1997 on environmental management, and subsequently replaced by Law No. 32 of 2009 on the protection and management of the environment. The management of the environment, conducted with the principles of state responsibility, sustainability, and benefit, aims to achieve sustainable development that is environmentally conscious within the framework of Indonesia's overall human development and the development of the Indonesian society as a whole, who

believe in and are devoted to the One Almighty God. One of the principles in Principle 15 states:

"Planning must be implemented in human settlements and urbanization with the aim of avoiding negative impacts on the environment and achieving maximum social, economic, and environmental benefits for all. In this regard, projects designed for colonization and domination should be abandoned."

Therefore, in the planning and development of regions, attention must be given to factors that can impact the environment. Environmental management is a comprehensive effort to preserve the functions of the environment, including policies on planning, utilization, development, maintenance, supervision, and control of the environment. Meanwhile, sustainable development with an environmental perspective is a conscious and planned effort that integrates the environment, including its resources, into the development process to ensure the capacity, well-being, and quality of life for both the present and future generations (Article 1, paragraphs 1, 2, & 3). The enactment of UUPPLH-2009 brings new developments in environmental legislation, as it strengthens the principles of environmental protection and management, along with its legal instruments, thereby impacting Indonesia's environmental legal system.

The impact of oil palm plantations.

Oil palm plantations are one of the darlings of natural resources that drive economic growth and foreign exchange income for Indonesia. In fact, oil palm plantations are being developed as a strategic industry to improve the welfare of the people and directly meet basic human needs. Therefore, oil palm plantations are widely developed by tropical countries such as Malaysia, Thailand, and Indonesia. Crude Palm Oil (CPO) has become one of Indonesia's leading exports, based on data provided by the Central Statistics Agency (BPS). According to BPS data, Indonesia's CPO export value reached US\$29.62 billion in 2022. This figure represents a 3.56% increase compared to the previous year (year-on-year/yoy), and it is also the highest record in the last decade. Despite a decrease in CPO production from an economic standpoint, the sharp increase in CPO export prices over the past three years is a result of the rising global market prices for CPO. This is what has led to large-scale oil palm plantations being established throughout the entire country. This also applies to the region of Seram Island, which has been entered by investors. The research findings on the development of oil palm plantations in the village of Karlutu Kara can be summarized as follows:

- a. In 2009, PT Wana Karya Utama, facilitated by the local government, held a meeting with the community and conducted awareness campaigns regarding the use of land in Karlutu Kara village for the opening and development of oil palm plantations.

- b. At that time, the local government offered a choice to the staff of Karlutu Kara village government between selecting PT Nusa Ina or PT Wana Karya Utama. However, the state government staff decided that the oil palm plantation to be established in Karlutu Kara village would be PT Wana Karya Utama. This decision was based on the fact that there were local employees working for this company, ensuring that all needs and interests of Karlutu Kara village could be well facilitated.
- c. In 2010, the process of seedling and planting took place, involving the villagers of Karlutu Kara as workers to plant oil palm seedlings on approximately one hundred and fifty (150) hectares of land, on the communal land of Karlutu Kara village.
- d. As well as the village of Latea, they were promised grand benefits that are positive and prosperous, which will be received and enjoyed by the community of the village of Karlutu Kara.
- e. Based on the conducted interviews, no agreement documents have been provided to the public by PT Wana Karya Utama. The discussion among the public has only been about profit-sharing systems, which have not been formalized in legally approved agreements. When confronted with this issue during an interview with the Central Maluku Regional House of Representatives (DPRD Maluku Tengah), it was found that all company documents were complete, allowing for the issuance of principle permits by the Central Maluku District Government.
- f. Since 2010 until now, oil palm trees have never been harvested and are left to rot as waste. The wages of the workers, who are citizens of this country, have never been paid up to this moment, resulting in no benefits received by the community. The well-being promised through the sale of oil palm is merely an illusion.
- g. Based on the explanation from the village head and the state secretary, the wastage of palm oil and its failure to be harvested is due to the poor quality produced by the plantation managed by PT Wana Karya Utama, which does not meet the market and consumer requirements.
- h. The village government has written to the parties regarding the rights of the village community but there has been no positive response.
- i. The opening and development of oil palm plantations have had a significant impact on the existing water sources in the village of Karlutu Kara.

Development will always depend greatly on the extent of its impact on humans and the environment in which they reside. On one hand, development aims to improve economic growth and social welfare, but there is also a high cost to be paid, especially for the environment. Palm oil plantation development is economically profitable, but its costs and benefits are not evenly distributed, particularly for small communities, indigenous peoples, and the environment. Furthermore, the state's governing organization provides greater support for investors and stakeholders as an effort to boost economic growth and

national foreign exchange due to the high demand for palm oil in the global market. However, contradictorily, the state neglects its responsibility towards ensuring justice for its citizens and the environment.

In various dynamics of oil palm plantation development in different regions, there are always social and environmental injustices. These issues reflect the decline of local communities, indigenous peoples, and the environment as a result of palm oil expansion that has the potential to harm the environment and marginalize indigenous communities who own customary and ancestral lands. Examples include agrarian conflicts between communities and investors, environmental damage, neglect of labor rights in this sector, and threats to food availability. In the cited Mongabay release, oil palm plantations, starting from land clearing, have caused deforestation, resulting in habitat destruction, pollution, soil and water degradation, and violations of indigenous people's rights. One of the issues is the lack of a process or implementation of free, prior, informed, and consent (FPIC) or voluntary consent.

Referring to the Sawit Watch 2020, the total area of palm oil plantations in Indonesia reached 22.3 million hectares, with approximately 1,061 conflicts occurring in these plantations. It is suspected that this potential will increase, considering the current expansion of palm oil plantations towards the eastern regions of Indonesia and small islands. Social and environmental issues accompany this expansion, as well as the political patronage of the government in palm oil trade. This patronage has led to a negligent government attitude in addressing environmental sustainability and social justice issues, as demonstrated by Oliver Pye. The issue of environmental sustainability and social justice is also greatly influenced by the implementation of state ownership rights as formulated in Article 33, paragraph 3 of the 1945 Constitution. If we understand the spirit or essence of this article, it is essentially aimed at creating the greatest possible welfare and prosperity for the people. This, of course, aligns with the concept of social justice for all Indonesian citizens and a fair and civilized humanity, as manifested in the values articulated in Pancasila.

Based on the analysis above and after being correlated with the research results in both Latea and Karlutu Kara villages, significant implications have been found for the community and the environment in both villages. The communities in these villages are unable to enjoy customary land rights as regulated in Article 3 of the UUPA; "Considering the provisions in Articles 1 and 2 of the UUPA, the implementation of Customary Rights and similar rights from indigenous communities, as long as they still exist in reality, must be in accordance with national and state interests, based on national unity and not conflicting with higher laws and regulations." However, their rights to this ancestral land cannot be fully enjoyed due to fair compensation that they should have received being denied by investors supported by the state. Yet, the essence of the state's authority over land is to build, cultivate, maintain, and regulate communal life.

This is also related to the need for regulation regarding the governance of palm oil plantations based on applicable legal provisions. However, the form of governance

created by the government through Presidential Regulation No. 44/2020 concerning the Indonesian Sustainable Palm Oil Certification System (ISPO) contradicts with the Job Creation Law No. 11 of 2020. Actually, this regulation contains seven principles that can be used as a standard measure for the achievement of sustainable palm oil governance. However, Law No. 11 of 2020 is considered to support investment and tends to overlook the rights of small communities, including laborers and palm oil farmers. Therefore, it can be said that a strong commitment from the state is necessary for the protection and empowerment of indigenous communities and the sustainability of their livelihoods alongside the entire environment. The government can address this by:

- a. The resolution of conflict issues greatly depends on the active role of the Local Government in seeking solutions through approaches taken towards relevant parties, considering socio-economic and socio-political factors in the region.
- b. Local government must understand its functions and authority in problem-solving, where conflict resolution should be done with the principle of win-win solution while still considering legal certainty, legal protection, justice, and the prosperity of the local community, as well as taking into account the interests of the company.
- c. Local governments play an important role in addressing and coordinating conflict resolution through a proper understanding of the law and seeking appropriate solutions within the boundaries of order, security, and community welfare. This means that the decisions made should not give rise to new conflicts in the future. In this regard, the government can act as a mediator between the community and companies, ensuring that the management rights of palm oil plantations, if not utilized by the company, can be returned to the people and used for community plantations.

The Stockholm Declaration of 1972 marked the beginning of global awareness regarding the importance of environmental protection, including the roles of nations and industries in maintaining a balance between development and environmental preservation. Although palm oil plantations contribute significantly to the economies of producer countries like Indonesia, they are often criticized for their negative impact on the environment. Based on the principles of the Stockholm Declaration, which emphasize the need for sustainable development and protection of natural resources, palm oil plantation activities should be viewed through a lens of sustainability and ecological responsibility.

One of the main impacts of palm oil plantations on the environment is massive deforestation. Logging forests to clear land for plantations has reduced biodiversity, disrupted wildlife habitats, and accelerated the loss of endemic species. The Stockholm Declaration, which calls for the preservation of natural resources for future generations, identifies this deforestation as a serious threat to ecosystem balance. Additionally, the conversion of forests into plantations often leads to increased carbon emissions, as

forests that serve as carbon sinks are transformed into less absorbent land.

Furthermore, oil palm plantation activities also impact the quality of water and soil. The intensive use of pesticides and chemical fertilizers in plantations can contaminate water sources, disrupt freshwater ecosystems, and reduce soil fertility. The Stockholm Declaration emphasizes the importance of maintaining environmental quality, including air, water, and soil, for human health and ecosystem well-being. Therefore, to mitigate these negative effects, a more sustainable approach must be adopted in the management of oil palm plantations, such as environmentally friendly farming practices and stricter forest protection.

Based on the principles of the 1972 Stockholm Declaration, the Indonesian government can take various measures to address pollution caused by palm oil plantations, emphasizing sustainable development and environmental protection. One important step is to strengthen regulations and law enforcement related to plantation practices, including imposing strict sanctions on companies involved in water, soil, and air pollution. The government can also encourage the adoption of environmentally friendly technologies in the plantation sector, such as the use of organic fertilizers and better waste management. Furthermore, the expansion of sustainability certification programs such as RSPO (Roundtable on Sustainable Palm Oil) should be prioritized to ensure environmentally-friendly agricultural practices. Education and capacity-building for small farmers on sustainable farming are also important to reduce negative impacts. Lastly, the government can enhance forest conservation by expanding protected areas and strengthening the moratorium on forest clearance, in line with global commitments to preserve ecosystems and biodiversity.

4. Conclusion

The management of natural resources in palm oil plantations is not based on principles of fairness due to the lack of sanctions and oversight imposed on companies. As a result, in its implementation, companies do not fulfill their responsibilities towards improving the well-being of the community who entrust their land for leasing and palm oil cultivation. The implications for society and the environment if it is not managed based on the values of justice, namely the welfare of the community that is not fulfilled which results in increased poverty and the impact on the environment where there is water pollution and drought due to oil palm planting. The approach that can be taken is that the government can be a mediator for the Company and the community so that the problems faced can be solved.

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