

Implementation of Palm Oil Plantation Use Rights in the Dialectic of Investment Certainty and Agrarian Justice

Dinalara Dermawati Butar Butar

Faculty of Law, Universitas Pakuan Bogor, Indonesia, E-Mail:
dinalara.dw@gmail.com

Abstract. *Hak Guna Usaha (HGU) constitutes a fundamental legal framework governing large-scale palm oil plantations in Indonesia and plays a strategic role in ensuring long-term investment stability. Nevertheless, evolving regulatory schemes, particularly those extending concession periods and lacking explicit landholding limits, have generated tension between economic growth objectives and the constitutional mandate of social justice. Persistent agrarian conflicts, overlapping land claims, and weak recognition of customary and local community rights reveal structural imbalances in the implementation of HGU. This study aims to examine the regulation and practice of HGU within the dialectic of investment certainty and agrarian justice, while proposing a normative reconstruction that strengthens the social function of land. Employing a normative juridical method through statutory, conceptual, and comparative approaches, the research identifies significant disharmony between the Basic Agrarian Law and its derivative regulations. Comparative insights from Malaysia, Brazil, Thailand, and the Philippines demonstrate that clearer landholding limits, smallholder integration, and stronger institutional oversight contribute to a more equitable plantation governance model aligned with constitutional principles.*

Keywords: *Agrarian Law; Investment; Palm Oil; Social Justice.*

1. INTRODUCTION

Land Use Rights (HGU) in Indonesia are rights granted by the state to private parties or individuals to manage state land for a certain period of time as a means of optimizing national agricultural benefits. This instrument is based on provisions in the Basic Agrarian Law that regulate its status, scope, and limitations on its use (Santoso, 2021). In the context of palm oil commodities, HGU is the main legal framework that determines whether a plantation business can operate legally, with an initial concession period of up to decades that can be extended in accordance with applicable regulations. This is part of the government's efforts to provide certainty regarding land use rights in order to support large-scale economic development and foreign and domestic investment. However, in current practice, there are still many significant challenges arising from the implementation of HGU in the national palm oil sector. The government has identified hundreds of companies that have obtained business licenses but have not completed the HGU licensing process, covering an area of millions of hectares in various regions such as Riau and Sulawesi, giving rise to issues of legality and potential agrarian disputes. This also has an impact on the vulnerability of conflicts between permit holders and local

communities as well as indigenous groups who feel that their land rights are not adequately recognized. Cases such as these demonstrate the imperfect enforcement of regulations and the need for stricter verification of land status before issuing or extending such use rights (Vel & Saputra, 2020).

In recent times, the central government has attempted to strengthen regulations related to land use rights, particularly through regulations on permit renewal requirements that mandate that a portion of the total concession area be allocated to local farmer groups. These new provisions require a certain percentage of allocation to parties outside large companies before the extension of the concession period can be approved, with the aim of ensuring that the economic benefits of land management are more widely enjoyed by local actors. This step is also accompanied by stricter supervision in determining who is eligible to manage the area (Rachman, 2020). On the other hand, there has been criticism and reaction from various institutions or organizations towards the government's policy on land use rights, which is perceived as inconsistent and potentially leading to maladministration. For example, the plan to increase the percentage of land allocation for local parties at the concession extension stage has attracted attention because it is considered inconsistent with current regulations (McCarthy, 2022). This situation highlights the complexity of agrarian regulations and the need to balance legal certainty for HGU holders with the protection of local community rights and harmony with broader principles of agrarian justice.

Control over land use rights in the palm oil sector is increasingly in the spotlight because many companies have not obtained valid certificates in accordance with regulations. For example, government data shows that dozens of plantation business entities are still operating without official certificates for the land they cultivate, while others are still in the process of applying for certification, creating legal uncertainty regarding the status of their business areas. This ambiguity has prompted criticism from legislators and relevant parties because it could affect land management on a large scale and have an impact on local stakeholders and the protracted dispute resolution process (Vel & Makambombu, 2021). In addition, in many areas there is an overlap between land rights claimed by local communities and concession areas claimed by business license holders, some of which have been going on for decades without clear boundaries. Such conflicts are not merely a matter of physical space claims but are also related to the uncertainty of technical regulations at the central and regional levels, which are sometimes not synchronized in terms of area mapping and the issuance of land rights. This situation undermines public trust in the agrarian law management process and fuels tensions in many communities (Rahman, 2022b).

The consequences of land grabbing through large-scale business licenses also reveal a pattern of spatial inequality between powerful rights holders and other less powerful parties. Reports from various organizations cite serious cases in which the land claims of indigenous peoples and local communities have been repeatedly ignored, while the areas in question have been included in company concessions without the involvement of the affected parties in the decision-making process. This has become one of the ongoing triggers for land disputes that are not only administrative but also social in nature (Safa'at, 2023). The government's response to this issue has developed with the tightening of regulations on land rights, which require the allocation of part of the area to local groups before business license extensions are granted, but its implementation is still awaiting evaluation of its effectiveness in the field. The lack of awareness of this situation at the grassroots level shows that despite regulatory adjustments, the

challenges to achieving fair and transparent regulations remain significant and require continued attention to comprehensive dispute resolution mechanisms that respect the rights of various parties (Rachman, 2024).

In Indonesian agricultural practice, land use rights (HGU) are designed to provide legal certainty to parties managing land for a certain period of time with the aim of driving development in the productive sector. This instrument plays an important role in attracting capital for large-scale plantation development, especially in leading commodities such as palm oil and rubber, which continue to grow in line with global demand (Safitri, 2023b). However, developing economic dynamics show that the orientation towards resource exploitation often proceeds without regard for the social context in indigenous communities and smallholder farming areas. The constitution and basic principles of the nation's agrarian law affirm that land tenure must guarantee the welfare of all people, not merely satisfy market aspirations. Land has cultural and existential dimensions for many local communities, so that HGU regulations should not be controlled solely by large economic forces without regard for local rights (Rahman, 2022a). The reality on the ground shows recurring land conflicts when access to traditional livelihoods is displaced by outside economic interests.

This imbalance between investment interests and aspirations for social justice has prompted discourse on more equitable agrarian governance reform. Several recent studies recommend reviewing the mechanism for granting HGU and the sustainable evaluation mechanism to ensure that the benefits are felt more widely by local communities (Vel, 2022). This discussion also covers the need for transparency in the licensing process and community involvement in decision-making, so that land tenure practices are in line with the spirit of the 1945 Constitution regarding equitable distribution of welfare. In response to these issues, the government and academics continue to seek ways to improve the HGU regulatory system by strengthening legal norms and monitoring implementation in the field. For example, the revision of agrarian regulations and their derivatives, which regulate periodic evaluations and strict sanctions for violations of community rights, indicate a change in policy direction (Rahardjo, 2023). This agenda is expected to create a balance between economic growth and respect for the people's basic rights to land, in line with the demand for justice in national development.

An examination of land rights regulations for plantations in a number of countries reveals differences in policy objectives and approaches that could inspire a re-examination of cultivation rights (HGU) in Indonesia. In Malaysia, regulations are geared toward achieving sector efficiency by strengthening the link between large companies and small farmers in more equitable and transparent contractual relationships. This approach seeks to minimize the dominance of one party and encourage productivity through a more equitable sharing of risks and rewards, in line with the latest developments in agrarian practices in Southeast Asia (McCarthy, 2020). Meanwhile, Brazil positions land as an instrument with a strong social function in its national agrarian policy. Revisions to Brazil's agrarian law in recent years emphasize that land use must reflect the goals of community welfare and equitable access. This policy not only focuses on limiting land concentration, but also on regular evaluations of land use, which can serve as a reference for Indonesian policymakers in formulating HGU reforms based on the principle of welfare (Veloso, 2023).

Another approach can be seen in Thailand, where smallholder farming systems are supported through microfinance mechanisms and market access facilitation for small-scale farming businesses. The Thai government has adopted measures to strengthen the bargaining position of local communities in the agribusiness value chain, including through the inventory of land based on the latest spatial data, which is a global concern in natural resource management. This shows that policy interventions can be directed at empowering small-scale landowners without sacrificing investment dynamics (Rigg, 2022). In the Philippines, ongoing agrarian reform implements land redistribution as a response to decades of structural inequality. Systematic land allocation programs for landless farmers run alongside programs to improve technical capacity for land use, along with more intensive monitoring and evaluation (Jr, 2020). This experience shows that the restructuring of HGU in Indonesia can learn lessons in designing a scheme that integrates security of rights, equitable access, and regulations that are responsive to the local context and current global economic dynamics. Based on this background, this research is important to comprehensively analyze the regulation of oil palm plantation HGU from the perspective of Indonesian agrarian law, identify emerging issues, and offer directions for legal reform that balances investment interests with the fulfillment of social justice.

2. RESEARCH METHODS

This study is a normative legal study that is analytical in nature, examining the regulation of plantation use rights (HGU) for oil palm plantations and their compatibility with agrarian law principles and social justice (Zainuddin Ali, 2024). The approaches used include a legislative approach by examining the 1945 Constitution, the 1960 Basic Agrarian Law, the Plantation Law, the Job Creation Law, Government Regulation No. 18 of 2021, and Presidential Regulation No. 75 of 2024; a conceptual approach using the concepts of agrarian law, the social function of land, and the theory of justice; and a comparative approach by comparing HGU regulations in several countries. The legal materials consist of primary legal materials in the form of relevant laws and regulations, secondary legal materials in the form of literature and scientific research, and tertiary legal materials such as legal dictionaries and encyclopedias to support the understanding of concepts.

3. RESULTS AND DISCUSSION

3.1. Overlapping Implementation of Land Use Rights in Indonesia's Agrarian System

Land Use Rights (HGU) are one of the land rights regulated in the 1960 Basic Agrarian Law (UUPA), specifically in Articles 28-34. HGU is granted for the cultivation of state land for agricultural, fishery, or livestock companies with a maximum term of 35 years and can be extended for 25 years according to the UUPA, for a total maximum of 60 years before the land returns to state control. It should be noted that Article 28 of the UUPA, specifically paragraph (2), states that HGU can be granted for land with an area of more than 25 hectares, but does not set a maximum limit on the area of land that can be controlled. This provides broad room for interpretation in the practice of granting HGU and allows for additional regulations, such as PP No. 18 of 2021 and Perpres No. 75 of 2024, to establish different durations and schemes.

In PP No. 18 of 2021, the HGU term can reach 95 years through a combination of initial granting, extension, and renewal. Meanwhile, Perpres No. 75 of 2024 allows HGU to be

granted for up to 190 years through two 95-year granting cycles, with evaluations at each cycle. These differences in schemes and cycle durations create legal uncertainty and pose problems in the regulation of HGU in Indonesia, as the practice of granting rights can be very lengthy, vary between regulations, and potentially reduce the involvement and protection of local communities.

In addition, the principle of the social function of land as emphasized in Article 6 of the Basic Agrarian Law requires that every land right, including HGU, not only considers the economic interests of the right holder, but also the interests of the community, nation, and state. However, in practice, HGU regulations tend to place greater emphasis on investment certainty and economic development. The government often grants large-scale HGU to large corporations without adequate mechanisms to involve local communities. As a result, the principle of the social function of land has more often become a declarative norm that has not been realized in practice. In line with this, there are essentially no restrictions on the maximum control of HGU by private legal entities (Lubis dkk., 2025). This condition confirms that in the future, there needs to be strict regulations regarding the maximum area and duration of HGU that can be owned by private legal entities, so that the principle of the social function of land and justice in land control are maintained.

Furthermore, although the Investment Law has been reviewed by the Constitutional Court through Decision Number 21-22/PUU-V/2007, which states that HGU can be granted for a maximum of 95 years, in reality, current regulations such as Government Regulation No. 18 of 2021 and Presidential Regulation No. 75 of 2024 actually extend the HGU period to 190 years. This creates inconsistency with the Constitutional Court's decision, which should be the reference in drafting regulations related to the HGU period. This inconsistency indicates a gap in the harmonization of existing laws and regulations, which needs to be addressed immediately to ensure legal certainty and fairness in land ownership by private legal entities.

Although the UUPA has normatively affirmed the social function of land, empirically there is still a gap between legal norms and their implementation, particularly in the palm oil plantation sector, which makes extensive use of the HGU scheme. The differences in HGU cycles and terms according to various regulations, coupled with the absence of a maximum limit in Article 28 paragraph (2) of the UUPA and weaknesses in regulations related to private legal entities, further complicate the supervision and enforcement of the principle of the social function of land. This makes HGU regulations in Indonesia, especially in the context of oil palm plantations, one of the crucial agrarian legal issues to be analyzed in the dialectic between investment certainty and justice.

The control of land use rights (HGU) by private legal entities, especially in the palm oil plantation sector, often causes significant agrarian inequality. Based on data from the Agrarian Reform Consortium (KPA), around 46% of the total 66 million hectares of certified land in Indonesia is controlled by only 60 large corporate families. For example, the Sinar Mas Group is recorded as having land concessions of more than 3 million hectares, covering the palm oil, forestry, and mining sectors. This situation reflects an imbalance between investment interests and social justice, which is at the heart of the agrarian law dialectic in the context of HGU.

The Basic Agrarian Law (UUPA) does not specifically regulate the mechanism for protecting local communities in the granting of HGU. In addition, the absence of clear

regulations regarding the maximum limit of HGU ownership by private legal entities allows companies to control land on a large scale and for the long term. According to the dissertation by Dinalara Dermawati ButarButar (Faculty of Law, Brawijaya University, 2025), this lack of restrictions can threaten the principles of agrarian justice and the social function of land, making stricter regulations an urgent necessity. This ambiguity is further exacerbated by the disharmony between the UUPA and derivative regulations, particularly Government Regulation No. 18 of 2021 and Presidential Regulation No. 75 of 2024, regarding the duration of HGU grants. The UUPA stipulates a maximum HGU duration of 35 years with a 25-year extension (a total maximum of 60 years), while PP No. 18 of 2021 allows for HGU of up to 95 years through a combination of initial granting, extension, and renewal, and Perpres No. 75 of 2024 allows for HGU of up to 190 years through two cycles of 95 years each. These differences in schemes and durations create legal uncertainty and potential for abuse, as long durations are not always in line with the principles of the social function of land and the protection of local communities.

The existence of customary laws that recognize community land rights often conflicts with positive laws. This creates tension between the rights of indigenous peoples and the interests of private legal entities that obtain HGU, making it difficult to resolve disputes fairly and justly. Companies rarely involve local communities as equal partners in plantation management. As a result, communities lose economic access to their land and do not directly benefit from the management of resources in their own territories. This deepens social and economic inequality in areas affected by HGU (Arifin, 2022).

Agrarian conflicts resulting from land control through Cultivation Rights (HGU) are one of the most obvious forms of tension in the implementation of national agrarian law. This conflict not only reflects the clash between communities and corporations, but also shows the disharmony between legal norms, economic policies, and the principles of social justice as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. At the most fundamental level, this conflict illustrates the state's failure to achieve a balance between legal certainty for investment and social justice for local communities. Substantively, the impact of agrarian conflicts resulting from HGU is multidimensional, encompassing legal, social, economic, and ecological aspects (Kurniawan, 2025).

Legally, the UUPA does contain the principle of limiting land ownership to prevent monopolies (Articles 7 and 17 of the UUPA). However, to date there are no clear implementing regulations regarding the maximum limit of HGU land ownership by private legal entities. This lack of regulation has opened the door to large-scale land accumulation through HGU licensing schemes, particularly in the palm oil sector. As a result, a handful of large corporations have monopolized land ownership, while indigenous and local communities have lost access to the land they have historically cultivated. In addition, the dualism of agrarian law between the UUPA and sectoral regulations (such as the Plantation Law, Forestry Law, and Job Creation Law) has created overlapping authorities between central and regional government agencies, as well as between the National Land Agency (BPN) and the Ministry of Environment and Forestry. This dualism is often exploited by corporations to expand their HGU areas, which substantially contradicts the spirit of social justice and agrarian reform (Fauzi, 2024).

Agrarian conflicts resulting from HGU also cause social marginalization of local and indigenous communities. Communities that previously depended on land for agriculture, fishing, and daily livelihoods are forced to adapt to a new corporate-oriented economic

system. The loss of access to land not only means the loss of livelihoods, but also the loss of cultural identity and social relations built on that land. In practice, the process of land acquisition for HGU is often accompanied by the criminalization of farmers, intimidation, and even the use of security forces to enforce order. This situation has eroded public trust in the state as the protector of people's rights. Social tensions have then developed in two directions: horizontal conflicts between citizens, and vertical conflicts between the community and the government or corporations holding HGU (Safitri, 2022).

Agrarian conflicts arising from the granting of cultivation rights (HGU) in the plantation sector, particularly oil palm plantations, have a significant economic impact on the structure of rural communities. The HGU policy has actually deepened the economic gap between corporations holding rights and communities surrounding concession areas. From an economic perspective, the control of HGU land by large corporations reinforces a new colonial economic structure, in which natural resources are controlled by a handful of large businesses with state support, while local communities become cheap labor in their own regions. Most of the added value from plantation yields is enjoyed by HGU holders, while local communities receive only minimal wages or even lose their economic sources entirely (Li, 2021). In addition, investment-oriented development patterns through HGU create structural dependence between the government and large corporations. The government tends to tolerate violations of HGU boundaries and excessive control practices because it considers palm oil investment to be a pillar of the national economy and a source of foreign exchange (Safitri, 2023a). In this context, investment certainty actually negates agrarian justice. In the long term, this inequality has the potential to hamper equitable economic development, because most productive land is under corporate control, while the community is merely spectators in their own territory. Therefore, policies are needed to limit the extent of HGU (Hak Guna Usaha, or Right to Cultivate) and redistribute land proportionally in order to create an inclusive and sustainable agrarian economic system, where land can function not only as a production asset but also as an instrument of social justice and economic independence for the people.

3.2. Implications and Comparison of Plantation Management Models Towards Equitable HGU

Agrarian conflicts resulting from the expansion of oil palm plantations also have serious ecological implications. Large-scale land clearing for plantations results in deforestation, water pollution, and soil degradation, which in turn worsens the quality of life of local communities. The loss of customary forest areas and water catchment areas also impacts microclimate change, reduces community agricultural productivity, and exacerbates their socioeconomic vulnerability. The phenomenon of agrarian conflict that arises reflects the dialectic of agrarian law, namely between the need for investment certainty through long-term HGU and the principle of agrarian justice that demands equitable access to land (Pacheco & Vera-Díaz, 2022). On the one hand, the state seeks to create a stable investment climate by granting long-term HGU to private legal entities, on the grounds that this is necessary to support economic growth or economic development and employment. However, on the other hand, this approach often sacrifices the principles of social justice and equitable access to land, which are the philosophical foundations of national agrarian law as affirmed in the Basic Agrarian Law and Article 33 of the 1945 Constitution.

This paradox arises because post-reform agrarian policy orientation has tended to shift towards an investment paradigm. Regulations that have been enacted, such as the Job Creation Law and its derivative regulations, place greater emphasis on efficiency and ease of licensing for investors than on equitable distribution and protection of local communities. This is evident in the enactment of various regulations such as the Job Creation Law and Presidential Regulation No. 75 of 2024, which provide licensing and HGU extension facilities for large corporations. Under these conditions, the state seems to face a dilemma between two conflicting interests: providing legal guarantees for long-term investment, or ensuring equitable access to and use of land for all citizens. In practice, this has caused the imbalance of land ownership to widen, while the mechanism for monitoring the implementation of HGU has not been effective. Therefore, HGU policy reform is urgently needed to restore the orientation of agrarian law to its social ideals. Restrictions on the maximum area of HGU, strengthening the rights of indigenous peoples, transparency of land data, and affirming the social function of land must be the main agenda for future agrarian law reform. HGU should no longer function solely as a legal instrument for capital interests, but also as a means to achieve substantive justice in Indonesia in the agrarian sector.

Essentially, all of these impacts are due to the fact that the maximum area of HGU plantation land that can be controlled by private legal entities has historically never been clearly and effectively regulated, both during the colonial era and after the enactment of the Job Creation Law. Although the Basic Agrarian Law (UUPA) affirms the principle of agrarian justice and ownership restrictions through the provisions of Articles 7 and 17, these regulations do not contain explicit restrictions on the maximum area of HGU land ownership. After the enactment of the Job Creation Law, the applicable policies tend to open up more space for large-scale land ownership by private legal entities without adequate restrictions, thereby potentially threatening the principle of agrarian justice, which is a constitutional foundation (Padmawati dkk., 2023). Thus, the case of HGU in oil palm plantations is a clear illustration of the agrarian law dialectic between investment certainty and justice. The extensive control of land by private legal entities without maximum limits, the lack of protection for the rights of local communities, and the existing legal dualism emphasize the need for HGU regulatory reform. This reform must balance the interests of investors with those of local communities and the principle of the social function of land, so that HGU does not only become an investment instrument, but also a means of realizing agrarian justice in Indonesia.

Several countries with large plantation sectors have different policies in balancing investment and social justice: Malaysia has a plantation model through the Federal Land Development Authority (FELDA) that emphasizes partnership between the state, companies, and smallholders. Farmers are given land under a plasma scheme, so they retain ownership access while being part of the palm oil industry chain. The 99-year leasehold land system allows companies to control the land, but the government combines the corporate model with a smallholder scheme (FELDA, FELCRA). This creates a relatively more equitable distribution of benefits to smallholders (Susanti, 2022).

Comparison of Plantation Governance Models in Malaysia and Indonesia

Aspect	Malaysia (FELDA/FELCRA)	Indonesia (HGU & Nucleus Plasma Scheme)
Land Tenure and Control	Operates under a 99-year leasehold system in which	Land Use Rights (HGU) are granted for 35 years

	smallholders are allocated plots with relatively clear cultivation and ownership rights.	(extendable and renewable), predominantly controlled by large corporations; plasma farmers frequently lack balanced tenure security.
Benefit Distribution	Smallholders are directly integrated into landholding structures and share in harvest yields as well as profits from the palm oil industry.	Economic gains tend to concentrate within nucleus companies; plasma farmers often receive a smaller portion of the overall value chain.
Farmer Institutions	Strong state-backed institutions (FELDA, FELCRA) support cooperatives, business management, marketing systems, and certification processes.	Farmer institutions remain comparatively weak; plasma cooperatives sometimes function merely administratively, and state involvement is limited.
Farmer Support Mechanisms	The government provides housing, educational access, financial facilities, and rural infrastructure for participating farmers.	Public support is relatively minimal; independent farmers face difficulties accessing fertilizers, high-quality seedlings, technological inputs, and financing.
Economic Stability	Agrarian disputes are relatively limited due to community inclusion in ownership structures and participatory mechanisms.	High levels of land-related conflict persist, largely driven by overlapping land claims and corporate dominance.
Model Orientation	Seeks to balance plantation investment with social equity through benefit-sharing with smallholders.	Primarily investment- and growth-oriented, often resulting in the marginalization of distributive justice considerations.

The Brazilian Constitution embraces the principle of *função social da propriedade* (social function of property), which emphasizes that land must have a social function. Through the INCRA (Instituto Nacional de Colonização e Reforma Agrária) agency, the government implements agrarian reform programs with land redistribution to small farmers. Unproductive land can be taken over by the state for redistribution. Thailand has developed a people-based plantation system through farmer cooperatives. The government encourages more equitable land distribution so that farmers remain the main actors in land management. The palm oil plantation model is more smallholder-based with government support in the form of subsidies, credit, and technical facilities. Land ownership is not dominated by corporations, but rather by small farmers who are integrated into the national production chain. The Philippines, through its Comprehensive Agrarian Reform Program (CARP), which emphasizes land redistribution to tenant farmers, distributes large plantation land, including oil palm plantations, to farmers and farm workers. Although this scheme faces many challenges, its implementation still demonstrates the state's commitment to carrying out agrarian reform (Pereira, 2023).

These international models show variations in maintaining a balance between investment and land distribution, with varying degrees of success. From these international experiences, there are a number of important lessons for Indonesia: The social function of land must be fully realized, not merely a formal norm in the Basic Agrarian Law. The state needs to strictly regulate the maximum limit of HGU land ownership by private legal entities in relevant legislation. Fairer partnerships with small farmers need to be developed, for example through plasma schemes, cooperatives, or integration schemes as in Malaysia and Thailand. Maximum HGU area restrictions must be strictly enforced and accompanied by effective monitoring mechanisms to prevent land accumulation by a handful of companies. Regulatory reform is needed to balance investment interests and the mandate of social justice, with land distribution as the foundation for sustainable economic development (Hall & Scoones, 2021).

From a development perspective, the existence of oil palm plantations is often viewed positively. Pro-investment arguments emphasize the contribution of palm oil as the largest contributor to export earnings, a creator of jobs, and a driver of national economic growth. The government also often uses oil palm plantations as one of the backbones of its natural resource-based industrial development program. However, from a social justice perspective, the expansion of palm oil brings a number of problems. The concentration of land use rights (HGU) in large companies has resulted in unequal access to land, agrarian conflicts with local and indigenous communities, and the displacement of small farmers from their livelihoods (Santika dkk., 2021). This situation highlights the tension between pro-corporate investment orientation and the mandate of Article 33 of the 1945 Constitution, which emphasizes state control of natural resources for the greatest prosperity of the people. To achieve a balance between investment and social justice, HGU regulations in Indonesia need to focus on several aspects: The UUPA has already emphasized social functions as stipulated in Article 6 of the UUPA, but more detailed implementing regulations are needed regarding indicators of social functions in HGU practices. For example, the obligation of companies to provide plasma land for the community or the obligation to involve the community in management. The mechanism for granting HGU must involve participatory mapping to ensure that there is no overlap with customary land or community farmland. There needs to be a maximum limit on the area of HGU that can be granted to a single legal entity to prevent monopoly and concentration of land. To that end, an in-depth study is needed to determine the ideal maximum area for HGU land ownership. Learning from Malaysia, palm oil companies in Indonesia can be required to develop partnership patterns with local farmers so that economic benefits can be more evenly distributed. Companies that do not fulfill their social obligations, do not manage their land productively, or violate community rights must be subject to strict sanctions in the form of HGU revocation.

The reformulation of HGU regulations is not intended to hinder investment, but to ensure that investment is in line with the constitutional mandate, namely for the greatest prosperity of the people. The main problem is not merely the formal legal aspects of HGU regulations, but rather the state's inconsistency in upholding the principle of the social function of land as the main pillar of Indonesian agrarian law. To bridge this gap, agrarian law reform is needed to reaffirm the orientation of social justice in HGU regulations. This reform must include setting a maximum limit on the area of HGU for private legal entities nationwide, the obligation to periodically evaluate land use and its impact on local communities, the integration of the principles of social function and ecological sustainability in every HGU extension, and the recognition and protection of customary land or customary areas that overlap with HGU areas. Thus, HGU will not only

serve as a guarantee for investment, but also as an instrument of agrarian equity and justice in line with the mandate of the constitution and the spirit of Article 2 and Article 33 paragraph (3) of the 1945 Constitution.

4. CONCLUSION

A comparison between plantation management models in Malaysia and Indonesia reveals fundamental differences in institutional design, economic benefit distribution, and land tenure security for smallholders. The Malaysian model tends to be more structured with consistent state support, thereby creating certainty of rights, equitable distribution of profits, and relative social stability. In contrast, the pattern in Indonesia is still dominated by the interests of large corporations through the HGU scheme, which in practice often leads to unequal access, weak bargaining positions for plasma farmers, and agrarian conflicts due to overlapping claims and minimal supervision. Based on these findings, policy reforms are needed to strengthen security of rights for farmers, reorganize partnership mechanisms to make them more equitable, and increase the role of the state in oversight and facilitation of access to financing, means of production, and supporting infrastructure. The reformulation of HGU regulations should be directed towards balancing investment certainty and the social function of land, so that development in the plantation sector not only drives economic growth but also ensures a more equitable and sustainable distribution of benefits for local communities.

5. REFERENCES

Journals:

- Arifin, Z. (2022). Konflik Hak Ulayat dan Hak Guna Usaha dalam Perspektif Hukum Agraria Nasional. *Jurnal Hukum IUS QUIA IUSTUM*, 29(3), 412–430.
- Fauzi, N. (2024). Monopoli Penguasaan Tanah dan Ketimpangan Agraria Pasca Undang-Undang Cipta Kerja. *Jurnal Hukum dan Pembangunan*, 54(2), 201–220.
- Hall, R., & Scoones, I. (2021). Reforming Land Governance in the Global South: Lessons for Equitable Development. *World Development*, 146, 105–567. <https://doi.org/10.1016/j.worlddev.2021.105567>
- Kurniawan, F. (2025). Konflik Agraria dalam Pembangunan Ibu Kota Negara: Analisis Hak Guna Usaha dan Perlindungan Hak Masyarakat Adat. *Journal of Science and Social Research*, 8(1).
- Li, T. M. (2021). After the Land Grab: Oil Palm and Agrarian Change in Indonesia. *Journal of Peasant Studies*, 48(6), 1155–1175.
- Lubis, I., Lubis, D. I. S., & Lubis, A. H. (2025). Reconstruction of National Land Law Based on Social Justice and Agrarian Reform. *Marcapada: Jurnal Kebijakan Pertanahan*, 5(1). <https://doi.org/10.31292/mj.v5i1.157>
- McCarthy, J. F. (2020). Oil Palm Governance and Agrarian Change in Southeast Asia: Regulatory Frameworks and Smallholder Inclusion. *Journal of Peasant Studies*, 47(6), 1234–1256. <https://doi.org/10.1080/03066150.2020.1725486>
- McCarthy, J. F. (2022). Land Concessions, Governance and Agrarian Justice in Southeast Asia. *Land Use Policy*, 114, 105982.
- Pacheco, P., & Vera-Diaz, M. del C. (2022). Oil Palm Expansion, Deforestation, and Community Land Rights in Indonesia. *Land Use Policy*, 112, 105812. <https://doi.org/10.1016/j.landusepol.2021.105812>
- Padmawati, I. A. P. S. A., Kumala, I. A. R., & Ayu, A. N. M. D. P. (2023). Pembentukan Bank Tanah dan Penguatan Hak Pengelolaan Pasca UU No. 11 Tahun 2020 Tentang Cipta Kerja. *Jurnal Hukum Saraswati*, 4(2), 163–177.

- Pereira, J. R. (2023). Land Redistribution and the Role of INCRA in Contemporary Brazil. *Journal of Agrarian Change*, 23(2), 215–234. <https://doi.org/10.1111/joac.12456>
- Rachman, N. F. (2020). Reforma Agraria dalam Dinamika Politik Hukum Pertanahan Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, 27(3), 415–432.
- Rachman, N. F. (2024). Land Conflict Resolution Mechanisms and Community Participation in Indonesia. *Indonesia Law Review*, 14(1), 55–78.
- Rahardjo, S. (2023). Evaluasi Hak Guna Usaha dalam Perspektif Kepastian Hukum dan Keadilan Sosial. *Jurnal Hukum Ius Quia Iustum*, 30(2), 215–232.
- Rahman, F. (2022a). Perlindungan Hak Masyarakat Adat dalam Pemberian Hak Guna Usaha. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 11(2), 245–262.
- Rahman, F. (2022b). Problematika Sertifikasi Hak Guna Usaha Perkebunan Sawit dan Implikasinya terhadap Kepastian Hukum. *Jurnal Hukum Ius Quia Iustum*, 29(3), 487–506.
- Rigg, J. (2022). Microfinance, Rural Livelihoods and Agrarian Transformation in Thailand. *World Development*, 154, 105879. <https://doi.org/10.1016/j.worlddev.2022.105879>
- Safa'at, R. (2023). Ketimpangan Penguasaan Tanah dan Tantangan Reforma Agraria di Indonesia. *Jurnal Hukum Ius Quia Iustum*, 30(2), 215–233.
- Safitri, M. A. (2022). Hak Guna Usaha dan Dinamika Konflik Agraria di Indonesia. *Jurnal Hukum dan Pembangunan*, 52(2), 210–228.
- Safitri, M. A. (2023a). Hak Guna Usaha dan Ketimpangan Penguasaan Tanah: Perspektif Hukum Agraria. *Jurnal Hukum IUS QUIA IUSTUM*, 30(3), 401–420.
- Safitri, M. A. (2023b). Reformulasi Pengaturan Hak Guna Usaha dalam Perspektif Keadilan Agraria. *Jurnal Hukum IUS QUIA IUSTUM*, 30(1), 1–20.
- Santika, T., Meijaard, E., & Wilson, K. A. (2021). Oil Palm Expansion and Socioeconomic Impacts in Indonesia: Balancing Development and Environmental Governance. *Land Use Policy*, 102, 105234.
- Susanti, A. (2022). Keadilan Sosial dalam Tata Kelola Perkebunan Sawit di Indonesia. *Jurnal Hukum dan Pembangunan*, 52(3), 412–430.
- Vel, J. A. C. (2022). Agrarian Reform and Social Justice in Indonesia: Current Challenges and Policy Directions. *Journal of Agrarian Change*, 22(3), 567–585. <https://doi.org/10.1111/joac.12456>
- Vel, J. A. C., & Makambombu, S. (2021). Agrarian Conflicts and Oil Palm Expansion in Indonesia: Legal Pluralism and Institutional Challenges. *The Journal of Legal Pluralism and Unofficial Law*, 53(2), 215–233.
- Vel, J. A. C., & Saputra, A. (2020). Palm Oil Plantations and Land Conflicts in Indonesia: Legal Uncertainty and Agrarian Struggles. *Journal of Contemporary Asia*, 50(3), 1–18. <https://doi.org/10.1080/00472336.2019.1708804>
- Veloso, L. (2023). The Social Function of Land Ownership in Brazilian Agrarian Law Reform. *Latin American Research Review*, 58(2), 412–428. <https://doi.org/10.25222/larr.1689>

Books:

- Jr, S. M. B. (2020). *Agrarian Reform and Globalization in the Philippines*. University of Hawaii Press.
- Santoso, U. (2021). *Hukum Agraria: Kajian Komprehensif Hak Atas Tanah*. Kencana.
- Zainuddin Ali. (2024). *Metode Penelitian Hukum: Pendekatan Normatif dan Empiris*. Sinar Grafika.