

Legal Certainty and Reformulation of Regulations on The Granting of Industrial Plantation Forest Management Permits

Matthew Febrian Otniel Lambok Hutasoit¹⁾ Muhammad Helmi Fahrozi²⁾

¹⁾Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, E-mail: 2210611401@mahasiswa.upnvj.ac.id

²⁾Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, E-mail: helmifakhrazi@upnvj.ac.id

Abstract. *This study aims to examine the legal certainty of civil relations between indigenous peoples who hold land rights and holders of Industrial Forest Plantation (HTI) permits in the context of the disharmony between the Basic Agrarian Law and the Forestry Law. The research focuses on the case of the Minister of Forestry Decree No. 346/Menhut-II/2004, which granted a permit to PT Wirakarya Sakti covering an area of ±293,812 hectares in Jambi Province, overlapping with the customary lands of 134 villages and triggering prolonged agrarian conflicts. A normative juridical method was used with a case, legislation, and conceptual approach to analyze the conflict of norms and overlapping authorities. This study identified three main forms of legal uncertainty: the unclear status of land in forest areas, unfair access to resources, and the absence of effective dispute resolution mechanisms. This disharmony is exacerbated by overlapping authorities between the Ministry of Environment and Forestry and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, as well as weak verification of land status prior to the issuance of permits. Reformulation of HTI licensing regulations is recommended through institutional harmonization of authority, substantive revision of the Forestry Law, integration of the principles of Free, Prior, and Informed Consent, strengthening of transparency and public participation, and strengthening of evaluation and sanction mechanisms to create fair and sustainable HTI governance.*

Keywords: *Certainty; Forest; Industrial; Plantation.*

1. Introduction

The 1945 Constitution of the Republic of Indonesia affirms that the management of natural resources constitutes an integral part of the state's right of control and must be exercised for the greatest possible prosperity of the people, as stipulated

in Article 33 paragraphs (3) and (4), as well as the recognition of every person's right to a good and healthy environment as provided in Article 28H paragraph (1). Within this framework, the concept of the state's right of control is not construed as absolute ownership, but rather as a form of public authority to regulate, administer, and supervise the utilization of natural resources in order to achieve social justice and ecological sustainability (Indrati, 2007). This normative framework forms the foundation for land and forestry governance, including the designation of forest areas and the granting of utilization permits to corporations through the Industrial Plantation Forest scheme (Hutan Tanaman Industri or HTI).

HTI serves as an instrument for forest area management that holds a strategic position because it brings together economic interests, environmental conservation, and the protection of indigenous peoples' rights. However, in practice, Industrial Plantation Forests have frequently become a source of agrarian conflict, as many concession areas overlap with land that has been traditionally controlled by indigenous communities under customary land rights, as recognized in Article 3 of the Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA). The lack of harmonization between the UUPA and Law Number 41 of 1999 on Forestry further intensifies the potential for such conflicts, since the UUPA explicitly recognizes customary land rights, whereas the forestry regime designates forest areas without a comprehensive verification mechanism regarding the existence of indigenous communities. This divergence in paradigms creates regulatory overlap that directly results in legal uncertainty.

A concrete example of this regulatory disharmony can be observed in the issuance of the Decree of the Minister of Forestry Number 346/Menhut-II/2004, which granted an HTI concession covering approximately 293,812 hectares to PT Wirakarya Sakti in Jambi Province. A significant portion of this area consists of customary land that has been utilized for decades by indigenous communities for plantations and settlements. Prolonged conflicts between indigenous communities and the company have even involved repressive actions, such as the destruction of rubber plantations and the spraying of herbicides on crops owned by local residents (KPA, 2020). Similar patterns of conflict have not only occurred in Jambi, but are also found in other regions, such as HTI conflicts in Pelalawan and Siak, which demonstrate that industrial concessions often overlap with areas traditionally managed by indigenous communities (Prihatin, 2020; Wulandari et al., 2019).

A shift in the legal paradigm concerning the status of customary forests occurred through Constitutional Court Decision Number 35/PUU-X/2012, which affirmed that customary forests are not part of state forests, but rather belong to indigenous law communities. This decision reinforces the mandate of Article 18B paragraph (2) of the 1945 Constitution regarding the recognition of the existence

and rights of indigenous peoples. Nevertheless, the absence of effective implementing mechanisms within the Forestry Law means that such recognition has not fully resulted in legal certainty. To examine this issue from a theoretical perspective, this study employs Gustav Radbruch's theory of the purposes of law, namely legal certainty, justice, and utility (Radbruch, 1973), as well as Lawrence M. Friedman's legal system theory, which emphasizes the importance of harmony between legal substance, legal structure, and legal culture (Friedman, 1975).

Previous studies indicate that agrarian conflicts in Indonesia are rooted in legal uncertainty and the disharmony of authority. Tarfi and Amri (2016) emphasize that weak regulation of land rights constitutes a major obstacle to agrarian reform in post-conflict Aceh. Nugroho (2015) explains that inconsistent changes in agrarian policy in Maluku have generated legal uncertainty for indigenous communities. Meanwhile, Gelu et al. (2018) find that although Constitutional Court Decision Number 35/PUU-X/2012 has introduced normative corrections to the forestry regime, the absence of operational norms regarding the recognition of customary forests has allowed conflicts between indigenous communities and permit holders to persist. These studies collectively demonstrate that agrarian issues in Indonesia are not merely technical in nature, but are also structural and normative.

In contrast to previous research, this study specifically positions HTI permits as the primary locus of conflict in civil law relations between indigenous communities and corporate permit holders. By conducting an in-depth examination of Minister of Forestry Decree Number 346/Menhut-II/2004 in Jambi Province, this research maps how the disharmony between the UUPA and the Forestry Law creates legal uncertainty that disadvantages indigenous communities. The analysis focuses on two principal issues, namely the legal certainty of civil law relations between indigenous communities and HTI permit holders, and the need for reformulation of the HTI licensing framework to eliminate overlapping authority between the National Land Agency and the Ministry of Environment and Forestry, while ensuring the protection of customary land rights.

The novelty of this research lies in its effort to construct a model for reformulating HTI licensing regulations that is more harmonious, just, and capable of preventing future conflicts. It is expected that this study will contribute to improvements in the governance of natural resource licensing, the strengthening of legal certainty, and the protection of indigenous peoples' rights in forest management.

Unlike previous studies that primarily emphasize agrarian reform, local socio-political dynamics, or the general recognition of indigenous rights, this research specifically identifies HTI permits as the central locus of conflict between the agrarian and forestry regimes. By using Minister of Forestry Decree Number 346/Menhut-II/2004 as a concrete case study, this research examines how the

disharmony between the UUPA and the Forestry Law generates legal uncertainty in civil law relations between indigenous land rights holders and business permit holders. This analysis is essential for understanding the root causes of conflict and for formulating more synchronized legal policies across sectors.

The originality of this research is further reflected in its attempt to construct a reformulation model for HTI licensing regulations that can address regulatory disharmony between agrarian and forestry law and ensure the protection of indigenous customary land rights. This study focuses on two main questions, namely how legal certainty in civil law relations between indigenous land rights holders and HTI permit holders can be achieved in the context of disharmony between the UUPA and the Forestry Law, and how the reformulation of HTI licensing regulations can clarify legal relations between communities and corporations while eliminating overlapping authority between the National Land Agency and the Ministry of Environment and Forestry. This research is expected to contribute to improved governance of natural resource licensing, enhanced legal certainty, and stronger protection of indigenous peoples' rights.

2. Research Methods

This study uses a normative juridical method by examining legislation, court decisions, and legal doctrines to assess the legal certainty of granting permits for the management of industrial timber plantations in Jambi Province. The analysis was conducted through a case approach to the Decree of the Minister of Forestry No. 346/Menhut-II/2004 and Constitutional Court Decision No. 35/PUU-X/2012, a legislative approach to the Basic Agrarian Law, the Forestry Law, and its derivative regulations, and a conceptual approach through a study of state control rights, customary rights, and the concept of legal certainty. All primary, secondary, and tertiary legal materials were obtained through literature studies and analyzed qualitatively using legal reasoning and content analysis techniques to identify conflicts of norms, overlapping authorities, and their legal implications for the legal certainty of IFP permits.

3. Results and Discussion

3.1. Legal Certainty regarding Civil Law Relations between Communities Holding Customary Land Rights and Holders of Industrial Forest Management Permits

Sumardjono (2009) emphasizes that land has a social function, therefore agrarian policies must strike a balance between public interests and individual interests. This principle is particularly important for indigenous peoples who maintain strong social and cultural ties to land. The Basic Agrarian Law (UUPA) recognizes indigenous customary land rights through Article 3 and acknowledges customary law insofar as it does not conflict with national interests. In contrast, Law Number

41 of 1999 on Forestry defined customary forests as state forests under Article 1 point 6 prior to its correction by the Constitutional Court. This norm negated the existence of indigenous peoples by placing customary forests within the domain of the state. Such disharmony has resulted in legal uncertainty in the designation of forest areas and the licensing of Industrial Plantation Forests (Hutan Tanaman Industri or HTI). Research by Lestari and Sauni (2025) explains that the lack of harmonization between agrarian and forestry regulations increases agrarian conflicts and hampers agrarian reform.

The HTI licensing mechanism consists of several complex stages involving multiple institutions. The first stage is the process of forest area designation and determination. Pursuant to Article 15 of the Forestry Law, the determination of forest areas is carried out through stages of designation, boundary demarcation, mapping, and formal establishment. Forest area designation is conducted by the Minister of Environment and Forestry based on technical forestry considerations, without an adequate verification mechanism regarding land ownership and land control by communities. This stage constitutes the first critical point of disharmony, as forest area designation is often carried out over areas that are in fact already controlled and managed by communities based on customary land rights or indigenous rights.

The second stage is the submission of an application for a Forest Product Utilization Business Permit for Industrial Plantation Forests (IUPHHK-HTI). Business entities interested in managing HTI submit an application to the Minister of Environment and Forestry accompanied by various required documents. At this stage, there is no obligation for applicants to conduct public consultations or obtain consent from communities residing within or around the proposed area. The absence of community participation mechanisms in the licensing application process constitutes a structural weakness that has the potential to generate conflicts in the future.

The third stage is feasibility assessment and field verification. The Ministry of Environment and Forestry conducts an assessment of the applicant's technical proposal and carries out field verification to ensure that the proposed area meets the criteria for production forest areas eligible for HTI development. However, such verification primarily focuses on technical forestry aspects and does not include an in-depth verification of land ownership status or the existence of community rights over the land. Ideally, this stage should involve coordination with the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency to conduct cross-checks between forest area maps and land administration maps, but in practice such coordination is rarely undertaken or does not occur at all.

HTI licensing through the issuance of an IUPHHK-HTI is granted after the completion of forest area designation, license application, technical verification, and evaluation processes. However, these stages contain three major points of concern:

- a. Forest area designation is conducted without verification of land status
- b. There is no mechanism for community consent
- c. There is no coordination with the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency in verifying boundaries and land status

As a result, permits may be issued over land that has long been controlled by indigenous communities. This indicates that HTI permits are issued without proper land verification processes, without community participation and involvement, and with minimal inter-agency coordination, particularly between the Ministry of Environment and Forestry and the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency.

The Decree of the Minister of Forestry Number 346/Menhut-II/2004 granted an HTI concession of approximately 293,812 hectares to PT Wira Karya Sakti in Jambi (Tanahkita.id, 2020). The concession overlapped with customary land belonging to 134 villages, triggering conflicts that have persisted for more than two decades. The destruction of community rubber plantations through herbicide spraying in 2020 (Diana, 2020) demonstrates the consequences of unclear land status due to unregistered customary rights, unequal access to resources, and the absence of effective dispute resolution mechanisms. The situation was further exacerbated by the issuance of Presidential Regulation Number 5 of 2025, which has been criticized for potentially reviving *domeinverklaring* practices in the forestry sector, whereby the state unilaterally declares uncertified land as state land or forest areas without considering the existence and rights of communities that have long occupied and managed such land (Wicaksono, 2025).

In this context, overlapping concessions indicate several material and immaterial losses suffered by indigenous communities, including:

- a. Indigenous communities losing control and use of customary land as a source of economic production that has been managed for generations
- b. Loss of income sources based on plantations and agriculture that form the foundation of communal economies
- c. Damage to community crops and plantations resulting from company operational activities and destructive actions involving herbicide spraying using drones by the company
- d. Loss of a sense of security and legal certainty regarding indigenous customary land rights

- e. Prolonged social trauma and horizontal conflicts that cause fragmentation within indigenous communities

In an effort to correct structural injustice in the regulation of customary forests, the Constitutional Court, through Decision Number 35/PUU-X/2012, delivered a highly significant constitutional clarification. This case was filed by the Indigenous Peoples Alliance of the Archipelago (Aliansi Masyarakat Adat Nusantara or AMAN) together with several civil society organizations challenging the phrase “state forest” in Article 1 point 6 of the Forestry Law, which defined customary forests as “state forests located within the territories of indigenous law communities.”

In its legal considerations, the Constitutional Court affirmed that Article 18B paragraph (2) of the 1945 Constitution constitutes the constitutional foundation for the recognition of indigenous peoples’ rights over customary forests. The Court reasoned that such constitutional recognition cannot be interpreted restrictively by placing customary forests within the category of state forests, as doing so would deny the existence of indigenous law communities as legal subjects entitled to their territories, including customary forests.

In the operative part of its decision, the Constitutional Court declared that Article 1 point 6 of the Forestry Law, insofar as it contains the phrase “state forest,” is inconsistent with the 1945 Constitution and has no binding legal force, thereby reformulating Article 1 point 6 to read “Customary forest is forest located within the territory of indigenous law communities.” This decision carries a highly fundamental legal implication, namely the transformation of the status of customary forests from state forests into forests located within the territories of indigenous law communities, meaning that customary forests are no longer within the domain of the state but constitute the rights of indigenous law communities.

Nevertheless, the implementation of Constitutional Court Decision Number 35/PUU-X/2012 in practice continues to face various obstacles. The procedures for the designation of customary forests as regulated in Ministerial Regulations of the Ministry of Environment and Forestry remain lengthy and technocratic, requiring numerous administrative requirements that are difficult for indigenous communities to fulfill. Moreover, a paradigm shift within the forestry administrative system has not fully materialized, such that in practice customary forests are still treated as state forests, and forest utilization permits, including IUPHHK-HTI, continue to be issued over areas claimed by indigenous communities as their customary forests (Wicaksono, 2025).

Disharmony between the UUPA and the Forestry Law, along with overlapping authority between the Ministry of Environment and Forestry and the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency, has generated uncertainty in civil law relations between indigenous communities holding

customary land rights and HTI permit holders. This legal uncertainty is clearly reflected in the case of PT Wira Karya Sakti's concession in Jambi, where the Minister of Forestry issued Decree Number 346/Menhut-II/2004 granting management rights over approximately 293,812 hectares across five regencies, covering 134 villages, most of which had been cultivated by indigenous communities for generations (Tanahkita.id, 2020). Communities rejected the company's claims because the area constituted customary land that had served as a source of livelihood through rubber plantations, rice fields, and oil palm cultivation long before the designation of forest areas. The conflict then persisted for more than two decades and reached its peak in April 2020 when community rubber lands in Lubuk Mandarsah were sprayed with herbicides by the company, resulting in crop damage and escalation of the dispute (Diana, 2020).

This situation reveals three principal forms of legal uncertainty. First, the unclear status of land within forest areas results in customary land rights failing to obtain recognition because they are not recorded within the modern land administration system, while the Forestry Law perspective positions such areas as state forests assumed to be free from other rights (Harsono, 2008; Sumardjono, 2009). Second, inequality of access to land arises because HTI permits grant exclusive long-term rights to companies, while communities lose sources of livelihood that have existed for decades. Third, the absence of fair dispute resolution mechanisms makes it difficult for communities to file legal claims because they lack formal evidence such as land certificates, while companies possess administrative legality through ministerial decrees. These conditions are further exacerbated by forest area enforcement policies under Presidential Regulation Number 5 of 2025, which have been criticized for potentially reviving *domeinverklaring* practices, namely the appropriation of uncertified land as state property without considering indigenous community control and occupation (Wicaksono, 2025).

Constitutional Court Decision Number 35/PUU-X/2012 provides an important corrective by affirming that customary forests are not part of state forests but constitute the territories of indigenous law communities in accordance with Article 18B paragraph (2) of the 1945 Constitution (Constitutional Court, 2013). This decision shifts the paradigm of forest control and recognizes indigenous communities as legal subjects with historical relationships to their territories. However, its implementation remains suboptimal because the process of customary forest designation remains technocratic and difficult for indigenous communities to fulfill, resulting in areas they claim continuing to be objects of licensing such as IUPHHK-HTI (Sumardjono, 2014).

From the perspective of legal theory, this condition contradicts the value of legal certainty articulated by Radbruch, which demands clarity of norms and consistency in the application of law (Radbruch, 1950). The lack of synchronization

between the UUPA and the Forestry Law creates uncertainty regarding the recognition of customary land rights and opens space for conflict between indigenous communities and permit holders. From the standpoint of Friedman's legal system theory, the failure lies in the incoherence of legal substance. Divergent philosophies between the agrarian and forestry regimes result in institutional structures and legal culture being unable to provide adequate protection for indigenous communities or certainty for permit holders (Friedman, 1975). The combination of these factors creates vulnerability for indigenous communities while simultaneously generating sustained social conflict risks for permit holders.

3.2. Reformulation of Regulations on Licensing for Industrial Forest Management

The reformulation of regulations governing the granting of Industrial Plantation Forest (Hutan Tanaman Industri or HTI) management permits constitutes a structural necessity, given that the disharmony between the Basic Agrarian Law (UUPA) and the Forestry Law has generated legal uncertainty with direct implications for civil law relations between indigenous communities and permit holders. This uncertainty is not merely an administrative issue, but rather reflects a paradigmatic failure of the legal framework in regulating the relationship between the state, society, and natural resources. Numerous agrarian conflicts within HTI concession areas demonstrate that the existing legal framework has not been capable of providing adequate protection for customary land rights nor legal certainty for companies in conducting their business activities. In this context, legal reformulation cannot be limited to technical adjustments alone, but must constitute a comprehensive reconstruction aimed at ensuring normative synchronization, the protection of community rights, and the sustainability of forest management (Asshiddiqie, 2010; Harsono, 2008; Sumardjono, 2009).

Within the context of reformulating HTI regulation, the principle of balance serves as a philosophical foundation that demands proportional legal relations among the state as regulator, HTI permit holders as business actors, and indigenous communities as holders of customary land rights. The principle of balance is recognized as a general principle in Indonesian civil law that governs not only relations among private legal subjects but is also relevant as a guiding principle for public policy, particularly in the agrarian context where collective societal interests are at stake. The principle of balance in agrarian law presupposes that no party may unilaterally dominate legal relations, such that the distribution of rights, obligations, and benefits must be structured in a fair and mutually respectful manner. Current HTI regulations create structural imbalances because the state and corporations possess full authority in licensing and administrative legality, while indigenous communities lose access to and control over their customary lands without having an equal bargaining position in decision-making processes.

This imbalance not only violates the principle of substantive justice but also undermines the very objective of legal certainty itself, as certainty built upon unilateral domination inevitably generates protracted conflicts that are counterproductive to sustainable natural resource management.

The first reformulation effort lies in the harmonization of institutional authority, which has long been the root cause of overlapping jurisdiction between forest areas designated by the Ministry of Environment and Forestry and land registration data managed by the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency. It is necessary to establish a Joint Ministerial Decree that is binding on both ministries to ensure coordination in the processes of forest area designation, forest area determination, and the issuance of forest utilization permits. Such a Joint Decree must be grounded in the One Map Policy as the basis for spatial synchronization, so that forest area designation no longer contradicts land tenure status or community land control (Geospatial Information Agency, 2019). Through this Joint Decree, every application for forest utilization permits must be verified by the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency to assess the existence of land rights, land registration applications, and land control by indigenous communities. Where overlaps are identified, resolution mechanisms such as forest area release, land swaps, or enclave designation must be clearly applied. The establishment of a Joint Task Force is a crucial element for conducting area inventories, field verification, and dispute mediation, ensuring that inter-agency coordination is not merely administrative but operational in nature.

The next reformulation concerns revisions to the substantive provisions of the Forestry Law to align them with the principles of the UUPA and Constitutional Court Decision Number 35/PUU-X/2012. Although the Constitutional Court has affirmed that customary forests are not state forests, the Forestry Law has yet to accommodate this paradigm shift and continues to place customary land rights in a subordinate position. Therefore, revisions to the Forestry Law must explicitly recognize customary forests as a distinct category of forest with full legal protection and prohibit their use as licensing objects without the consent of indigenous law communities (Sumardjono, 2014). In addition, forest area designation must be adjusted to reflect pre-existing land rights. Harmonization of the definitions of forest areas, state land, and land under rights will eliminate the normative tensions that have long caused regulatory overlap. Such revisions must also include provisions for agrarian conflict resolution mechanisms within forest areas, including mediation and arbitration, to reduce the burden on courts and expand access to justice for indigenous communities (Arizona et al., 2017).

A key component of the reformulation is the integration of the principle of Free, Prior, and Informed Consent (FPIC) into HTI licensing procedures. FPIC ensures

that no permit may be issued without meaningful consultation and consent from affected communities. This principle, as recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), requires that communities be provided with complete information, adequate opportunities to assess impacts, and the right to freely express consent or refusal (United Nations, 2007). In the Indonesian context, the integration of FPIC not only prevents conflict but also transforms the licensing mechanism from a top-down model into a participatory model that respects community rights. Verification of the existence of customary land rights prior to permit issuance becomes a critical component of FPIC implementation. Where it is found that a proposed permit area overlaps with customary land, community consent must constitute a substantive and non-negotiable requirement. Failure to fulfill FPIC obligations should constitute grounds for permit annulment.

The principles of transparency and public participation represent other crucial elements. Legal reformulation must mandate open public disclosure of HTI licensing documents, including permit applications, location maps, field verification reports, environmental impact assessment documents, and periodic evaluation reports. Public access to such documents through government online portals enhances permit holder accountability and minimizes abuse of authority. Public consultation activities must also be emphasized as mandatory components of licensing procedures, with documented records of discussions, community objections, and follow-up plans maintained systematically (Wahidin, 2017). In this manner, participation moves beyond mere formality to function as a deliberative mechanism for early conflict prevention.

Reformulation further requires the strengthening of evaluation and sanction mechanisms for HTI permit holders. The government must conduct periodic evaluations not only of technical forest management aspects but also of social compliance, including the implementation of public consultations, fulfillment of FPIC, and respect for indigenous community rights. Where permits are proven to have been issued over unresolved customary land or without lawful procedures, such permits must be revoked or revised. Actions such as land destruction, intimidation, or administrative violations must be subject to firm sanctions, ranging from fines to permit revocation. The inclusion of criminal sanctions for certain violations is essential to create a deterrent effect and strengthen the state's supervisory function.

From a theoretical perspective, this reformulation aligns with the concept of progressive law, which positions law as an instrument for realizing substantive justice by placing human interests at the center of legal orientation. Law cannot remain rigidly bound to positive norms when such norms generate injustice, and change is necessary to ensure protection for vulnerable groups such as indigenous

communities (Rahardjo, 2006). This reformulation also reflects legal pluralism, which recognizes the existence of customary law as a living legal system that must be placed in an equal relationship with state law (Griffiths, 1986). The integration of legal pluralism is a critical step to ensure that forest management does not disregard the norms and social structures of indigenous communities.

Operationally, the principle of balance is implemented through limitations on state discretion in forest area designation by requiring verification of land status prior to permit issuance, the involvement of indigenous communities in decision-making processes affecting their customary territories, and the provision of corrective mechanisms where violations of legally recognized customary land rights occur. This means that the state no longer acts as a sole actor imposing forest area designations in a top-down manner, but is instead required to verify land status and build dialogue mechanisms with customary rights holders. Likewise, HTI permit holders can no longer rely solely on formal legality without considering social legitimacy and pre-existing community rights. Through the application of the principle of balance, HTI reformulation is expected to restore the position of indigenous communities within the legal relationship structure so that they are no longer passive objects of state policy, but legal subjects with the right to determine the future of their customary territories. This balance also ensures that the economic benefits of forest management are not enjoyed solely by corporations and the state, but also provide distributive justice for communities whose lands are utilized.

Through this series of measures, reformulation can establish an HTI management system that is consistent with the constitutional mandate concerning the utilization of natural resources for the prosperity of the people. Regulatory harmonization will eliminate normative tensions that hinder legal certainty. Institutional coordination through a Joint Task Force can significantly reduce agrarian conflicts. The integration of FPIC guarantees that communities possess strong bargaining positions in determining the future of their territories. Strengthened evaluation and sanction mechanisms ensure permit holder compliance with legal norms and sustainability standards. Ultimately, this reformulation presents a model of HTI governance that prioritizes not only economic gain but also social justice, ecological sustainability, and the protection of indigenous peoples as legitimate legal subjects safeguarded by the state.

4. Conclusion

This study concludes that civil law relations between indigenous communities holding land rights and holders of Industrial Plantation Forest (Hutan Tanaman Industri or HTI) management permits experience significant legal uncertainty as a result of disharmony between the Basic Agrarian Law and the Forestry Law. Such uncertainty is manifested in three forms: the unclear status of land within forest

areas that fails to recognize indigenous customary land rights, unequal access to natural resources because HTI permits grant exclusive rights to corporations while simultaneously eliminating community livelihoods, and the absence of fair and effective dispute resolution mechanisms. The primary causes of this disharmony lie in the differing paradigms of the two legal regimes, overlapping authority between the Ministry of Environment and Forestry and the Ministry of Agrarian Affairs and Spatial Planning or the National Land Agency, as well as weak verification of land status and limited community participation in the licensing process. The reformulation of HTI licensing regulations therefore constitutes a structural necessity and must encompass the harmonization of institutional authority through a Joint Ministerial Decree and a Joint Task Force, revision of the substantive provisions of the Forestry Law to align with Constitutional Court Decision Number 35/PUU-X/2012 and the principles of the Basic Agrarian Law, integration of the principle of Free, Prior, and Informed Consent as a substantive licensing requirement, strengthening of transparency and public participation, and reinforcement of evaluation and sanction mechanisms for permit holders. This comprehensive reformulation will enhance legal certainty, provide adequate protection for indigenous customary land rights, and establish HTI governance that is consistent with the constitutional mandate to realize social justice, ecological sustainability, and the prosperity of the people.

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