

Legal Protection for Communities Surrounding Palm Oil Plantation Cultivation Rights Areas in Indonesia Based on the Value of Justice (Study of Decision Number 529/Pid.Sus/2025/PN. Spt)

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Abstract. *This study aims to determine and analyze the legal protection regulations for communities around the oil palm plantation use rights area in Indonesia. To determine and analyze the application of legal protection regulations and judges' considerations in Decision Number 529 / Pid.Sus / 2025 / PN Sampit. To formulate an ideal legal protection formulation for communities around the oil palm plantation use rights area based on Pancasila justice values. This writing is a normative juridical type, using the Law and Case approach method, the research specifications are descriptive analysis, secondary data sources are taken from primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative. The results of the study indicate that the regulation of legal protection for communities around the oil palm plantation use rights area in Indonesia is regulated in the Basic Agrarian Law in conjunction with Law No. 39 of 2014 concerning Plantations in conjunction with the Job Creation Law, which provides preventive and repressive protection, however, legal protection has not been implemented optimally, where in the determination of HGU in accordance with the stated regulations, it should pay attention to land conditions and the conditions of the surrounding community so as not to give rise to human rights violations such as threats, violence, and criminalization. Analysis of the decision Number 529 / Pid.Sus / 2025 / PN Sampit shows that the court has considered the case in detail by considering all the elements regulated in Article 107 letter d of Law No. 39 of 2014 concerning plantations, however, the author is of the view that law enforcement in the plantation sector should not only focus on communities deemed to have violated the law, but must also be applied to plantation companies that do not carry out their obligations according to statutory regulations. The ideal formulation of legal protection for communities around the oil palm plantation use rights area based on Pancasila justice values to prevent criminalization is by changing the pattern of conflict resolution through a criminal approach to a dialogical*

and humanist approach. As well as strict supervision and sanctions against companies that violate their legal obligations.

Keywords: *Community; Cultivation; Legal; Protection.*

1. Introduction

Indonesia is a country that has abundant natural resources, both those contained in the earth and those that grow on it. The utilization of these natural resources is in principle aimed at the prosperity of the people as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.¹

One sector that utilizes natural resources extensively is the plantation sector. Plantations are part of the agricultural sector and play a vital role in supporting national economic development, improving public welfare, and creating jobs. Therefore, plantation sector management requires clear legal regulations to ensure fair, sustainable use of natural resources and provide benefits to the community.²

In practice, plantation management is often carried out through the granting of Cultivation Rights (HGU) to plantation companies. The HGU grants companies the right to cultivate state-controlled land for a specified period for agricultural, plantation, or other land-management-related activities.

To ensure a balance between the interests of plantation companies and the communities surrounding the plantation area, laws and regulations oblige plantation companies to facilitate the development of community plantations (plasma plantations).³ This provision is regulated in Law Number 39 of 2014 concerning Plantations in conjunction with Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, which stipulates that plantation companies are required to facilitate the development of community plantations covering at least 20% of the cultivated plantation area.

¹Musdamayanti, Susilowati Suparto, Yusuf Saepul Zamil, Legal Protection of Farmers' Rights Regarding Not Obtaining Facilities Based on Positive Law, *INNOVATIVE: Journal of Social Science Research* Volume 4 Number 4 of 2024, p. 16133

²Junarso Ridwan & Achmad Sidic, *Spatial Planning Law in the Concept of Regional Autonomy Policy*, Jakarta: Nuansa, 2008, p. 52

³Adinda Prisca Anugerah Puteri & Faizal Kurniawan, "Regulation of Core Plasma Contracts in the Empowerment of Plantation Businesses that is Appropriate and Fair", *YURIDIKA*, 30 (2). 2015, p. 162

These provisions are essentially intended to provide legal protection to communities surrounding plantations so that they can share in the economic benefits of plantation activities. These obligations are expected to foster mutually beneficial relationships between plantation companies and surrounding communities, as well as prevent social disparities and agrarian conflicts.⁴

However, in practice, not all plantation companies fulfill this obligation. In East Kotawaringin Regency (Kotim), the 20 percent plasma (community plantation) requirement remains difficult to achieve. In this regard, communities are in a weak position, as the government, as regulator, cannot enforce regulations regarding plasma plantation obligations.⁵

One example of this occurred in Central Kalimantan, involving the oil palm plantation company PT. Tunas Agro Subur Kencana 3, which allegedly failed to fulfill its obligation to facilitate the development of plantations for local communities since the company began operations. ⁶This situation led to dissatisfaction among the community, who felt they were not receiving their rights as stipulated in the law. As a form of protest against the company, the community then took action by cutting down several of the company's oil palm trees. This action subsequently resulted in legal proceedings against the community members involved in the incident.

The case was then decided by the Sampit District Court through Decision Number 529/Pid.Sus/2025/PN Sampit, which declared the defendants legally and convincingly proven guilty of committing the crime of illegally participating in harvesting plantation products and sentenced them to prison. ⁷The decision raised questions about the extent to which the law provides protection to communities living around plantation areas, especially in situations where plantation companies do not fulfill their obligations as stipulated in laws and regulations.

On the one hand, the law must be enforced to maintain order and legal certainty. However, on the other hand, the law must also reflect the values of justice, especially for communities in socially and economically disadvantaged positions. Therefore, it is important to examine how legal protection for communities

⁴Albertus Dyaka Pratama Wicaksono, "Facilitation of Community Garden Development by Oil Palm Plantation Companies According to Law Number 39 of 2014 Concerning Plantations", *Thesis*, Faculty of Law, University of Jember, 2020

⁵ <https://infopublik.id/kategori/nusantara/727215/index.html> accessed on April 28, 2026

⁶ <https://www.kompas.id/artikel/konflik-lahan-hingga-penjarahan-sawit-di-kalteng-terus-bawa-derita> accessed on April 7, 2026

⁷Decision Number 529/Pid.Sus/2025/PN Sampit,

surrounding oil palm plantation use rights areas is provided from the perspective of values of justice.⁸

Based on this, this research is crucial for a more in-depth examination of legal protection for communities surrounding oil palm plantation use rights areas who are denied access to community plantation development facilities as stipulated in laws and regulations. This research is expected to contribute academically to the development of agrarian law studies and provide perspective on the application of justice values in judicial legal considerations.

Based on the description above, the author will explain the formulation of the problem as follows: First, how is the regulation of legal protection for communities around the oil palm plantation use rights area in Indonesia Second, how is the implementation of the regulation of legal protection and the judge's considerations in Decision Number 529/Pid.Sus/2025/PN Sampit Third, how is the formulation of ideal legal protection for communities around the oil palm plantation use rights area based on the Pancasila justice values?

2. Research Methods

This research is a normative juridical type using the statutory approach method and case studies, the research specifications are descriptive analysis, data sources are obtained from secondary data taken through primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative.

3. Results and Discussion

3.1 Regulation of Legal Protection for Communities Surrounding Oil Palm Plantation Cultivation Rights Areas in Indonesia.

Legal protection is a protection provided to legal subjects through both preventive and repressive means, both verbally and in writing. In other words, legal protection can be said to be a separate illustration of the function of law itself, which has the concept that law provides justice, order, certainty, benefit, and peace. Legal protection can be carried out in two ways, namely preventive and repressive legal protection. Preventive legal protection is legal protection that is preventative in nature, in this case in the form of assistance in designing core-

⁸Fitria, Settlement of Plantation Disputes Between the Palm Oil Plantation Company PT. Asiatic Persada and the Suku Anak Dalam Batin IX in Bungku Village, Bajubang District, Batanghari Regency, *Huaniora Socioscience Journal* Volume 3 Number 1 June 2019, p. 16

plasma contracts for local farmers. Protection provides an opportunity for local farmers to raise objections to their opinions before a decision is made definitively.⁹

Repressive legal protection serves to resolve disputes. Legislation defines the forms of protection provided to the public against arbitrary action by other parties, including those in power, business owners, and individuals with economic advantages over the victim. Farmer protection strategies are implemented through:

- a. agricultural production infrastructure and facilities;
- b. business certainty;
- c. agricultural commodity prices;
- d. elimination of high-cost economic practices;
- e. compensation for crop failure due to extraordinary events;
- f. early warning system and handling of climate change impacts; and
- g. agricultural insurance.

Farmers form the plasma, and large companies form the core. This partnership is then integrated with the participation of banks, which provide loans to finance the plasma farmers' businesses. The integrated partnership model adheres to the following principles:

- a. The business relationship between large businesses and small businesses that partner is interconnected.
- b. Partnership based on profitable business relationships.
- c. There is an element of coaching and development by large businesses and banks for small businesses.
- d. There is commitment and a sense of togetherness between the partnering parties
- e. The rights and obligations of each partner are regulated in the Memorandum of Understanding between the Bank and large businesses and large businesses with small businesses, or the Bank with large businesses and small businesses.

⁹Syofiartia, Titin Fatimahb, Nur Ainic, Legal Problems and Protection of Community Rights in the Use of Forest Areas for Plantation Activities, *Environmental Law Development*, Volume 10, Number 1, October 2025, p. 3

Legal protection for plasma communities can be divided into two things, namely preventive legal protection and repressive legal protection.

a. Preventive Legal Protection

The aim of preventive protection is to provide legal protection guarantees, namely by:

- 1) Preparation and refinement of legal guidelines for partnerships as outlined in the legislation, so that through existing regulations, it can provide legal certainty and separate legal protection for plasma communities who in this case are in a weak position.
- 2) The creation of a conducive climate includes steps to create healthy competition and as far as possible prevent the emergence of conditions that are detrimental to the national economy, which must be interpreted as government efforts in a series of national and international economic legal policies that support policies in the field of partnerships.
- 3) Core plasma partnership development must be carried out to increase equality that is mutually necessary, strengthening, beneficial, respectful, responsible and interdependent.
- 4) Supervision of the ongoing core plasma partnership can be carried out directly or indirectly.

b. Repressive Legal Protection

The purpose of repressive approaches to legal protection for plasma is to identify problems and provide solutions or advocacy assistance, particularly to plasma farmers facing issues related to the agreement. This is because, in practice, circumstances beyond the scope of the law or the partnership agreement itself are very likely to occur.

Based on Government Regulation Number 26 of 2021 concerning the Implementation of the Agricultural Sector, it explains the sanctions imposed on companies that do not fulfill their obligations as follows:

Article 25

(1) Plantation companies that do not fulfill the provisions regarding:

- a. the obligation to facilitate the development of gardens for the surrounding community, covering an area of 20% (twenty percent) in accordance with the time period as referred to in Article 12; and/or

b. reporting on the facilitation of community garden development in the surrounding area as referred to in Article 24, will be subject to administrative sanctions.

(2) The administrative sanctions as referred to in paragraph (1) are:

- a. fine;
- b. temporary suspension of plantation business activities; and/or
- c. revocation of Plantation Business Permits.

Article 26

(1) Plantation companies that violate the provisions as referred to in Article 25 paragraph (1) letter a or letter b will be subject to a fine using the formula: $LA \times BPK$.

(2) The formula as referred to in paragraph (1) explains:

- a. LA = cultivated land area equivalent to 20% (twenty percent) of the capacity of the plantation processing unit; and
- b. BPK = cost of building a fire per hectare, in the form of land clearing and planting.

(3) The fines referred to in paragraph (1) are issued in the form of a bill.

(4) The bill as referred to in paragraph (3) is issued by the Business Licensing Issuer in accordance with its authority.

(5) The fines paid as referred to in paragraph (3) constitute non-tax state revenue or regional revenue regulated in accordance with statutory provisions.

Article 27

Plantation Companies as referred to in Article 26 paragraph (1) within the time period:

- a. for 6 (six) months from the date of being given the bill, the obligation to facilitate the development of gardens for the surrounding community, covering an area of 20% (twenty percent); or
- b. within 1 (one) month from the date of receiving the bill, a report on facilitating the development of community gardens in the surrounding area must be submitted.

Article 28

- a. If the Plantation Company as referred to in Article 27 still does not: fulfill its obligation to facilitate the development of plantations for the surrounding community, covering an area of 20% (twenty percent); or
- b. submitting a report on facilitating the development of local community plantations, will be subject to a sanction in the form of a temporary suspension of plantation business activities for 6 (six) months.

Article 29

If the Plantation Company still does not fulfill its obligations within the time limit as referred to in Article 28, it will be subject to sanctions in the form of revocation of the Plantation Business Permit.

Plantation companies are obliged to facilitate the plantations of the surrounding community with an area of at least 20% based on statutory regulations, where this facilitation can be carried out through a credit pattern, profit sharing, or other forms of funding agreed upon between the Plantation Company and the surrounding community and this obligation must be carried out within a period of no later than 3 (three) years from the time the Right to Cultivate is granted.

3.2 Implementation of Legal Protection Regulations and Judge's Considerations in Decision Number 529/Pid.Sus/2025/PN Sampit.

The chronology of the case in Decision Number 529/Pid.Sus/2025/PN Spt provides a concrete illustration of the application of criminal liability in the crime of harvesting oil palm plantations belonging to PT. TASK 3, as a form of protest against the demands of plasma plantations. As a result of this incident, PT TASK 3 suffered losses of approximately Rp. 9,288,289,- (Nine million two hundred eighty-eight thousand two hundred eighty-nine rupiah).

In the verdict, the panel of judges confirmed that the element of "every person" in Article 107 letter d of Law Number 39 of 2014 concerning Plantations had been fulfilled because the defendant was a legally competent person responsible. The next element, namely "illegally harvesting and/or collecting plantation products," was also proven based on witness testimony, the defendant's confession, and confiscated evidence. The tools used, including the motorcycle and the carry-along basket, were deemed to be means of committing the crime, so some of the evidence was returned to its rightful owner.

In handing down the verdict, the judge took into account the aggravating circumstances, namely the losses caused to PT TASK 3 as well as mitigating circumstances, including that the defendant had never been convicted, was polite during the trial, and admitted his actions. Based on these considerations, the judge stated that all elements of Article 107 letter d of the Plantation Law had been

fulfilled, so that the defendant was legally and convincingly proven to have committed the crime of harvesting plantation products. The period of detention that had been served was taken into account in the sentence imposed, and the defendant was also burdened with paying court costs.

The analysis of the case in Decision Number 529/Pid.Sus/2025/PN Sampit shows that the Panel of Judges has essentially considered the case in sufficient detail, emphasizing that any attempt to demand or fight for rights must still be carried out through methods that do not violate the law. In its consideration, the judge assessed that even though the community had obtained a plasma plantation, this did not automatically grant the right to harvest oil palm fruit themselves without the company's permission, considering that the planting, maintenance, and management of the oil palm plants were carried out by the company. Moreover, at the time of the incident there was no agreement or Memorandum of Understanding (MoU) that clearly regulated the transfer, management, or control mechanism of the plasma plantation by the community. Therefore, the community's actions in harvesting themselves without the company's permission were considered as an act without rights or against the law as referred to in Article 107 letter d of Law Number 39 of 2014 concerning Plantations. If there are community rights in the plasma scheme, then these rights are in principle in the form of a share of the results or business benefits (SHU), not the right to harvest unilaterally.

Further considerations, the Panel of Judges also noted that although the land did not yet have a HGU (right to use) title, the parties involved in the harvesting could not prove legal ownership or a court ruling declaring the land theirs. Therefore, the judges concluded that land claims and rights claims could not be used as justification for actions contrary to criminal law.

Based on the case in Decision Number 529/Pid.Sus/2025/PN Sampit, the author argues that law enforcement in the plantation sector should not only focus on communities deemed to have violated the law, but must also be applied firmly to plantation companies that do not fulfill their obligations in accordance with the provisions of laws and regulations. In practice, companies are still found to have controlled and planted plantations for a long period of time even though the legality of the land is not yet fully clear, including the absence of HGU or the non-fulfillment of the 20% plasma obligation to the surrounding community.

The author believes that the state should conduct supervision and enforcement from the outset before a company carries out plantation business activities, including ensuring whether the land used is within a forest area or not, whether the company has a valid HGU (right to cultivate), and whether the obligation to develop a plasma plantation of at least 20% for the community has been implemented as required by law. In addition to administrative sanctions, it is also necessary to consider the application of strict criminal sanctions against

companies that clearly violate the law, in order to create a balance in law enforcement between the community and plantation companies and encourage legal compliance from all parties.

3.3 Formulation of Ideal Legal Protection for Communities Surrounding Oil Palm Plantation Cultivation Rights Areas Based on Pancasila Justice Values.

Sadjipto Rahardjo in his progressive law explains that law must be based on the ethical morals of its enforcers, this is to avoid legal manipulation where modern law is very strong in its favor of the status *quo*, so that the law is not pro-people's justice ¹⁰. When viewed from the palm oil plantation conflict, the status *quo position* is on the side of the plantation company, because in terms of access they benefit from the socio-economic aspect, while the position of the community is in a vulnerable position (weak economy). This position will be dangerous when legal forces are not deployed to resolve the conflict, but instead to suppress social movements, so that the criminalization in the community around the right to use the palm oil plantation will have implications for injustice that will be felt by many people, and it is proven that this method of law enforcement has made citizens experience a crisis of trust in law enforcement carried out by state officials.

The presence of criminalization has increased social tensions in areas surrounding oil palm plantation concessions, creating mutual suspicion and wariness. The right to a sense of security, peace, and tranquility has been violated due to inadequate law enforcement. This right to security is also a fundamental right guaranteed by Article 35 of Law No. 39 of 1999 concerning Human Rights, which states:

Everyone has the right to live in a peaceful, safe and secure society and state that respects, protects and fully implements human rights and basic human obligations as regulated in this Law.

Criminalization has left a trail of injustice. Referring to John Rawls's view of justice, there are two principles that must be understood. First, *the Principle of Equal Basic Liberties*, which emphasizes that every individual has the same right to the broadest basic liberties, and these liberties must be guaranteed to everyone regardless of social or economic status. Second, the Principle of Just Social Difference, *which* permits inequality in the distribution of resources and opportunities as long as such inequality provides the greatest benefit to the least fortunate in society. In other words, economic and social inequality are permissible if it leads to real improvements for the most vulnerable groups. ¹¹In the case of Decision Number 529/Pid.Sus/2025/PN Spt, these two principles of justice are not applied, because one of the basic freedoms is the right to speak,

¹⁰ Farida Pattingi, "New Paradigm in Natural Resources Management: Securing Indigenous Peoples Rights." *Hasanuddin Law Review* 6, no. 1 (2020), p. 56

¹¹ <https://stih-adhyaksa.ac.id/justice-as-fairness-konsep-teori-keadilan-oleh-johnrawls/>. Accessed on May 24, 2026

while in the context of criminalization, fear has spread, making people afraid to speak out. Then secondly, the distribution of natural resources is uneven among citizens as economically weak groups, instead economic access is absorbed by plantation companies.

The implications of a criminal approach to resolving agrarian conflicts have had far-reaching consequences. In responding to the agrarian-environmental movement, the government and law enforcement officials have preferred to use the Criminal Code (KUHP) over the existing specific legal framework, namely Law Number 32 of 2009 concerning Environmental Management and Protection (UUPKH). Article 66 states that anyone who fights for the right to a good and healthy environment cannot be prosecuted criminally or sued in civil court. However, criminalization has become increasingly widespread. To ensure a sense of justice for communities surrounding oil palm plantation use rights, the criminal approach to conflict resolution must be shifted to a dialogical and humanistic approach.

In practice, individuals are often swiftly prosecuted under Article 107 of the Plantation Law, but corporations that violate plantation obligations often face only administrative penalties. This is where academic criticism of the "inequality of plantation law enforcement" comes in.

Based on Law Number 39 of 2014 concerning Plantations, there are differences in law enforcement patterns between communities and plantation companies. In practice, communities who harvest without authorization can be subject to criminal provisions as stipulated in Article 107 of the Plantation Law. However, for plantation companies that fail to fulfill the 20% plasma obligation or plant outside the HGU (right to cultivate), law enforcement tends to be more directed at administrative sanctions.

The obligation to establish community plantations of at least 20% of the total plantation area is stipulated in Article 58 of Law Number 39 of 2014 concerning Plantations. However, for violations of this obligation, the law essentially focuses more on administrative sanctions, such as warnings, administrative fines, temporary suspension of business activities, and even revocation of plantation business permits. Therefore, companies that fail to comply with plasma obligations in practice do not directly incur specific criminal penalties, as is the case for communities harvesting without authorization.

Similarly, companies conducting business or planting outside of HGU (HGU) areas or in areas with unclear legal status are subject to legal action. Normatively, such actions can be categorized as violations of plantation and land administration law. In certain circumstances, they can even be linked to forestry crimes if they enter forest areas without a permit. However, in law enforcement practice, corporate

violations are often resolved through administrative mechanisms rather than criminal ones.

According to the author, this situation demonstrates an imbalance in the application of plantation law. On the one hand, communities who fight for their rights or harvest without a permit can be immediately prosecuted and punished. However, on the other hand, companies that fail to fulfill their 20% plasma obligation, plant without a HGU (right to cultivate), or control land that remains legally challenged are generally only subject to administrative sanctions, and often only discovered and prosecuted after the company has been operating for years.

Based on this perspective, the author argues that plantation law enforcement should not only focus on protecting investments and corporate interests, but also provide strict oversight and sanctions against companies that violate their legal obligations. If a company's violations lead to social conflict and trigger criminal acts by the community, the company should also be held more firmly accountable, including through criminal instruments if it meets the elements of a violation as stipulated in the law.

The author believes that the formulation of disharmonious policies regarding the provision of plasma plantation facilities to communities by palm oil plantation companies remains unresolved, particularly regarding the certainty of whether the 20% land allocation is calculated from the IUP or HGU application. To address this issue, several recommendations can be considered:

- 1) Regulation Harmonization: The government needs to synchronize the Regulation of the Minister of Agriculture and the Regulation of the Minister of ATR/BPN by establishing a clear basis for calculation, preferably using the HGU area as the basis because it provides more legal certainty.
- 2) Strengthening Supervision: Establishment of an independent supervisory team involving government, community and academic elements to monitor the implementation of plasma plantation development obligations.
- 3) Dispute Resolution Mechanism: Establishment of a special dispute resolution mechanism for plasma cases involving mediation and arbitration before court proceedings.
- 4) Progressive Sanctions: Implementation of stricter and more progressive sanctions for companies that do not fulfill their obligations to develop plasma plantations, including revocation of business permits after a certain time limit.
- 5) Community Assistance: A legal and technical assistance program for communities in the process of negotiating and managing plasma plantations with plantation companies.

Implementation of these recommendations requires strong commitment from all stakeholders and consistent monitoring to ensure that community rights are fulfilled in the development of plasma plantations.

4. Conclusion

The regulation of legal protection for communities around the oil palm plantation business use rights area in Indonesia is regulated in the Basic Agrarian Law in conjunction with Law No. 39 of 2014 concerning Plantations in conjunction with the Job Creation Law, which provides preventive and repressive protection, however, legal protection has not been implemented optimally, where in the determination of HGU in accordance with the stated regulations, it should pay attention to the condition of the land, and the condition of the surrounding community so as not to give rise to human rights violations such as threats, violence, and criminalization. Analysis of Decision Number 529/Pid.Sus/2025/PN Sampit shows that the Panel of Judges has correctly applied Article 107 letter d of Law Number 39 of 2014 concerning Plantations, because the elements of the crime of harvesting and/or collecting plantation products without rights have been fulfilled. This act does not constitute a crime of theft as regulated in the Criminal Code, but rather a special crime in the plantation sector (*lex specialis*). The judge's considerations also emphasize that the struggle to obtain or defend rights must be carried out through a legal mechanism according to law, so that the purpose of demanding rights cannot be used as a justification for committing acts that violate criminal provisions. The ideal formulation of legal protection for communities surrounding oil palm plantation use rights areas based on Pancasila justice values is through regulatory harmonization, strengthening supervision, dispute resolution mechanisms, the application of stricter and more progressive sanctions for companies that do not fulfill their obligations to develop plasma plantations, and legal and technical assistance programs for communities in the negotiation process and management of plasma plantations with plantation companies.

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