

Legal Analysis of Legal Certainty of Oil Palm Plantation Development in Forest Areas in Pelalawan Regency

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ABSTRACT

Legal certainty The status of community land must be confirmed to provide legal certainty for community land, the inclusion of indigenous community land in the company's business license results in losses for the community. Community constraints in the development of oil palm plantations on forest land in terms of supervising every business license or policy that will be issued, as well as the role of the government in responding to the large number of community lands in the Company's business licenses and administration, the need for synergy between the Central and Regional Governments so that the rules issued do not overlap and the need for the government to review directly to the object of the dispute. Every problem always causes losses to the community, but there are no legal efforts that can be made against these problems, if the Central, Regional and Company Governments and the community work together to resolve the subject matter in order to create legal certainty over the land. This research can be classified in the type of normative law research, because in this research the author directly conducts research at the location or place under study in order to provide a complete and clear picture of the problem under study. Palm Oil Plantation Development in Forest Areas is the existence of 92,701 hectares of Forest Areas out of 5,499,693 total forest areas in Riau Province. For generations, Indigenous Peoples have controlled customary land in Siak, Kampar and Pelalawan Regencies. and even before the existence of the Forestry Law enacted in Indonesia, obstacles in the implementation of the sustainability of oil palm plantations that are included in the forest area have caused a mismatch between the plantation location permit and the forest area, which complicates the sustainability of oil palm plantations.

Keyword: Protection, Legal certainty, Authority, Community

1. Introduction

Environmental sustainability, especially forests, is something that must be of concern to us humans. This is because the environment, especially forests with their natural resources, supports human life because humans must have a role in protecting forest sustainability from things that can damage forests such as illegal logging. This is because illegal logging is one of the factors of damage in the forest area today.¹ Plantations are a mainstay of superior commodities in sustaining Indonesia's national economic development, both from the point of view of earning foreign exchange and from the point of view of improving the welfare of the community as a whole, by opening up very wide open employment opportunities. In Law Number 18 of 2004 concerning Plantations, it is stated that, in order to realize the welfare and prosperity of the people in an equitable manner, plantations need to be guaranteed sustainability

¹ Putu Ayu Irma Wirmayanti, Ida Ayu Putu Widiati, and I Wayan Arthanaya, 'Akibat Hukum Penebangan Hutan Secara Liar', *Jurnal Preferensi Hukum*, 2.1 (2021), pp. 197–201, doi:10.22225/jph.2.1.3067.197-201.

and improve their function and role and plantations as a form of natural resource management need to be carried out in a planned, open, integrated, professional and responsible manner. Land as one of the needs in the implementation of human life has a very vital role. Indonesian people who are characterized by agrarian life depend entirely on land. Land is the main object that must be owned in the implementation of agrarian life, both in the form of agricultural land acquisition and plantations. Land is also the basis for measuring welfare and stability for people who live in rural areas.

Within the scope of urban areas, land has a major role as office and residential land. Therefore, land cannot be separated from human life because of all human needs, land is a basic basic need and a place for humans to live their lives and obtain sources to continue their lives.² One of the most rapidly growing plantation commodities has even replaced the oil palm plantation commodity. In Indonesia, the area of oil palm plantations increased from 106,000 hectares in the late 1960s to around 15.5 million hectares in 2015. This plantation development is concentrated in six provinces, namely North Sumatra, Riau, South Sumatra, West Kalimantan, Jambi, and Aceh.³ This is in response to the world's demand for palm oil. Therefore, the government through state companies, national private companies, and foreign companies are flocking to open oil palm plantations. But of course, the massive opening of oil palm plantations must be accompanied by economic benefits as well and without sacrificing the sustainability of forests and the natural environment.

Legal provisions governing management, including the protection of natural resources, can be found in several laws and regulations. Forest management policies were first regulated in Law No. 5 of 1967 on the basic provisions of forestry and various implementing regulations such as Government Regulation No. 21 of 1970 on Forest Entrepreneur Rights and Forest Product Collection Rights and Government Regulation No. 18 of 1975 on amendments to Government Regulation No. 21 of 1970, Government Regulation No. 7 of 1990 on Industrial Plantation Concession Rights. In 1999 the government enacted Law No. 41/1999 on Forestry (LN 1999 No. 167) which revoked the enactment of Law No. 5/1967. In addition, Law No. 41/1999 was later amended by Law No. 19/2004 on the Stipulation of Government Regulation in Lieu of Law (Perpu) No. 1/2004 on the amendment of Law 41/1999 on Forestry. The government has also enacted Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction (LN No. 130 of 2013).⁴

The government also promulgated Government Regulation No. 6/1999 on Forest Concession and Forest Product Collection, which revoked Government Regulation No. 21/1970 and Government Regulation No. 18/1975. Subsequently, the government promulgated Government Regulation No. 34 of 2002 on Forest Management and Preparation of Forest Management Plans, Forest Utilization and Use of Forest Areas

² Mariot P. Siahaan, *Bea Peroleh Hak Atas Tanah Dan Bangunan (Teori Dan Praktek)* (PT. Raja Grafindo Persada, 2005).

³ Mariot P. Siahaan, *Bea Peroleh Hak Atas Tanah Dan Bangunan (Teori Dan Praktek)* .

⁴ Takdir Rahmadi, *Hukum Lingkungan* (PT. Raja Grafindo Persada, 2021).

(LN 2002 No. 66), which revoked Government Regulation No. 6 of 1999 and Government Regulation No. 45 of 2004 on Forest Protection (LN 2004 No. 147). Then Law No. 11 of 2020 was passed and through the Constitutional Court's decision this law was given 2 years to revise, then it was passed again as Perpu No.2 of 2022 and became Law No. 6 of 2023 concerning the stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation into Law.

Forest area gazettelement is regulated by the Ministry of Forestry with its latest regulation (Decree of the Minister of Forestry No. 48/kpts-II/2004) in order to understand the procedures and institutions that regulate and determine which forest areas are and which are not forest areas. The process of forest area gazettelement is carried out in stages with the stages of designation, boundary demarcation and forest area determination. Forest area confirmation is an important factor in preventing illegal forest conversion. However, if we look at the discussion process until the establishment of SK 434, this continues to produce endless conflicts. This is because the designation of forest areas has never involved communities who have lived for generations and inhabited an area for tens to hundreds of years. Some communities within the State's forest area claims are actually an important part of fortifying an area. Communities plant trees both individually and in groups. The government, in this case the Forestry Service and security forces, unilaterally went to villages and installed stakes without giving explanations to the community. These stakes were planted in rice fields, gardens and even social and public facilities. In addition to the lack of notification and active community participation, many forest designations were also made through reforestation programs during the New Order.

Riau is one of the provinces with significant oil palm plantation development but in terms of environment and forest conservation, oil palm plantation development is often associated with environmental conflicts and forest conservation. Riau Province has a number of forests that are important for in-depth biodiversity on how oil palm plantation development in these forest areas affects the environment and forest conservation. Based on the author's observations, the author found that there are still many forest areas in Riau Province that have become oil palm plantation areas, forests that should be a place for the survival of plants and animals are now becoming oil palm plantations. This happened not only in one district but also in several districts in Riau Province. The community feels they have the right to the forest area where they plant their gardens, because they have occupied the area for generations, reinforced by a certificate issued by the village head.

In article 110A of the Cipta law, article 1, every person who carries out business activities that have been built and has a business license in the forest area before the enactment of this law that has not met the requirements in accordance with the provisions of laws and regulations in the forestry sector, must complete no later than November 2, 2023.

With the provisions contained in the Law that authorize the community to register

their land, it does not merely provide guarantees and legal certainty. This background shows the importance of conducting a juridical analysis of the development of oil palm plantations in Riau Province more specifically in Pelelawan Regency in 2023. This case study will provide insights into how the palm oil plantation industry interacts with the legal aspects of business, as well as how the implications for further developments in the future.

2. Research Method

This research can be classified into the type of sociological legal research and observational research. That is by using the observation technique, which is a data collection technique carried out through an observation, accompanied by notes on the state or behavior of the target object. The purpose of observation is to be able to describe the object and everything related through the observation of the five senses, and obtain information data, both in the form of numbers, writings, pictures, and so on as concrete evidence that can be analyzed further and compile systematically and logically the phenomena that exist in society.

3. Result and Discussion

3.1 Form of Legal Certainty for Palm Oil Plantation Development in Forest Areas in Palelawan Regency in 2023

The largest development in Riau Province is in the mining and plantation sectors, in the largest plantation sector is oil palm plantations, Riau is one of the provinces with a very large oil palm plantation reaching 1,732,748.00, the development of oil palm plantations in Riau Province has made forest areas a victim, meaning that oil palm plantations that are currently developing have the potential to enter forest areas designated by the government. Based on interviews with the Head of Pangkalan Gondai Village, in Pangkalan Gondai Village for generations Indigenous Peoples have controlled customary land in Pangkalan Gondai Village, and even before the existence of the Forestry Law enacted in Indonesia, the people of Pangkalan Gondai Village have utilized land in Pangkalan Gondai Village as a community forest area used to meet community needs, oil palm plantations and even before the right to control forests and industrial plants (HPHTI) Company or Industrial Plantation Forest Concession rights permit on Community land.

As a result of the interviews, problems arose after the granting of forest tenure and industrial plantation rights (HPHTI) licenses by the Central and Regional Governments with an area of 37.9% production forest, 44.5% limited production forest and for the development of oil palm plantations of around 600 hectares and including the occupation of around 300 family heads in Pangkalan Gondai Village. Even after several times the Minister of Forestry of the Republic of Indonesia issued Decree No. 173 / KPTS -II / 1986 dated June 6, 1986 concerning the designation of Forest Areas in

Riau Province as permanent forest areas, and Decree No. 314 / MENLHK / SETJEN / PLA. 2/4/2016 dated April 20, 2016 on the change of Forest Area to non-Forest Area, but there is no clarity on the status of indigenous peoples' land. However, this does not include the certainty of land tenure and the land they own so that in the land that has been designated into the Industrial Plantation Forest Area or included in the Forest and Industrial Plantation Tenure Rights (HPHTI), the development of oil palm plantations cannot be continued to become property rights or legalized into Property Rights Certificates, the community can control the land but cannot legally own it or get legal certainty.

In terms of the legal basis of land tenure in Pelalawan Regency, the government has granted land utilization permits in Pelalawan Regency covering an area of 866,261 Ha out of 1,392,494 Ha of regency area. These licenses consist of 387,668 hectares of plantation licenses and 478,593 hectares of HTI licenses (Riau Forest Foundation, 2015). However, ironically from the issuance of these licenses, many customary rights of indigenous peoples in Pelalawan Regency were harmed. This can be seen from the overlapping land licenses granted by the government, resulting in customary land owned by indigenous peoples in Pelalawan Regency being taken without regard to their rights.⁵

To obtain legal certainty, forest area confirmation must be carried out to provide legal certainty over forest areas regarding the status, function, location, boundaries and extent of forest areas. In Indonesia itself has regulated the confirmation of forest areas, namely in Article 14 paragraphs (1) and (2) of Indonesian Law No.41 of 1999 concerning Forestry which reads "(1) Based on the forest inventory as referred to in Article 13, the Government organizes the confirmation of forest areas." (2) Forest area confirmation activities as referred to in paragraph (1), are carried out to provide legal certainty over forest areas. And juncto Article 15 of Government Regulation No.44 of 2004 concerning Forestry Planning which reads "Forest area confirmation is organized by the Minister to provide legal certainty regarding the status, function, location, boundaries and extent of forest areas."

That the community has controlled and cultivated the land owned in an area of $\pm 1,189$ Ha (approximately six hundred hectares) continuously since 1974 until now it has been 45 years (twenty five years), without any interference from any party, where on community land covering an area of $\pm 1,189$ Ha (approximately six hundred hectares), there have been oil palm plants planted (managed) by the Pangkalan Gondai Cooperative covering an area of ± 1.189 Ha (approximately six hundred hectares) with the planting year 2004 until the planting year 2013 without any interference from any party, Community housing So legally the community land covering $\pm 1,189$ Ha (approximately six hundred hectares) is legally owned by the community, this ha is in accordance and has been supported by the provisions of article 1955 of the Civil Code which reads: "To obtain property rights to something it is necessary that a person

⁵ Akbar, M. Rizal, and Et al, *Tanah Ulayat Dan Keberadaan Masyarakat Adat* (LPNU Press, 2005).

controls it continuously without interruption. undisturbed, in public and expressly as the owner", and Article 1963 of the Civil Code which reads "Who in good faith. and based on a valid title acquires an immovable object, an interest, or another receivable that does not have to be paid on appointment, acquires ownership rights over it, by way of expiration, with a possession for twenty years, Who in good faith controls it for thirty years, acquires ownership rights, by not being forced to show the basis of the right."

In addition, Article 24 paragraph (2) of Government Regulation Number 24 of 1997 concerning land registration states that:

In the event that the means of proof as referred to in paragraph (1) are not or are no longer available in full, the recording of rights may be carried out based on the fact of physical control of the land parcel concerned for 20 (twenty) years or more consecutively by the applicant for registration and his predecessor with conditions:

- a. Such control is carried out in good faith and openly by the person concerned as the rightful owner of the land, and is corroborated by the testimony of a trustworthy person;
- b. The possession either before or during the announcement as referred to in article 26 is not disputed by the indigenous people or the village/kelurahan concerned or any other party.

That in confirming the forest area, it must pay attention to the regional spatial plan, therefore in organizing the confirmation the ministry must go through the process as stipulated in Article 15 of Law No.41 of 1999 concerning forestry, namely through the process of:

- a. Designation of forest areas;
- b. Forest area boundary arrangement;
- c. Mapping of forest areas and;
- d. Forest area determination. Determination of forest area.

And all of these processes are carried out with due regard to the regional spatial plan.

The status of the forest area in Pangkalan Gondai Village is unclear; the forest area is either the domain of the Forestry Department, or it is still state land which authorizes the National Land Agency to determine its use and allocation. If the Forestry Department wants to utilize the Pangkalan Gondai Village area as a forest area, it must settle the rights of the community/ third parties. The settlement of third-party rights is regulated by Government Regulation No. 44/2004 on Forestry Planning, Article 19 paragraph (2) point b, which states that the stages of determining forest area boundaries include "inventorying and settling the rights of third parties located along the boundary route and within the forest area". The unclear status of the land leads to the conclusion that it is state land, which gives the state the authority to regulate its

use and allocation.⁶ Therefore, it is appropriate for the government to reorient policies by fulfilling community rights that take into account ecological, economic or social interests and ecological sustainability. According to Moh. Shohibuddin and Endriatmo Soetarto, the agrarian policy framework in the forestry sector will emphasize the following three main components:⁷

- a. Structuring control and/or access to benefits over forest areas and/or forest products.
- b. Structuring patterns of production relations that provide opportunities for benefit sharing between forestry companies and local communities.
- c. Strengthening the institutional bases of local communities related to local natural resource management systems, including those based on traditional (customary) rights.

3.2 Community Constraints in the Development of Oil Palm Plantations in Forest Areas in Pelalawan Regency in 2023

The land dispute of 1,189 hectares was originally controlled by the indigenous people of Pangkalan Gondai Village, Pelalawan Regency for generations, and even before the existence of the Forestry Law enacted in Indonesia, the people of Pangkalan Gondai Village had utilized the disputed object as a community forest area used to meet community needs, and even before the development of oil palm plantations obtained an Industrial Plantation Forest Concession permit on the disputed object, which for the management of the permit located around the disputed object to the people of Pangkalan Gondai Village, Pelalawan Regency.

Before the formation of the Pangkalan Gondai Village Cooperative, the members of the Pangkalan Gondai Cooperative, totaling 300 households, were recommended as participants in the Pangkalan Gondai Village Oil Palm Plantation Development Program. as referred to in the attachment to the letter of the Forestry and Plantation Service of the Siak District Government No. 525/DISHUTBUN/2012/3990 addressed to the Director of PT. Permodalan Siak regarding the Request for Final Data on CPCL Farmers Participants in the Pangkalan Gondai Village Oil Palm Plantation Development Program: 525/DISHUTBUN/2012/3990 addressed to the Director of PT Permodalan Siak regarding the Request for Final Data of CPCL Farmers Participants in the Palm Oil Plantation Development Program of Pangkalan Gondai Village, Pelalawan Regency. Oil palm plantations are one of the important economic sectors in Indonesia, especially in Riau Province. In the implementation of the sustainability of oil palm plantations that are included in forest areas in Riau Province, there are several obstacles and constraints that need to be considered First, regarding Land Use Conflicts Land use conflicts between oil palm plantations and forest areas are one of

⁶ 'Peraturan Presiden Republik Indonesia Nomor 88 Tahun 2017 Tentang Penyelesaian Penguasaan Tanah Dalam Kawasan Hutan'.

⁷ Mohamad Shoibuddin and M. Nazir Salim, *Pembentukan Kebijakan Reforma Agraria 2006-2007* (STPN PRESS, 2012).

the main obstacles. Map differences between the Regional Spatial Planning and the Forest Area Map are often a source of conflict, especially since there is no One Map Policy in Indonesia.⁸

This leads to mismatches between plantation location permits and forest areas, which complicates the sustainability of oil palm plantations. Most oil palm plantations in Riau operate without having Plantation Business Permits (IUP), cultivation business permits, and forest area release permits. Forest areas used for oil palm plantations often intersect with the rights of indigenous communities or conservation areas. This can lead to conflicts between palm oil companies and local communities or environmental organizations. These conflicts can hamper efforts to achieve the sustainability of oil palm plantations by slowing down the licensing process and disrupting the relationship between companies and local communities, which is an important obstacle because it violates regulations and threatens the sustainability of oil palm plantations.

Second, Forest Areas Controlled by Oil Palm Companies Forest areas in Riau, which should be protected, have been controlled by oil palm plantation companies. Of the total 4.2 million hectares of oil palm plantations in Riau, around 1.8 million hectares are unlicensed and located within forest areas.

Third, on Extensification Tendencies Demand for land for oil palm plantation expansion in Riau Province continues to increase, thus leading to the high conversion of land or forests into oil palm plantations. oil palm plantations. This trend results in the continued addition of more land in the pursuit of pursuit of a decent income, but can threaten sustainability and environmental sustainability. environmental sustainability. The role of local governments, especially in granting location permits in accordance with the Regional Spatial Planning, is very important to maintain the sustainability of oil palm plantations. sustainability of oil palm plantations. Good coordination between local governments, plantation companies, and local communities is needed to overcome existing obstacles. In overcoming these obstacles and constraints, concrete steps are needed, such as increased coordination between various related parties, strict law enforcement, strict monitoring of plantation licenses, and more conflict prevention efforts. of plantation licenses, as well as more proactive conflict prevention efforts. Only with a comprehensive and collaborative approach can the sustainability of oil palm plantations in Riau Province be ensured. oil palm plantations in Riau Province can be assured for a better future.

The unilateral designation of forest areas and unclear boundaries are the main triggers of forest area conflicts in communities related to plantation land that is indicated to be included in forest areas in Riau Province. The mismatch between regulations and policies related to oil palm plantations and field conditions is an obstacle in the implementation of plantation sustainability. Good coordination is needed between various related parties to ensure that existing regulations support the sustainability of

⁸ Shoibuddin and M. Nazir Salim, *Pembentukan Kebijakan Reforma Agraria 2006-2007*.

oil palm plantations in Riau Province. The productivity of smallholder oil palm plantations is below 14.8 tons per hectare per year, lower than private plantations. Unclear or inconsistent policies and regulations can also be an obstacle in the implementation of sustainable oil palm plantations in Riau Province.⁹

The implementation of oil palm plantations in forest areas often results in deforestation and environmental damage. Unsustainable deforestation practices can lead to loss of wildlife habitat, degradation of air and water quality, and increased risk of environmental disasters such as floods and landslides. This is not only detrimental to the environment, but can also negatively impact the sustainability of oil palm plantations themselves as it can reduce land productivity and damage the company's reputation in the eyes of global consumers.

Sixth, climate change is also an obstacle in the implementation of sustainable oil palm plantations in Riau Province. Extreme changes in weather patterns can affect oil palm productivity and cause economic losses for farmers. In addition, increasing global temperatures can also impact the health of oil palm plants and accelerate land degradation. Efforts to cope with climate change and adapt to unstable weather conditions are a challenge in maintaining the sustainability of oil palm plantations amid increasingly unstable environmental conditions.¹⁰

Community awareness and involvement are also important factors in maintaining the sustainability of oil palm plantations in Riau Province. Without the support and active participation of local communities, efforts to protect the environment and practice sustainable agriculture will be difficult. It is important for palm oil companies to involve communities in the decision-making process and provide education on the importance of protecting the environment for future generations. The results of the interviews show various patterns of expansion and conflict in oil palm plantation areas. There are several oil palm plantation Hak Guna Usaha (HGU) land holdings in villages and also bordering oil palm mills (PKS) without plantations. The village in Siak, Kampar and Pelalawan districts also has transmigrant enclaves with different socio-cultural characteristics of the community but conflicts in the area are almost the same as the results of researcher interviews with local communities in Siak, Kampar and Pelalawan districts that conflicts occur due to obstacles to job creation.

The formal expansion pattern results in various conflicts, namely land conflicts and conflicts due to large plantation activities and both can occur simultaneously. Land conflicts that occur in the districts of Siak, Kampar and Pelalawan that researchers are currently researching are:

- a. Boundary demarcation,
- b. Ex-SP IV PT SBP,

⁹ A Syahza, *Kelapa Sawit Dan Dampaknya Terhadap Percepatan Ekonomi Pedesaan Di Riau* (Disertasi Program Pasca Sarjana Fakultas Hukum Universitas Riau, 2007).

¹⁰ Kementerian Pertanian, *Statistik Perkebunan Kelapa Sawit Indonesia 2013-2015* (Kementerian Pertanian Republik Indonesia, 2015).

- c. Lland compensation,
- d. Plantation layout,
- e. Lland distribution and embezzlement,
- f. Sale and purchase of disputed land and
- g. Company land encroachment.

Other conflicts in the form of non-tenure conflicts that occurred in the research village include:

- a. Work agreement conflicts (KKPA governance, FFB payments, and employee salary arrears,
- b. Eenvironmental conflicts (road damage, waste pollution and land fires),
- c. Empowerment program conflicts (CSR policies), and
- d. Village policy conflicts (related to the role of the village head) in each district.

The series of Control processes as regulated in Article 15 paragraph I of Forestry Law No. 41 of 1999. which summarizes that the object of dispute is in the Forest area, the argument explains / details the stages that have been passed by PT Riau Andalan Pulp and Paper (RAPP) on the object of dispute by calling it a forest area based on Forestry Law No. 41 of 1999, the object of dispute is argued to refer to the decision letter of PT Riau Andalan Pulp and Paper (RAPP).

Minister of Forestry of the Republic of Indonesia No. 173/KPTS-II/1986 dated June 6, 1986 concerning the designation of Forest Areas in Riau Province as permanent Forest areas. And further point 19 in 1997 the Limited Production Forest Area (point 18) was demarcated in the field by the Directorate General of Forest Inventory and Use, with a boundary of 102,404.05 meters and then the Limited Production Forest Area was named the Mandau Minas Forest Group, which in the Minutes of the Demarcation of the Forest Area (point 19) stated: that the observations of the Forest Demarcation Committee of the Limited Production Forest Area as stated in the Minutes of the announcement of the demarcation of the forest boundary no longer existed land owned by residents or third parties. That further at point 28 in accordance with Decree Number: SK.314/MENLHK/SETJEN/PLA.2/4/2016 dated April 20, 2016 concerning the change of Forest Area to non-forest area covering an area of 65,125 ha in Riau Province which is based on the map attached to the Decree of the Minister of Environment and Forestry on sheet 0816 which shows that the status of the disputed object is still as a permanent production forest area. That further at point 28 in accordance with Decree Number: SK. 314/MENLHK/SETJEN /PLA.2/4/2016 dated April 20, 2016 concerning the change of Forest Area into non-forest area covering an area of 65,125 ha.

It should be underlined that the final stage in the form of "APPROVAL" of the disputed object as a forest area is to fulfill the principle of legal certainty as contained in Article 14 paragraph 2 of the 1999 Forestry Law, so as long as the disputed object does not yet have legal certainty over the status of "APPROVAL" as a forest area, it is strengthened if we also refer to the Constitutional Court Decision No. 45/PUU-IX2011

of February 21, 2012, which has revised Article 1 paragraph 3 of Law No. 41 of 1999 on Forestry Law. then it is possible for the disputed object to be used by other parties outside the authority in accordance with other applicable legal provisions in Indonesia. This is also in line with the Decree of the Minister of Home Affairs Number 130-67 of 2002 concerning the recognition of the authority of regencies and cities A Riau Province, attachments and Letter of the Minister of Home Affairs Regarding Kepmendagri Number 130/383/SJ dated February 20, 2002 concerning Recognition of the Authority of regencies and cities, and a list of regency / city authorities per field from the Department / SPND, among others, in the forestry and plantation sub-field of forestry numbers 4, 7, 9, 10, 14, 15 and 16.¹¹

In order to implement the mechanism of protecting the rights of the community or so-called third parties either through the mechanism of joint Ministerial Regulations in this case through the mechanism of the Minister of Forestry Regulation No. P.44 / Menhut-II / 2012 jo P.62 / Menhut- II / 2013 concerning the confirmation of forest areas, before and after the determination of forest areas, an active role is needed from the district government, namely by coordinating between the Regent and the Village Head because the village head and his staff are government officials who are in direct contact with the community and know exactly the area and condition of the region and its people and also the community as a party harmed by the determination of forest areas, the community needs to closely monitor the Village Head. Do not let the Village Head take advantage of this process only for his own interests, and also provide guarantees for the protection of ownership rights to forest land constitutionally and the protection of human rights in the field of land and legal protection for owners of property rights certificates located in forest areas, namely legal protection in the form of enclaves with changes in forest area boundaries and revisions to provincial and district or city spatial plans so as not to harm the communities that have for generations controlled the location of the forest land they own.¹²

4. Conclusion

From the results of the research and discussion, the author draws several conclusions regarding the development of palm oil plantations in forest areas in Riau Province. First, it is noted that 92,701 hectares of forest areas have been converted to non-forest areas out of the total 5,499,693 hectares in the province. This reduction is attributed to several factors: 65,125 hectares were re-designated as non-forest areas in accordance with the Minister of Environment and Forestry Decree No. 314/MenLHK/SetJEN/PLA.2/4/2016, amended by Decree No. 393/MenLHK/SETJEN/PLA.2/2016; 25,731 hectares were released by the Minister of

¹¹ 'Surat Keputusan Nomor : SK 314/MENLHK/SETJEN/PLA.2/4/2016'.

¹² Menteri Kehutanan, Peraturan, Republik Indonesia, 'Peraturan Menteri Kehutanan Nomor P.62/Menhut-II/2013 Tentang Perubahan Atas Peraturan Menteri Kehutanan Nomor P.44/Menhut-II/2012 Tentang Pengukuhan Kawasan Hutan', 2013, pp. 1–11.

Forestry under Decree No. 878/2014; and 13,735 hectares were affected by administrative boundary disputes between Riau and Jambi Provinces. Additionally, 3,761 hectares were impacted by administrative boundaries with West Sumatra, while 15,665 hectares were added based on adjustments to the 2016 Indonesian Rupabumi Map. The indigenous peoples of Siak, Kampar, and Pelalawan Districts have historically controlled customary land, which they have used as community forests long before the Forestry Law or industrial plantation rights were established. Secondly, most palm oil plantations in Riau operate without proper permits, including Plantation Business Permits (IUP), cultivation business permits, and forest area release permits. This results in forest areas being used for palm oil plantations, often conflicting with the rights of indigenous communities or conservation areas, leading to potential disputes. Such conflicts between palm oil companies and local communities or environmental organizations can hinder efforts towards sustainable palm oil plantation management, causing delays in licensing processes and disrupting relationships between stakeholders. This issue poses a significant constraint, violating regulations and threatening the sustainability of the palm oil industry.^v Third, forest areas that should be protected have been controlled by oil palm plantation companies. Of the total 4.2 million hectares of oil palm plantations in Riau, approximately 1.8 million hectares are unlicensed and located within forest areas. This unchecked expansion contributes to further environmental degradation and reduces the ecological value of the protected areas. Fourth, the demand for land to expand oil palm plantations in Riau continues to rise, resulting in the conversion of forest areas into plantations at an alarming rate. While this expansion is driven by the pursuit of economic benefits, it threatens environmental sustainability. Local governments play a crucial role in granting location permits in alignment with Regional Spatial Planning, ensuring the sustainable growth of oil palm plantations. Effective coordination between local governments, plantation companies, and local communities is essential to overcoming obstacles. A comprehensive approach involving strict law enforcement, enhanced monitoring of plantation licenses, and proactive conflict prevention measures is needed to secure the sustainability of oil palm plantations in the province. Lastly, resolving conflicts related to palm oil plantations in forest areas requires a holistic approach. Preventive measures are more critical than reactive ones. Identifying and addressing potential conflicts comprehensively is essential for ensuring the sustainability of the palm oil industry. Policies grounded in agrarian law, which aims to provide welfare for all people as mandated by Article 33 of the 1945 Constitution, should guide decision-making. Furthermore, balancing the interests of forestry for ecosystem preservation with the community's needs for livelihood is crucial. Every HPHI Company's license must be reviewed to prevent harmful impacts on local communities, as the granting of these licenses often results in significant disadvantages for them.

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