

A Review of Palm Oil Plasma Land Conflicts from the Perspective of Agrarian Reform: Analysis of Decision Number 3661 K/PDT/2019

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Abstract: The government has addressed disparities in palm oil plantation ownership through the partnership model of the Nucleus Estate Smallholder Plantation (PIR-BUN) using a core-plasma scheme as outlined in Presidential Instruction No. 1 of 1986, aiming to achieve agrarian reform. However, in practice, the nucleus-plasma scheme has led to land conflicts and issues, one of which occurred in Teluk Bakung Village, West Kalimantan. Therefore, to ensure the effective implementation of the nucleus-plasma scheme in the future and the realization of agrarian reform, it is necessary to investigate the causes of plasma land conflicts in Teluk Bakung Village and the impacts of these conflicts on agrarian reform efforts. This study adopts a normative juridical method, examining secondary data from literature and primary data from Supreme Court Decision No. 3661 K/PDT/2019 concerning PT PALM's default in profit-sharing on plasma land. The findings indicate that plasma land conflicts arise from differing interpretations of the 20% provision for community plantation development, inadequacies in institutional support and processes for the PIR-BUN program, and a lack of transparency from the nucleus company. These conflicts ultimately negatively impact the socio-economic aspects of plasma farmers in Teluk Bakung Village and hinder agrarian reform efforts, particularly in the region.

Keywords: Agrarian Reform, PIR-BUN, Plasma Land

INTRODUCTION

Indonesia is a welfare state, as stated in the Preamble of the 1945 Constitution, which outlines one of the nation's goals as the promotion of public welfare. This is further emphasized in Article 33, paragraph (3) of the 1945 Constitution, which declares: "Land, water, and the natural resources therein are controlled by the state and shall be used for the greatest prosperity of the people." As a consequence of this constitutional mandate, the state is required to actively manage land administration as an integral part of the earth, including in the plantation sector. The preamble of Law Number 39 of 2014 on Plantations (Law No. 39/2014) clarifies that plantations play a critical role and have vast potential in contributing to national economic development aimed at realizing equitable prosperity and welfare for the people.

One of the major plantation products contributing significantly to Indonesia's economic development is palm oil. Data from the National Statistics Agency (BPS) in 2023 shows that palm oil is Indonesia's second-largest export, following coal, with a contribution

of USD 27,418.2 million (Hidayatullah, 2023). This substantial contribution is also reflected in data from the United States Department of Agriculture (USDA) regarding palm oil production trends, indicating that Indonesia has been the world's largest supplier of palm oil since 2023-2024. The expansion of palm oil plantations has transformed the landscape of land ownership rights, livelihoods, and socio-political relationships among stakeholders. Large-scale palm oil plantation development in Indonesia began in the 1970s, specifically during the New Order government (Sabar et al., 2017). As of 2023, BPS reported in "Indonesian Palm Oil Statistics 2022" that palm oil plantation areas reached 17.76 million hectares. However, this expansion is not without consequences, as efforts to meet land expansion targets have frequently led to agrarian conflicts, particularly in the conversion of private and communal land rights into business-use rights (HGU), resulting in land ownership inequality.

The government has attempted to address the issue of land ownership inequality in the palm oil plantation sector through the Nucleus Estate Smallholder Plantation (PIR-BUN) partnership model, utilizing a nucleus-plasma scheme. The first legal regulation governing plasma was Presidential Instruction Number 1 of 1986 on the Development of Plantations with the Nucleus Estate Smallholder Pattern, linked with transmigration. According to Article 1, paragraph (20) of the Minister of Agriculture Regulation No. 98 of 2013 on Plantation Business Licensing Guidelines, as amended twice and last updated by Ministerial Regulation No. 21 of 2017, PIR-BUN is defined as a plantation development model using large plantations as the nucleus to assist and mentor surrounding smallholder plantations, forming a mutually beneficial, holistic, and sustainable partnership system. Positioned within the agrarian reform framework, PIR-BUN is a part of land reform or asset reform (Limbong, 2012).

Despite its origins in agrarian reform policy, the PIR-BUN program has been fraught with implementation challenges. In 2023, palm oil plantations accounted for the highest incidence of agrarian conflict in the plantation sector, with 88 cases, representing 82% of all conflicts. In addition to land disputes, palm oil plantation operations are also marked by violence. The Agrarian Reform Consortium (KPA) recorded that in 2023, 252 people faced criminal charges related to agrarian issues. A study on partnerships between companies and plasma farmers in four villages in Jambi-Sumatra revealed farmers' dependence on companies (McCarthy & Zen, 2016). This dependence manifests as a form of palm oil patronage, where the company acts as the patron and plasma farmers as clients (Tjahjoko, 2019). This asymmetrical relationship has sparked protests across various regions, often with demands for the establishment of 20% of the land area as smallholder plots, as seen in Seruyan Regency (Triwibowo, 2023), Belitung (Pasaribu, 2023), East Kutai (Susanto, 2019), West Kutai (Diwa, 2024), Barito Kuala Regency (Rochgiyanti, 2022), and Central Sulawesi (Cahyani et al., 2021).

Despite the numerous cases involving palm oil plasma plantations, there is still no study specifically analyzing the challenges of the nucleus-plasma scheme within the PIR-BUN program using agrarian reform principles as a regulatory benchmark. This study, therefore, will address the causes and impacts of conflicts in palm oil plasma plantations from the perspective of agrarian reform. Specifically, it will conduct a case study on Decision Number 3661 K/PDT/2019 concerning the breach of agreement related to plasma plantation development in Teluk Bakung Village, between Maurus Rita Dihales, Ihok, Martinus, Yepensius Rudi Als Rudi, and Theodolus Surim (collectively Maurus Rita Dihales et al.) against PT Palmdale Agroasia Lestari Makmur (PT PALM). This case began in 2014, marked by a land dispute between residents of Teluk Bakung Village, West Kalimantan, who had entered into a nucleus-plasma agreement with PT PALM (Ajengrastri & Irham, 2022). The conflict escalated in 2017 when a resident, Maurus Rita Dihales, faced criminal charges and was sentenced to six months in prison on allegations of violating Article 368, paragraph (1) of the Criminal Code concerning extortion with violence (District Court of Mempawah Decision Number 258/Pid.B/2017/PN Mpw).

While in prison, Maurus Rita Dihales and others filed a lawsuit for breach of contract by PT PALM for failing to establish the plasma plantation and conduct profit-sharing. This lawsuit resulted in a favorable verdict at the first level. PT PALM subsequently filed an appeal in 2018, where the appellate court upheld the District Court's ruling. Finally, in 2019, Maurus Rita Dihales and others achieved a binding decision (*inkracht*) when the Supreme Court rejected PT PALM's cassation appeal. Decision Number 3661 K/PDT/2019 is particularly noteworthy as it stands as the only Supreme Court ruling in favor of plasma land dispute resolution in the last decade. Given Indonesia's legal principle of legality, this case analysis will refer to the legislation in effect at the time of the incident and include comparisons with current laws to offer insights for preventing future conflicts.

METHODS

This article is based on research using a normative juridical approach, examining secondary literature sources, including books, legal research findings, and relevant legislation, to address the issues under study (Soekanto & Mamudji, 2020). The research specification is descriptive-analytical, involving the inventory of positive law, followed by an analysis to gain a comprehensive understanding of the causes of PIR-BUN conflicts, as exemplified in Decision Number 3661 K/PDT/2019, and its impact on agrarian reform efforts. The data utilized are secondary data, consisting of primary, secondary, and tertiary legal materials, obtained through document and literature review on the regulation and implementation of PIR-BUN in Indonesia. The data is then analyzed using a qualitative normative juridical research method.

This study focuses on analyzing the causes of plasma land conflicts affecting plasma farmers in Teluk Bakung Village, West Kalimantan, and their impact on efforts toward agrarian reform in Indonesia. Court decisions and informative, valid juridical elements related to these issues constitute the primary data for this study. Data collection involved the Supreme Court of the Republic of Indonesia's Decision Directory website. Additionally, the researcher analyzed various regulations pertinent to the study, including laws, presidential regulations, MPR decrees, and ministerial regulations.

Legal norms serve as guidelines for appropriate conduct, yet they require *das sein*—the actual conditions in society—to become active (Mertokusumo, 2005). The plasma land conflict between plasma farmers in Teluk Bakung Village and PT Palmdale Agroasia Lestari Makmur (PT PALM) represents this actual condition (*das sein*), while the Supreme Court Decision Number 3661 K/PDT/2019, between PT Palmdale Agroasia Lestari Makmur as the Cassation Petitioner and Maurus Rita Dihales et al. as the Cassation Respondents, is compared with both the plasma-related legislation in effect at the time of the case and current legislation to understand the ideal conditions in society (*das sollen*).

RESULTS AND DISCUSSION

Causes of Plasma Land Conflict Based on Decision Number 3661 K/PDT/2019

According to Mochtar Kusumaatmadja, adequate law comprises four essential elements: principles, norms, processes, and institutions necessary to realize law in practice (Kusumaatmadja, 1986). These four elements form a holistic unity, with principles serving as a guiding framework to achieve the intended objectives. In the context of laws regulating the PIR-BUN scheme, the guiding principles are derived from agrarian reform principles. Maria S. W. Sumardjono identifies the core of the twelve principles of agrarian reform and natural resource management as stated in Article 4 of MPR Decree No. IX/MPR/2001 (Sumardjono, 2001): 1) The democratic principle, emphasizing equality between government and citizens, community empowerment, and the development of good governance in agrarian resource control and utilization; 2) The principle of justice, including both intergenerational and intragenerational justice in accessing agrarian resources; and 3) The principle of sustainability, ensuring the preservation and effective use of resources for their enduring functionality and benefits.

To understand the causes of conflict in Teluk Bakung Village, it is essential to analyze the norms, processes, and institutions of the PIR-BUN scheme with agrarian reform principles as benchmarks.

First, from a normative perspective, the obligation to establish plasma land is stipulated in legislation; however, it contains interpretative ambiguities and lacks detailed technical regulations. The normative aspect or legal norms as introduced by Mochtar Kusumaatmadja aligns with the positivist view of law. Legal standardization within

legislation is crucial to ensure legal certainty. In the dispute referenced in Decision Number 3661 K/PDT/2019, the mandate to develop palm oil plantations is sourced from Article 11, paragraph (1) of the Minister of Agriculture Regulation Number 26 of 2007 on Guidelines for Plantation Business Licensing (Permentan 27/2007), which states: "Plantation companies holding a Plantation Business License (IUP) or IUP-B are required to develop plantations for the surrounding community covering at least 20% (twenty percent) of the total plantation area managed by the company." The standardization of this article has led to varied interpretations. Some believe that the community is entitled to one-fifth of whatever the company plants (Ajengrastri & Irham, 2022), while others demand that plasma plantations be located within the company's land, while the company prefers to establish plasma land outside the core area, on community land (Herningtyas, 2021).

The interpretation supporting plasma development outside the core area is substantiated by Article 15, paragraph (2) of Minister of Agriculture Regulation No. 98/2013, which states: "The community plantation whose development is facilitated as referred to in paragraph (1) shall be located outside the IUP-B or IUP area." The historical basis of this provision aligns with the Constitutional Court's consideration in judicial review of Article 58, paragraph (1) of Plantation Law Number 39 of 2014, where the Court held that community plantation development occurs outside the HGU land, thereby deeming the article constitutional as an open legal policy (Constitutional Court Decision Number 138/PUU-XIII/2015). However, issues arise when no land remains available for the community, particularly in cases where HGU is obtained through the release of community-owned or customary land rights.

The divergent understandings of the partnership scheme are evident in the lawsuit filed by Maurus Rita Dihales and others. Grounded in Decision No. 3661 K/PDT/2019 and considering two previous rulings, the basis for the lawsuit upheld by the Judicial Panel was a breach of the Land Transfer Agreement. In its judgment, the panel reasoned that under the agreement, 70% of the plaintiffs' land would be allocated to PT PALM as core land, while 30% would remain the individual property of each plaintiff. In other words, the obligation to establish plasma land of at least 20% was not calculated from 100% of the Right to Cultivate (HGU) stipulated in the Plantation Business License (IUP). This interpretation not only deviates from the provisions in the Minister of Agriculture Regulation No. 27/2007 but also raises ambiguity regarding the legality of PT PALM's HGU, as the land transfer agreement does not serve as a legal basis for transferring land rights. Unfortunately, this ambiguity was not clarified at the appellate and cassation levels.

The legal uncertainty surrounding plasma land regulations conflicts with the agrarian reform's sustainability principle, which can be examined from two perspectives: environmental and economic sustainability. Article 33, paragraph (1) of the 1945 Constitution states that "the economy is organized as a collective effort based on the

principle of kinship.” According to Prof. Sri Edi Swasono, one of the concepts that should be adopted in Indonesia’s development is the "Triple-Co" principle (co-ownership, co-determination, and co-responsibility). National economic development should be rooted in economic democracy, thereby eliminating “Employer-Worker” relationships. Consequently, the relationship between core and plasma entities in plantations should be participatory-emancipatory (Swasono, 2019). Through the case of Decision No. 3661 K/PDT/2019, the government can reflect on how a dependency pattern has developed between weak farmers and corporations, where the corporation, as the “employer,” holds power over the farmers.

The Law No. 39 of 2014 on Plantations has undergone several amendments through Law No. 6 of 2023, which stipulates the enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation as a Law (Job Creation Law). Below is a comparison of the provisions related to the PIR-BUN scheme:

Table 1. Comparison of PIR-BUN Regulations Before and After the Job Creation Law

No.	Plantation Law No. 39/2014	Job Creation Law
1.	Article 15 Plantation companies are prohibited from transferring rights to plantation land if this would result in a unit smaller than the minimum area as specified in Article 14.	Article 15 Plantation companies engaged in partnership activities, either core or plasma, are prohibited from transferring rights to plantation land if this would result in a unit smaller than the minimum area as specified in Article 14.
2.	Article 58 paragraph (1) Plantation companies holding a plantation business license or cultivation license are required to facilitate community plantations by providing land around the plantation with an area of at least 20% of the total area managed by the company.	Article 58 paragraph (1) Plantation companies granted a business license or cultivation license for the entire or part of the land area are required to: <ol style="list-style-type: none"> a. Use land located within the area designated for plantation business rights; b. And/or use land obtained through forest area release, and are required to facilitate the development of community plantations around 20% (twenty percent) of the area of such land.

Source: Author, 2024

The amendment to Article 58, paragraph (1), alters the phrase “at least 20%” to “approximately 20%.” The use of the term “approximately” introduces legal uncertainty in the calculation of plasma land area. Furthermore, this amendment restricts the obligations

of palm oil companies to develop community plantations. According to the amended article, the development of community plantations is limited to lands derived from forest areas or lands originating from other use areas (APL) that also stem from forests. However, as demonstrated in Decision No. 3661 K/PDT/2019, the source of the land use rights (HGU) obtained by companies is not always derived from forest areas but can also come from community-owned land. The amendment to Article 58, paragraph (1) of the Job Creation Law lacks a legal rationale both in terms of practice and the intended welfare objectives. If we consider the Academic Manuscript of the Job Creation Law Bill issued by the National Law Development Agency (BPHN), Ministry of Law and Human Rights, the changes regarding the core-plasma partnership pattern are based solely on the rationale of facilitating business operations. This is problematic, given that land conflicts resulting from palm oil plantation licensing have not been thoroughly resolved. The situation of legal uncertainty is exacerbated by the dual regulation across two ministries, as outlined below:

Table 2. Comparison of the Measurement Criteria for the Calculation of 20% of Plasma Plantation Development in the Minister of Agriculture Regulation and the Minister of ATR/BPN Regulation

Minister of Agriculture Regulation No. 98/2013	Minister of ATR/BPN Regulation No. 18 of 2021 on the Regulation and Procedure for the Determination of Land Use Rights
<p>Article 15, paragraph (1) Companies applying for a Business License (IUP-B) or a Business License (IUP) with an area of 250 (two hundred fifty) hectares or more are required to facilitate the development of community plantations surrounding the area, covering at least 20% (twenty percent) of the area of the IUP-B or IUP.</p>	<p>Article 82 (1) In the case where the applicant is a legal entity in the form of a limited liability company, including state-owned enterprises (BUMN) and regional-owned enterprises (BUMD), and its use is for plantation purposes, it is required to facilitate the development of community plantations in an area of 20% (twenty percent) of the land for which the land use rights are being requested for the surrounding community.</p>

Source: Author, 2024

In general, the area requested for land use rights (HGU) is smaller than the area of the business licenses (IUP), resulting in significant differences in the measurement criteria established by the two ministerial regulations (Shevy, 2024). If one adheres to the regulations set forth by the Minister of ATR/BPN, it is highly likely that the area allocated for plasma will be reduced, calculated as 20% of the area of the requested HGU. The formulation in the ATR/BPN ministerial regulation is, in fact, inconsistent with the

reference regulation used, namely the Job Creation Law. The explanation of Article 58, paragraph (1) of Law No. 39 of 2014 concerning Plantations, as amended by the Job Creation Law, states that "the total area of plantations operated by plantation companies" refers to the area in accordance with the plantation business license or the plantation cultivation business license. Therefore, the benchmark utilized should be the IUP, not the HGU.

Secondly, from a procedural perspective, the conflicts arising from the PIR-BUN stem from the ineffective implementation of planning methods. The majority of palm oil plantations in Indonesia were originally under traditional ownership by indigenous communities. Consequently, careful planning in establishing palm oil plantations is crucial, particularly concerning the relinquishment of land rights and the implementation of fair partnership procedures that ensure legal certainty. Such planning allows for the supervision and evaluation of program execution (Sukarna, 2011). In practice, however, the PIR-BUN scheme often exhibits weaknesses in terms of non-transparent or unclear procedures, as evidenced by the case involving Maurus Rita Dihales and colleagues. In this instance, following the relinquishment of land rights, there was a lack of clarity regarding the development of plasma plantations and the agreed-upon partnership model. A witness named Herman Jais even stated that the profit-sharing agreement of 70-30 was communicated verbally, without any written documentation. This aligns with the considerations expressed by the panel of judges in the first instance, which noted that "the agreement did not specify when the farmers would receive the 30% profit, as there were no detailed elements." It is noteworthy that the indigenous community had, in fact, made the most critical capital investment in the land within the core-plasma scheme.

In the context of agrarian reform, the PIR-BUN process has yet to reflect democratic principles. According to Article 4, number (5) of MPR Decree No. IX/MPR/2001, the principle of democracy is associated with legal compliance, transparency, and the optimization of public participation. However, the judge at the first instance indicated in their ruling that PT PALM had not been transparent regarding the results of the plantations since 2014. Moreover, PT PALM has failed to comply with the law, both in terms of regulatory statutes and agreements that bind the parties involved. Furthermore, concerning justice in agrarian reform, this conflict has exacerbated disputes, as evidenced by protests in 2019 involving hundreds of citizens due to the inequitable plasma mechanism (Satari, 2022). Ironically, the criminalization of village residents has reoccurred, as experienced by Herkulanus Roby (District Court Decision No. 500/Pid.Sus/2019/PN Mpw).

Decision No. 3661 K/PDT/2019, while representing a milestone for justice for the five citizens who filed the lawsuit, unfortunately has not been able to deliver justice for other victims similarly affected by such conflicts. In fact, there are more than 900 other plasma farmers in Teluk Bakung Village still bound by core-plasma cooperation contracts with PT PALM (Ajengrastri & Irham, 2022). From an agrarian reform perspective, resolving

conflicts of this nature requires a comprehensive and integrated approach rather than merely a case-by-case strategy. Furthermore, to address the recurring issue of criminalization against agrarian reform advocates, it is essential to establish Anti-SLAPP (Strategic Lawsuit Against Public Participation) regulations to protect them. This need is increasingly urgent given the discourse suggesting that palm oil plantations will be classified as national vital objects, the security of which would involve the Indonesian National Armed Forces and the Indonesian National Police.

Thirdly, from an institutional perspective, conflicts within the PIR-BUN arise due to a lack of synergy among institutions and minimal involvement from local governments. The case highlighted in Decision No. 3661 K/PDT/2019 demonstrates that the granting of plantation business licenses (IUP) often neglects the allocation of core-plasma locations by business operators. This is not surprising, given the regulatory disparities among the various institutions involved. Therefore, the implementation of PIR-BUN necessitates synergy among the Ministry of Agriculture, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, and the Ministry of Environment and Forestry, as recommended by the Business Competition Supervisory Commission (KPPU) in its study on competition related to partnerships in the palm oil sector. When constructed according to the principles of agrarian reform, coordination is key to democratization. The involvement of local governments, as the governing bodies closest to the community, is crucial. However, in this case, Maurus Rita Dihales and others, as victims of criminalization and plaintiffs, stated, “We have relied on the Kubu Raya local government, but it seems we cannot expect anything from them” (Ajengrastri & Irham, 2022). The limited access of the community to litigation channels further exacerbates the situation, as in Teluk Bakung Village, only Maurus Rita Dihales and others chose the legal route, while the majority of the community could only express their dissatisfaction through protest actions. Currently, in addition to civil litigation, the core-plasma issues can be addressed by the KPPU in accordance with the mandate of Law No. 20 of 2008 concerning Micro, Small, and Medium Enterprises. However, the KPPU’s authority is limited to overseeing the partnership relationships between companies and plasma farmers in terms of market structure.

The Impact of Plasma Land Conflicts in Decision No. 3661 K/Pdt/2019 on Efforts to Achieve Agrarian Reform

Complex agrarian issues can have negative repercussions on prosperity, welfare, and social justice (Fajar et al., 2022). Furthermore, considering that agrarian matters encompass legal, social, and economic aspects, the conflicts that arise within this context will inevitably affect these dimensions (Rahma et al., 2021), leading to enduring social and economic consequences (Utomo, 2020). Agrarian conflicts can hinder efforts to create social and

economic equity in society, which can be realized by reducing disparities in land control and ownership.

In this regard, the agrarian conflict evident in Decision No. 3661 K/Pdt/2019 also impacts the efforts made to achieve agrarian reform. The PIR-BUN represents a partnership model between core companies and communities (plasma farmers), wherein cooperation and land empowerment are conducted to generate profits. The core company is responsible for providing production facilities, technical guidance related to plantation development, seedling cultivation, maintenance, harvesting, and marketing of production results. Meanwhile, the plantation with oil palm trees established by the core company as a form of partnership is referred to as plasma (Pintakami & Asdasiwi, 2020).

Based on Decision No. 3661 K/Pdt/2019, it is noted that through the Land Transfer Agreement, the partnership or core-plasma cooperation in this case is executed under a "one-roof" management model. This means that the plasma land or plantation is entirely managed by the core company in terms of land clearing, seed selection, planting, maintenance, harvesting, yield collection, pricing, and replanting processes. Consequently, the land transferred from the company to the farmers is merely an administrative transfer (Hardianto & Busthami, 2022). Therefore, within the one-roof model, the community does not have a significant role in the management of the land provided and primarily receives a share of the net profits from the core company. The management of the plantation land conducted entirely by the company results in a lack of knowledge transfer from the company to the farmers. Such a situation fundamentally contradicts the intended implementation of the PIR-BUN model, where large plantation companies are expected to mentor farmers to enhance their productivity through the transfer of knowledge and technology from the core company to the farmers. Furthermore, the issues arising from the conflict in this case also impede the realization of the objectives of the PIR-BUN model, namely the implementation of agrarian reform, which aims to improve the futures of small farmers and ensure equitable regional development (Wildayana & Mulyana, 2019).

The implementation of the PIR-BUN with minimal oversight and evaluation in the field has led to disputes and conflicts, as evidenced in the case of Teluk Bakung Village. This condition can impede the realization of agrarian reform due to unequal land ownership, resulting in the creation of conflict rather than justice. The land transferred by Maurus Rita Dihales and others to PT PALM through the Land Transfer Agreement was expected to yield profits; however, in reality, PT PALM did not provide any returns from the plantation until the cassation decision was issued. Moreover, PT PALM showed no goodwill in resolving the issues, providing results, or returning the land to its original state. This situation has led to a perception that Maurus Rita Dihales and others have lost their rights to the land, particularly given the ambiguity regarding the location of the plasma land that rightfully belongs to them. This serves as tangible evidence that the conflicts

surrounding plasma land within the community are factors obstructing equitable land distribution. In 2022, the KPPU, in its Press Release No. 29/KPPU-PR/V/2022, reported a significant imbalance in the ownership of land under the HGU. The average imbalance index across provinces reached a high level of 0.77 out of 1. It was noted that the farmers who cultivate oil palm comprise 99.92 percent of all business actors but only own 41.35 percent of the land. In contrast, private plantations, which constitute only 0.07 percent of business actors, control 54.42 percent of the land.

In the plasma land conflict addressed in Decision No. 3661 K/Pdt/2019, it can be stated that the company, PT PALM, did not implement a profit-sharing scheme for the plasma land. As a result of the absence of returns, the affected community members have no income to meet their basic needs. The land they surrendered to PT PALM can no longer be managed independently, leading to an increase in poverty levels and restricting community access to economic resources and food sovereignty. This situation is exacerbated by the ineffectiveness of the community cooperatives established to manage the plasma scheme, resulting in the community ultimately not receiving the profits they were entitled to. Additionally, considering that all costs incurred for managing the plasma land are borne by the plasma farmers, the lack of returns from the plasma land has made it difficult for these farmers to cover their management expenses. This condition clearly contradicts Article 1, Paragraph (20) of Minister of Agriculture Regulation No. 98 of 2013, which stipulates that PIR-BUN should be implemented within a mutually beneficial, integral, and sustainable cooperation framework. Typically, profits can be realized about four to five years after oil palm trees are planted and bear fruit, during which time these profits should cover the costs of planting, maintaining, and harvesting oil palm (Berenschot et al., 2021).

The various consequences arising from the complex plasma land conflicts in Decision No. 3661 K/PDT/2019 further hinder efforts to achieve agrarian reform, particularly in Teluk Bakung Village, West Kalimantan. Agrarian reform, which is fundamentally an initiative aimed at reducing disparities in land ownership, is obstructed by plasma land conflicts that exacerbate inequalities in land control and ownership within the community. Plasma farmers have lost their agricultural land due to the ambiguity surrounding the allocation of plasma land, ultimately resulting in the core-plasma scheme eliminating employment opportunities for the community and increasing poverty due to the lack of income. Furthermore, as the disparities in land ownership widen and become more pronounced, the access of plasma farmers to economic resources that would allow them to leverage existing resources for income generation and improved welfare is diminished.

CONCLUSIONS

The PIR-BUN scheme represents an effort to build community welfare through palm oil plantations. Developing societies are characterized by change, and the role of law in this

process is to ensure that such changes occur in an orderly and structured manner. This order can be supported by legislation and court rulings. Decision No.3661K/Pdt/2019 represents an attempt to enforce just land management practices. However, this ruling also reflects how efforts to build public welfare through PIR-BUN have, in practice, frequently resulted in agrarian conflicts that disadvantage the public. From a legal and normative perspective, there exists a discrepancy in the interpretation of the article governing the establishment of community plantations at 20%, both regarding the rules in effect at the time the dispute arose and the existing regulations following the enactment of the Job Creation Law. Moreover, the processes and institutions needed to effectively implement PIR-BUN remain insufficient. PT PALM, as the IUP holder, has been non-transparent and negligent in its obligation to develop plasma lands, leading to the dispossession of communities from their own lands. Such conditions clearly contradict the principles of justice and democratic agrarian reform. The current approach of resolving PIR-BUN violations on a case-by-case basis points to the need for a more comprehensive and integrative solution to uphold agrarian justice.

The conflict in Decision No.3661 K/Pdt/2019 has hindered efforts to realize agrarian reform. Maurus Rita Dihales and colleagues, who have received no clarity on the location of their plasma land rights, effectively lose their rights to this land entirely as they gain no benefits. This situation obstructs agrarian reform by fostering inequitable land control, generating conflict and disputes, and ultimately failing to achieve justice. Furthermore, Maurus Rita Dihales and colleagues are left without income to meet their living needs, impeding the creation of agrarian-based prosperity and welfare, increasing poverty risks, and limiting access to economic resources and food sovereignty. Although plasma schemes are meant to empower communities around plantations and promote fair land distribution, over the years, they have leaned toward corporate conglomerates, exacerbated by the Job Creation Law and its derivative regulations, which prioritize investment interests. According to the latest regulations, the obligation to establish plasma plantations is contained in Presidential Regulation No. 62 of 2023 as a TORA. However, TORA allocation of 20% applies only to lands released from forest areas, while not all palm oil plantations originate from such areas. Moving forward, the government must establish a regulatory framework or policy with a preventive approach to mitigate similar conflicts and reduce the number of land disputes in Indonesia.

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