

An Obligation To Manage Community Plantation (Plasma Plantation) From 20% Of The Plantation Company's Land Area

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ABSTRACT

Because regulation legislation, is obligation for possible development garden Public around (garden plasma) as big 20 percent from large land company plantation through partnership (garden plasma) with Public around. There is provision obligation allocate at least 20% from large area plantation for development garden people contain meaning connection law or decision which principled that area the owned by company plantation and results activity plantation no only owned by company plantation and used by they. However, company culture must intertwine partnership with Public in form culture plasma. Part from reform agrarian is distribution soil, which aim for increase ownership soil and ownership social for reach progress economy and ensure even distribution which more big. By because that, program landreform which oblige Public plantation for push development garden Public local on at least 20% from land Public around plantation Public in form partnership (plantation plasma) could Becomes wrong one method for reach Thing the with give this. equality and security. Law for arrange and arrange Public.

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1. INTRODUCTION

Because regulation legislation, is obligation for possible development garden Public around (garden plasma) as big 20 percent from large land company plantation through partnership (garden plasma) with Public around. There is provision obligation allocate at least 20% from large area plantation for development garden people contain meaning connection law or decision which principled that area the owned by company plantation and results activity plantation no only owned by company plantation and used by they. However, company culture must intertwine partnership with Public in form culture plasma. Part from reform agrarian is distribution soil, which aim for increase ownership soil and ownership social for reach progress economy and ensure even distribution which more big. By because that, program landreform which oblige Public plantation for push development garden Public local on at least 20% from land Public around plantation Public in form partnership (plantation plasma) could Becomes wrong one method for reach Thing the with give this. equality and security. Law for arrange and arrange Public.

Based on Article 13 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA):

1. The government is trying to ensure that businesses in the agrarian field are regulated in such a way as to increase the production and prosperity of the people as referred to in Article 2 paragraph (3) and ensure that every Indonesian citizen has a standard of living that is in accordance with human dignity, both for themselves and for themselves. and his family.
2. The government prevents businesses in the agrarian field from organizations and individuals that are private monopolies.
3. Government efforts in the agrarian field which are monopoly in nature can only be carried out by law.

4. The government is trying to advance social security and certainty, including in the labor sector, in the agrarian sector.

Land is something of value to humans, especially in the economic, social, political aspects, and of course the governing legal aspects. (Rajagukguk, 1995, p. 32) The state grants rights to land which the right holders are authorized to use accompanied by obligations that must be fulfilled and prohibitions that must be obeyed by the holders of land rights.

Because regulation legislation, is obligation for possible development garden Public around (garden plasma) as big 20 percent from large property company plantation through partnership (garden plasma) with Public around. There is provision obligation allocate at least 20% from large area plantation for development garden people contain meaning connection law or decision which principled that area the owned by company plantation and results activity plantation no only owned by company plantation and used by they. However, company culture must intertwine partnership with Public in form culture plasma. Part from reform agrarian is distribution soil, which aim for increase ownership soil and ownership social for reach progress economy and ensure even distribution which more big. By because that, program landreform which oblige Public plantation for push development garden Public local on at least 20% from land Public around plantation Public in form partnership (plantation plasma) could Becomes wrong one method for reach Thing the with give this. equality and security. Law for arrange and arrange Public.

Whereas the phenomenon of pro-people populist regulations and public policies is in accordance with the style of an agrarian society in Indonesia regarding the obligation to facilitate the development of community gardens of at least 20% of the plantation area of the Plantation Company which is redistributed to the surrounding community in the form of partnerships (plasma plantations) contained in various laws and regulations, including:

1. Regulation of the Minister of Agriculture Number 26/Permentan/OT.140/2/2007 concerning Guidelines for Plantation Business Permits.
2. Regulation of the Minister of Agriculture Number 98/Permentan/OT.140/9/2013 concerning

Guidelines for Plantation Business Licensing.

3. Minister of Agriculture Regulation Number 21 of 2017 Second Amendment to Minister of Agriculture Number 98 of 2013 concerning Guidelines for Plantation Business Permits.
4. Law Number 39 of 2014 concerning Plantations.
5. Regulation of the Minister of Environment and Forestry Number P.28/Menhut-II/2014 concerning the Third Amendment to Regulation of the Minister of Forestry Number P.33/Menhut-II/2010 concerning Procedures for Releasing Convertible Production Forest Areas.
6. Regulation of the Minister of Environment and Forestry Number 51 of 2016 concerning Procedures for Releasing Convertible Production Forest Areas.
7. Regulation of the Minister of Environment and Forestry Number P.42/MENLHK/SETJEN/KUM.1/8/2019 Regarding Amendment to the Regulation of the Minister of Environment and Forestry Number P.17/MENLHK/SETJEN/KUM.1/5/2018 Regarding Procedures Relinquishment of Forest Areas and Changes to Forest Area Boundaries for Land Sources as Objects of Agrarian Reform.
8. Presidential Regulation Number 86 of 2018 Concerning Agrarian Reform.
9. Circular of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 11/SE-HK.02.02/VIII/2020 concerning Implementation of Company Obligations in Facilitating Community Development.
10. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration.

11. Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights.
12. Regulation of the Minister of Agriculture of the Republic of Indonesia Number 18 of 2021 concerning Facilitation of the Development of Community Gardens in the Area.
13. Government Regulation Number 26 of 2021 concerning Organizing the Agricultural Sector.

That decree the is development law according to pattern and nature Public Indonesia which patterned Public agrarian, so that pattern and nature Public agrarian determine content and Theory law citizenship people and order general. obligation for allow development garden Public in surrounding. Although regulation and enforcement not yet fully held, however Thing the could Becomes Street for increase well-being Public Indonesia going to Public which fair and prosperous. Still needed reorganization law through improvement, addition Theory law and harmonization provision law.

Regulation and policy public the, with notice environment effort for company which invest in field plantation, is form reform agrarian for interest national To use realize ambition nation Indonesia and reach destination country increase prosperity country. . nation Indonesia going to Public which fair and prosperous. Based on Pancasila and Constitution Base Country Republic Indonesia Year 1945. In side other, there is phenomenon where government city require application provision law about redistribution soil obligation build garden Public most a little 20% plantation for open effort plantation to Public around in form partnership (garden plasma) because company plantation fail in his commitment for facilitate development garden Public around, so that raises various effect conflict a graria in struggle . land and access economy Among Public and company plantation to land.

2. METHOD

Type study which used is study law normative. Study law raw is study law which use source data and information secondary from ingredient References (Mukti Dawn nd 2007). in incident law concrete in Public.

The approach in normative legal research is material to begin with as a basis for a researcher's point of view and framework for conducting analysis. (Mukti Fajar ND 2007) In this study the approach used is the Statute Approach as the initial basis for conducting analysis and concept (Conceptual Approach). The approach uses concepts in legal science which can be used as a starting point or approach point for legal research analysis because many concepts will emerge in legal science. (Mukti Fajar 2010).

3. RESULTS AND DISCUSSION

3.1. Term Of Land.

According to the Big Indonesian Dictionary (2016), agrarian means matters of land or agricultural land as well as matters of land ownership.

The term land (agrarian) comes from several languages, in Latin ager means land or a piece of land, agrarius means rice fields, cultivation, agriculture. In Dutch it is known as akker which means agricultural land. In Greek it is known as the word agros which also means agricultural land. In English known as the word agrarian means land for agriculture.(Harsono, 2007, p. 4)

According to Chapter 1 (2) BAL, agriculture have meaning which very large which covers soil, water, and room space including riches natural which contained in inside. Which meant with Public around receiver promotion development farmer plasma 20% from large effort plantation is Public which involved in farming plasma individual and group farmer plasma which joined in group farmer, group farmer united, body law. Public. Body, like institution agriculture and/or cooperative (SK Minister Agriculture) and planning area/head Body Country No. 18 Year 2021 about system method determination administration and right on

soil Chapter 83 already. Minister Agriculture and Planning Region/Head Authority Country Number 11/SE-HK.02.02/VIII/2020 About Implementation Task Effort In coaching Public, number 5 f paragraph 1) already.

Decision Minister Agriculture No. 18 Year 2021 For Push Development Garden People in area, Chapter 20, Paragraph 2. Garden plasma is garden people which in development combined with garden private big or garden big national. (Director General Plantation. 1992). According to Dictionary Big Language Indonesia (2016), meaning say garden plasma is garden owned by farmer (owner small) which is part from system effort agriculture (plantation) which role for To do process production and submission results production. to factory. (like cores), whereas cost production and facility provided by factory. area plasma is area which represent units effort which worthy in a manner economy which developed by farmer participant. Implementation model partnership this in plantation need role company core, KUD, bank and farmer plasma (Fauzi, Yan, et.al, 2012) and presence country for ensure fulfillment obligation the. possible development garden Public around (garden plasma) most a little 20% from large plant company plantation.

A Plantation Company is a business entity that is a legal entity, established according to Indonesian law and domiciled in the territory of Indonesia that manages a Plantation business of a certain scale. (Regulation of the Minister of Agriculture Number 18 of 2021 concerning Facilitation of Development of Community Gardens in Neighborhoods, Article 1 number 3 jo. Ministerial Circular Letter Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 11/SE-HK.02.02/VIII/2020 concerning Implementation of Company Obligations in Facilitating Community Development, Article 1 point 3).

Plantation companies that do not fulfill their obligations to facilitate the development of community gardens in the form of partnerships (plasma plantations) from 20% of the plantation company's land area as required under statutory regulations have negative impacts, including the emergence of agrarian conflicts between communities and plantation companies. The phenomenon of agrarian conflict because people demand their rights from plantation companies to fulfill their obligations to facilitate the development of community gardens (plasma plantations) is happening more and more, for example:

The community demands that the company immediately issue a plasma plantation of 20 percent of the HGU land area of PT. Salim Ivomas Pratama, Tbk in Rokan Hilir Regency, Riau Province as Plasma to the surrounding community.

Plasma demands of the Tobing Jae Village Community, Padang Lawas Regency, North Sumatra Province which are members of the Bagas Godang Joint Secretariat against PT. Austindo Nusatara Jaya Agri which acquired PT. Eka Pendawa Sakti in 2000. The company is willing to carry out partnerships with local communities in accordance with applicable regulations. If there is land outside the HGU or community land around the plantation site to be made into plasma plantations with a partnership pattern.

3.2. Identify the root cause of why the company exist those who do not carry out their obligations to develop community gardens (plasma plantations) from 20% of the plantation company's land area

There are various factors and reasons why plantation companies do not fulfill their obligations to facilitate the development of community gardens in the form of partnerships (plasma plantations) from 20% of the plantation company's land area, including:

1. *Regulatory factors* (regulatory factor).

The multiple interpretations regarding the regulation on the obligation to facilitate the development of community gardens still raises several obstacles and problems in its

implementation because it is considered that the regulations and/policies are still inconsistent, contradictory, overlapping and across ministries, the implementation mechanism has not been regulated clearly and unequivocally. so that the plantation company reasoned that it was difficult to implement the rules and was the reason for the plantation company not having built gardens for the surrounding community in the form of a partnership (plasma plantation) of at least 20% of the plantation company's land area, thus triggering agrarian conflicts with the community. These regulations are scattered in a number of Ministerial Circulars, Ministerial Regulations, Presidential Regulations,

2. Plantation companies consider that the obligation to facilitate the development of community gardens in the form of partnerships (plasma plantations) cannot be applied to plantation company plantations because the plantations already exist according to the laws and regulations.
3. There are still multiple interpretations regarding the location of the plasma plantation development land whether outside or inside the plantation company's plantation. Plantation companies deem it obligatory to facilitate the development of community gardens. 20% of their land is outside the plantation company's plantation location and can be taken from existing business partnership areas or through the smallholder clustering program. from the surrounding community's own land, not land originating from the nucleus plantation concession area (plantation company plantation). Whereas the plantation companies reasoned that there was no availability of land to build plasma plantations because it was impossible to open new land for the people because there was a palm oil moratorium inpres, namely Presidential Instruction No. 8 of 2018 concerning Postponement and Evaluation of Oil Palm Plantation Permits and Increased Productivity of Oil Palm Plantations, dated 19 September 2018, which implemented the termination of the issuance of new land clearing permits. Plantation companies object to reducing their plantation concession areas to become plasma plantations on the grounds that a lot of capital has already been spent, so that it will become a burden and cause losses to plantation companies. implementing the termination of the granting of new land clearing permits. Plantation companies object to reducing their plantation concession areas to become plasma plantations on the grounds that a lot of capital has already been spent, so that it will become a burden and cause losses to plantation companies. implementing the termination of the granting of new land clearing permits. Plantation companies object to reducing their plantation concession areas to become plasma plantations on the grounds that a lot of capital has already been spent, so that it will become a burden and cause losses to plantation companies.
4. Whereas Plantation Companies and Regional Heads conspire in a manipulative nature, government officials should not be part of the abuse of authority in determining land locations from the obligation to facilitate the development of developing gardens for the surrounding community at least 20% of the land area of the plantation company area, thus harming the people by not establishing plasma plantations in his village.
5. Whereas the technical provisions for the physical development of community garden facilitation have not been regulated in clear detail, so that it becomes an obstacle in its implementation and becomes the reason for plantation companies not having built gardens for the surrounding community in the form of partnerships (plasma plantations).

Whereas most of the Agrarian Conflicts occurred because the plantation companies did not fulfill their obligations to facilitate the development of the surrounding community gardens (plasma plantations) from 20% of the plantation company's land area for the surrounding communities in the form of partnerships (plasma plantations) as required under laws and

regulations. Meanwhile, if there is a shortage or not fully implemented, the obligation to facilitate the development of surrounding community gardens (plasma plantations) from 20% of the land area of other related plantation companies as mentioned above becomes the supervision of the Government (Regional Government that grants Plantation Business Permits and the Ministry of Agrarian Affairs and Spatial Planning/Agency National Land Affairs is in the process of Granting, Extending or Renewing Cultivation Rights) to examine and enforce statutory provisions. These irregularities should be immediately responded to responsively by the Government, so that they do not have an impact on the functioning of the legal system and mechanisms stipulated in laws and regulations and the obligation to facilitate the development of the surrounding community gardens (plasma plantations) can be fulfilled. Agrarian conflict is one of the most common problems in Indonesia. Agrarian conflicts have a big effect on society both in economic, social, political and cultural terms. The lack or inaccuracy of handling the problem of agrarian conflict in Indonesia has resulted in more and more cases of agrarian conflict. so that it does not have an impact on the ineffectiveness of the legal system and mechanisms stipulated in laws and regulations and the obligation to facilitate the development of the surrounding community gardens (plasma plantations) can be fulfilled. Agrarian conflict is one of the most common problems in Indonesia. Agrarian conflicts have a big effect on society both in economic, social, political and cultural terms. The lack or inaccuracy of handling the problem of agrarian conflict in Indonesia has resulted in more and more cases of agrarian conflict. so that it does not have an impact on the ineffectiveness of the legal system and mechanisms stipulated in laws and regulations and the obligation to facilitate the development of the surrounding community gardens (plasma plantations) can be fulfilled. Agrarian conflict is one of the most common problems in Indonesia. Agrarian conflicts have a big effect on society both in economic, social, political and cultural terms. The lack or inaccuracy of handling the problem of agrarian conflict in Indonesia has resulted in more and more cases of agrarian conflict.

Based on the provisions of the laws and regulations mentioned above, it is clear that the origin of the land from the obligation to facilitate the development of community gardens around 20% of the plantation company's land area is State Land originating from the land area of the Plantation Business Permit or Plantation Business Permit for Cultivation granted to plantation companies or from the total land area of released state forest areas given to plantation companies or from the area of state land for which Cultivation Rights are requested or from the land area of Cultivation Rights granted to holders of Cultivation Rights in the process of granting, extending or renewal of rights that are redistributed to the surrounding community in the form of partnerships (plasma plantations).

3.3. Identification of the root cause of the impact for plantation companies that do not carry out their obligations in developing local community gardens (plasma plantations) from 20% of the plantation company's land area

Whereas the activity of facilitating the development of community gardens is one of the obligations that must be carried out by holders of Cultivation Rights and/or plantation companies that have Plantation Business permits, then administrative sanctions may be imposed for such violations, as follows:

- a. Administrative sanctions in the form of: a. fine, b. temporary suspension of Plantation Business activities; and/or c. revocation of plantation business permits (Article 60 of Law Number 39 of 2014 concerning Plantations in conjunction with Article 25 paragraph (2) of Government Regulation Number 26 of 2021 concerning Implementation of the Agricultural Sector).

- b. Proposals for the revocation of Cultivation Rights to authorized agencies are carried out by the Minister of Agriculture on the recommendation of governors or regents/mayors (Article 41 of Minister of Agriculture Regulation Number: 26/Permentan/OT.140/2/2007 concerning Guidelines for Plantation Business Licensing).
- c. The application for Cultivation Rights application was not granted because it did not meet the following requirements:
 - pursuant to the provisions of Article 27 letter i Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration, states: Holders of usufructuary rights are obliged to: “i. facilitating the development of community gardens around at least 20% (twenty percent) of the area of land that is granted usufructuary rights, in the event that the right holder is a legal entity in the form of a limited liability company and its use is for plantations.”
 - based on the provisions of article 64 paragraph (1) letter g number 12 Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, states: Requirements for application for Cultivation Rights originating from State Land include: the ability to facilitate the development of community gardens for plantation companies.
- d. Cultivation rights are deleted because: the rights are canceled:
 - If the holder of the Cultivation Right has been given a written warning for not fulfilling the obligation to develop a community garden (plasma garden), and then it turns out that they still do not fulfill this obligation, then they can be disciplined by being given a sanction, namely not extending the Cultivation Right or a serious sanction, namely the Cultivation Right delete pursuant to Article 31 letter b number 1 Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration, states: "Utilization Rights are deleted because: the rights are canceled by the Minister before the expiration of the period due to: non-fulfillment of provisions of obligations and/or prohibitions as referred to in Article 27 and/or Article 28”.
 - Whereas the erasure of Cultivation Rights on State land results in the land becoming State Land and the Holders of Cultivation Rights are obliged to return the land granted with Cultivation Rights to the state or Management Right holders, after the Cultivation Rights are deleted, based on Article 27 letter l and Article 32 paragraph (1) letter a Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration.

4. CONCLUSION

Even though the regulation and implementation have not been perfectly implemented, it can be a way to realize increasing the welfare of the Indonesian people towards a just and prosperous society. Whereas it is still necessary to carry out legal reconstruction by making corrections, perfecting legal material and harmonizing statutory regulations. That it is still necessary to carry out legal reconstruction by making corrections, perfecting legal material and harmonizing the laws and regulations as well as making special regulations in the form of Government Regulations as mandated by Article 59 Law Number 39 of 2014 concerning Plantations. Based on the hierarchy of laws and regulations which are basically higher laws override lower level laws and regulations (the legal principle of *Lex superior derogat legi inferiori*). In this case, Article 59 of the Plantation Law has ordered to immediately make a derivative regulation regarding Community Plantation Development Facilities in the form of a Government Regulation.

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