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CORE-PLASMA-BANK PARTNERSHIPS IN THE PLANTATION SECTOR AFTER THE JOB CREATION LAW FROM THE PERSPECTIVE OF LEGAL CERTAINTY AND PROTECTION IN THE STATE WELFARE LAW

Yustinus Lambang Setyo Putro
Doctoral Student Faculty of Law Universitas 17 Agustus 1945 Jakarta, Indonesia
Yustinuslambang@yahoo.co.id

Siti Nur Azizah
Professor Faculty of Law Universitas 17 Agustus 1945 Jakarta, Indonesia

Gunawan Widjaja
Senior Lecturer Faculty of Law Universitas 17 Agustus 1945 Jakarta, Indonesia
widjaja_gunawan@yahoo.com

Dyah Ersita Yustanti
Fakultas Hukum Universitas 17 Agustus 1945 Jakarta, Indonesia
dyustanti@yahoo.com

ABSTRACT

This research analyses legal certainty, legal protection, and tripartite legal responsibility in core–plasma–bank partnerships in the plantation sector after the enactment of the Job Creation Law. The reforms removed the explicit statutory obligation to provide 20% plasma smallholder area contained in the 2014 Plantation Law and shifted it into a regime of facilitation and private contracts, thereby increasing normative ambiguity and weakening the bargaining position of plasma farmers. Using a normative juridical method that combines statutory and conceptual analysis, comparative law, and case studies, the research finds that existing norms do not yet provide adequate guarantees for plasma farmers. In practice, tripartite arrangements often transfer credit risk to plasma farmers as direct debtors, while effective control over land, technology, and marketing remains with the core company and, through loan covenants, the Bank. The novelty of the dissertation lies, first, in demonstrating how the removal of the 20% obligation materially erodes smallholder protection, and second, in formulating the Equitable Tripartite Partnership Theory (TKTB), which positions the bank as a party to the partnership whenever financing is a constitutive element of the scheme. Comparative experience from Malaysia and the Philippines supports a more proportional role for banks through credit-guarantee schemes and contract oversight. The study recommends positivising TKTB in licensing, standard contracts, supervision, and credit-guarantee design so as to realise contractual justice and effective protection for plasma farmers in line with Pancasila and Article 33 of the 1945 Constitution.

Keywords: *Plantation Partnership; Tripartite partnership, Plasma Smallholders; Core Company; Bank*

Introduction

This study stems from the dynamics of implementing the Core–Plasma–Bank partnership model in the oil palm plantation sector. Within the framework of positive law, the partnership between large enterprises and micro, small, and medium enterprises (MSMEs) is reflected in Law No. 20 of 2008 concerning Micro, Small, and Medium Enterprises, hereinafter referred to as "MSMEs," and its regulations in Government Regulation No. 7 of 2021 concerning Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, hereinafter referred to as (**"PP** MSMEs"). This emphasises the obligation of the Core to nurture and develop its plasma, including through technical guidance, financing, marketing, and the provision of adequate information.

Indonesia, as one of the countries with the largest plantation sector in the world, faces demands to comply with global standards. RSPO (*Roundtable on Sustainable Palm Oil*) certification is a concrete example of how global pressure requires partnership practices that respect the rights of plasma farmers. International pressure through global certification such as the *Roundtable on Sustainable Palm Oil* (RSPO, 2018) has encouraged plantation companies in Indonesia to pay attention to sustainability and the rights of Plasma farmers. At the global level, partnerships in the agribusiness sector are one of the main issues in sustainable development. *The Food and Agriculture Organisation* (FAO, 2019) notes that contract *farming* is an important instrument for strengthening the position of smallholder farmers in the global supply chain.

Indonesia has a long history of regulating plantation partnerships. Law No. 18 of 2004 on Plantations became the initial basis for companies' obligation to involve the community through partnership schemes. Provisions on community involvement were later reinforced through Law No. 39 of 2014 on Plantations, particularly Article 58, which requires companies to establish and develop plasma plantations for surrounding communities.

In Indonesia, the concept of partnership in the plantation sector has been regulated for a long time, starting with the enactment of Law No. 18 of 2004 concerning Plantations, hereinafter referred to as ("**Plantation Law 200**4"), which is the initial basis regulating these provisions. These provisions are reaffirmed in Law-Law No. 39 of 2014 on Plantations, hereinafter referred to as **the** "2014 **Plantation Law**", which states the obligation of companies to establish plasma plantations for the surrounding community.

However, the enactment of Law No. 11 of 2020 concerning Job Creation, hereinafter referred to as **the** "**Job Creation Law**", has ultimately brought about fundamental changes. With its spirit of deregulation and ease of investment, the Job Creation Law has influenced changes to the provisions of the Plantation Law 2014. The articles governing the obligations of core companies in establishing plantations

with Plasma farmers have undergone numerous and fundamental changes. The Job Creation Law has amended a number of articles stipulated in Law No. 39 of 2014 on Plantations, including those concerning Plasma obligations. As a derivative regulation of the 2014 Plantation Law, Government Regulation No. 26 of 2021 concerning the Implementation of Agriculture, hereinafter referred to as "**PP 26/2021**", was issued to confirm the mechanism for implementing partnerships, thus serving as a derivative regulation that provides more technical provisions on partnerships. Normatively, the Job Creation Law and PP 26/2021 already regulate the legal framework for partnerships. However, based on the author's findings in practice, there is still disharmony between the Job Creation Law, the 2014 Plantation Law, and technical regulations such as the Minister of Agriculture Regulation, resulting in inconsistent implementation in the field and illustrating the gap between *law in books* and *law in action*.

Based on data from the Central Statistics Agency (BPS) in 2022, the area of oil palm plantations in Indonesia has reached 15.3 million hectares, with around 40% of them managed by smallholders. However, it has been found that this contribution is not always in line with an improvement in the welfare of Plasma farmers.

As a comparison to the nucleus company scheme with plasma farmers, Malaysia has implemented *the Nucleus Estate and Smallholders Scheme* (NESS) since the 1970s (Jomo K.S., 1987). This scheme requires large companies to allocate land to small farmers with full support from the government, including access to credit and technical training. Meanwhile, another country chosen by the author as a comparison is the Philippines, which applies the principle of Land Rights Certainty as the Key to Partnership as a key condition for partnership. Farmers obtain *a Certificate of Land Ownership Award* (CLOA) before the contract is signed. With this certainty, farmers' bargaining position is stronger, and contracts cannot be easily manipulated by corporations. Success occurs because the state actively facilitates, mediates contracts, and ensures a more proportional distribution of profits.

Many cases show and reveal the existence of unfair contracts, the weak bargaining position of Plasma farmers, and delays in profit sharing. The 2021 Sawit *Watch* report recorded at least 600 Plasma-Inti conflicts spread across Riau, West Kalimantan and Central Kalimantan (Palm Oil *Watch*, 2021). One notable case is the dispute in the Riau Islands, where Plasma farmers sued the Core company for being considered non-transparent in its profit calculations. The Supreme Court's decision No. 595 K/Pdt/2015 ( ) is an important precedent related to palm oil partnership disputes.

In palm oil plantation practices, one of the most widely used schemes is the Primary Cooperative Credit for Members (KKPA) partnership model with one-roof management. Through one-roof management, it is hoped that the technical quality of the plantation will be maintained, the supply of fresh fruit bunches (FFB) to the

core factory will be stable, and bank credit payments will run smoothly. However, various studies and practices show that this pattern is also prone to information asymmetry, decision-making dominance by the core company, and cost burdens that are difficult for farmers to control.

The partnership case between PT Guthrie Pecconina Indonesia (PT GPI) and the Sinar Delima Village Unit Cooperative (KUD) in Musi Banyuasin Regency, South Sumatra Province, concretely reflects these problems. The subject matter of KPPU Decision Number 02/KPPU-K/2021 is the implementation of a KKPA-style palm oil plantation development partnership for Plasma plantations in the 2005/2006–2013 planting years in the Sungai Keruh Subdistrict, managed by PT GPI as the core company with KUD Sinar Delima as the representative of the Plasma farmers of Gajah Mati Village.

From the analysis of the above case, the author sees that the partnership case between PT GPI and KUD Sinar Delima does not only concern technical issues of plantation management and debt accumulation, but also touches on the fundamental issue of the boundary between a legitimate partnership model and the practice of large businesses controlling their MSME partners. The differences in perspective between the Investigator and the Commission Council regarding the meaning of "control", the weight of the Settlement Agreement, and the assessment of one-roof management make Decision Number 02/KPPU-K/2021 an important example for re-examining legal protection for Plasma farmers in Core-Plasma partnerships. A more in-depth legal analysis of the partnership structure, the interpretation of Article 35 of the MSME Law, and the Commission Council's considerations in this decision will be further elaborated in Chapter 4.

After the author described the disputes and problems that occurred between the company as the core and the farmers as the plasma, based on the initial research conducted by the author, it was found that from a legal perspective, there was a disharmony between the Job Creation Law, the 2014 Plantation Law, and the technical regulations of the Ministry of Agriculture. For example, Ministry of Agriculture Regulation No. 98/2013 is still in effect even though some of its substance is no longer relevant to the Job Creation Law. This situation creates legal uncertainty and opens the door for companies to interpret partnership obligations unilaterally. In addition, the absence of uniform profit-sharing standards exacerbates injustice. Plasma farmers often only receive 20-30% of net profits, without a transparent control mechanism (Erman Rajagukguk, 2000). In fact, one of the basic principles of contract law is the balance of rights and obligations between the parties.

In the theory of the rule of law (*Rechtsstaat*), the state must be present to protect vulnerable groups, in this case Plasma farmers. The presence of the state is also in line with the theory of the *welfare state*, whereby the state is present and

enacts legislation that protects Plasma farmers, thereby preventing Core companies from acting arbitrarily towards their Plasma farmers.

Based on the background of the issues described above, it is evident that there are a number of aspects that still need to be examined in greater depth, both from a normative and an implementative perspective. The fundamental changes brought about by the Job Creation Law in the plantation sector have shifted the legal protection guarantees for Plasma farmers, which were previously explicitly regulated in the 2014 Plantation Law. In addition, the dynamics of partnership practices in the field show the involvement of third parties, namely banking institutions, which further expands the dimensions of legal responsibility in the Core-Plasma model. This condition requires research that not only reviews the bilateral relationship between Core and Plasma, but also pays attention to the tripartite structure involving banks as financing providers.

Based on the above, the author conducted this dissertation research entitled **"Core-Plasma-Bank Partnerships in the Plantation Sector after the Job Creation Law: Perspectives on Legal Certainty and Protection in a Welfare State".**

Research Method

The type of research used in this legal study is normative juridical research. Normative juridical research is a research method conducted by examining reference materials or secondary data as the basic legal material to be studied by conducting a search of regulations and literature related to the issues being studied (Satjipto Rahardjo, 2000).

Results and Discussion

The certainty of the regulation of Core-Plasma-Bank partnerships in the palm oil plantation sector from the perspective of the Pancasila welfare state, particularly in relation to legal protection and the fulfilment of the rights of plasma farmers as citizens.

Normative Evolution: From the 2014 Plantation Law to the Job Creation Law

The enactment of the 2014 Plantation Law marked the state's enthusiasm to reinforce the role of partnerships between plantation companies and surrounding communities. Article 58 of the 2014 Plantation Law explicitly requires plantation companies to partner with surrounding communities (Plasma) through various forms of fair and mutually beneficial cooperation.

However, this provision underwent a fundamental change when the Government passed the Job Creation Law. With an *omnibus law* approach, the Job Creation Law amended a number of articles in the 2014 Plantation Law, including the provisions on partnership obligations. Article 58, which originally contained imperative norms, was changed to declarative and general norms, so that it no longer

explains in detail the mechanism of Plasma-Inti partnerships.

From the perspective of welfare state theory, the 2014 Plantation Law was previously clearer because it contained details on the obligations of Core companies to enter into partnerships. After the Job Creation Law, these normative standards became vague, giving rise to broad room for interpretation (Philipus M. Hadjon, 1987). Disharmony also arose with the issuance of Government Regulation No. 26 of 2021 concerning the Implementation of Agriculture, which is the implementing regulation of the Job Creation Law. The formulation of this Government Regulation no longer includes detailed mechanisms, such as profit sharing, guidance obligations, or protection of fresh fruit bunch (FFB) prices.

Analysis of Legal Certainty from the Perspective of the Welfare State Theory

From the perspective of the welfare state, the law not only serves to maintain order but also acts as an instrument for the welfare of the people (Philipus M. Hadjon, 1987). The main criticism of the formulation in the Job Creation Law is the lack of detailed mechanisms to ensure transparency in profit sharing and strengthen the bargaining position of farmers. This has the potential to weaken the principle of the welfare state, which demands support for vulnerable groups.

Relevance to Pancasila Justice Theory

In the context of Plasma partnerships, the theory of Pancasila Justice, particularly the 5th principle of Social Justice for All Indonesian People, which is used as a *middle range theory*, emphasises that contracts should not only benefit one party, in this case the core company, but must also guarantee the rights of the other party, in this case the welfare of Plasma farmers. The partnership relationship must be familial, cooperative, and balanced, not merely a business relationship that places Plasma as a subcontractor. Thus, as a theory, Pancasila justice can provide moral and philosophical standards to assess whether the new formulation in the Job Creation Law is in line with the ideals of Indonesian law (Satjipto Rahardjo, 1980).

Identification of Regulatory Disharmony (Job Creation Law, Plantation Law, Government Regulation 26/2021

Following the enactment of the Job Creation Law, a number of provisions in the 2014 Plantation Law have been amended, deleted, or reformulated with more general wording. For example, the author found in his research that the obligation to partner, which was originally imperative, has become more declarative and does not include detailed mechanisms.

This regulatory disharmony has a direct impact on Plasma farmers, including (i) partnership contracts are more prone to being monopolised by Core companies, (ii) there are no clear standards for the price of fresh fruit bunches (FFB) to protect

Plasma, (iii) it is difficult to enforce the law when disputes arise, because normative references are not uniform. From the perspective of legal protection theory, these conditions reduce the effectiveness of both preventive and repressive protection for Plasma.

Conceptual Analysis

The regulatory disharmony between the 2014 Plantation Law, the Job Creation Law, and PP 26/2021 reflects a lack of synchronisation in Indonesian legal policy, particularly regarding the partnership between core companies and plasma farmers. Within the framework of a welfare state, this situation weakens the function of law as an instrument of social justice, because what should strengthen the position of Plasma has instead created uncertainty. In welfare state theory, the state should be present to protect its citizens who are in a weak position.

Legal Certainty in the Context of Plasma

Legal certainty is a fundamental aspect in supporting the continuity and sustainability of Plasma farmer partnerships in the plantation sector. In the context of Plasma farmers after the enactment of the Job Creation Law, the main challenge in achieving legal certainty is related to regulatory uncertainty. In addition to formal regulatory aspects, legal certainty must also be supported by consistent and effective law enforcement. This includes monitoring the implementation of agreed cooperation contracts and imposing strict sanctions on practices that violate rights, such as exploitation and monopoly. It can be concluded that legal certainty in the context of Plasma farmers is a key foundation that must be upheld through clear regulations, harmonisation between rules, and consistent law enforcement.

Relevance of the Case to Tripartite Legal Responsibility

Legal uncertainty in this regulation can certainly have an impact, including:

- Distribution of Financial Burdens and Debt: when the Core company transfers the costs of developing/maintaining the Plasma plantation to the cooperative/Plasma farmers, the farmers become the ones who bear the financial risk despite their weak bargaining position.
- Certificate Guarantees (SHM) as Bank Collateral: in the case of Buol, farmers' SHMs (through cooperatives) were used as collateral for credit debt, and there are claims that the company retained the certificates even though the debt had been repaid. This reflects the cross-relationship between obligations to the Bank and the Core-Plasma partnership.
- Lack of Transparency and Open Financial Reporting: these cases show that core companies are often irresponsible in terms of cost accountability, and cooperatives and farmers do not have adequate access to reports.

- The use of pressure tactics (operational shutdowns) as a negotiating tool by farmers when their rights are ignored.
- Interaction between the agricultural and banking sectors, where banks as creditors are also affected by unfair partnerships (e.g. when loans default due to production failures or internal partnership disputes).

Risk Distribution and Business Certainty

The presence of banks as third parties in the tripartite model broadens the dimensions of risk distribution. In principle, banks perform a financial intermediary function, but in the practice of the Core-Plasma partnership, banks often demand collateral from Plasma farmers or cooperatives. This means that Plasma farmers not only bear production and market risks, but also the financial risks arising from credit obligations. This situation has the potential to create structural injustice, as Plasma is in the weakest position but bears the greatest risk.

The absence of clear regulations following the Job Creation Law has further exacerbated this risk distribution situation. Prior to its repeal, Article 58 of the 2014 Plantation Law provided a normative guarantee that core companies were obliged to facilitate the development of plasma plantations ( ), thereby placing most of the financing risk on the core companies. However, after this provision was repealed, the relationship between the core and plasma companies became more dependent on contractual agreements, which in reality were often drafted unilaterally by the core companies. Without strict regulations, the distribution of risk became asymmetrical and detrimental to plasma farmers.

Theoretical Perspectives on Tripartite Legal Responsibility

The analysis of legal responsibility between the Core company, Plasma farmers, and the Bank cannot be separated from its underlying theoretical framework. The *Grand Theory* used in this study is the Theory of the Rule of Law towards the Welfare State, which views law not only as an instrument for regulation, but also for ensuring social justice and the welfare of the people (Jimly Asshiddiqie, 2017). In the context of the Core–Plasma–Bank partnership, this theory affirms that the state has an obligation to ensure a fair distribution of legal responsibility, so that Plasma farmers, as the weaker party, are not left to bear excessive risks. In other words, the concept of *the welfare state* provides a philosophical foundation that the law must protect the common people in every economic relationship.

Furthermore, the first *Middle Range Theory* used is the Pancasila Justice Theory. This theory emphasises that justice must be understood within the framework of Pancasila values, namely justice that is not only individualistic but also social (Bernard Arief Sidharta, 2000). In the Core–Plasma–Bank partnership, this theory demands distributive justice, where the distribution of risks and profits is carried out proportionally, as well as corrective justice, where the weaker party

receives protection from the domination of the stronger party. Pancasila, with its fifth principle, emphasises that the ultimate goal of every legal relationship is the achievement of social justice for all Indonesian people, including Plasma farmers.

The second *Middle Range Theory* is Legal Protection. According to Hadjon, legal protection is provided to prevent arbitrariness and protect the rights of vulnerable individuals (Philipus M. Hadjon, 1987). In the context of this study, the theory of legal protection emphasises the need for legal instruments that can provide a sense of security to Plasma farmers when dealing with two powerful parties, namely the Core company and the Bank. Legal protection should not stop at the formality of contracts, but must be evident in practice, for example through regulations that guarantee transparency of financing, fair risk distribution, and dispute resolution mechanisms that favour the weaker party.

The *Applied Theory* used is the Economic Partnership Theory, which emphasises the importance of cooperation between actors in economic activities to achieve mutual prosperity (Gunawan Widjaja, 2003). This theory is relevant because the Core–Plasma pattern is essentially a form of economic partnership that is expected to be mutually beneficial. However, in practice, imbalances of power and access to capital often cause these partnerships to deviate from the principle of equality. With the Bank as a third party, this theory provides a framework for analysing the extent to which tripartite relationships truly reflect the principle of fair cooperation or instead reinforce the dominance of certain parties.

The interrelationship between *grand, middle*, and *applied theory* shows that tripartite legal responsibility in partnerships cannot only be analysed from a normative legal perspective, but must also be viewed from philosophical, sociological, and practical dimensions. The transition from a constitutional state to a welfare state provides a philosophical foundation, while Pancasila justice and legal protection theory provide a connecting foundation for overcoming real problems in the field. Meanwhile, economic partnership theory provides a sociological foundation. With this multidimensional approach, the author's research will obtain a more comprehensive analytical framework and be able to reveal structural injustices in partnership patterns.

Furthermore, the use of these theories also reinforces the novelty of this research. To the author's knowledge, research on Core-Plasma tends to be limited to the bilateral relationship between Core and Plasma, so that the role of the Bank as a third party rarely receives attention. By using a combination of layered theories, this study not only identifies the weaknesses of the post-Job Creation Law regulations, but also offers a new analysis of the proportional distribution of legal responsibility in tripartite partnerships (B. S. Ingratubun, 2021).

The Concept of Tripartite Legal Responsibility in Partnerships

Legal liability can be categorised into two forms, namely contractual liability

and *non-contractual liability* (R. Setiawan, 1979). Contractual liability arises due to a breach of agreement, while non-contractual liability arises due to unlawful acts (*onrechtmatige daad*). In the context of the Core–Plasma partnership, and especially when the Bank is involved, the dominant form of liability is contractual liability because it is based on an agreement set out in the partnership agreement. However, the involvement of more than two parties in a legal relationship creates a new dimension in the concept of legal liability. A tripartite legal relationship, such as in the Inti–Plasma–bank partnership model, creates a more complex distribution of obligations because each party is not only bound by its own obligations but must also consider the implications of the other parties' obligations.

In the plantation sector partnership model, the Core Company plays a central role as the driving force behind business activities. The Core Company is usually a large-scale plantation business licence holder with capital, technology, market access and managerial capabilities. With this position, the Core Company bears the main responsibility for coordinating the production process and ensuring the marketing of Plasma plantation products (Muhammad Bakri, 2011). This obligation is legally rooted in the principle of good faith as stated in Article 1338 paragraph (3) of the Civil Code, which requires every agreement to be carried out with complete honesty and without harming other parties (Subekti, 1996). Thus, the Core Company must not merely exploit its dominant position to obtain maximum profits, but must also ensure the sustainability of Plasma's business as a business partner.

Meanwhile, Plasma farmers occupy a different position, as they are generally local communities who rely on land as their source of livelihood, but are limited in capital, technology, and managerial knowledge (Dimas Kresna Kunarto, 2024). Due to these limitations, Plasma farmers are often in a subordinate position that is highly dependent on the policies and commitments of the Core company. Within the contractual legal framework, Plasma farmers still have an obligation to fulfil their obligations as stipulated in the agreement, such as the obligation to plant certain commodities, maintain the quality of their produce, and follow the technical standards set by the Core company. However, in practice, this weak position often causes Plasma farmers to be trapped in an unequal relationship that is prone to causing losses. Therefore, the law does not only view Plasma farmers as mere contractual parties, but also as legal subjects who must be protected from exploitation by stronger parties (Philipus M. Hadjon, 1987).

From a banking law perspective, banks are obliged to implement *the prudential principle* as stipulated in Article 2 of Law No. 10 of 1998 concerning Banking. This principle requires that every credit facility be granted based on careful analysis, does not impose a burden that exceeds the debtor's capacity, and takes into account the protection of vulnerable members of society. In other words, banks should not only be positioned as creditors demanding payment ( ), but also as parties

that share responsibility for the sustainability of the partnership model.

From the perspective of contract law doctrine, the involvement of the Bank makes this partnership agreement a form *of multi-party contract*, i.e. an agreement involving more than two parties with different positions and achievements (R. Setiawan, 1979). In this type of contract model, legal responsibility can no longer be analysed simply as a two-way reciprocal relationship, but must be viewed proportionally according to the role and benefits of each party. The Core Company is responsible for ensuring the success of production and marketing, Plasma farmers are responsible for implementing cultivation in accordance with standards, and the Bank is responsible for providing financing on fair terms and conditions and ensuring legal protection for the weaker party.

From the perspective of a welfare state, the involvement of banks should strengthen the sustainability of partnerships, not the opposite. Banks should be viewed as development partners with a social obligation to support the welfare of Plasma farmers through fair financing schemes (B. S. Ingratubun, 2021). If this is ignored, the Bank's existence could actually worsen the position of Plasma farmers, turning them into mere "*small debtors*" without adequate protection. Therefore, the theory of tripartite legal responsibility requires that all parties—Core, Plasma, and Bank—bear balanced obligations in accordance with the principles of justice, proportionality, and legal certainty.

The ideal model for reforming the Core–Plasma–Bank partnership arrangement in the palm oil plantation sector, which is fair and dignified for plasma farmers, from the perspective of the Pancasila welfare state, taking into account practices in Indonesia, Malaysia and the Philippines

The implementation of Core–Plasma partnerships in Indonesia is commonly found in the palm oil commodity, particularly in the provinces of Riau, Kalimantan, and North Sumatra. This scheme is one of the requirements for plantation companies to obtain business licences, whereby companies are required to partner with local communities through the development of Plasma plantations covering at least 20% of the total licensed area.

However, practices in the field reveal a number of problems, with plasma farmers occupying a weak bargaining position due to asymmetry of information, capital, and control over production decisions. Following the Job Creation Law, the requirement for partnerships and facilitation of community plantations was reinforced in Government Regulation 26/2021 and operationalised through Minister of Agriculture Regulation 18/2021. however, at the contractual level, preventive protection (transparency, cost auditability) and repressive protection (rapid recovery mechanisms) are often ineffective, leaving Plasma vulnerable to costs and risks that are disproportionate to the control they have.

From the perspective of Legal Protection Theory (Philipus M. Hadjon, 1987), the implementation of partnerships must be analysed from two aspects: preventive and repressive. Preventive protection should be provided through fair and transparent contractual regulations. Unfortunately, in many cases, it has been found that contracts are drafted unilaterally by the core company without meaningful participation from plasma farmers. This weakens the function of law as an instrument of preventive protection. Meanwhile, based on research conducted by the author, it appears that repressive protection through dispute resolution mechanisms is also still limited.

When analysed using Pancasila Justice Theory as *a middle range theory*, it appears that the implementation of the partnership scheme is still far from the ideal of social justice. The values of kinship and mutual cooperation, which should be the spirit of partnership, are often replaced by practices that emphasise corporate interests (Notonagoro, 1984). For example, in several cases in Riau and Kalimantan provinces, based on research conducted by the author, it is known that the distribution of profits from the partnership model is more beneficial to the core company, while plasma farmers only receive a very small share after deducting the cost of plantation development instalments.

Bridging Normative Formulation and Practical Implementation

The formulation of the concept of partnership in the plantation sector after the Job Creation Law from the perspective of a welfare state shows that after the enactment of the Job Creation Law, the "partnership" relationship is not positioned solely as a sectoral obligation in the plantation sector as regulated in the 2014 Plantation Law, but rather as a broader economic development instrument through MSME clusters and partnerships. The formulation after the Job Creation Law can only fulfil the objectives of the Welfare State if *it is framed* by *due diligence* standards, certainty of rights, and effective administrative and judicial recovery channels. Without these, the logic of "partnership" relationships can easily slip into contractual relationships that favour concentration rather than equity.

The Welfare State as an Evaluation Tool

In a Welfare State**,** the law must organise market forces to produce equitable welfare—not merely maintain formal order ( ). Here, legal protection (*preventive–repressive*) becomes *a measuring tool*: this framework shifts the focus from *"is there a partnership*?" to *"is the partnership fair and does it benefit the weaker parties*?"

Pancasila Justice and Legal Protection Reinforce Each Other

The two *middle-range theories* used by the author as analytical tools in this study are that the Pancasila Justice Theory places the principles of kinship, mutual cooperation, and the balance of rights and obligations as the public ethics of partnership. This requires proportional *benefit sharing* and supports the voice of Plasma in decision-making (e.g., cost schemes, seed quality, harvest standards,

access to price information).

The correlation between POJK No. 14 of 2023 concerning the Implementation of Carbon Trading through the Carbon Exchange and Plasma Plantation Partnerships according to the author's research is as follows:

POJK No. 14 of 2023 concerning the Implementation of Carbon Trading through the Carbon Exchange regulates Carbon Trading through the Carbon Exchange. This regulation serves as a legal instrument to operationalise Presidential Regulation No. 98 of 2021 concerning Carbon Economic Value. Essentially, carbon units representing a reduction in emissions equivalent to one tonne of CO_2 can be traded on IDXCarbon as an official exchange.

This is directly related to the plantation sector, particularly palm oil, because:

- Oil palm plantations are accused of contributing to deforestation and greenhouse gas emissions.
- The Inti–Plasma partnership programme is an important part of the palm oil supply chain, so Plasma practices are also assessed in *carbon due diligence*.

This provides additional income opportunities for Plasma farmers, not only from fresh fruit bunches (FFB), but also from "*carbon credits*". The issuance of POJK No. 14 of 2023 concerning the Implementation of Carbon Trading through the Carbon Exchange with Plantation Plasma Partnerships adds a new dimension to Plasma partnerships as follows:

- It is not enough to be assessed based on FFB profit sharing, but also on carbon compliance obligations.
- It becomes a test of the consistency of the Welfare State: whether the state is present to ensure that Plasma does not become a victim of compliance costs, or is instead marginalised because it is considered unable to meet standards.

It opens up opportunities for normative and practical studies: how should the Core-Plasma partnership contract be reformulated to clearly regulate the rights and obligations related to carbon units and the distribution of carbon incentives?

The Legal Position of Indigenous Peoples in Plasma Partnerships: Study of Constitutional Court Decision No. 35/PUU-X/2012 (indigenous peoples' rights to forests, relevant to Plasma on customary lands)

Constitutional Court Decision No. 35/PUU-X/2012 arose from a petition filed by the Indigenous Peoples Alliance of the Archipelago (AMAN) challenging the phrase "*state forest*" in Law No. 41 of 1999 on Forestry , which stipulates that customary forests are part of state forests, thereby severely limiting the authority of customary law communities. With the issuance of Constitutional Court Decision 35/PUU-X/2012, the position of indigenous peoples has been strengthened because:

- They are recognised as collective legal subjects with rights over customary forests (Maria SW Sumardjono, 2008).
- The state may not treat customary lands and forests as state forests, but must respect the traditional rights of indigenous communities (Boedi Harsono, 2003).
- The state is obliged to create derivative regulations to ensure the implementation of this ruling, including in the context of granting plantation business permits in customary areas.

This ruling is highly relevant to research on Plasma partnerships as it regulates: (a) Rights to Plasma Land (b) Free, Prior and Informed Consent (FPIC), Legal Protection for Vulnerable Groups.

Formulation of the partnership concept after the enactment of the Job Creation Law

In the context of Plasma partnerships, the Pancasila Justice theory emphasises that contracts should not only benefit one party, in this case the core company, but must also guarantee the rights of the other party, in this case the welfare of Plasma farmers. The partnership relationship must be familial, cooperative, and balanced, not merely a business relationship that places Plasma as a subcontractor. Thus, as a theory, Pancasila justice can provide moral and philosophical standards to assess whether the new formulation in the Job Creation Law is in line with the ideals of Indonesian law.

Preventive Protection: Contract Standards, Land Certainty, and Transparency

Preventive protection serves to "*close loopholes before problems arise.*" In this regard, there are at least three pillars that need to be upheld in order to anticipate problems, namely: (a) minimum contract standards, (b) certainty of land rights, (c) transparency of financing and pricing.

Repressive Protection: Remedial Measures, Oversight, and Sanctions Repressive protection serves as a safety net when preventive measures fail

In this regard, it will at least cover (a) Tiered dispute resolution. In addition to the District Court, it is necessary to optimise *alternative dispute resolution* (mediation, conciliation, arbitration) that is fast and affordable, (b) Effective administrative supervision, (c) Access to legal aid.

***Best Practices* and Relevant Comparative Lessons**

Based on the author's description above of how Malaysia manages the partnership between core companies and plasma farmers, it has been shown that state intervention (FELDA/FELCRA/SALCRA) and the implementation of mandatory

MSPO certification are effective: contracts are more standardised, guidance is comprehensive, and access to financing for smallholders is more systematic. However, the level of centralisation, *settlement* model, and large fiscal support cannot be replicated in Indonesia due to political-fiscal differences and tenure diversity. The Philippines emphasises *the precondition* of land rights certainty (CLOA) and the existence of a special institution (DAR/DARAB) for mediation–adjudication of agribusiness partnerships; the most relevant lesson for Indonesia is to guarantee tenure first, then contracts, not the other way around.

Required Protection Design for Plasma

Based on the above discussion, the design of legal protection post-Job Creation Law that is in line with the Welfare State should at least include:

1. Mandatory Contract Standards: profit-sharing formula, cost transparency, data access, *periodic review*, and *early dispute board* or partnership committee for rapid resolution (Khairandy).
2. Tenure Security and FPIC: verification of land legality, recognition of customary rights in accordance with Constitutional Court Decision 35/2012, and community consent prior to contract implementation (Sumardjono).
3. Measurable Monitoring and Sanctions: partnership performance indicators in Government Regulation 26/2021 are complemented by a scale of *enforceable* administrative and economic sanctions to prevent moral hazard.
4. Sustainability & Carbon Integration: pro-Plasma ISPO guidance, clarity on carbon unit *benefit sharing*, and prevention of compliance cost shifting to Plasma without compensation.
5. Access to Justice: Structured ADR, strengthening the role of local government as a partnership ombudsman, and legal aid support for Plasma (Hadjon, Rahardjo).

With the above design, the Plasma Core partnership relationship is not only *de jure inclusive* on paper, but also *de facto* provides economic benefits, certainty, and dignity for Plasma farmers, which is the measure of success of protection in a Welfare State.

Regulation and implementation of legal responsibilities between Inti companies,

Plasma farmers, and banks in plantation partnership patterns after the Job Creation Law, particularly regarding financing, risk distribution, and legal certainty guarantees for Plasma farmers as the weaker party.

Legal Responsibility

The involvement of banks in the Inti–Plasma partnership model has created a new dimension in the legal relations of the plantation sector. Normatively, the Inti–Plasma relationship is bilateral, but with the entry of banks as financing providers, the partnership model has become tripartite. Thus, the position of banks in the Inti–Plasma partnership is *de facto that* of a third party that helps determine the success or failure of the partnership (Sudikno Mertokusumo, 2006).

Comparison and Theoretical Analysis of the Core-Plasma-Bank Partnership Model with Other Countries

Malaysia has a long history of managing oil palm plantations through *the Federal Land Development Authority* (FELDA) and *Federal Land Consolidation and Rehabilitation Authority* (FELCRA) schemes. This model essentially resembles the nucleus-plasma pattern, whereby the government acts as the main manager, while farmers (*settlers*) obtain land and credit to finance planting (Mohd. Fauzi Yaacob, 2006). The advantage of the Malaysian system is that the state guarantees Plasma loans, so that the risk is not borne entirely by the farmers (Basiron, Yusof, 2007). In this way, risk distribution is fairer because the Bank does not deal directly with Plasma farmers as individual debtors, but through a government-guaranteed credit scheme. This is different from Indonesia, where banks often place Plasma or cooperatives as direct debtors, creating the risk of land loss in the event of default.

The Philippines developed a plantation partnership programme through *the Comprehensive Agrarian Reform Programme* (CARP), which was launched in 1988. One model is *agribusiness venture arrangements* (AVA), which enable plantation companies ( ) to collaborate with landowner farmers in various forms of contracts, including *lease agreements, joint ventures*, and *contract growing (*James Putzel, 1992). In many cases, financing for Plasma farmers in the Philippines also involves financial institutions, both commercial banks and agrarian credit institutions.

Interestingly, Philippine law gives the state greater control over tripartite agreements. For example, *the Department of Agrarian Reform* (DAR) has the authority to review and approve every partnership agreement to ensure that it does not harm farmers. With this mechanism, the Bank's responsibility does not stand alone, but is bound within the framework of state supervision.

A comparison with Malaysia and the Philippines shows that the existence of banks in the Core-Plasma partnership cannot be viewed solely as a contractual issue, but must be placed within a broader legal framework. The theory of the Rule of Law towards the Welfare State requires that the state not be passive, but rather guarantee protection for the weak through firm regulatory intervention (Jimly

Asshiddiqie, 2017). In this context, Malaysia demonstrates the role of the state in guaranteeing Plasma credit, while the Philippines demonstrates the state's supervisory function over tripartite contracts. Both models are in line with the principles *of the welfare state*, where the law serves to bring about social justice through tangible protection for the community.

Furthermore, the Pancasila Theory of Justice provides a moral foundation that risk distribution in partnerships must be carried out proportionally (Bernard Arief Sidharta, 2000). If Plasma bears a double burden without protection, then the legal relationship that is created does not reflect social justice as mandated by the fifth principle of Pancasila. By placing the Bank as a party that is also responsible, tripartite partnerships can become a means of economic benefit distribution, rather than an instrument of structural oppression. Legal Protection Theory reinforces the urgency that the Bank's involvement must be regulated normatively so as not to increase Plasma's vulnerability, but rather become an instrument that supports the creation of business certainty (Philipus M. Hadjon, 1987).

Meanwhile, the Economic Partnership Theory asserts that the main objective of partnership is to achieve mutual prosperity through cooperation between actors (Gunawan Widjaja, 2003). If one party, in this case Plasma, continues to suffer losses, then the substance of the partnership has deviated from its basic concept. Finally, the application of these theories emphasises that the tripartite partnership model in Indonesia requires stronger regulations to achieve a balance of rights and obligations between the parties.

The results of this comparison become even clearer when linked to the theoretical framework of this study. The theory of the Rule of Law towards the Welfare State demands that the state should not be passive, but rather guarantee protection for the weak through firm regulatory intervention (Jimly Asshiddiqie, 2017). Meanwhile, the Economic Partnership Theory emphasises that the goal of partnership is mutual prosperity; if Plasma is harmed, then the substance of the partnership has deviated from its basic concept (Gunawan Widjaja, 2003). Finally, the Legal Protection Theory emphasises the need for normative instruments so that the Bank's involvement does not increase vulnerability, but rather supports the creation of business certainty for all parties (Philipus M. Hadjon, 1987).

CONCLUSION AND RECOMMENDATIONS

CONCLUSION

Legal Certainty

The regulation of partnerships in the plantation sector following the Job Creation Law shows a weakening of legal certainty compared to the 2014 Plantation Law regime. The removal of the explicit obligation for core companies to provide at least 20% of Plasma plantations from the total area of HGU has eliminated a clear

normative anchor for Plasma farmers and encouraged a shift in protection to the realm of private contracts. In a context of disharmony and a lack of minimum partnership standards, the legal relationship between core and plasma companies has become highly dependent on agreements that tend to be drafted unilaterally by core companies, creating uncertainty and opening the door to injustice for plasma companies.

Legal Protection

Legal protection for Plasma farmers within the framework of the Welfare State has not been optimally implemented, either preventively or repressively. Existing legal instruments have not been able to guarantee transparency in financing and contracts, proportional profit sharing, or certainty of land rights, leaving Plasma farmers in a weak bargaining position and at risk of exploitation by core companies. This reality shows that the role of the state is still largely passive; the Pancasila principle of social justice and the state's mandate to protect the rights of citizens who make their living from plantation businesses have not been substantively realised in the practice of core-plasma partnerships.

Tripartite Legal Responsibility

The structure of legal responsibility in core-plasma partnerships after the Job Creation Law has not been empirically implemented proportionally. The involvement of banks often places plasma farmers as direct debtors without adequate protection, so that plasma farmers bear a double burden: production obligations to the core company and credit obligations to the bank. Unlike Malaysia and the Philippines, which place the state as the guarantor and supervisor of contracts, the Indonesian legal system has not explicitly recognised partnerships as tripartite relationships that require risk sharing in line with control (*risk-follows-control*), transparency of costs and credit, fairness of public financing schemes, and the availability of effective remedies for Plasma. Therefore, the answer to Question 3 confirms the need to reconstruct the partnership into a fair tripartite partnership as formulated in the Theory of Fair Tripartite Partnership (TKTB).

Strengthening the regulatory framework for Core–Plasma–Bank partnerships

Lawmakers need to reaffirm the obligation of core companies to provide at least 20% of HGU area for plasma plantations, so that the existence of plasma has a clear legal basis. This obligation needs to be integrated and/or refined in the legal framework after Law 6/2023 (Cipta Kerja), PP 26/2021, and Minister of Agriculture Regulation 18/2021, accompanied by specific regulations regarding the role of banks in plantation partnerships that clearly regulate risk distribution, responsibilities, and protection standards for plasma farmers as the weaker party.

RECOMMENDATION

Reconstruction of Plasma Plantation Obligations in the Plantation Law and its

derivative regulations

The government and legislators need to restore or explicitly reformulate the obligations of core companies to facilitate the development of plasma plantations covering at least 20% of the total area of the HGU in the Plantation Law and its implementing regulations. This formulation is important to restore a clear normative basis for the existence of plasma, so that legal certainty is not solely left to private contracts between core and plasma companies.

Core companies need to consistently apply the principles *of good corporate governance* in all stages of the partnership, from contract design to implementation. This includes transparency of costs and prices, plasma involvement in strategic decision-making, the drafting of balanced clauses, and a commitment not to impose production and market risks disproportionately on plasma.

Explicit Regulation of the Tripartite Partnership Model between Core Companies, Plasma Companies and Banks

Special regulations are needed that explicitly recognise and regulate the tripartite partnership pattern between the Core, Plasma and Bank, with the bank being placed as a partnership party when financing is a substantive requirement for the formation of the partnership. These arrangements need to adopt the principle of risk follows *control*, the obligation of transparency in costs, prices and credit structures, and the provision of a measurable state credit guarantee window for public assignment programmes.

Cooperatives and plasma farmer organisations need to strengthen their institutional, managerial, and legal understanding capacities. This strengthening can be achieved through contract and financial training, improved negotiation skills, and the use of complaint and legal aid mechanisms when partnership violations occur. With stronger institutional capacity, Plasma's bargaining position vis-à-vis Core companies and Banks becomes more balanced.

Strengthening Partnership Contract Monitoring and Enforcement Mechanisms

The state needs to strengthen partnership contract monitoring mechanisms through institutions with clear mandates, both at the central and regional levels, with the support of minimum contract standards that protect the position of plasma farmers. Such supervision must include reviewing potentially exploitative clauses, transparency obligations, and the provision of fast, inexpensive, and effective dispute resolution mechanisms (e.g., tiered *grievance mechanisms* and/or *dispute boards*) as prerequisites for valid partnerships.

Banks, as part of the partnership structure, need to align their financing practices with their social function within the framework of Article 33 of the 1945 Constitution and the concept of a welfare state. The credit scheme for the Core-

Plasma partnership should be designed in such a way that the risk is not entirely borne by Plasma farmers, but is shared proportionally with the Core company and the Bank, and for certain public assignment programmes, supported by a credit guarantee scheme from the Government.

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