Sovereignty and Human Rights: Examining Sustainable Plantation Enterprises in Indonesia

Hairan¹, Tunggul Anshori Setia Negara², Imam Koeswahyono³, Bambang Sugiri⁴

¹Universitas Brawijaya, Indonesia, Email: harbrot@yahoo.co.id
²Universitas Brawijaya, Indonesia, Email: anshari.tunggul@gmail.com,
³Universitas Brawijaya, Indonesia, Email: imamkoeswahyono@gmail.com,
⁴Universitas Brawijaya, Indonesia, Email: bambang.sugiri@ub.ac.id

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Abstract

The Sovereignty Principle in the Plantations Law legalizes dynamics that disproportionately empower plantation companies while disenfranchising indigenous peoples. Under this principle, plantation permits are granted to companies, not indigenous communities, limiting the latter's involvement in mandatory deliberations set by the law. Consequently, indigenous peoples are coerced into relinquishing their lands in exchange for compensation, leading to the erosion of their collective land rights. This practice is at odds with the protections intended under Article 28D Paragraph (1) and Article 28H Paragraph (2) of the 1945 Constitution of Indonesia, which safeguard collective rights to property. The lack of political will to recognize and
A. Introduction

The Consortium for Agrarian Renewal (KPA) documented 207 instances of agrarian conflict across Indonesia in 2021. A significant portion of these conflicts, totaling 74 cases, occurred in the plantation sector. Notably, 59 of these, which constitute 80% of the plantation conflicts, took place in oil palm plantations, affecting a land area of 255,006 hectares. The infrastructure sector experienced 52 cases of conflict, followed by the mining sector with 30 cases. These conflicts typically involve disputes between plantation businesses and local communities, often comprising indigenous peoples.

The concept of land with collective rights among indigenous peoples is an ancient tradition, passed down through generations and predating any formal legal structures. This customary ownership entails communal land rights within indigenous territories. To acknowledge and protect the rights of indigenous peoples, processes of identification and verification are essential. These processes involve tracing the history of indigenous communities, their territories, customary laws, cultural assets, and institutions.

Formal recognition of indigenous peoples aims to provide legal certainty, reflecting the state's emphasis on positivism—ensuring that laws are clearly defined and enforced. In contrast, customary law, as described by Eugen Ehrlich, prioritizes utility and is deeply embedded in community life. According to Ehrlich, “The living law is the law which dominates life itself even though it has not been posited in legal propositions. The source of our knowledge of this law is, first, the modern legal document; secondly, direct observation of life, of commerce, of customs and usages and of all associations, not only those that the law has recognized but also of those that it has overlooked and passed by, indeed even of those that it has disapproved.”

Legal conflicts between Plantation Business Actors and indigenous peoples frequently arise from the provisions of Law No. 39 of 2014 on Plantations, particularly Articles 11 to 18, which concern the allocation of Plantation Lands. These issues are further complicated by the subsequent Law No. 6 of 2023, which codifies Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into statutory law. A key point of contention is the principle of sovereignty as outlined in Article 2 Letter a of the Plantation Law, which dictates that the organization of plantations must prioritize the sovereignty of Plantation Business Actors, enabling them to develop autonomously. This emphasis on the sovereignty of business entities raises philosophical questions, especially when evaluated against the foundational values of Pancasila, Indonesia's state philosophy. The sovereignty principle, when applied in this context, appears to conflict with the rights and interests of indigenous peoples, who are often sidelined or adversely affected by its implementation. The principle, as it currently stands in the Plantation Law, appears to prioritize the interests of plantation holders and business actors disproportionately.

This misalignment suggests that the sovereignty principle does not fulfill the objectives laid out in the Plantation Law itself, which should balance the needs of all stakeholders, including indigenous communities. The current legal framework gives excessive importance to holders of IUP/IPU-B/IUP-P permits (plantation business licenses), often at the expense of indigenous rights. Addressing this issue requires a normative, statutory, and conceptual reevaluation of the sovereignty principle in the context of plantation management. A proposed

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conceptual framework involves redefining this principle within the Plantation Law to ensure a more equitable balance of power. This includes the possibility of eliminating the sovereignty principle in its current form, enhancing state control over plantation activities, and ensuring free and informed consent from all affected parties.

B. Discussion

1. Legal Principles and Implications of Sovereignty Principle in Plantation Law on the Rights of Indigenous Peoples

G.W. Paton defines principle as “...the broad reason, which lies at the base of rule of law”, or in other words, a thought that is broadly formulated and becomes the basis for legal regulations or rules. This view is stated by G. W. Paton as referred by Satjipto Rahardjo based on the following ideas.

1. A legal principle is the broadest “foundation” for the creation of a legal norm.
2. A legal principle is the “reason” for the creation of a legal norm or comprises the “ratio legis” of legal norms.

In the work of Siti Ismijati Jenie and R. Tony Prayogo, legal principles are characterized as follows: (1) they serve as foundational reasoning or basic norms; (2) they are not concrete legal regulations but underpin these regulations; (3) they incorporate values of decency and have ethical dimensions; (4) they are articulated in statutory laws and judicial decisions.

Focusing on the legal principle in the Law on Plantations, particularly the Sovereignty Principle as outlined in Article 2 Letter a, the essential concern of legal philosophy shifts from quid iuris to quid ius. Quid iuris refers to the law as oriented towards and functioning as positive law, which is the law in effect and currently applicable. Conversely, quid ius represents the law in a substantive and essential form, which is the focus of legal philosophical analysis. A critical examination of positive law, such as the Law on Plantations, involves probing the essences and values underlying the regulation. According to Sianaidh Douglas-Scott, as referenced by E. Fernando M. Manullang, defining justice is challenging due to its moral components and inherent subjectivity. This underscores the complexity of aligning legal principles with the ethical and moral dimensions they are meant to reflect.

The concept of justice within the plantation sector, particularly in terms of land, involves the intersecting interests of three key groups: the state, Plantation Business Actors (Companies), and the local communities, including individuals and indigenous peoples. The structure and form of a law-abiding community in a customary setting consist of people who are bound to territorial and genealogical factors. Customary law is closely related to the concept of living law in the community. It is regarded as the oldest law ever existing in Indonesia, in addition to Islamic law and the law of colonial legacy.

The state's approach to expanding the national plantation industry, including the allocation of various plantation business permits (IUP/IUP-B/IUP-P) to corporations, should equitably address the legal rights of indigenous peoples. This is particularly critical given the numerous land disputes, such as those in Kalimantan, where government strategies still largely focus on

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exploiting natural resources like oil palm plantations and coal mining. From the state's perspective, plantations are seen as economic ventures aimed at increasing national revenue, expanding the local economy, and generating jobs. In contrast, the indigenous communities, who hold both collective and individual rights to their lands, often find their rights overridden or completely disregarded due to plantation businesses.

The current paradigm shift redefines the role of customary law communities, viewing them not as traditional groups that need modernization to align with urban standards, but as communities with their own socio-economic dynamics. This shift moves away from imposing external standards of welfare, typically defined by those in power\textsuperscript{13}, onto these traditional communities. While opposition to oil palm plantations is prevalent, it is not universal within these communities; some members actively welcome and engage with the plantation industries.\textsuperscript{14}

The state has a responsibility to ensure distributive justice for both individual landowners and indigenous peoples when dealing with plantation business actors (companies). Although the Law on Plantations theoretically ensures justice by requiring deliberations and prohibiting state officials from issuing plantation business permits (IUP/IUP-B/IUP-P) on indigenous lands with collective rights, it falls short in safeguarding these collective rights fully. Furthermore, the requirement for oil palm plantations to secure a permit for developing 250 hectares or more is intended to foster community development within the oil palm industry.\textsuperscript{15} However, the reality is that only 20\% of the land involved is allocated to the community, with the majority controlled by the plantation industries.\textsuperscript{16}

2. The Principle of Free, Prior, and Informed Consent

The agreement referenced in Law No. 11 of 2020 highlights only one aspect of the essential elements of free, prior, and informed consent (FPIC), crucial for fulfilling the rights of indigenous communities governed by customary law.\textsuperscript{17} These communities have ancestral land claims that lack legal certainty, positioning them as vulnerable parties in legal frameworks. Neither provincial nor local governments have effectively acknowledged these indigenous peoples and their land rights.

Article 12 Paragraphs (1) and (2) of the Law on Plantations embodies a principle of sovereignty. However, this sovereignty primarily supports the interests of plantation business actors. The deliberations outlined in Article 12 Paragraph (1) are pre-configured to achieve consensus on the terms for land transfer and compensation, often overlooking the rights and preferences of indigenous communities. In these negotiations, indigenous peoples rarely have the opportunity to exercise free choice regarding their collective land rights; the typical outcomes are land transfers in exchange for compensation. Such transactions invariably result in the loss of lands held under collective rights. The state should, therefore, prioritize the rights

\textsuperscript{13} Septya Hanung Surya Dewi, I Gusti Ayu Ketut Rachmi Handayani, Fatma Ulfatun Najicha, Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiami Hutan Adat, Legislatif Jurnal, Fakultas Hukum, Unhas, Vol.4 No.1, Desember 2020, p. 84

\textsuperscript{14} Endang Periady, Fatmawati, dan Pabali Musa, Konflik Sosial Masyarakat dengan Perusahaan Sawit Kecamatan Batu Ampar Kabupaten Kubu Raya, Journal of Public Administration and Sociology of Development (JPASDEV), Vol. 1, NO.1, Juli 2020, p. 95

\textsuperscript{15} Mispansyah, dan Nurunnisa, Penyalahgunaan Perizinan Perkebunan Sawit Dalam Perspektif Tindak Pidana Korupsi, Jurnal Ius Constituendum ,Vol. 6 No. 2 Oktober 2021 p. 353


https://jurnal.unpad.ac.id/sosiohumaniora/article/view/21792/13317

\textsuperscript{17} Safrin Salam, Rizki Mustika Suhartono, Edy Nurcahyo, La Ode Muhammad Karim, Erick Bason, Sulayman, Pengakuan Hak Atas Tanah Ulayat Masyarakat Hukum Adat Di Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Perspektif Teori Hukum Kritis, Jurnal Preferensi Hukum, Vol. 1, No. 1, 2020, p. 727

https://www.ejournal.warmadewa.ac.id/index.php/juinhum
and interests of indigenous peoples in these lands as a matter of precedence. Additionally, during the planning phases of plantations and Regional Spatial Plans (RTRW), indigenous communities must be actively included and provided with specifically targeted information to ensure truly informed consent.

The principle of distributive justice regarding indigenous rights appears nominally within legal frameworks such as the Law on Plantations. This approach should fundamentally guide the issuance of various types of Plantation Business Permits (IUP/IUP-B/IUP-P), ensuring that the rights of indigenous peoples are central to these processes. It is the state's duty to recognize and legalize the rights of indigenous peoples, which includes mapping these rights and presenting viable legal protections explicitly designed for their benefit. This commitment would align with delivering genuine legal certainty and protection to Indonesia's indigenous populations. Another issue related to this matter is identifying lands for plantation enterprises, especially when these lands overlap with areas owned by other individuals or indigenous peoples. Muhdar explains:  

“Economic marginalization, which practically makes indigenous peoples legally unprotected and practically weak, is clearly correlated with customary identification policy and the criteria set by the licensing regime. Because of the permits, the indigenous peoples start losing their lands to the many major companies that thrive in both Paser and Kutai Kertanegara regencies.”

Recent data reveal that in the Province of East Kalimantan, as of February 2022, there have been 52 cases involving 45 companies across various districts. Of these cases, 41 (79 percent) were related to land conflicts, while the remaining 11 cases (21 percent) involved non-land conflicts. The processes for IUP/IUP-B/IUP-P and land administration are closely intertwined. The administrative procedures for legalizing plantation enterprises through IUP/IUP-B/IUP-P have led to several issues as follows:

1) The issued IUP/IUP-B/IUP-P overlaps with that of other plantation companies or mining companies.

2) Reporting of IUP/IUP-B/IUP-P issuance and the development of conducted activities to the Provincial Department and the Directorate-General of Plantations has not proceeded optimally.

3) The issuer of the permit has not yet used a single digital map based on the Map of the Land Surface of Indonesia (RBI) published by the Geospatial Information Agency as the basis for issuance of IUP/IUP-B/IUP-P.

4) The issuance of permits lacks transparency and its timeframe exceeds the time limit that is established according to applicable legal regulations.

5) Guidance and supervision by the permit issuer (Regent or Governor) has not been conducted well.

3. Research Findings and Discussion
3.1 Interest of Land Control in Oil Palm Plantations

The government has yet to implement specific measures to prevent land conflicts, 18

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18 Muhamad Muhdar, Muhammad Tavip & Rahmawati Al Hidayah, State failure in recognition and protection of indigenous peoples over natural resource access in East Kalimantan, (Asia Pacific Law Review Journal, School of Law, City University of Hong Kong, 2019, ISSN: 1019-2557 (Print) 1875-8444 (Online) Journal homepage: https://www.tandfonline.com/loi/plr20), p. 16.

19 Data presented by the Chief of the Department of Plantations of the Province of East Kalimantan, presented in a coordination meeting for Disruptions to Plantations in East Kalimantan in Samarinda, February 2022.

particularly as plantation businesses look to expand into oil palm sectors. The potential for disputes between companies and local communities is increasingly evident and intensifying. These conflicts stem from competition over natural resources, driven by differing interests and objectives, and are considered structural in nature, leading to disparities in the control, ownership, and distribution of these resources.

A core issue that remains unresolved is the use of digital mapping, specifically the Land Surface of Indonesia (RBI) published by the Geospatial Information Agency. The digital maps fail to adequately represent the position of indigenous peoples, as there is no definitive recognition or demarcation of indigenous territories. Consequently, lands known to be indigenous are often classified as state-owned and deemed abandoned.

Imam Koeswahyono, quoted from the Department of Domestic Affairs of the Directorate-General of Agrarian Affairs Series IV: 14 – 16: that a juridical examination of abandoned lands can be conducted based on customary law, jurisprudence, or existing land-related legal frameworks prior to the enactment of Law No. 5 of 1960, or subsequent laws. The classification of land as abandoned according to customary law typically results from two main causes: 1) war or natural disasters severing the legal ties between the land and its rightful holders; and 2) the land becoming barren or otherwise impaired by natural events, leading to its abandonment.

Sholeh Mua’adi, in her remarks highlighted by Suteki, observes, "The majority of plantation conflicts in Indonesia are caused by a socio-economic discrepancy between the plantation company and the society or plantation farmers who reside around them. The interests of the plantation enterprise are due to the extremely dominant economic load. There are three important interests of legal subjects by the presence of the Law on Plantations, which are (1) the interests of the state, (2) the interests of plantation business actors, and (3) the interests of the holder of rights to the land as the indigenous people with collective rights. The state must be able to create a balance for the interests of plantation business actors and indigenous peoples for their collective rights or individual rights to the land." She points out that, unlike in Aceh where the imbalanced structure of land control and the oppressive social structure are major factors, the broader scenario requires nuanced management. This imbalance stratifies control among various classes: corporations, wealthy farmers, middle-class farmers, and peasants.

Recognizing this critical issue, the state incorporated protections within Article 18B Paragraph (2) of the 1945 Constitution of Indonesia, which acknowledges the existence of indigenous peoples and their collective rights. Jimly Ashiddiqie further elaborates on this point, stating:

“It is necessary to consider that this recognition is given by the state (i) for the existence of indigenous peoples along with the traditional rights they possess; (ii) the recognized existence is the existence of indigenous people unities; (iii) indigenous peoples are indeed alive (still alive); (iv) they are also such in certain environments (lebensraum); (v) the recognition and honor is given without ignoring measures of suitability for humanity according to the level of development for the existence of the nation; (vi) the recognition and honor may not weaken the meaning of Indonesia as a

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23 Imam Koeswahyono, Penggarapan Rakyat Atas Perkebunan Terlantar (Studi Kasus Di Gunung Badega Kabupaten Daerah Tingkat II Garut Propinsi Jawa Barat) [Tillage by the People of Abandoned Plantations (A Case Study of Mount Badega, Level II Region Garut Regency, Province of West Java)], (Jurnal Hukum & Pembangunan, Universitas Indonesia, Jakarta, June 1994, Vol.24 No.3) p. 264.
The state's prioritization of economic and investment interests often overshadows the recognition of indigenous peoples' rights, as their concerns are primarily social and ecological. As Noer Fauzi explains: “Collective rights are assured of their existence conditionally by the Law on Agrarian Affairs. These collective rights are brought up to a higher level to become the Controlling Right of the State.”

The goal of welfare should be achieved through balanced policies that cater to both the local society and indigenous peoples, as well as plantation business actors who receive support from the state in forms such as IUP/IUP-B/IUP-P. The Constitutional Court's Ruling No. 35/PUU-X/2012 on May 16, 2013, confirmed that indigenous forests are forests located within indigenous territories. However, this recognition does not fully address the rights of indigenous peoples, which extend beyond forests to include land rights.

In certain regions, the lack of political will to enact these rights into law poses significant challenges. The legal establishment of indigenous land rights remains a dilemma for regional leaders at the provincial and municipal levels. The process of legally recognizing indigenous territories through a Regional Regulation or Decree presents both benefits and drawbacks. The state's role in facilitating this process is to ensure legal certainty for the lands under customary law rights. According to Article 5 of the Regulation of Agrarian and Spatial Planning Minister/the Head of the National Land Agency No. 5 of 1999, regional governments are mandated to regulate the recognition of ulayat rights, thereby providing a legal framework to safeguard these lands.

The interests of plantation business actors and those of individuals or indigenous peoples often converge, leading to conflicts between corporations and local communities, particularly indigenous peoples, for several reasons:

a. The Plantation Business Actors have obtained legitimacy from the state with the IUP/IUP-B/IUP-P they possess. Psychologically for the Plantation Business Actors, the IUP/IUP-B/IUP-P becomes a major determinant in conducting activities on the field. The mandate in Article 12 Paragraph (1) of the Law on Plantations, which states: “In the case that the land required for Plantation Enterprises comprises Land of Indigenous Peoples with Collective Rights, Plantation Business Actors must conduct deliberations with Indigenous Peoples possessing Collective Rights to obtain agreement regarding the transfer of Land and its reward.”

Yet in reality, Plantation Business Actors are often considered hostile to indigenous peoples. For as long as the rights and existence of indigenous peoples are not recognized by the state through regional establishment by a Regional Regulation or Decree of a Regional Leader, they are considered to have never existed. As such, the Plantation Business Actors conduct land clearing forcefully.

Deliberations are conducted as a part of the resolution of land disputes, but the Plantation Business Actors have a stronger position than the state.

27 Noer Fauzi, *Petani dan Penguasa, Dinamika Perjalanan Politik Agraria Indonesia* [Farmers and Rulers: Dynamics of the Course of Agrarian Politics in Indonesia], (Yogyakarta, INSIS, KPA with Pustaka Pelajar, 1999), p. 179
b. The problem that indigenous peoples face is that in fact, there often occurs a split of interests to protect their collective rights. Among groups of indigenous peoples, it is also objectively important to mention that in several places, their interests in relation to land or collective rights drift apart. The entry of modernism cannot be avoided by the indigenous peoples, and they are pressured by life demands and livelihoods. This change in lifestyle becomes advantageous for the Plantation Business Actors. Plantation Business Actors make their entry by splitting the unity of indigenous peoples. The case in Muara Tae Village, West Kutai Regency, becomes an actual example. The people are split into two groups, as one group who maintains the indigenous forest and land, and another group who had received compensation for the land from the Plantation Business Actor by changing the boundary lines of the village on the land being disputed.  

The interests of the government, indigenous peoples, and plantation business actors intersect in significant ways. The government's primary interest lies in sustaining and increasing state revenue from the economic sector to support its extensive development funding needs. Indigenous communities, on the other hand, risk losing their land and opportunities to engage in oil palm plantation businesses. Meanwhile, plantation companies benefit from state legitimization through the issuance of permits such as IUP/IPU-B/IPU-Perkebunan.

3.2 The Sovereignty Principle of the Law on Plantations as Excessive Rights for Plantation Business Actors (Companies)

In the Law on Plantations, the values of prosperity and welfare are fundamental, guiding the creation of specific legal principles by the drafters of the law. Among these principles, the "Sovereignty Principle" is paramount. Article 2 of the Law outlines the comprehensive framework within which plantations should operate, emphasizing principles such as sovereignty, independence, utility, sustainability, integration, togetherness, openness, efficiency and justice, local wisdom, and the conservation of environmental functions. The importance of the sovereignty principle, in particular, is further detailed in the explanatory section of the Law on Plantations.

“What is meant by the ‘sovereignty principle’ is that the organization of plantations must be conducted by upholding the sovereignty of Plantation Business Actors who possess the right to develop themselves”.

Drawing from the insights of several scholars, Jenik Radon emphasizes that sovereignty is philosophically understood as absolute control over a specific region, which is fundamental to the formation of a state. Sovereignty is regarded as the highest authority that underpins state formation. Echoing this concept, Dan Sarooshi and Jens Bartelson describe sovereignty as the ultimate authority in decision-making, which can be analyzed and characterized based on various opposing dimensions, such as legal versus political sovereignty, internal versus external sovereignty, indivisible versus divisible sovereignty, and government versus popular sovereignty.

When applying these nuanced perspectives to the sovereignty of the Unitary State of the Republic of Indonesia, an analysis emerges that involves these various opposing elements (diametric perspectives). This examination allows for a deeper understanding of how sovereignty functions within the specific political and legal context of Indonesia, highlighting the complexities and dynamics at play in its governance and constitutional framework as

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30 Land dispute of the Dayak Benuaq indigenous people in Muara Tae Village, Jempang Sub-District, West Kutai Regency, East Kalimantan with PT. Borneo Surya Mining Jaya (BSMJ), op. cit.
follows.

1) Legal or political sovereignty
Indonesia is a state that firmly states constitution, as the 1945 Constitution of the Republic of Indonesia, specifically in Article 1 Paragraph (3) of that constitution, that the state of Indonesia is one with legal supremacy (rule of law). The diametric choice of political sovereignty will not provide a guarantee of certainty, but political strength can realize the sovereignty of a nation. The political strength of the founding fathers of the Indonesian nation was realized by moving with their political abilities, which allowed the nation of Indonesia to be formed as a state.

Susanto Zuhdi explained how in the beginning the state of Indonesia was formed:33 “The history of the nation was made when the founding fathers discussed for what objective and with what basis a state called Indonesia would be formed. Ir. Soekarno gave the answer to that question, which would be known as ‘The Birth of Pancasila’ on June 1, 1945.” The founding fathers contemplated, how politics can be a tool to achieve sovereignty for the state to be formed, as the Unitary State of the Republic of Indonesia. Then, with the sovereignty for the state being formed, it becomes the start of the legal system.

2) Internal or external sovereignty
Internal sovereignty is directed to the situation and condition of political stabilization, defense, and security related to the legitimacy of control for its existence among the people as state supremacy.

External sovereignty is the exclusive right or authority for each state to determine freely its international relations with various other states or groups without obstructions, barriers, restraints, and pressure from any other party (a freedom in international relationship).

3) Indivisible or divisible sovereignty
The form of the state also determines whether sovereignty is indivisible or divisible. The Unitary State of the Republic of Indonesia, which does have the form of a republic, belongs as a state with indivisible sovereignty.

4) Government or popular sovereignty
The highest control is in the hands of the people, because sovereignty is in the hands of the people. This affirmation is found in Article 1 Paragraph (2) of the 1945 Constitution of the Republic Indonesia resulting from the Third Amendment, which states that sovereignty is in the hands of the people and is executed according to the Constitution.

In exploring the concept of sovereignty, Sigit Riyanto34 identifies various approaches, categorizations, and applications. Sovereignty may encompass domestic sovereignty, interdependence sovereignty, international law sovereignty, and absolute state sovereignty. When integrating the principle of sovereignty into the Law on Plantations, this inclusion serves as a means to bolster state legitimacy, affirming the state as the ultimate holder of control.

James J. Seehan critically discusses the complexities of sovereignty35, noting, “What is the problem of sovereignty? Sovereignty is obviously a political concept. However, unlike political concepts such as democracy or monarchy, sovereignty is not about the location of power (the sovereign, Hobbes wrote, can be ‘the one or the many’); second, sovereignty asserts that this public authority is preeminent and autonomous, that is, superior to institutions within the community and independent from those outside.” This perspective emphasizes sovereignty as a central, autonomous authority that transcends other powers both internally and externally.

33 Susanto Zuhdi, Sejarah Perjuangan Bangsa Sebagai Modalitas Memperkuat Pertahanan Negara (History on Nation Struggle Modality for Strengthening State Defense), (Jakarta, Jurnal Pertahanan, Volume 4 Number 1, March 2014), p. 34.
34 Sigit Riyanto, Re-interpretasi Kedaulatan Negara dalam Hukum Internasional [Reinterpretation of State Sovereignty in International Law], op. cit., p. 4.
Further delineating the concept, H.L.A. Hart describes sovereignty using a structural metaphor: “This vertical structure composed of the holder of sovereignty and the subjects, according to this theory, is the intrinsic element of a society that possesses laws, similar to the backbone of a human.” This analogy illustrates the foundational role of sovereignty in structuring a legal society. The issue of sovereignty is fundamentally one of defining what it entails. As a political concept, sovereignty differs from others like democracy or monarchy in that it does not merely locate where power lies; as Hobbes noted, "the sovereign can be 'the one or the many'." Moreover, sovereignty establishes that this authority is paramount and independent—superior to any internal institution and free from external influences.

Within this context, the sovereignty of the Unitary State of the Republic of Indonesia is multifaceted, incorporating aspects such as legal and political sovereignty, both external and internal sovereignty tailored to specific interests, an indivisible sovereignty as opposed to a divisible one, and a sovereignty derived from the people rather than from the governing bodies. However, it seems that rights for actors in the plantation business have been extensively regulated, from land ownership rights secured through instruments like IUP/IUP-B/IUP-P to HGU, to notably robust protections for their status as business owners within investment-related legislation. A higher business interruption rate suggests a correlation with the ease of doing business (EoDB), indicating that enhancements in EoDB are aimed at drawing more investors. Accordingly, the policy outlined in the Presidential Instruction regarding the Moratorium should be discontinued if the EoDB improvement is to progress effectively.37

The allocation of sovereignty might be perceived as an overly generous "right." Although both plantation workers and business actors are intended beneficiaries, the privileges afforded to the latter through the IUP/IUP-B/IUP-P process markedly surpass those granted to the workers. The issue at hand pertains to the application of the Sovereignty Principle as specified in the Law on Plantations. Unlike conventional interpretations where sovereignty is attributed to the state, in this instance, sovereignty has been conferred upon plantation business actors, thereby rendering them legal subjects. This departure from the traditional view, where the state typically embodies sovereign power, is noteworthy.

The transformation of the concept of sovereignty can also be observed in contemporary terms such as "food sovereignty" (kedaulatan pangan). Unlike the sovereignty discussed in the context of plantation business actors, food sovereignty is generally uncontroversial because it directly relates to the sustenance of the populace. The value of food sovereignty is assessed based on the substance—the essential nature of the food itself—rather than on the entities controlling its production. Turning to the specifics of the Law on Plantations, Article 2 Letter a does not explicitly affirm state sovereignty over plantation enterprises. Instead, it seemingly assigns sovereignty to the plantation business actors themselves, which signifies a significant shift from the norm where such sovereign rights are reserved exclusively for the state.

Furthermore, plantation companies, as defined in Article 1 Number 10 of the Law on Plantations, are acknowledged as legal entities operating within Indonesian law and territory, responsible for managing plantations of a certain scale. This definition solidifies their status as significant players within the legal framework governing plantations.

According to Mudjiono, several factors have sparked land conflict: (1) incomplete rules regulating land-related matters, (2) irrelevant regulations, (3) irresponsible land officials to the needs of the land and the available areas of land, (4) inaccurate and incomplete data sources, (5) land data errors, (6) shortage of human resources tasked with land dispute resolution, (7) land transaction errors, (8) Problem settlement by other institutions, causing overlapping.

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37 Rio Christiawan, Evaluasi Kebijakan Moratorium Penundaan Penerbitan Izin Pada Perkebunan Kelapa Sawit, *Veritas Et Justitia Jurnal Ilmu Hukum* (VeJ) Vol.6, No 1, p. 3
authorities. All these sources of issues presented according to their historical timeline will need to be settled with prescriptive law.

The prevalence of plantation conflicts, heavily dominated by plantation enterprises, is a significant issue. In 2018, 60% of these conflicts occurred between local communities and companies holding IUP/IUP-B/IUP-P licenses. These licenses confer substantial legitimacy and perceived absolute land rights to the holders, primarily plantation companies, within the designated areas. This legitimacy, sanctioned by the state, endows these companies with a strong legal standing, significantly affecting the dynamics of land ownership and use.

The data from the KPA highlights that of the 144 recorded outbursts of agrarian conflict within the plantation sector in that year, 83 cases—or 60%—involved palm oil plantations. This is significant considering the expansive areas covered by palm oil plantations, as reported by Perkebunan Besar Nasional (PBN) with 550,333 hectares, Perkebunan Besar Swasta (PBS) with 8,041,608 hectares, and Perkebunan Rakyat (PR) with 6,029,752 hectares. The Law on Plantations, which endows excessive rights through the Sovereignty Principle, arguably contributes to these conflicts. The principle grants business actors rights that are not extended to the actual objects of land rights—namely, the land itself and the enterprises operating on it. Instead, these rights are bestowed directly upon the legal subjects, the Plantation Companies. This legal framework places economic considerations and the power of capital at the forefront, often at the expense of social and environmental considerations. Furthermore, the application of the Sovereignty Principle in the Law on Plantations appears skewed toward benefiting the plantation business actors exclusively, sidelining values of truth and justice. This narrow focus on granting sovereignty to a particular party can lead to significant imbalances and injustices, contributing to the escalation of conflicts. The failures within the system may stem both from internal factors related to the holders of sovereignty—such as misuse of power and poor management—and external factors, including regulatory weaknesses and enforcement issues.

C. Conclusion
1. The Sovereignty Principle outlined in the Plantations Law does not align with the foundational values of our nation, which are rooted in the social and cultural fabric of Indonesian society, as prescribed by Pancasila and the 1945 Constitution of the Republic of Indonesia.
2. The Sovereignty Principle in the Plantations Law undermines the ability of indigenous peoples to protect their lands and maintain collective rights. Negotiations with plantation companies, as stipulated in Article 12 Paragraph (1) of the law, are framed around land transfers and compensations.
3. Indigenous peoples lack the freedom to make decisions about leasing, transferring, or engaging in other processes that safeguard their collective land rights. Their interests and rights to information, as well as their participation in drafting plantation plans and Regional Spatial Plans, are not sufficiently prioritized.

38 Gita Isyanawulan, Yoyok Hendarso, Zulfikri Suleman, Muhammad Izzudin, Mediasi dalam Penyelesaian Konflik Lahan Perkebunan di Kabupaten Ogan Kemering Ilir (OKI), Sumatera Selatan, Jurnal Ilmiah Ilmu Sosial, Volume 9, Number 2, Desember 2023, p. 132
40 KPA, p. 17.
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