



# The Law of Partnership in Oil Palm Plantation: Historical, Regulatory, and Tourism Industry Perspectives

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**Abstract.** This study aims to analyze the nature of partnership in oil palm plantation from the historical perspective of oil palm plantation partnership. The method used in this study is normative juridical method with statutory approach and case approach. The research questions that will be discussed in this study are as follows: What is the nature of partnership based on the history of oil palm plantation partnership in Indonesia? What are the current regulations of oil palm plantation partnership? How can the regulations of oil palm plantation partnership be used as a legal framework for developing tourism industry? The results of the study show that partnership in oil palm plantation has a complex nature and requires good regulation to provide benefits for all stakeholders. The current regulations of oil palm plantation partnership are still not effective and efficient, so they need to be improved to provide better legal protection for the people. The regulations of oil palm plantation partnership can also be used as a legal framework for developing tourism industry, so that they can provide greater economic benefits for the people.

**Keywords:** Partnership Law, Oil Palm, Tourism Industry

## 1 Introduction

Oil palm plantations are one of the strategic sectors that contribute greatly to the national economy. According to data from the Ministry of Agriculture, Indonesia's palm oil production in 2020 reached 48.2 million tons, with an export value of 23.1 billion US dollars. Oil palm plantations also absorb about 5.2 million workers, both directly and indirectly.

One of the important factors that support the development of oil palm plantations in Indonesia is the partnership between companies and farmers. Partnership is a business relationship between large or medium-sized businesses and micro, small, or cooperative businesses in order to increase the capabilities of micro, small, or cooperative businesses. In the context of oil palm plantations, partnership can take the form of facilitating the development of community plantations by companies that have a plantation business license (IUP) or a plantation business license for cultivation (IUP-B).

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Partnership in oil palm plantations has a complex nature and requires good regulation in order to provide benefits for all stakeholders. The nature of partnership can be seen from the perspective of history, regulation, and tourism industry. The historical perspective reveals how partnership has evolved over time as a response to social, economic, and political dynamics. The regulatory perspective outlines how partnership is regulated by various laws and regulations that aim to protect the rights and interests of the parties in partnership. The tourism industry perspective shows how partnership can be used as a legal framework for developing a tourism industry that is based on local potential and community participation.

This study aims to analyze the nature of partnership in oil palm plantations from the perspective of the history of oil palm plantation partnership. The method used in this study is a normative juridical method with a statutory approach and a case approach. The formulation of the problem that will be discussed in this study is as follows:

- What is the nature of partnership based on the history of oil palm plantation partnership in Indonesia?
- What are the current regulations on oil palm plantation partnership?
- How can oil palm plantation partnership regulations be used as a legal framework for developing the tourism industry?

## 2 Method

The method used in this research is the normative juridical method with a statutory approach and a case approach. In researching the first problem formulation 'The Nature of Partnership Based on the History of Oil Palm Plantation Partnership in Indonesia', it explains the history of oil palm partnership from its development since the colonial era until now. Then, it distills the values contained in the historical exposition of oil palm partnership. Then it analyzes the values that emerge using the utilitarianism law school. Thus, the researcher hopes to reveal the philosophical nature of oil palm plantation partnership in Indonesia.

To answer the second problem formulation, namely 'the current regulation of oil palm partnership', the author identifies the legal regulation of partnership that was made during the New Order and Reformation eras. The author also identifies the partnership models that exist in the partnership regulation. This problem formulation will be analyzed using the proposition of economic analysis of law based on four basic principles of economics, namely Law of Demand; opportunity cost; the tendency of resources to gravitate toward their most valuable uses; and equilibrium.

The third problem formulation is 'the regulation of oil palm partnership as a legal framework for tourism industry development'. The author will discuss how a legal framework can be formulated to integrate oil palm partnership and tourism. For example, the author will take the case of PT STN in Babulu, East Kalimantan, which makes Tolu Liang Cave as a tourist destination. The author will also formulate a legal

framework for partnership based on existing partnership models in the oil palm sector and apply them in an established tourism context, such as Bali.

### **3 Discussion**

#### **3.1 A. The Nature of Partnership Based on the History of Oil Palm Plantation Partnership in Indonesia**

Oil palm plantation partnership in Indonesia has a long and dynamic history. The history of oil palm plantation partnership in Indonesia can be divided into four stages, namely the colonial era, the Old Order era, the New Order era, and the Reformation era. In the colonial era, oil palm was first brought to Indonesia by the Dutch in the 19th century from West Africa. In 1911, oil palm began to be cultivated and commercialized with its pioneer in the Dutch East Indies being Adrien Hallet, a Belgian, who was then followed by K. Schadt. The first oil palm plantation was located in East Coast of Sumatra (Deli) and Aceh.

In the colonial era, oil palm plantation partnership was very low because only foreign companies from Europe dominated oil palm plantations and did not give opportunities for local people to be involved in the management and utilization of oil palm plantations. The philosophical value that can be seen in this era is the value of exploitation.

In the Old Order era, oil palm plantation partnership began to increase because the Indonesian government nationalized oil palm plantations and gave opportunities for local people to be involved in the management and utilization of oil palm plantations through PTPN. The philosophical value that can be seen in this era is the value of nationalization.

In the New Order era, oil palm plantation partnership increased further because the Indonesian government encouraged the development of oil palm plantations nationally by involving private companies and smallholder farmers through various PIR models. These PIR models aimed to improve the welfare of smallholder farmers, develop new areas, promote cooperatives, and provide credit facilities. According to BPS data, in 2020, the area of smallholder oil palm plantations reached 6.72 million hectares or about 41 percent of the total area of oil palm plantations in Indonesia. The philosophical value that can be seen in this era is the value of modernization.

In the Reformation era, oil palm plantation partnership is expected to continue to increase because the Indonesian government implements various regulations and policies that support sustainable and equitable oil palm plantation partnership. One of the regulations issued is Law Number 39 of 2014 on Plantations which states that plantation companies must provide facilities for 20 percent of the total area of HGU for community plantation development.

Oil palm plantation partnership in this era also must be able to address various issues and challenges that arise, such as environmental, social, and economic issues, as well as increase participation and empowerment of communities in oil palm planta-

tion development. The philosophical value that can be seen in this era is the value of partnership.

Oil palm plantation partnership in Indonesia is a phenomenon that has a long and dynamic history. This history reflects political, economic, and social changes in Indonesia, as well as the underlying philosophical values. From the colonial era dominated by the value of exploitation, oil palm plantation partnership developed into more inclusive and participatory in the Old Order, New Order, and Reformation eras, with values of nationalization, modernization, and partnership. However, oil palm plantation partnership in the Reformation era also faces various issues and challenges that demand sustainable and equitable oil palm plantation partnership.

Using a utilitarianism approach, which is an approach that measures philosophical values based on the level of welfare or satisfaction produced by a policy or legal action for as many people as possible. Using this approach, it can be assessed that the highest philosophical values are values that reflect efficiency, balance, and partnership, because these values can increase overall welfare for the parties involved in oil palm plantation partnership in Indonesia. Whereas the lowest philosophical values are values that reflect exploitation, nationalization, or modernization, because these values can cause costs, conflicts, or social losses that are greater than their benefits.

### **3.2 Oil Palm Partnership Regulation**

One of the efforts made by the government to support the sustainability of the oil palm industry is by encouraging partnership patterns between oil palm plantation companies and plasma farmers or surrounding communities. This partnership is expected to increase the competitiveness of the oil palm industry in the global market, as well as improve the welfare of farmers and surrounding communities.

The policy of partnership between oil palm plantation companies and plasma farmers or surrounding communities has been regulated in various regulations, such as Law No. 39 of 2004 on Plantations, Permentan No. 26 of 2007 on Guidelines for Plantation Business Licensing, and Law No. 6 of 2023 on Stipulation of Perpu No. 2 of 2022 on Job Creation as Law. This policy regulates that oil palm plantation companies are obliged to provide community plantation development facilities (FPKM) amounting to 20% of the land area they obtain, or carry out other productive business activities agreed with the surrounding community. There are three phases of FPKM implementation by plantation companies.

The first phase applies to companies that have plantation business licenses before February 28, 2007. These companies are considered to have carried out FPKM if they have implemented partnerships through PIR-BUN, PIR-TRNS, PIR-KKPA or other core-plasma cooperation partnership patterns. If not, then the company can choose other productive business patterns according to Article 7 of Permentan 18/2021.

The second phase applies to companies that have plantation business licenses after February 28, 2007 until November 2, 2020. These companies are obliged to carry out FPKM if there is land for FPKM according to the location in the licensing authority.

If not, then the company can carry out other productive business activities according to an agreement with the surrounding community.

The third phase applies to companies that have plantation business licenses after November 2, 2020. These companies are obliged to carry out FPKM if cultivation business permits for land all or part of APL (other use areas) outside HGU and forest area release. The company is obliged to facilitate the development of community plantations around an area of 20% of the land area.

The legal basis for the FPKM obligation is Law No. 39 of 2004 on Plantations as amended by Law No. 6 of 2023 on Stipulation of Perpu No. 2 of 2022 on Job Creation as Law. In this law, it is stipulated that plantation companies are obliged to provide facilities for community plantation development in order to improve community welfare and maintain environmental sustainability.

From the above explanation using the theory of economic analysis of law with propositions of four basic principles of economics, it can be analyzed as follows:

*a. Law of Demand: This law states that the higher the price of a good, the lower the*

Demand for that good, and vice versa. In the context of partnership between oil palm plantation companies and plasma farmers or surrounding communities, this law can be applied to see how companies and communities react to incentives and disincentives set by the government. For example, if the government provides subsidies or tax facilities to companies that conduct partnerships, then the demand for companies to conduct partnerships will increase, because the costs incurred become lower. Conversely, if the government imposes sanctions or restrictions on companies that do not conduct partnerships, then the demand for companies to conduct partnerships will increase, because the costs incurred become higher. Likewise with the community, if the government provides capital assistance, technical guidance, or market guarantees to communities that partner with companies, then the demand for communities to conduct partnerships will increase, because the benefits obtained become greater. Conversely, if the government threatens eviction, taxation, or closure of access to natural resources to communities that do not partner with companies, then the demand for communities to conduct partnerships will increase, because the losses incurred become greater.

*b. Opportunity Cost: Opportunity cost is the value of the best alternative that must be sacrificed to choose a certain option.*

In the context of partnership between oil palm plantation companies and plasma farmers or surrounding communities, opportunity cost can be seen from the perspective of companies and communities. For companies, the opportunity cost of conducting partnerships is the value of the land that must be provided for FPKM (community plantation development facilities) amounting to 20% of the land area they obtain, or

the value of other productive business activities agreed with the surrounding community. This value can be measured from the potential income or profit that can be obtained if the land is used for its own business activities or sold to other parties. For communities, the opportunity cost of conducting partnerships is the value of the land that must be handed over to the company as plasma, or the value of other productive business activities that must be carried out together with the company. This value can be measured from the potential income or welfare that can be obtained if the land is used for its own business activities or sold to other parties.

c. *The Tendency of Resources to Gravitate Toward Their Most Valuable Uses:*. This principle states that in a competitive and efficient market condition, resources will be allocated in such a way that they produce maximum added value for their owners and society as a whole. In the context of partnership between oil palm plantation companies and plasma farmers or surrounding communities, this principle can be applied to see how the allocation of land as the main resource in oil palm plantation activities. If the oil palm market is competitive and efficient, then land will be allocated to parties that have the highest ability and productivity in managing the land, thus producing maximum added value for landowners and society as a whole.

However, if the oil palm market is monopoly or oligopoly, or there are distortions or interventions from certain parties, then land will be allocated to parties that have certain power or interests in managing the land, thus producing minimal added value or even harming landowners and society as a whole. Government The government, as the true owner of land in the unitary state of the Republic of Indonesia, must intervene in allocating land for partnership utilization, if the government does not intervene, the reason of no land will always be used as the main reason for not doing oil palm partnership.

*d. Equilibrium is a condition where there is no tendency to change, because there is no force that pushes change.*

In the context of partnership between oil palm plantation companies and plasma farmers or surrounding communities, equilibrium can be seen from the perspective of welfare of companies and communities. Welfare equilibrium is achieved if the net benefit (benefit minus cost) of conducting partnerships is equal to zero, meaning there is no incentive or disincentive to conduct partnerships. The net benefit of conducting partnerships can be measured from the difference between the added value obtained from conducting partnerships and the opportunity cost incurred from conducting partnerships. If the net benefit is positive, then there is an incentive to conduct partnerships. If the net benefit is negative, then there is a disincentive to conduct partnerships. If the net benefit is zero, then there is no incentive or disincentive to conduct partnerships. Government has to make incentive to make companies to partnership such as tax reductions, and disincentive for not doing partnership by giving admin-

istrative sanctions, such as larger tax, and larger CSR, IUP revocation, Operational Temporary Stop, etc.

Based on the above explanation, in order for oil palm plantation partnership to be implemented effectively and efficiently, the law must regulate:

1. There is land (phase 1,2,3 who has the authority to provide land). In terms of land provision, the government must be firm in enforcing the invoering wet to companies that have utilized land for 35 years, based on the value of exploitation, so that when companies extend HGU, partnership land must be taken from the former HGU extension, BPN allocates land whose HGU permit will be extended. The government has the authority to provide land to companies that have utilized land for 35 years, so it is not based on IUP, but based on the period of use. When a company has exploited land for 35 years, the company has obtained benefits from the use of the land, so these benefits must also be given to the surrounding communities who have rights regulated by law. The land provided is land with S1 and S1 classes according to oil palm agro-nomic standards that can provide optimal productivity so that credit can be paid off faster.

2. There is financing (financing from anywhere and avalis). The condition for running a partnership is financing. In phase 1 and 2 of oil palm plantation partnership, it was financed by the World Bank, Private Banks through BI regulations, while in phase 3 it was not determined who or which institution financed this partnership activity. The author's experience when financing does not appoint an institution, such as a bank, banks tend to be reluctant to finance oil palm plantation partnerships because companies are reluctant to become avalis.

As an example in the replanting of plasma oil palm plantations in the PT SLS area, with replanting costs of 132 million per hectare. Replanting of plasma plantations in this PT is constrained because banks do not want to disburse funds as much as above because companies do not want to be avalis. This replanting only runs after there is a grant fund from BDPKS.

3. There is an executor. The operator partnership pattern is a pattern in which the company that carries out the work gets support from the financing institution. This pattern is preferred by companies. The operator pattern allows companies to manage partnership land more efficiently and effectively so as to ensure credit payments according to the predetermined due dates, which is three years after planting. The operator pattern allocates 90 percent of the sales proceeds of oil palm FFB for installments and plantation operations, and the remaining 10 percent for farmers. The operator pattern based on my experience can pay off credit in ten or less than that for lands with S1 and S2 criteria.

### **3.3 Oil Palm Partnership Regulation Can Be Used as a Legal Framework for Tourism Industry Development**

#### **Integration of Oil Palm and Tourism Industries.**

PT STN has a conservation area of approximately 2000 hectares out of a total HGU area of 7000 hectares, around 4500 hectares that can be planted with oil palm. In this PT sSTN conservation area there is a Limestone Cave, which is named Gua Tolu Liang. This location of Gua Tolu Liang is in HGU area of PT. STN Labangka Village, Babulu District, Penajam Paser Utara Regency, East Kalimantan. This cave is a would-be natural tourist attraction that is interesting to visit, with its main attraction being the natural beauty of stalactites and stalagmites. However, access to this cave is limited because the cave is included in the conservation area of the agricultural industry of PT STN. The Culture and Tourism Office (Disbudpar) of Penajam Paser Utara (PPU) wants to make this cave a tourist destination that can be accessed by the public, and has held a meeting to make a memorandum of understanding with the company.

With the new partnership regulation, Gua Tolu Liang has more tourism potential than conventional oil palm partnership. The new partnership regulation refers to the Regulation of the Minister of Environment and Forestry Number 22 of 2022 concerning Amendments to the Regulation of the Minister of Environment and Forestry Number 17 of 2022 concerning Organization and Work Procedures of the Technical Implementation Unit of the Directorate

General of Natural Resources and Ecosystem Conservation. In this regulation, one of the tasks of the Technical Implementation Unit for Natural Resources Conservation type B is to carry out conservation partnerships. Conservation partnership is a cooperation between the manager of the conservation area and other parties in order to support the sustainable management of the conservation area. Conservation partnership can be done in the form of environmental services utilization, community empowerment, ecotourism development, research and development, education and training, as well as advocacy and socialization. Thus, the new partnership regulation provides space for PT STN to participate in the management of the Gua Tolu Liang conservation area by developing the potential for ecotourism that exists there.

Gua tolu liang as a substitute for other productive activities as a substitute for conventional oil palm partnership and as a requirement for HGU extension without reducing PT STN's oil palm land area. This is in accordance with the provisions in Law Number 39 of 2014 concerning Plantations which regulates the partnership obligation of companies in using Oil Palm Plantation Business Rights (HGU). In this law, it is stated that plantation companies are obliged to facilitate community plantation development at least 20% of the plantation area cultivated by the company. In addition, in the Regulation of the Minister of Environment and Forestry Number 22 of 2022 concerning Amendments to the Regulation of the Minister of Environment and Forestry Number 17 of 2022 concerning Organization and Work Procedures of Technical Implementation Units for Natural Resources and Ecosystem Conservation, it is stated



that one of the tasks of Technical Implementation Units for Natural Resources Conservation type B is to carry out conservation partnerships. Conservation partnership is a cooperation between the manager of the conservation area and other parties in order to support the sustainable management of the conservation area. Thus, Gua Tolu Liang can be made as means of conservation partnership between PT STN and the manager of the conservation area, namely the Culture and Tourism Office (Disbudpar) Penajam Paser Utara (PPU). With this conservation partnership, PT STN can meet the requirements for HGU extension without reducing its oil palm land area, as well as providing benefits for surrounding communities and environmental conservation.

### **Core-Plasma Model of Partnership and Tourism Industry**

The Core Plasma Partnership Pattern is a model of cooperation between private parties and communities in business development. This pattern can be adopted by the tourism sector in Bali, which is one of the main sources of income for the region. With this model, star-rated hotels in Bali are expected to provide a positive contribution to the welfare of the surrounding community by providing accommodation facilities for them. The way is by allocating 20 percent of the number of hotel rooms built to be managed by the surrounding community together. For example, if a star-rated hotel has 400 rooms, then 80 of them will be handed over to the surrounding community for operation. The surrounding community can pay installments for the construction of the rooms by using 70 percent of the room rental income obtained from guests who stay. Thus, the surrounding community can feel the direct benefits of the existence of star-rated hotels in their area, both economically and socially.

## **4 Conclusion**

From a historical perspective, the values of oil palm partnership in Indonesia can be traced from the colonial era to the present. In the colonial era, the dominant value was exploitation. In the post-independence era, the value that emerged was nationalization. In the new order era, the value that was developed was modernization. In the reformation era, the value that was prioritized was partnership. The highest philosophical values in oil palm partnership are efficiency, balance, and partnership itself, because these values can increase welfare for all parties involved. The lowest philosophical values are exploitation, nationalization, or modernization, because these values can cause costs, conflicts, or social losses that exceed their benefits.

According to utilitarianism, the purpose of legal regulation is to provide happiness for many people. To realize an effective oil palm partnership, there needs to be legal certainty regarding the financing institution appointed by the government. In addition, there needs to be a change of norms by considering the impact of exploitation. For

example, companies that have exploited land for 35 years must hand over HGU that will be extended for the oil palm partnership program.

Tourism partnership as a substitute for other productive activities, can be done if the projection of economic income that will be obtained by the beneficiaries is almost equal to or greater than conventional oil palm partnership.

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