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# Examining the Paradigmatic Shift in Legal Policies Concerning Land Redistribution as an Imperative Obligation Imposed on Plantation Companies for the Advancement of Community Plantation Enterprises

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## ABSTRACT

**Background.** The existence of Article 28 of Law Number 11 of 2020 in conjunction with Government Regulation in Lieu of Law Number 2 of 2022 and Law Number 6 of 2023 Paragraph 3 on Job Creation, Government Regulation Number 26 of 2021 on the Implementation of the Agricultural Sector.

**Purpose.** Minister of Agriculture Regulation Number 18 of 2021 on the Facilitation of Community Plantation Development, Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 on the Procedures for Determining Management Rights and Land Rights, and Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020.

**Method.** the Implementation of Company Obligations in Facilitating Community Plantation Development collectively render the imperative of land redistribution for community plantations, constituting 20% of the aggregate land entitlements vested in plantation enterprises, not as an enforceable obligation but rather as an elective premise, wherein the ethos of facilitating community plantation development is underscored. This scholarly inquiry adopts a Normative Juridical methodology, employing both legislative scrutiny and a case study approach.

**Results.** The findings assert, that the extant regulatory framework concerning land redistribution, as a commitment levied upon plantation entities for fostering community plantation initiatives, presently lacks parity, given that the apportionment of 20% (twenty percent) of land expanses granted under Business Use Rights or from the territories delineated in Plantation

**Conclusion.** Business Licenses or Cultivation Business Licenses, earmarked for community beneficiaries, no longer carries the hallmark of an obligatory tenet but is relegated to the sphere of discretionary choice within the ambit of community plantation development facilitation programs.

## KEYWORDS

Policy, Paradigm, Redistribution

## INTRODUCTION

The state's efforts to establish appropriate land management regulations can be observed in the well-being of society, particularly through the utilization of land,

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including plantation or agricultural land. This is explicitly emphasized in the concept of protection for agricultural land as outlined in Article 7, Article 10 paragraph (1), and Article 17 of the Agrarian Law (UUPA). The UUPA serves as a tool to achieve the utmost prosperity for the people and as a benchmark for the regulation and formulation of legislation in the agrarian sector. Subsequently, various legislations have been enacted based on the provisions of Article 7, Article 10 paragraph (1), and Article 17 of the UUPA. One notable piece of legislation is Law Number 56 of 1960 concerning the Determination of Agricultural Land Area. This regulation is known as the law on land reform programs in Indonesia, aimed at increasing the income and living standards of farmers, particularly land cultivators. It serves as the foundation or prerequisite for organizing economic development towards a just and prosperous society based on Pancasila.

To fulfill the mandate of Article 2, Article 7, Article 10 paragraph (1), and Article 17 of the UUPA, which is further implemented by Law Number 56 of 1960 concerning the Determination of Agricultural Land Area, agrarian reform through the restriction of land ownership in agricultural land is emphasized in Article 1, Article 3, and Article 8 of Law Number 56 of 1960 concerning the Determination of Agricultural Land Area. One of the follow-ups to the implementation and regulation of agrarian reform referred to in Law Number 56 of 1960 concerning the Determination of Agricultural Land Area is the formulation of legal policies regarding the limitation of land use in the agricultural and/or plantation sectors, including restricting ownership in cases where the landowner is located in a different region, commonly known as absentee ownership. The explicit regulation of land distribution and compensation is outlined in Article 3 of Government Regulation Number 224 of 1961 concerning the Implementation of Land Redistribution and Compensation. This regulation was later amended by Article 3a of Government Regulation of the Republic of Indonesia Number 41 of 1964 on Amendments and Additions to Government Regulation No. 224 of 1961 concerning the Implementation of Land Redistribution and Compensation. The spirit of Government Regulation Number 224 of 1961, subsequently amended by Government Regulation of the Republic of Indonesia Number 41 of 1964, primarily aims to prevent the occurrence of monopolies in land ownership in Indonesia, especially in the plantation sector. Both the existence of the Agrarian Law (UUPA) and Government Regulation Number 224 of 1961, later amended by Government Regulation of the Republic of Indonesia Number 41 of 1964, can be considered as the embodiment of the spirit of agrarian reform.

Agrarian reform, born out of the UUPA and Government Regulation Number 224 of 1961, later amended by Government Regulation of the Republic of Indonesia Number 41 of 1964, is subsequently summarized and affirmed in the system of reformulating the concept of land ownership within the People's Consultative Assembly Decree No. IX/MPR/2001 on Agrarian Renewal and Natural Resource Management. In the context of People's Consultative Assembly Decree No. IX/MPR/2001, several principles should serve as sources for formulating land legal norms. In other words, the provisions of land legislation should essentially articulate the legal principles found in the People's Consultative Assembly Decree. Each norm in land legislation should be correlated with one of the legal principles within the People's Consultative Assembly Decree. The principles within the People's Consultative Assembly Decree No. IX/MPR/2001 include the Social and Ecological Function Principle, Integration and Coordination Principle, Balance of Rights and Obligations Principle, Justice and Gender Equality Principle, Decentralization Principle, Sustainability Principle, Participation Principle, Transparent (Open) Principle, and Legal Pluralism Principle. The journey of People's Consultative Assembly Decree No. IX/MPR/2001 did not proceed optimally due to the transformation of the MPR into a non-State High Institution. Additionally, a significant portion of agrarian legal policies enacted in the years

following the approval of People's Consultative Assembly Decree No.IX/MPR/2001 did not incorporate it as the foundational consideration for legal policy-making.

The resurgence of agrarian reform gained momentum again in 2018 with the issuance of Presidential Regulation No. 86 of 2018 on Agrarian Reform. This regulation aimed to achieve stability in the governance of plantation land as a national asset and promote open access for the community to utilize plantation land for social welfare. The provisions of Presidential Regulation No. 86 of 2018 on Agrarian Reform in 2023 were later replaced by Presidential Regulation of the Republic of Indonesia No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation. Various provisions related to agrarian reform are closely intertwined with plantation governance policies because plantation governance policies serve as a pathway to realizing the objectives of agrarian reform in Indonesia. This includes ensuring and protecting the rights of the people to access and utilize plantations to enhance the welfare of the population.

The existence of smallholder plantations in this country can be considered uneven. This inequality is a consequence of the rapid industrialization of plantations by large private enterprises. In their journal article titled "The Impact of the Establishment of Palm Oil Companies on the Social Welfare of the Community in Entabuk Village, Belitang Hilir Sub-District, Sekadau Regency," Romolda Ricke Aldianti, Norsidi, and Wiwik Cahyaningrum explain that in Entabuk Village, Belitang Hilir Sub-District, Sekadau Regency, a majority of the population, who are mainly landowners and cultivators, initially had sufficient income through oil palm plantations. However, this prosperity did not last long. Following the presence of PT. Kalimantan Sanggar Pusaka Agro, which extensively expanded its oil palm plantation business, has been a significant impact on the change of professions for the landowners and cultivators. They have transitioned into plantation laborers, receiving wages significantly lower than the income they used to generate from the oil palm harvest when they were landowners and cultivators. The dominance of the plantation industry over smallholder plantations is essentially the catalyst for the birth of agrarian disputes across the archipelago. Therefore, it is crucial to establish land governance that is based on the widespread welfare of the people. The provision requiring the facilitation of community plantation development covering 20% of the land under Business Use Rights (Hak Guna Usaha) by plantation plasma members, as stipulated in the legal provisions and directives from the Minister of Agrarian Affairs/National Land Agency (ATR/BPN), has, in reality, not been implemented. This is due to obstacles in the form of a paradigm shift in land redistribution as outlined in Law Number 11 of 2020, in conjunction with Government Regulation in Lieu of Law Number 2 of 2022 and Law Number 6 of 2023 on Job Creation. Article 28 of Law Number 11 of 2020, in conjunction with Government Regulation in Lieu of Law Number 2 of 2022 and Law Number 6 of 2023, Paragraph 3 on Job Creation, clearly indicates that the regulatory framework for plantation land redistribution is based on the objective of developing investment in plantation businesses in Indonesia. This is contrary to the goals of agrarian reform, which envisions land redistribution to enhance the welfare of all segments of society in Indonesia.

This ultimately results in a paradigm shift in the land redistribution governance outlined in the Republic of Indonesia Government Regulation Number 26 of 2021 concerning Agricultural Sector Management. This automatically alters the land redistribution paradigm in Agricultural Regulation Number 18 of 2021 concerning Facilitation of Community Plantation Development, Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, and Circular Letter of the Minister of Agrarian Affairs and Spatial

Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 concerning the Implementation of Company Obligations in Facilitating Community Plantation Development.

The degradation of this land redistribution legal paradigm subsequently leads to changes in provisions regarding the redistribution of land covering 20% of the total plantation managed by large plantation entrepreneurs. Initially **mandatory** as stipulated in Law Number 39 of 2014 concerning Plantations and Presidential Regulation of the Republic of Indonesia Number 62 of 2023 concerning the Acceleration of Agrarian Reform, it has now become **optional** due to the presence of Law Number 11 of 2020, in conjunction with Government Regulation in Lieu of Law Number 2 of 2022 and Law Number 6 of 2023 on Job Creation, Government Regulation of the Republic of Indonesia Number 26 of 2021 concerning Agricultural Sector Management, Minister of Agriculture Regulation Number 18 of 2021 concerning Facilitation of Community Plantation Development, Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, and Point 5 of Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 concerning the Implementation of Company Obligations in Facilitating Community Plantation Development.

The consequence of the degradation of this land redistribution governance paradigm is the emergence of agrarian disputes within communities regarding the right to utilize land for plantations, which is a crucial aspect of social and economic livelihoods. These conflicts often involve large plantation companies and local communities.

Writing related to the redistribution of land for smallholder plantations is not only examined by the current author; it has also been explored by various academic circles, including:

1. An article authored by Dewi Gafuraningtyas, Nurasih Stiatin, and Tommy Anggrivianto titled "The Impact of Land Redistribution on the Livelihoods of the Community in the Fora 2 Area (Ternate) North Maluku." This article is published in the Indonesian Journal of Geography, Volume 38, Number 1, 2024. The study's findings reveal that the issue of legal uncertainty in regulating the distribution of land for smallholder plantations in Fora 2 (Ternate), North Maluku, has been exploited by land mafias to engage in unauthorized and illegal land transactions, resulting in economic losses for the local community.
2. An article by Siphe Zantsi and Abbyssinia Mushunje titled "The Degree and Determinants of Smallholder Commercialization in Two Rural Provinces of South Africa." This article was presented at the 17th International Conference on Sustainable Development at the Autonomous University, Barcelona, Spain, in July 2023. The article delves into the direction of development for small-scale farmers towards large-scale, commercially-oriented farming. Given the crucial role of land in agricultural production, particularly in the context of large-scale commercial farming, this study emphasizes the importance of land redistribution for the benefit of farmers in Africa. Such redistribution is seen as a means for African farmers to progress from small-scale to larger, thriving agricultural enterprises.

The scholarly article by the author predominantly delves into the aspect of paradigm shift observed in the execution of land redistribution subsequent to the promulgation of Law Number 11 of 2020, in conjunction with the Government Regulation Substitute for Law Number 2 of 2022, Law Number 6 of 2023 on Job Creation, Republic of Indonesia Government Regulation Number 26 of 2021 on Agricultural Sector Management, Minister of Agriculture Regulation Number 18 of 2021 on the Facilitation of Community Plantation Development, Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation

Number 18 of 2021 on Procedures for Determining Management Rights and Rights to Land, and Point 5 of the Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 addressing the Implementation of Company Obligations in Facilitating Community Plantation Development.

The understanding derived from these legal and regulatory amendments is that the obligation of land redistribution for community plantations has transformed, shifting from a mandatory requirement to an elective choice within one of the methodologies employed for the facilitation of community plantation development in the Indonesian context.

### **A. Method**

The methodological approach employed in this legal research involves two primary approaches, namely the legislative approach (statute approach) and the case approach. The legislative approach is chosen because the study will focus on analyzing various legal provisions that are the central focus and main theme of the research. Meanwhile, the case approach in the context of normative research aims to investigate the application of legal norms or principles in legal practice.

### **B. Discussion**

#### **1. Paradigm Shift in Legal Policies Regarding Land Redistribution as the Obligation of Plantation Companies Toward the Development of Community Plantation Businesses**

The concept of reform underwent changes during the administration of Joko Widodo and Jusuf Kalla with the National Strategy for the Implementation of Agrarian Reform encompassing six program components. The National Strategy for the Implementation of Agrarian Reform includes six program components, which later led to the issuance of Presidential Regulation Number 86 of 2018 on Agrarian Reform, subsequently amended by Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. In Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation, the concept of agrarian reform extends beyond restricting land ownership rights to include efforts towards land redistribution for the benefit of rural plantations. This is evident in Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. The spirit of land redistribution as the implementation of land reform is then specifically operationalized in the field of plantations through Law Number 39 of 2014 on Plantations.

The implementation of land retribution for rural plantations underwent further modifications with the enactment of Law Number 11 of 2020, in conjunction with Government Regulation Substitute for Law Number 2 of 2022 and Law Number 6 of 2023 on Job Creation. Land retribution for rural plantations is also regulated in Law Number 11 of 2020, Government Regulation Substitute for Law Number 2 of 2022, and Law Number 6 of 2023 on Job Creation, specifically in Article 4 of Law Number 11 of 2020, Government Regulation Substitute for Law Number 2 of 2022, and Law Number 6 of 2023 Paragraph 3 on Job Creation.

The presence of the clause "To facilitate the community, especially entrepreneurs, in obtaining Business Permits in the agricultural sector, this Law amends, deletes, or establishes new regulations on several provisions..." in Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation has indicated a paradigm shift in the implementation of legal policies related to land redistribution as a duty of plantation companies towards the development of community plantation businesses and the



provision of national plantation areas. The existence of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation is more oriented towards facilitating bureaucratic licensing for large plantation entrepreneurs, including land redistribution, as an effort towards agrarian reform mandated by Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. The capitalist paradigm of land as a means to foster the plantation industry, solely focused on increasing domestic investment, has departed from the spirit of agrarian reform. This eventually led to the discontinuation of the implementation of plantation land governance with the intended spirit of agrarian reform as outlined in the Agrarian Law (UUPA) and Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation.

This shift is evident with the enactment of Government Regulation Number 26 of 2021 on Agricultural Affairs as an implementation of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation. Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation, a national legal policy with a purely capitalist industry orientation, is the backdrop for the issuance of Government Regulation Number 26 of 2021 on Agricultural Affairs. This can be seen in the considerations of Government Regulation Number 26 of 2021 on Agricultural Affairs, which state that "to implement the provisions of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation, it is necessary to establish a Government Regulation on Agricultural Affairs." The significance of redistributing land for the benefit of rural plantations by plantation company plasmas is first seen in Government Regulation Number 26 of 2021 on Agricultural Affairs. The facilitation of plantation development, involving the transfer of 20% of the total land area owned by large plantation companies to the surrounding community, as mandated by Article 58 of Law Number 39 of 2014 on Plantations and Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation, is no longer evident in Government Regulation Number 26 of 2021 on Agricultural Affairs. This is apparent in Article 12 and Article 16 of Government Regulation Number 26 of 2021 on Agricultural Affairs. Based on the provisions of Article 12 and Article 16 of Government Regulation Number 26 of 2021 on Agricultural Affairs, it is evident that there is no longer an affirmation of the obligation to provide land for the redistribution of land for rural plantations, as intended by Article 58 of Law Number 39 of 2014 on Plantations and Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. Government Regulation Number 26 of 2021 on Agricultural Affairs then paved the way for the birth of several policies, namely, Minister of Agriculture Regulation Number 18 of 2021 on Facilitating the Development of Community Plantations and Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 on Procedures for Determining Management Rights and Rights to Land.

The Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. The alteration of agrarian reform through the redistribution of land for community plantations by plantation company plasma parties, amounting to 20%, has undergone changes. The existence of plantation development facilitation is interpreted as an alternative form for plantation permit holder plasma parties to fulfill community utilization requirements through plantation efforts to obtain existing plantation business licenses. The

provision regarding the 20% area of land redistribution for community plantations is only regulated optionally in Article 7, paragraph (3) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, which states that "productive plantation activities are provided with financing equivalent to a minimum of the optimum production value of plantations on land covering 20% (twenty percent) of the total plantation area managed by the Plantation Company."

Following the issuance of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, on October 27, 2021, the Government announced the implementation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights. The redistribution of land for community plantations is also regulated in the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights. The meaning of plantation development facilitation for the community in Article 82 of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights is not only in the form of land redistribution but also includes other plantation development facilitations.

Article 83 paragraph (1) of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights specifically regulates the facilitation of community plantation development through the redistribution of plasma land. In the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights, the understanding of land redistribution is changed to include plantation development facilitation, which is defined in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. Following the issuance of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights, a Circular Letter was issued by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the Development of Community Plantations. This is evident in the provisions of Point 5 of the Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the Development of Community Plantations. Based on the provisions of Point 5 of the Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the Development of Community Plantations, the determination of land management rights and land ownership rights clearly shows that the regulation of redistributing land for community plantations is no longer a mandatory but optional requirement within the unified meaning of plantation development facilitation as stipulated in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. In this context, the phrase "land redistribution" is redefined as activities facilitating plantation development, as articulated in Article 1 number (5) of the Minister of Agriculture

Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, where the notion of land redistribution is transformed into the activity of facilitating plantation development, not explicitly stated in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development.

## RESEARCH METHODOLOGY

Research is essentially a series of scientific activities and therefore uses scientific methods to explore and solve problems, or find the truth from existing facts. In accordance with this research, it uses a legal sociology approach, namely focusing on behavior that develops in society or the operation of law in society. So law is conceptualized as actual behavior which includes actions and their consequences in social life relationships. This research places the theory of legal protection as a grand theory, then the theory of legal certainty as a middle theory, then the theory of benefits as an applied theory. In this research, the author uses a research method, namely empirical legal research, which is a type of legal research that analyzes and examines the workings of law in society. legal research uses primary data, the method of research can follow the research pattern of the social sciences, because the empirical legal research approach places more emphasis on observation. To obtain primary data from the population and sample, the author must conduct a study at the research location. The methodological approach employed in this legal research involves two primary approaches, namely the legislative approach (statute approach) and the case approach. The legislative approach is chosen because the study will focus on analyzing various legal provisions that are the central focus and main theme of the research. Meanwhile, the case approach in the context of normative research aims to investigate the application of legal norms or principles in legal practice.

## RESULT AND DISCUSSION

The concept of reform underwent changes during the administration of Joko Widodo and Jusuf Kalla with the National Strategy for the Implementation of Agrarian Reform encompassing six program components. The National Strategy for the Implementation of Agrarian Reform includes six program components, which later led to the issuance of Presidential Regulation Number 86 of 2018 on Agrarian Reform, subsequently amended by Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. In Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation, the concept of agrarian reform extends beyond restricting land ownership rights to include efforts towards land redistribution for the benefit of rural plantations. This is evident in Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. The spirit of land redistribution as the implementation of land reform is then specifically operationalized in the field of plantations through Law Number 39 of 2014 on Plantations.

The implementation of land retribution for rural plantations underwent further modifications with the enactment of Law Number 11 of 2020, in conjunction with Government Regulation Substitute for Law Number 2 of 2022 and Law Number 6 of 2023 on Job Creation. Land retribution for rural plantations is also regulated in Law Number 11 of 2020, Government Regulation Substitute for Law Number 2 of 2022, and Law Number 6 of 2023 on Job Creation, specifically in Article 4 of Law Number 11 of 2020, Government Regulation Substitute for Law Number 2 of 2022, and Law Number 6 of 2023 Paragraph 3 on Job Creation.



The presence of the clause "To facilitate the community, especially entrepreneurs, in obtaining Business Permits in the agricultural sector, this Law amends, deletes, or establishes new regulations on several provisions..." in Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation has indicated a paradigm shift in the implementation of legal policies related to land redistribution as a duty of plantation companies towards the development of community plantation businesses and the provision of national plantation areas. The existence of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation is more oriented towards facilitating bureaucratic licensing for large plantation entrepreneurs, including land redistribution, as an effort towards agrarian reform mandated by Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. The capitalist paradigm of land as a means to foster the plantation industry, solely focused on increasing domestic investment, has departed from the spirit of agrarian reform. This eventually led to the discontinuation of the implementation of plantation land governance with the intended spirit of agrarian reform as outlined in the Agrarian Law (UUPA) and Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation.

This shift is evident with the enactment of Government Regulation Number 26 of 2021 on Agricultural Affairs as an implementation of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation. Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation, a national legal policy with a purely capitalist industry orientation, is the backdrop for the issuance of Government Regulation Number 26 of 2021 on Agricultural Affairs. This can be seen in the considerations of Government Regulation Number 26 of 2021 on Agricultural Affairs, which state that "to implement the provisions of Article 28 of Law Number 11 of 2020 Jo. Government Regulation Substitute for Law Number 2 of 2022 Jo. Law Number 6 of 2023 on Job Creation, it is necessary to establish a Government Regulation on Agricultural Affairs." The significance of redistributing land for the benefit of rural plantations by plantation company plasmas is first seen in Government Regulation Number 26 of 2021 on Agricultural Affairs. The facilitation of plantation development, involving the transfer of 20% of the total land area owned by large plantation companies to the surrounding community, as mandated by Article 58 of Law Number 39 of 2014 on Plantations and Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation, is no longer evident in Government Regulation Number 26 of 2021 on Agricultural Affairs. This is apparent in Article 12 and Article 16 of Government Regulation Number 26 of 2021 on Agricultural Affairs. Based on the provisions of Article 12 and Article 16 of Government Regulation Number 26 of 2021 on Agricultural Affairs, it is evident that there is no longer an affirmation of the obligation to provide land for the redistribution of land for rural plantations, as intended by Article 58 of Law Number 39 of 2014 on Plantations and Article 4 of Presidential Regulation of the Republic of Indonesia Number 62 of 2023 on the Acceleration of Agrarian Reform Implementation. Government Regulation Number 26 of 2021 on Agricultural Affairs then paved the way for the birth of several policies, namely, Minister of Agriculture Regulation Number 18 of 2021 on Facilitating the Development of Community Plantations and Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 on Procedures for Determining Management Rights and Rights to Land.

The Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. The alteration of agrarian reform through the redistribution of land for community plantations by plantation company plasma parties, amounting to 20%, has undergone changes. The existence of plantation development facilitation is interpreted as an alternative form for plantation permit holder plasma parties to fulfill community utilization requirements through plantation efforts to obtain existing plantation business licenses. The provision regarding the 20% area of land redistribution for community plantations is only regulated optionally in Article 7, paragraph (3) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, which states that "productive plantation activities are provided with financing equivalent to a minimum of the optimum production value of plantations on land covering 20% (twenty percent) of the total plantation area managed by the Plantation Company."

Following the issuance of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, on October 27, 2021, the Government announced the implementation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights. The redistribution of land for community plantations is also regulated in the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights. The meaning of plantation development facilitation for the community in Article 82 of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights is not only in the form of land redistribution but also includes other plantation development facilitations. Article 83 paragraph (1) of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights specifically regulates the facilitation of community plantation development through the redistribution of plasma land. In the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights, the understanding of land redistribution is changed to include plantation development facilitation, which is defined in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. Following the issuance of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 Regarding the Procedures for Determining Management Rights and Land Ownership Rights, a Circular Letter was issued by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the Development of Community Plantations. This is evident in the provisions of Point 5 of the Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the Development of Community Plantations. Based on the provisions of Point 5 of the Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 Regarding the Implementation of Company Obligations in Facilitating the

Development of Community Plantations, the determination of land management rights and land ownership rights clearly shows that the regulation of redistributing land for community plantations is no longer a mandatory but optional requirement within the unified meaning of plantation development facilitation as stipulated in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development. In this context, the phrase "land redistribution" is redefined as activities facilitating plantation development, as articulated in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development, where the notion of land redistribution is transformed into the activity of facilitating plantation development, not explicitly stated in Article 1 number (5) of the Minister of Agriculture Regulation Number 18 of 2021 Regarding the Facilitation of Community Plantation Development.

## CONCLUSION

The regulatory framework concerning land redistribution, viewed as a commitment of plantation corporations toward the development of community plantation enterprises, is presently undergoing a paradigm shift. This transformation arises from the stipulations related to the redistribution of land, constituting 20% of the overall cultivated plantation area managed by significant plantation stakeholders. Initially mandated by the provisions outlined in Law Number 39 of 2014 concerning Plantations, Presidential Regulation Number 62 of 2023 concerning the Acceleration of Agrarian Reform, and enshrined in Articles 2, 7, and 17 of the Agrarian Law (UUPA), as well as Law No. 56 of 1960 about the Arrangement of Agricultural Land, this mandatory requirement has transitioned into an elective status. This shift is attributed to the introduction of Article 28 in Law Number 11 of 2020 Jo., Government Regulation Substitute for Law Number 2 of 2022 Jo., Law Number 6 of 2023 Paragraph 3 regarding Job Creation, Government Regulation Number 26 of 2021 governing the Implementation of the Agricultural Sector, Minister of Agriculture Regulation Number 18 of 2021 addressing the Facilitation of Community Plantation Development, Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Regulation Number 18 of 2021 detailing the Procedures for Determining Management Rights and Land Rights, and the Circular Letter from the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11/Se-Hk.02.02/Viii/2020 concerning the Execution of Corporate Obligations in Facilitating Community Plantation Development.

## AUTHORS' CONTRIBUTION

*Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.*

*Author 2: Conceptualization; Data curation; In-vestigation.*

*Author 3: Data curation; Investigation.*

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