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Legal Certainty of Oil Palm Plantation Cultivation Rights within Forest Areas Following Government Regulation Number 45 of 2025

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Abstract

Government Regulation Number 45 of 2025 concerning the Amendment to Government Regulation Number 24 of 2021 on Procedures for the Imposition of Administrative Sanctions in the Forestry Sector was enacted as an instrument to address oil palm plantations that have encroached upon forest areas. However, rather than providing legal certainty, this regulation introduces a "reclamation" mechanism that potentially revokes Land Cultivation Rights (Hak Guna Usaha/HGU) that were lawfully obtained under the Basic Agrarian Law Number 5 of 1960. This study aims to analyze the legal certainty of HGU for oil palm plantations within forest areas following the enactment of Government Regulation Number 45 of 2025, and to identify potential normative conflicts arising within Indonesia's agrarian legal framework. The research employs a normative juridical method with a statute approach and a conceptual approach. The findings reveal that Government Regulation Number 45 of 2025 violates at least four of Lon Fuller's eight principles of the inner morality of law, namely the principles of non-retroactivity, non-contradiction, possibility of compliance, and congruence. Furthermore, the land reclamation mechanism contradicts Articles 18 and 34 of the Basic Agrarian Law, which exhaustively enumerate the lawful grounds for the revocation of land rights, and departs from the ultimum remedium principle established under Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law. The empowerment of the Forest Area Enforcement Task Force (Satgas PKH) as an ad hoc institution with authority equivalent to the Minister of Forestry also contravenes the principle of institutional legality. This study recommends a comprehensive revision of Government Regulation Number 45 of 2025, the definitive completion of forest area demarcation, and the restoration of enforcement authority to the institutions mandated by law.

INTRODUCTION

Palm oil is a strategic commodity that significantly supports Indonesia's national economy. Indonesia is the world's largest palm oil producer, with plantation areas covering 16.83 million hectares and production reaching 46.82 million tons of Crude Palm Oil (CPO), while simultaneously controlling more than 55% of the global palm oil export market share.[1] The enormous economic contribution of this sector has made the legal governance of palm oil plantation land not merely an agrarian issue, but also a matter of national strategic importance.

However, behind this economic success lies a deeply rooted agrarian legal problem that has persisted since the 1990s and remains unresolved to this day. The issue of the legality of palm oil plantation land resembles a time bomb inherited from the 1990s era. During that period, location permits and Rights of Cultivation (Hak Guna Usaha/HGU) frequently overlapped with forest areas whose gazettement processes had not yet been finalized.[2] The study by Gellert and Andiko emphasizes that efforts to establish legal certainty and the rule of law in Indonesia's forest areas have repeatedly failed because they ignore the underlying political-economic realities, including the social conflicts concealed behind the legal framework. This demonstrates that the overlap between HGU and forest areas is not merely an administrative problem, but rather a reflection of the immaturity of forest governance in Indonesia.[3]

This condition is further aggravated by the fact that the forest area gazettement process in Indonesia has not been comprehensively completed, so the boundaries between forest areas and other land-use areas often remain provisional based on designation rather than legally binding determination. Furthermore, Constitutional Court Decision Number 45/PUU-IX/2011 altered the definition of forest areas, stipulating that an area claimed as forest land must undergo a formal determination process and cannot merely rely on unilateral designation by the government.[4] The implication of this decision should have strengthened the legal position of HGU holders

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[1] Direktorat Jenderal Perkebunan, Kementerian Pertanian Republik Indonesia. (2023). *Statistik Perkebunan Unggulan Nasional: Kelapa Sawit 2021–2023*. Jakarta: Direktorat Jenderal Perkebunan.

[2] Muhamad Zainal Arifin. (2025). *PP 45 Tahun 2025 dan Suntik Mati Perkebunan Sawit: Analisis Kritis terhadap Mekanisme Keterlanjuran Kebun Sawit dalam Kawasan Hutan*. Siaran Pers Pusat Studi dan Advokasi Hukum Sumber Daya Alam (PUSTAKA ALAM), 28 September 2025. Diakses dari https://www.infosawit.com/2025/09/28/pp-45-tahun-2025-dinilai-jadi-suntik-mati-industri-sawit-nasional/

[3] Paul K. Gellert dan Andiko. (2015). The Quest for Legal Certainty and the Reorganization of Power: Struggles over Forest Law, Permits, and Rights in Indonesia. *The Journal of Asian Studies,* 74(3); 975–995.

[4] Putusan Mahkamah Konstitusi Nomor 45/PUU-IX/2011 tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan

who acquired their rights before the forest area determination process was completed. Nevertheless, in practice, the overlap between HGU and forest areas continues to be a source of endless legal conflicts.

In response to these issues, Law Number 6 of 2023 concerning Job Creation was enacted, providing a settlement mechanism through Articles 110A and 110B. The original objective of this mechanism was based on the principle of *ultimum remedium*, designed to ensure that already established productive assets could be legalized after business actors paid compensation as a form of legal certainty, prioritizing administrative sanctions over criminal sanctions.[5] According to the Decree of the Minister of Forestry Number 36 of 2025 concerning the List of Legal Subjects of Oil Palm Plantation Business Activities Established within Forest Areas without Forestry Permits whose applications are under process or rejected by the Ministry of Forestry, 436 palm oil plantation companies were recorded as operating within forest areas without valid permits, with approximately 790,474 hectares of oil palm plantations still undergoing settlement processes.[6] This spirit reflects a proportional legal approach oriented toward restoring business certainty.

However, the issuance of Government Regulation Number 45 of 2025 on 19 September 2025, as an amendment to Government Regulation Number 24 of 2021, has instead generated serious legal controversy.[7] This regulation was expected to provide a solution for millions of hectares of palm oil plantations that had already been established within forest areas without permits. Yet, rather than creating certainty, the new regulation has triggered a new phase of uncertainty that potentially threatens the sustainability of Indonesia's national palm oil industry.

There are at least four fundamental legal problems arising from Government Regulation Number 45 of 2025.

1. A fundamental shift in legal philosophy. Article 3 paragraph (5) and Article 35A of Government Regulation Number 45 of 2025 introduce a mechanism of "repossession" (*penguasaan kembali*). After the fines are paid, the land is not automatically legalized; instead, it is taken over by the state and transferred to State-Owned Enterprises (BUMN).[8] This directly contradicts the principle of

[5] Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang
[6] Keputusan Menteri Kehutanan Nomor 36 Tahun 2025 tentang Daftar Subjek Hukum Kegiatan Usaha Perkebunan Kelapa Sawit yang Telah Terbangun Dalam Kawasan Hutan yang Tidak Memiliki Perizinan di Bidang Kehutanan yang berproses atau ditolak permohonannya di Kementerian Kehutanan
[7] Peraturan Pemerintah Nomor 45 Tahun 2025 tentang Perubahan atas Peraturan Pemerintah Nomor 24 Tahun 2021 tentang Tata Cara Pengenaan Sanksi Administratif di Bidang Kehutanan.
[8] Muhamad Zainal Arifin, *op.cit.*

ultimum remedium embodied in the Job Creation Law, which aims for settlements culminating in approval for the continuation of business activities.

2. Problems with the fine calculation formula that deviate from the mandate of the law. The elucidation of Article 110B paragraph (1) of the Job Creation Law provides an example in which fines are calculated based on a percentage of profits, which is proportionate in principle. However, Government Regulation Number 45 of 2025 stipulates a fixed tariff of IDR 25 million per hectare per year for palm oil plantations, which in certain cases causes the amount of fines to increase dramatically from around IDR 500 billion to IDR 2.5 trillion. This problem is exacerbated by the use of location permit data, rather than actual plantation data, as the basis for calculating land area.[9]
3. Serious institutional problems. Government Regulation Number 45 of 2025 employs the phrase "and/or" in numerous provisions, indirectly amputating the authority of the Minister of Forestry and transferring it to the Forest Area Control Task Force (*Satgas Penertiban Kawasan Hutan/PKH*), an ad hoc institution predominantly composed of military personnel and unknown within the hierarchy of the Forestry Law and the Law on Forest Destruction Prevention.[10]
4. A tangible threat to agrarian rights for lawful HGU holders. The Basic Agrarian Law (*UUPA*) affirms that HGU cannot be arbitrarily revoked except for public interest purposes accompanied by compensation.[11] However, through the repossession mechanism under Government Regulation Number 45 of 2025, HGU rights may disappear solely because the land is considered to be located within forest areas that are still merely at the designation stage rather than having obtained legally binding determination. This condition clearly violates the principles of legal certainty and agrarian rights protection.

The impacts of these problems are not merely normative. Agrarian conflicts arising from palm oil plantations have continued to increase sharply, with 67% of all agrarian conflicts in Indonesia in 2024 caused by palm oil operations, affecting more than 127,281 hectares of land and 14,696 families.[12] By September 2025, the PKH Task Force claimed

[9] Dara Salsabila. (2024). Degradasi Kekuatan Hak Guna Usaha untuk Perkebunan Kelapa Sawit yang Terindikasi Tumpang Tindih dengan Ketetapan Pengukuhan Kawasan Hutan. *Jurnal Pertanahan,* 14(2); 165.
[10] Muhammad Rifqi Rafi Drajat, Amalia Nurfitria Syukur, dan Mutiara Panjaitan. (2025). Kesepahaman Makna Kawasan Hutan dalam Mewujudkan Kepastian Hukum bagi Perizinan Usaha Kegiatan Perkebunan Kelapa Sawit. *Bina Hukum Lingkungan,* 10(1); 22-42.
[11] Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria
[12] Forest Watch Indonesia. (2025). *Transparansi dan Potensi Korupsi Sektor Kehutanan dari Pelepasan Kawasan Hutan untuk Perkebunan Kelapa Sawit* Jakarta: Forest Watch Indonesia

to have repossessed 3.3 million hectares of land, and if fines are calculated at IDR 25 million per hectare, the total obligations imposed on companies could reach IDR 831 trillion.[13]

Several previous studies have discussed the issue of overlapping HGU and forest areas from various perspectives. The study by Lego Karjoko emphasizes that forest area conflicts during the era of President Joko Widodo increased by 50 percent compared to previous administrations, and that their resolution requires the reinforcement of Administrative Law to create equitable legal certainty.[14] Meanwhile, Salsabila analyzed the weakening legal force of HGU located within forest areas from a normative perspective,[15] while Eko Noer Setiawan and colleagues examined spatial conflicts between forestry and palm oil plantations from the perspective of regional policy.[16] However, these studies have not specifically analyzed the implications of Government Regulation Number 45 of 2025 as the most recent regulation, nor have they systematically constructed how the normative conflicts it generates can be tested through measurable legal validity parameters.

This is where the novelty of this research lies. Unlike previous descriptive-normative studies, this research offers three new scholarly contributions. First, this study develops a systematic model for interpreting vertical normative conflicts between agrarian law (the Basic Agrarian Law/UUPA), forestry law (Law Number 41 of 1999), and plantation administrative law (Government Regulation Number 45 of 2025) based on the principle of *Lex Superiori Derogat Legi Inferiori*. Second, this study develops parameters for testing the validity of Government Regulation Number 45 of 2025 using Lon Fuller's eight principles of the inner morality of law operationally, rather than merely theoretically, to assess whether a government regulation may be categorized as *ultra vires* in relation to its parent legislation. Third, this research constructs a triangular relationship between HGU protection, the principle of agrarian legal certainty, and constitutional forestry governance within a single analytical framework that has never previously been integrated in Indonesian agrarian law literature.

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[13] Arpangi dan Awaliana Maulida Rofy. (2025). Perlindungan Hukum terhadap Pemegang Hak Guna Usaha (HGU) dalam Konflik Pertanahan Menurut Hukum di Indonesia. *Jurnal Ilmiah Sultan Agung*, 4(1); 29.

[14] I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko, Abdul Kadir Jaelani, dan Jaco Barkhuizen. (2022). The Politics Settlement of Land Tenure Conflicts During Jokowi's Presidency. *Journal of Indonesian Legal Studies,* 7(2); 487-524.

[15] Dara Salsabila, *op.cit.*

[16] Eko Noer Setiawan, Ahmad Maryudi, Ris Hadi Purwanto, dan Gabriel Lele. (2018). Konflik Tata Ruang Kehutanan dengan Tata Ruang Wilayah: Studi Kasus Penggunaan Kawasan Hutan Tidak Prosedural untuk Perkebunan Sawit Provinsi Kalimantan Tengah. *BHUMI: Jurnal Agraria dan Pertanahan,* 3(1); 53.

Based on the foregoing discussion, this research formulates two principal issues as follows:

1. How is the configuration of normative conflicts between the Basic Agrarian Law Number 5 of 1960, Law Number 6 of 2023 concerning Job Creation, and Government Regulation Number 45 of 2025 within the framework of Indonesia's hierarchy of laws and regulations?
2. What are the implications of these normative conflicts for the validity of the protection of Rights of Cultivation (HGU) over palm oil plantations located within forest areas?

This study aims to analyze the configuration of normative conflicts created by Government Regulation Number 45 of 2025 in relation to the Basic Agrarian Law and the Job Creation Law, as well as to examine their implications for the validity of HGU protection over palm oil plantations within forest areas. The research method employed is normative juridical research, conducted through the systematic examination and analysis of laws and regulations, legal principles, and legal doctrines. The approaches used include the statutory approach and the conceptual approach.

Literature Review

The first cluster concerns studies on normative conflicts between agrarian law and sectoral law following the enactment of the Job Creation Law. Waldus Situmorang et al., in their study entitled *Rupture in the Legal Hierarchy*, identified three main areas of normative conflict between Law Number 6 of 2023 concerning Job Creation and the Basic Agrarian Law (*UUPA*), namely the strengthening of Management Rights (*Hak Pengelolaan*), ownership of apartment units by foreigners, and the granting of land rights over above-ground and underground spaces. These conflicts not only create normative dualism, but also generate legal uncertainty and threaten the principle of the rule of law.[17] This study is relevant as a comparative point; however, its focus is limited to the land-related cluster within the Job Creation Law and does not address the issue of implementing regulations enacted subsequently, particularly Government Regulation Number 45 of 2025.

The second cluster concerns studies on legal certainty in the governance of land rights in Indonesia. Try Widiyono and Zubair Kasem Khan, in their research, emphasized that the complexity of Indonesian land regulations often becomes a source of conflict and

[17] Waldus Situmorang, Mella Ismelina F. R, dan Rasji Rasji. (2024). Rupture in the Legal Hierarchy: Normative Conflicts and the Subversion of Agrarian Principles in Indonesia's Omnibus Law. *Indonesia Law Review,* 14(4); 1–22.

disputes rather than providing certainty, thereby necessitating continuous regulatory harmonization to create a conducive environment for the responsible acquisition of land rights.[18] Meanwhile, Salsabila specifically analyzed the degradation of the legal force of HGU overlapping with forest areas from a normative perspective,[19] while Arpangi and Awaliana Maulida Rofy examined the legal protection of HGU holders in the context of land conflicts.[20] However, these latter studies have not analyzed the specific impact of Government Regulation Number 45 of 2025, which represents the most recent regulatory development.

The third cluster concerns studies on forestry governance and tenure conflicts in palm oil plantations. Eko Noer Setiawan et al. examined spatial conflicts between forestry and palm oil plantations in Central Kalimantan from the perspective of regional policy,[21] while Drajat et al. analyzed issues regarding the shared understanding of forest area definitions in the context of legal certainty for palm oil plantation business licensing.[22] At the international level, studies published in *Frontiers in Political Science* emphasize that weak or fragmented natural resource governance often triggers conflicts, legal uncertainty, and environmental degradation. In Indonesia, conflicts in the mining, plantation, and forestry sectors continue to recur repeatedly.[23]

The fourth cluster concerns studies on the *ultra vires* doctrine and the validity review of government regulations against their parent legislation. Comparative studies between Malaysia and Indonesia regarding the application of the *ultra vires* doctrine in judicial review provide a useful analytical framework for assessing whether a government regulation has exceeded the limits of its authority.[24]

Based on the above mapping, there remains a research gap that has not yet been addressed in the existing literature, namely the absence of research that integratively employs Fuller's parameters and the principle of normative hierarchy to concretely examine the validity of Government Regulation Number 45 of 2025, while simultaneously constructing a triangular relationship between HGU protection, agrarian

[18] Try Widiyono dan Md Zubair Kasem Khan. (2023). Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law. *Law Reform: Jurnal Pembaharuan Hukum,* 19(1); 128–147.
[19] Dara Salsabila, *op.cit.*
[20] Arpangi dan Awaliana Maulida Rofy, *op.cit.*
[21] Eko Noer Setiawan, *et al., op.cit.*
[22] Muhammad Rifqi Rafi Drajat, Amalia Nurfitria Syukur, dan Mutiara Panjaitan, *op.cit.*
[23] A. Junaedi Karso. (2025). Natural Resources Governance and the Vulnerability of Indigenous Communities in Indonesia. *Frontiers in Political Science,* 7; 1–18.
[24] Zilmi Haridhi, Elsa Daniella Simbolon, Naomi Audri Klarisa Sitompul, Akmal Pauzi dan Chairil Ikhwan. (2024). Judicial Review of the Application of Ultra Vires Doctrine in Malaysia and Indonesia: A Legal Comparison. *Recht Studiosum Law Review,* 3(1); 1–20.

legal certainty, and constitutional forestry governance. This research is intended to fill that gap.

1. Theory of Legal Certainty

Legal certainty constitutes one of the primary objectives of law itself. Gustav Radbruch, an influential German legal philosopher, proposed three fundamental legal values that must coexist simultaneously, namely legal certainty (*Rechtssicherheit*), utility (*Zweckmäßigkeit*), and justice (*Gerechtigkeit*).[25] Ideally, these three values operate in harmony, although in practice they frequently conflict with one another.

According to Gustav Radbruch, there are two forms of legal certainty: legal certainty because of law, and legal certainty within or derived from law. Law that successfully guarantees a high degree of legal certainty within society is useful law, in which legal certainty imposes two additional tasks upon law, namely guaranteeing legal justice and remaining beneficial.[26]

Furthermore, the principle of legal certainty essentially requires that law be formulated clearly in written form. The existence of this principle is important because it guarantees the clarity of a positive legal product, whose meaning corresponds with the central idea of legal positivist reasoning, namely certainty.[27]

Lon Fuller, in his book *The Morality of Law*, explains that there are eight principles that law must fulfill, namely:[28]

a. Generality – Law must be general in nature, applicable to all persons, and not created to target specific individuals.
b. Promulgation – Law must be publicly promulgated so that it is known to those bound by it.
c. Non-retroactivity – Law must not operate retroactively because it damages the integrity of the legal system and creates uncertainty.
d. Clarity – Law must be formulated clearly and understandable to the general public, without ambiguity or multiple interpretations.
e. Non-contradiction – Regulations must not conflict or collide with one another.
f. Possibility of Compliance – Law must not command something impossible for its subjects to perform.

[25] Gustav Radbruch. (1950). *Rechtsphilosophie*. Stuttgart: Koehler Verlag.
[26] Sudikno Mertokusumo. (2016). *Mengenal Hukum: Suatu Pengantar* (Cetakan Kelima). Yogyakarta: Cahaya Atma Pusaka.
[27] Mario Julyano dan Aditya Yuli Sulistyawan. (2019). Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum. *Jurnal Crepido*, 1(1); 13–22.
[28] Lon Luvois Fuller. (1964). *The Morality of Law*. New Haven: Yale University Press.

g. Constancy – Law must not change too frequently in a manner that confuses society and eliminates certainty.
h. Congruence between Rules and Enforcement – The implementation of law by officials must conform to the written rules in force and must not deviate from them.

These eight Fullerian principles constitute important benchmarks for assessing the validity of a legal product, including Government Regulation Number 45 of 2025, which constitutes the object of this research.

Normatively, legal certainty is realized when a regulation is drafted and enacted with clarity and precision, meaning that it does not create doubt (multiple interpretations), does not conflict with other regulations, and its implementation cannot be influenced by subjective circumstances.[29] These benchmarks will be used to analyze Government Regulation Number 45 of 2025 in this study.

2. The Concept of Rights of Cultivation (HGU) in Indonesian Agrarian Law

Land rights constitute the core of Indonesia's agrarian legal system. The General Elucidation of the Basic Agrarian Law (*UUPA*) emphasizes that land does not belong to the state, but rather to the Indonesian nation. The state acts as a governing authority rather than as an owner, possessing the highest authority as referred to in Article 2 paragraph (2) of the UUPA,[30] which includes the authority to regulate and administer the allocation, use, availability, and maintenance of land, water, and airspace.

One form of land right most relevant to the plantation sector is the Right of Cultivation (*Hak Guna Usaha/HGU*). Based on Article 28 paragraph (1) of the UUPA, HGU is defined as the right to cultivate land directly controlled by the state for a certain period of time for agricultural, fishery, or livestock enterprises, with Government Regulation Number 40 of 1996 extending its scope to include plantation businesses.[31]

HGU is granted through a Government Determination in the form of a right-granting decision issued by the Minister responsible for land/agrarian affairs, and it comes into existence once registered by the Land Office in the land registry in accordance with prevailing regulations. HGU may be granted for a maximum period of 35 years and may be extended for an additional maximum period of 25 years if the relevant requirements are fulfilled.[32]

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[29] Mario Julyano dan Aditya Yuli Sulistyawan, *op.cit.*
[30] Undang-Undang Nomor 5 Tahun 1960.
[31] *Ibid.*
[32] Peraturan Pemerintah Nomor 40 Tahun 1996 tentang Hak Guna Usaha, Hak Guna Bangunan, dan Hak Pakai Atas Tanah.

With regard to the protection of HGU holders' rights, Article 32 paragraph (1) of the UUPA states that HGU, including the conditions of its grant, every transfer, and every termination thereof, must be registered in accordance with prevailing regulations. Paragraph (2) further emphasizes that such registration constitutes strong evidence concerning the transfer and termination of HGU, except where the right expires due to the lapse of its term.[33] This provision carries an important implication that the revocation of HGU may only be conducted through lawful and measurable legal mechanisms, and not unilaterally by the government.

The purpose of regulating and limiting HGU is to achieve the greatest possible prosperity of the people as mandated by Article 33 paragraph (3) of the 1945 Constitution in conjunction with Articles 2, 7, 10, and 17 of the UUPA, namely to achieve justice in the ownership or control of natural resources.[34] Without such limitations, the structure of natural resource ownership and control would become imbalanced due to disparities in access between stronger and weaker parties.

3. The Position of Forest Areas in the Indonesian Legal System

Forest areas within the Indonesian legal system are primarily regulated under Law Number 41 of 1999 concerning Forestry.[35] However, one of the crucial issues forming the core of the problems examined in this research is the distinction between the designation and the determination of forest areas, two juridically distinct concepts that are often equated in administrative practice.

This distinction was clarified juridically through Constitutional Court Decision Number 45/PUU-IX/2011. The decision affirmed that an area may only be categorized as a forest area once it has undergone a legally binding determination process; unilateral designation by the government alone is insufficient.[36] The implications of this decision are highly significant for HGU holders, namely that land lawfully acquired before the completion of the forest area determination process cannot automatically be categorized as a forestry violation.

In the context of normative conflicts between agrarian law and forestry law, overlaps between provisions in a regulation and higher-level regulations give rise to the application of the principle of *Lex Superiori Derogat Legi Inferiori*, resulting in legal

[33] Undang-Undang Nomor 5 Tahun 1960.
[34] Aisyah Syafa Carolina, Teza Salih Mauludin, dan Meiza Hafilda. (2022). Menakar Ukuran Ideal Pembatasan Hak Guna Usaha (HGU) untuk Badan Hukum sebagai Upaya Mengatasi Ketimpangan Penguasaan Lahan Perkebunan Kelapa Sawit di Indonesia. *Jurnal Hukum Lex Generalis*, *3*(9), 712–729.
[35] Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan.
[36] Putusan Mahkamah Konstitusi Nomor 45/PUU-IX/2011.

uncertainty and opening the possibility for judicial review before the Supreme Court.[37] This principle is relevant as an analytical framework for examining Government Regulation Number 45 of 2025, which potentially conflicts with the UUPA and the Job Creation Law, both of which occupy a higher hierarchical position.

4. Mechanisms for Resolving Existing Violations under the Job Creation Law

Law Number 6 of 2023 concerning Job Creation provides a specific mechanism for resolving existing palm oil plantations located within forest areas through Articles 110A and 110B.[38] The philosophy underlying these provisions is the principle of *ultimum remedium* in administrative law, namely that the harshest sanctions, such as revocation of rights or criminal sanctions, should only be used as a last resort if administrative settlement fails.

Article 110A regulates settlements for business actors possessing forestry permits whose land overlaps with forest areas, while Article 110B regulates those who entirely lack forestry permits. Both provisions offer settlement pathways through the payment of administrative fines as compensation for the use of forest areas, with the ultimate objective of granting approval to continue business operations legally.

This original spirit subsequently underwent a significant shift when Government Regulation Number 45 of 2025 was enacted as the implementing regulation. Rather than strengthening legal certainty for business actors who had acted in good faith in fulfilling their obligations, Government Regulation Number 45 of 2025 instead introduced a mechanism for the repossession of land by the state that is inconsistent with the mandate of its parent legislation.

5. Hierarchy of Laws and Regulations and Normative Conflicts

Within the Indonesian legal system, the hierarchy of laws and regulations is governed by Law Number 12 of 2011 concerning the Formulation of Laws and Regulations.[39] Government Regulations occupy a position below statutes (*Undang-Undang*), and therefore their substantive provisions may not conflict with the laws upon which they are based.

From the perspective of the principle of *Lex Specialis Derogat Legi Generalis*, special law may override general law. Nevertheless, this principle cannot be used to justify a lower-level regulation that conflicts with higher-level norms.[40] This condition constitutes the

[37] Aditya Darmawan Zakaria. (2022). Kebijakan Pemberian Hak Guna Usaha Di Atas Hak Pengelolaan Dalam Perspektif Undang-Undang Pokok Agraria. *Notaire*, 5(1), 1–16.
[38] Undang-Undang Nomor 6 Tahun 2023.
[39] Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan
[40] Aditya Darmawan Zakaria, *op.cit.*

essence of the juridical problem posed by Government Regulation Number 45 of 2025. As a government regulation, it cannot revoke or limit rights that have already been granted and guaranteed under the UUPA, which occupies a higher hierarchical position.

METHODS

This research constitutes normative legal research, namely a form of legal research that examines law as written norms in abstracto by analyzing prevailing legal rules, principles, and doctrines.[41] Unlike empirical legal research, which focuses on legal behavior within society, normative research places written legal materials as the primary object of analysis. This method was chosen because the problem under examination concerns normative conflicts among laws and regulations, which can only be adequately analyzed through an *in abstracto* approach to legal texts and normative structures themselves. The study employs two approaches. First, the statutory approach, which examines all legislation relevant to the issues discussed, including the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law Number 5 of 1960, Law Number 41 of 1999, Law Number 6 of 2023, Government Regulation Number 24 of 2021, Government Regulation Number 45 of 2025, and Constitutional Court Decision Number 45/PUU-IX/2011. This approach is used to understand the normative construction of each regulation prior to analyzing the conflicts among them. Second, the conceptual approach refers to the views of legal scholars, legal doctrines, and theories developed within legal science as the basis for analytical argumentation. In this study, the conceptual approach is primarily used to operationalize Gustav Radbruch's theory of legal certainty and Lon Fuller's eight principles of the *inner morality of law* as parameters for testing the normative validity of Government Regulation Number 45 of 2025.

This normative legal research utilizes three categories of legal materials based on their binding authority, namely primary, secondary, and tertiary legal materials. Primary legal materials consist of binding legal sources that constitute the main object of analysis, including the 1945 Constitution, the Basic Agrarian Law Number 5 of 1960, Law Number 41 of 1999 concerning Forestry, Law Number 12 of 2011 concerning the Formation of Laws and Regulations, Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, Law Number 6 of 2023 concerning Job Creation, Government Regulation Number 40 of 1996, Government Regulation Number 24 of 2021, Government Regulation Number 45 of 2025, Presidential Regulation Number 5 of 2025,

[41] Soerjono Soekanto dan Sri Mamudji. (1995). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Cetakan ke-9. (Jakarta: Rajawali Press).

Minister of Forestry Decree Number 36 of 2025, and Constitutional Court Decision Number 45/PUU-IX/2011. Secondary legal materials include authoritative legal textbooks in the fields of agrarian law, forestry law, and legal philosophy, peer-reviewed scientific journal articles indexed in national (SINTA) and international (Scopus) databases, relevant previous studies, and official government documents and institutional reports related to the governance of palm oil plantations within forest areas. Tertiary legal materials include legal dictionaries, legal encyclopedias, and credible official online sources. The collection of legal materials was conducted through library research involving the tracing, inventorying, and identification of legal materials relevant to the research problems. The inventory process was carried out systematically through three stages: identification of norms, classification of norms based on hierarchy and substance, and mapping of norms through a matrix of interrelated provisions in order to identify concrete and measurable points of conflict.

The analysis of legal materials in this study was conducted qualitatively using four analytical techniques. First, statutory analysis was employed to examine the text, structure, and context of each relevant legal norm, including official elucidations, legislative histories, and the objectives of the regulations under review. Second, conceptual analysis utilized legal theories and doctrines, particularly Radbruch's theory of legal certainty and Fuller's eight principles, as instruments for testing the substance of the norms contained in Government Regulation Number 45 of 2025. Third, vertical synchronization analysis was used to assess the conformity between the norms of Government Regulation Number 45 of 2025 and higher-ranking laws and regulations, particularly the Basic Agrarian Law and the Job Creation Law. This technique was intended to identify whether there were forms of normative disharmony constituting *ultra vires*, excessive delegation, or maladministrative norm-making. Fourth, legal interpretation was applied to interpret ambiguous or multi-interpretable norms through grammatical, systematic, and teleological interpretation methods. Teleological interpretation, in particular, was used to analyze whether the "repossession" mechanism introduced by Government Regulation Number 45 of 2025 is consistent with the *ratio legis* intended by the Job Creation Law as its parent legislation.

RESULT AND DISCUSSION

1. Vertical Normative Conflict between Government Regulation Number 45 of 2025, the Job Creation Law, and the Basic Agrarian Law (UUPA)

Before proceeding to a clause-by-clause analysis, it is necessary to first establish the conceptual framework used to identify normative conflicts. The *ultra vires* doctrine

requires that governmental bodies granted authority by legislation, in exercising such authority, must not exceed the limits established by the law conferring that authority. The legal consequence of actions or decisions exceeding such authority is that those actions or decisions are invalid and non-binding from the moment they are enacted, and all their legal consequences are deemed never to have existed.[42] Referring to this doctrine, the normative conflicts contained in Government Regulation Number 45 of 2025 may be classified into three categories, namely *ultra vires*, excessive delegation, and maladministrative norm-making.

The concrete mapping of normative conflicts between Government Regulation Number 45 of 2025 and higher-level regulations can be seen in the following table.

Table 1. Mapping of Vertical Normative Conflicts in Government Regulation Number 45 of 2025

Higher-Level Norm	**Norm in Government Regulation No. 45/2025**	**Form of Conflict**	**Category**
Article 18 of the UUPA: revocation of land rights must be accompanied by proper compensation	Article 3 paragraph (5): repossession of land after fines are paid without any compensation mechanism	Absence of a proper compensation mechanism	*Ultra Vires*
Article 34 of the UUPA: termination of HGU is limitatively regulated under six specific grounds	Article 35A: repossession as a new mechanism for terminating HGU	Expansion of grounds for termination beyond those stipulated in the UUPA	*Ultra Vires*
Elucidation of Article 110B of the Job Creation Law: business actors are entitled to continue	Article 35A: after fines are paid, the land is taken over by the state and transferred to State-	Deviation from the objective of legalization toward nationalization	Maladministrative norm-making

[42] Aan Efendi, Sudarsono Sudarsono. (2024). Tindakan Ultra Vires Organ Pemerintahan dan Konsekuensi Hukumnya. *Masalah-Masalah Hukum,* 53(2); 145-154.

their business after paying fines	Owned Enterprises (BUMN)		
Law Number 41 of 1999 Article 4: the Minister of Forestry acts as the sole authority in forestry affairs	Article 6 paragraph (1): the phrase "and/or" places the Forest Area Control Task Force (PKH Task Force) on equal footing with the Minister of Forestry	Reduction of the lawful authority of the Minister by an ad hoc institution	Excessive delegation
Elucidation Appendix of Article 110B of the Job Creation Law: fines are proportional and profit-based	Appendix of Government Regulation No. 45/2025: fixed tariff of IDR 25 million/hectare/year without considering economic capacity	Disproportionate fines potentially impossible to comply with	Maladministrative norm-making

The table above demonstrates that the normative conflicts generated by Government Regulation Number 45 of 2025 are not isolated to a single issue, but rather are systemic in nature and encompass at least five concrete and measurable forms of normative contradiction.[43] Using the principle of *Lex Superiori Derogat Legi Inferiori* as stipulated in Article 7 paragraph (1) of Law Number 12 of 2011, all provisions of Government Regulation Number 45 of 2025 that conflict with higher-level norms should juridically be declared to have no binding legal force.[44]

2. Legal Certainty of Rights of Cultivation (HGU) for Palm Oil Plantations within Forest Areas

Before examining the implications of Government Regulation Number 45 of 2025, it is first necessary to understand the normative legal position of palm oil plantation HGU located within forest areas. This issue cannot be separated from the long history of overlapping land administration and forestry governance in Indonesia.

From a juridical perspective, HGU that has been issued by the state through a right-granting decision by the Minister of Agrarian Affairs/Head of the National Land Agency

[43] Waldus Situmorang, *et al., op.cit.*
[44] Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan.

(*BPN*) and registered in the land registry constitutes a lawful right protected by law.[45] This is affirmed in Article 32 paragraph (2) of the Basic Agrarian Law (*UUPA*), which states that the registration of HGU constitutes strong evidence. In other words, once HGU has been granted, it cannot simply be revoked without a clear and just legal mechanism.

However, problems arise when HGU that has already been granted is subsequently declared to be located within a forest area. The root of this conflict does not merely lie in the fault of HGU holders, but rather in the incomplete process of forest area gazettement, which is fundamentally the responsibility of the state. As affirmed in Constitutional Court Decision Number 45/PUU-IX/2011, the determination of forest areas must undergo four stages, namely designation, boundary demarcation, mapping, and formal determination.[46] To this day, many areas have only reached the designation stage rather than the legally binding determination stage, meaning that juridically they do not yet possess fully binding legal force as forest areas.

This incomplete forest area gazettement process has created a legal grey zone in which HGU granted in the past—before forest boundaries were definitively established—is now treated as though it had been legally defective from the outset. Such treatment contradicts the principle of non-retroactivity, one of Lon Fuller's eight principles of law, which holds that law must not operate retroactively because doing so undermines the integrity of the existing legal system.[47]

3. The Shift in Legal Philosophy in Government Regulation Number 45 of 2025: From Legalization toward Disguised Nationalization

The most fundamental problem generated by Government Regulation Number 45 of 2025 lies in the shift of its legal philosophy, which stands in direct contradiction to the spirit of its parent legislation. Law Number 6 of 2023 concerning Job Creation, particularly Articles 110A and 110B, explicitly establishes a mechanism for resolving existing violations based on the principle of *ultimum remedium*, namely that administrative sanctions take precedence, and once obligations have been fulfilled, business actors are entitled to obtain approval to continue their business activities legally.[48]

However, Government Regulation Number 45 of 2025, through Article 3 paragraph (5) and Article 35A, introduces a mechanism that substantively deviates from this mandate. After the fines are paid, the land is not automatically legalized as intended by

[45] Urip Santoso. (2012). *Hukum Agraria: Kajian Komprehensif*. Jakarta: Kencana Prenada Media Group.
[46] Eko Noer Setiawan, *et al., op.cit.*
[47] Lon Luvois Fuller, *op.cit.*
[48] Muhammad Rifqi Rafi Drajat, Amalia Nurfitria Syukur, dan Mutiara Panjaitan, *op.cit.*

the Job Creation Law, but instead is taken over by the state through a "repossession" (*penguasaan kembali*) mechanism and subsequently transferred to state-owned plantation enterprises (*BUMN perkebunan*).[49] Thus, the legal philosophy of Government Regulation Number 45 of 2025 has effectively shifted from legalization toward disguised nationalization.

This shift gives rise to two serious juridical problems. First, there is a clear normative contradiction between Government Regulation Number 45 of 2025 and the Job Creation Law as its parent legislation. Based on the principle of *Lex Superiori Derogat Legi Inferiori*, when a conflict arises between a lower regulation and a higher regulation, the higher regulation must prevail.[50] Second, the mechanism of "pay the fine and then lose the land" contradicts Fuller's principle of constancy, because it creates different expectations between what is promised by the statute and what is subsequently implemented through the government regulation.[51]

This contradiction becomes even more apparent when examining the Elucidation of Article 110B paragraph (1) of the Job Creation Law, which explicitly states that the resolution of existing violations is carried out through the payment of administrative fines, after which business actors are to be "granted approval as the right to continue their business activities within forest areas."[52] The word "continue" in this provision systematically implies that business actors may continue their activities, rather than being compelled to surrender their land to the state.

4. Analysis of Government Regulation Number 45 of 2025 from the Perspective of Lon Fuller's Legal Principles

As previously discussed, Lon Fuller established eight principles that must be fulfilled for a legal product to be considered valid and effective as law.[53] An analysis of Government Regulation Number 45 of 2025 demonstrates that at least four of these eight principles have been violated.

a. Principle of Non-Retroactivity.

Government Regulation Number 45 of 2025 effectively imposes new and more severe consequences—namely the repossession of land—for conduct that, under the Job Creation Law, was previously promised to be subject only to administrative fines with a guarantee of business continuation. Business actors who had acted in good faith by

[49] Peraturan Pemerintah Nomor 45 Tahun 2025.
[50] Aditya Darmawan Zakaria, *op.cit.*
[51] Lon Luvois Fuller, *op.cit.*
[52] Undang-Undang Nomor 6 Tahun 2023.
[53] Lon Luvois Fuller, *op.cit.*

following the settlement process under Government Regulation Number 24 of 2021 now face provisions that changed midway through the process. This contradicts Fuller's principle of non-retroactivity, which requires that law must not alter the legal consequences of past events.[54]

b. Principle of Non-Contradiction.

Government Regulation Number 45 of 2025 contains contradictions both internally and externally. Externally, it conflicts with the Basic Agrarian Law (*UUPA*), the Forestry Law, and the Job Creation Law. Internally, Government Regulation Number 45 of 2025 repeatedly employs the phrase "and/or" in numerous provisions, thereby creating parallel authority between the Minister of Forestry and the Forest Area Control Task Force (*Satgas PKH*). This generates uncertainty regarding which authority is actually competent and which procedures must be followed.[55]

c. Principle of Possibility of Compliance.

Government Regulation Number 45 of 2025 establishes a fixed fine tariff of IDR 25 million per hectare per year, which in practice may result in fines that are impossible for business actors to pay.[56] As previously noted, there are cases where fines originally amounting to approximately IDR 500 billion under the formula provided by the Job Creation Law could escalate to IDR 2.5 trillion under Government Regulation Number 45 of 2025.[57] A law that imposes obligations that are factually impossible to fulfill fails to satisfy Fuller's principle of possibility of compliance.

d. Principle of Congruence between Rules and Enforcement.

The spirit of the Job Creation Law is legalization and business certainty. However, in practice, Government Regulation Number 45 of 2025 instead results in the repossession of land and the transfer of assets to State-Owned Enterprises (*BUMN*), an outcome entirely incongruent with the wording and objectives of its parent legislation.[58]

5. Problematics of the Repossession Mechanism toward the Agrarian Rights of HGU Holders

The direct impact of Government Regulation Number 45 of 2025 is experienced by HGU holders who have lawfully acquired their rights. The Basic Agrarian Law (*UUPA*) explicitly states that HGU may only be terminated due to the expiration of its term, termination before the expiration period because required conditions are not fulfilled,

[54] *Ibid.*
[55] Dara Salsabila, *op.cit.*
[56] Peraturan Pemerintah Nomor 45 Tahun 2025.
[57] Muhamad Zainal Arifin, *op.cit.*
[58] Lon Luvois Fuller, *op.cit.*

voluntary relinquishment by the rights holder, revocation for public interest purposes, abandonment, or destruction of the land itself.[59] None of the grounds for the termination of HGU under the UUPA refers to a "repossession" mechanism as regulated in Government Regulation Number 45 of 2025.

Accordingly, the repossession mechanism under Government Regulation Number 45 of 2025 creates a new basis for terminating HGU that is unknown in the UUPA as the parent legislation of Indonesian agrarian law. This directly contradicts the principle of the hierarchy of laws and regulations, under which a Government Regulation may not create new norms that conflict with or expand the provisions concerning the termination of rights already regulated by higher legislation.[60]

Furthermore, the UUPA also affirms in Article 18 that for public interest purposes, land rights may only be revoked by providing proper compensation and through procedures regulated by law.[61] However, Government Regulation Number 45 of 2025 does not provide an adequate compensation mechanism for HGU holders whose land is taken over by the state. Business actors who have developed plantations and infrastructure for years on their HGU land lose their assets without proportional compensation, a condition that clearly contradicts the principle of justice in agrarian law.[62]

6. Institutional Analysis of the Forest Area Control Task Force (Satgas PKH): *Ultra Vires*, Excessive Delegation, or Maladministrative Norm-Making?

The discussion concerning the Forest Area Control Task Force (*Satgas PKH*) requires a more technical and structured analytical foundation. Institutionally, the PKH Task Force was established through Presidential Regulation Number 5 of 2025. From the perspective of administrative law, there are three recognized sources of authority within the Indonesian legal system, namely attribution, delegation, and mandate. Attribution refers to original authority granted directly by legislation to a governmental organ; delegation refers to the transfer of authority from one organ to another; and mandate refers to the exercise of authority on behalf of another official. Under Article 13 paragraph

[59] Undang-Undang Nomor 5 Tahun 1960.
[60] Undang-Undang Nomor 12 Tahun 2011.
[61] Undang-Undang Nomor 5 Tahun 1960.
[62] Boedi Harsono. (2008). *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya* (Edisi Revisi). Jakarta: Djambatan.

(2) of the Government Administration Law, delegation may only be granted through Government Regulations, Presidential Regulations, or Regional Regulations.[63]

Using this framework, the authority of the PKH Task Force may be analyzed as follows. First, the PKH Task Force does not possess attributive authority in the forestry sector because no sectoral legislation, either Law Number 41 of 1999 or Law Number 18 of 2013, explicitly grants forest area control authority to an ad hoc institution of this kind. All such authority is attributively vested in the Minister of Forestry.[64]

Second, the PKH Task Force cannot be classified as a lawful recipient of delegated authority because delegation requires the transfer of part of the authority from an official possessing attributive authority (in this case, the Minister of Forestry) to the delegatee. The concept of *ultra vires* in Indonesian law may be understood through the theory of authority, which divides governmental power into three forms: attribution, delegation, and mandate. If an organ lacks attributive authority and there is no lawful transfer of authority from the institution possessing such attribution, then the actions undertaken by that organ constitute actions without lawful legal basis, namely *ultra vires* actions.[65] Presidential Regulation Number 5 of 2025, as the legal basis for establishing the PKH Task Force, cannot function as a valid delegation instrument for authority that has attributively been granted by statute to the Minister of Forestry.

Third, the phrase "and/or" in Article 6 paragraph (1) of Government Regulation Number 45 of 2025, which places the PKH Task Force on equal footing with the Minister of Forestry, fulfills the criteria of excessive delegation, namely when a Government Regulation grants authority to an institution beyond what is mandated by its parent legislation.[66] In this context, Government Regulation Number 45 of 2025 not only distributes authority, but in practice shifts the center of authority from an official protected by statute to an ad hoc institution lacking sectoral legitimacy.

Ultimately, the dominance of military personnel within the PKH Task Force in the sphere of administrative law enforcement against private plantation enterprises also raises serious constitutional concerns. Article 30 of the 1945 Constitution of the Republic of Indonesia stipulates that the Indonesian National Armed Forces are tasked with

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[63] Muhammad Adiguna Bimasakti. (2024). Permasalahan Instrumen Delegasi Kewenangan Menurut Undang-Undang Administrasi Pemerintahan. *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara, 2(1); 187-208.*

[64] Undang-Undang Nomor 41 Tahun 1999.

[65] U. Andre Baharudin. (2025). *Kajian Hukum tentang Ultra Vires dalam Perpol 3 Tahun 2025.* Lembaga Bantuan Hukum Caraka Dhara Satya (LBH CADHAS). Diakses dari https://lbh-cadhas.com/kajian-hukum-tentang-ultra-vires-dalam-perpol-3-tahun-2025/4/

[66] Muhammad Adiguna Bimasakti, *op.cit.*

defending, protecting, and maintaining the integrity and sovereignty of the state, not with exercising administrative law enforcement functions in civil matters, which properly fall within the domain of civilian authorities.[67]

7. Implications of Government Regulation Number 45 of 2025 for the Investment Climate and Business Certainty

The legal uncertainty generated by Government Regulation Number 45 of 2025 does not only affect the normative sphere, but also has direct implications for the investment climate in the plantation sector. Legal certainty, as argued by Gustav Radbruch, constitutes a prerequisite for useful law, namely law capable of creating order for its subjects.[68]

When the legal status of HGU can change at any time due to shifting regulations, banking and financial institutions will become increasingly reluctant to extend credit to the palm oil sector. HGU, which has traditionally been used as collateral through the imposition of security rights (*hak tanggungan*), loses its value as collateral when its legal status is no longer guaranteed.[69] This condition ultimately harms not only large corporations, but also millions of palm oil farmers who depend on access to financing for the replanting and development of their plantations.

On the other hand, the potential for a wave of lawsuits before the Administrative Court (*Pengadilan Tata Usaha Negara*) will almost certainly increase following the implementation of Government Regulation Number 45 of 2025. If this occurs, it will further burden the judicial system and create additional uncertainty that is counterproductive to the original objective of Government Regulation Number 45 of 2025 itself, namely improving the governance of palm oil plantations within forest areas.[70]

CONCLUSION

The findings of this study demonstrate that the normative conflict between Government Regulation Number 45 of 2025, the Job Creation Law, and the Basic Agrarian Law (*UUPA*) is systemic in nature and encompasses at least five concrete points of normative contradiction. These conflicts can be classified into three categories: *ultra vires*, reflected in the introduction of the "repossession" mechanism and the expansion of grounds for the termination of HGU beyond those recognized in Article 34 of the UUPA; maladministrative norm-making, reflected in the deviation from the legalization

[67] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
[68] Gustav Radbruch, *op.cit.*
[69] Aisyah Syafa Carolina, Teza Salih Mauludin, dan Meiza Hafilda, *op.cit.*
[70] Muhamad Zainal Arifin, *op.cit.*

objective mandated by the Elucidation of Article 110B of the Job Creation Law toward a form of disguised nationalization, as well as the imposition of disproportionate fine tariffs; and excessive delegation, reflected in the placement of the Forest Area Control Task Force (*Satgas PKH*) on equal footing with the Minister of Forestry through the phrase "and/or," contrary to the principle of attributed authority under Law Number 41 of 1999 and the Government Administration Law. Based on the principle of *Lex Superiori Derogat Legi Inferiori*, all provisions conflicting with higher-ranking legislation are juridically devoid of binding legal force.

These normative conflicts directly affect the invalidity of legal protection for Rights of Cultivation (*HGU*) over palm oil plantations located within forest areas. The repossession mechanism, implemented without adequate compensation, not only contradicts Articles 18 and 34 of the UUPA, but also violates constitutional guarantees concerning the protection of property rights as stipulated in Articles 28G paragraph (1) and 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia. An assessment based on Lon Fuller's eight principles of the *inner morality of law* reveals that Government Regulation Number 45 of 2025 violates at least four principles simultaneously, namely the principles of non-retroactivity, non-contradiction, possibility of compliance, and congruence between rules and enforcement. Consequently, the regulation fails to satisfy the minimum standards of legal validity required under legal theory.

The theoretical contribution of this research lies in three aspects. First, it develops a systematic model for interpreting vertical normative conflicts among agrarian law, forestry law, and plantation administrative law. Second, it formulates an operational framework for testing the validity of government regulations based on Fuller's principles and the *ultra vires* doctrine. Third, it constructs a coherent triangular relationship between HGU protection, the principle of agrarian legal certainty, and constitutional forestry governance within a single analytical framework. Based on these findings, this study recommends that the Government immediately revise Government Regulation Number 45 of 2025, particularly the repossession mechanism under Article 3 paragraph (5) and Article 35A, as well as the fine calculation formula contained in its Appendix. The Government should also prioritize the definitive gazettement of forest areas throughout Indonesia and restore forest area control authority fully to the Minister of Forestry, while limiting the role of the PKH Task Force to inter-sectoral coordination. Furthermore, HGU holders adversely affected by the regulation should be provided with effective legal remedies through administrative court litigation and judicial review before the Supreme Court.

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