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Bad Practices in Governance and Bleaching of Palm Oil Land with Potential Losses to the State

Siti Khoeriyah[1], Aulia Hapsari Juwita[2]✉

[1]IPB University, Bogor, Indonesia.
[2]Sebelas Maret University, Bogor, Indonesia.
✉*Corresponding author*: auliahjuwita@staff.uns.ac.id

Abstract
The enactment of the Job Creation Law provides an opportunity for bad governance practices through changes to technical forest management regulations, so that this creates potential losses for the state. This research aims to analyze potential state losses due to changes in regulations for managing palm oil plantations in forest areas in Riau Province. Analysis of potential state losses was carried out by calculating the losses incurred by 7 palm oil companies in Riau Province operating in forest areas. The research method used is analysis of the calculation of Non-Tax State Revenue (PNBP) from the results of the Forest Resources Provision (PSDH). Based on the results of the analysis, the potential state loss due to this regulatory change reaches IDR 875,732,734,813. The bleaching of oil palm land in forest areas through forest release by the government worsens existing governance practices. The new regulations that have been established still favor economic interests while ignoring the sustainability of forest and environmental resources. Based on this, the policy directions that can be implemented include strengthening institutions and multi- level governance, improving long-term strategies for smallholder palm oil, building local and international research partnerships, designing sustainable development policy models that do not only focus on poverty alleviation, and review the application of company sanctions based on Minister of Environment and Forestry Decree No. 661 of 2023.

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1. Introduction

Forest deforestation occurs due to uncontrolled changes in land use, which is closely linked to emissions and contributes to global warming (Arima et al., 2014; Pan et al., 2011). Currently, tropical forest deforestation is estimated to contribute 1.10±0.70 Pg C y^{-1}, or 14–20% of global greenhouse gas emissions. Forest deforestation and global greenhouse gas emissions continue to increase, especially as pressure is given to reduce poverty to zero poverty. Improving the economic welfare of society while maintaining environmental sustainability is a very dilemmatic problem. The United Nations (UN) even established an initiative to reduce emissions from deforestation and forest degradation (REDD) to REDD+ in 2007. Other international institutions, transnational banks, philanthropic institutions, and donor governments have supported various North–South initiatives aimed at reducing or halting deforestation and forest degradation in the tropics, including efforts to eradicate illegal logging, sustainable forest management, and governance reform in low- and middle-income countries (Kanashiro Uehara et al., 2023). This continues to be a widely discussed topic among researchers and academics because there has not been an effective global agreement regarding forest management.

Forest deforestation also occurs in Indonesia. Deforestation in Indonesia reached 815,607.5 ha in 2015, decreasing to 73,130.1 ha in 2022 in forest areas. Most of the deforestation is intended to convert land into oil palm plantations. In 2018, the area based on land use reached 14.33 million hectares and continued to increase to 15.34 million hectares. Total palm oil production increased from 42.88 million tons in 2018 to 46.82 million tons in 2022 (BPS, 2023). This plantation commodity plays an important role in the Indonesian economy (Prasetyani et al., 2024), where palm oil exports are the country's second largest foreign exchange earner after oil and gas. However, Indonesian palm oil also faces agrarian, environmental, and social problems and has been the subject of criticism from the international community (Kanashiro Uehara et al., 2023). Indonesia has attempted to address this issue by establishing the Indonesia Sustainable Palm Oil (ISPO) certification system to reduce ecological risks from plantation expansion (Prasetyani et al., 2024). However, implementation faces complex challenges, resulting in a phenomenon of hollow governance where regulations overlap (Ambarita et al., 2023; Putri et al., 2022). Additionally, there has been a significant shift in environmental law in Indonesia.

Hollow governance leads to legal sanctions being inconsistently applied to companies or individuals engaged in illegal logging, allowing continued expansion of oil palm plantations. Regulatory changes have created loopholes that allow companies to continue operating despite environmental damage (Susanti & Richwanudin, 2020; Siagian, 2023). These include changes in administrative sanctions and legalization mechanisms for previously illegal concessions, which may weaken forest protection.

Based on a study by Greenpeace and The Tree Map, 3.12 million hectares of oil palm plantations are located in forest areas, with approximately 50% controlled by plantation companies. Riau Province has the largest oil palm plantation area in Indonesia, reaching 2.86 million hectares in 2020. Plantation management is dominated by private companies, accounting for 91.3% of the total area. Over the past decade, plantation land has increased significantly (BPS, 2023). A large portion of these plantations is located within forest zones, including conservation and protected areas. While economic growth from oil palm expansion benefits communities, it also impacts the environment and forest sustainability (Samho & Purwadi, 2023). Therefore, this study aims to analyze potential state losses resulting from regulatory changes in managing oil palm plantations in forest areas in Riau Province.

2. Method

This research is a descriptive quantitative research with the location used being Riau Province. This province shares a direct border with North Sumatra Province, Jambi Province, West Sumatra Province and Riau Islands Province. The appointment of Riau province as the research object is because Riau Province has the largest oil palm plantations in Indonesia.

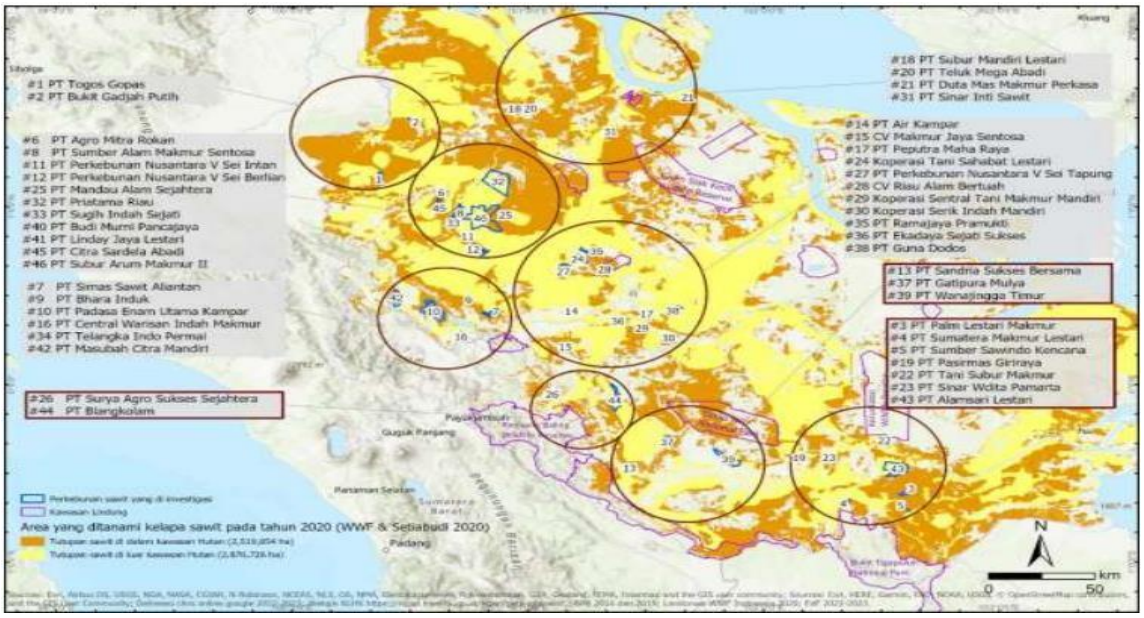

Figure 1. The Riau Palm Oil Company area is located in a forest area Source: WWF and & Setiabudi 2020

Figure 1. The orange and red colors are the 2022 Eyes on the Forest (EoF) Investigation which shows 46 palm oil management units that illegally manage palm oil in Forest Areas. The analysis of potential losses was carried out by calculating Non-Tax State Revenue (PNBP) from the Forest Resources Provision (PSDH) from 7 companies operating in forest areas in Riau Province with a land area of more than 1000 Ha. The seven palm oil plantation management companies include: PT Subur Makmur II (SAM), PTPN V Sei Tapung, PT Palm Lestari Makmur (PMR), PT Citra Sardela Abadi, Padasa Enam Utama (Kampar), PT Alam Sari Lestari, PT Sinar Widita Pamarta (SWP) II. The analysis tools used include ArcGIS software and Ms. Ecxell.

3. Results and Discussion

Regulations for Calculating Forest Resource Provisions (PSDH) Before and After the Birth of the Job Creation Law

The calculation of potential PSDH losses is based on the Minister of Environment and Forestry Regulation (Permen LHK) No. 64 of 2017 which is an implementation of Law No. 18 of 2013. The next regulation is the Decree of the Minister of Environment and Forestry (Kepmen LHK) No. 661 of 2023. Minister of Environment and Forestry Regulation No. 64 of 2017 which is the implementation of Law No. 6 of 2023 (Creation Law). Determination of benchmark prices for forest products for Calculation of Forest Resource Provisions before the Ciptaker Law is based on Minister of Environment and Forestry Regulation No. 64 of 2017. Meanwhile, determination of benchmark prices for forest products for Calculation of Forest Resource Provisions after the Ciptaker Law is based on Minister of Environment and Forestry Decree No. 661 of 2023. The second difference is These regulations in PSDH calculations are as follows:

Table 1. Regulations for Calculating Forest Resource Provisions (PSDH) Before and After the Birth of the Job Creation Law

Before the Ciptaker Law (Law No. 18 of 2013)	After the Ciptaker Law (Law No. 6 of 2023)
Minister of Environment and Forestry Regulation No. 64 of 2017 concerning Determination of Benchmark Prices for Forest Products for Calculating Forest Resource Provisions and Standing Compensation	LKH Ministerial Decree No. 661 of 2023 concerning Determination of Non-Tax State Revenue Tariffs to Accelerate Completion of Palm Oil Plantation Business Activities that have been built in forest areas that do not have permits in the Forestry Sector as an implementation of the Job Creation Law in the Environment and Forestry Sector
Type of land cover and potential for tree stands with a diameter of >20 cm3 and a diameter of >50cm3 PSDH rates are based on the type of wood potential according to the region	1) The average stand potential calculated from desk analysis results is 25.7 m3/Ha 2) The highest PSDH tariff is IDR. 48,000 using mixed types of jungle wood, medium round types
Business license holders: Criminal and administrative sanctions in the form of government coercion, forced money and revocation of licenses Not a business permit holder: Criminal and Administrative Sanctions in the amount according to state losses, termination of activities	Business license holders: administrative sanctions with complete documents for obtaining whitening of oil palm land in forest areas (Implementation of Article 110A of the Ciptaker Law) Not a business permit holder: Administrative sanctions and temporary suspension of forest management activities (Implementation of Article 110B of the Ciptaker Law)
Adjusted to state losses, it applies to both business permit holders and those without permits	Administrative sanctions for non-permit holders Rp. 1,600,000/Ha if in Production Forest areas and Rp. 2,000,000 if in Protected Forest and Conservation Forest areas

The benchmark PSDH rates are based on Minister of Environment and Forestry Regulation No. 64 of 2017 for the Riau Province region according to Table 2 below:

Table 2. Benchmark PSDH Tariffs Based on Minister of Environment and Forestry Regulation No. 64 of 2017

Land Cover	Potential Tree Stands	
	>20 cm3	>50cm3
Primary Dryland Forest	136.44	55.03
Secondary Dryland Forest	177.43	88.36
Primary Swamp Forest	137.16	29.17
Secondary Swamp Forest	134.6	50.57
Lumber rates	Adapted to the type of wood, region and diameter of the tree stand	

The wood rate in this study was determined using mixed types of jungle wood, for a diameter of >20cm 3 the price was IDR. 370,000 and diameter >50cm3 price Rp. 390,000 by excluding other regions and types of wood. Based on the results of the analysis of forest land cover in Riau Province in 2020, it can be seen in Figure 2 that the location and area of forest land converted into oil palm plantations from 7 palm oil management companies in Riau Province are as follows.

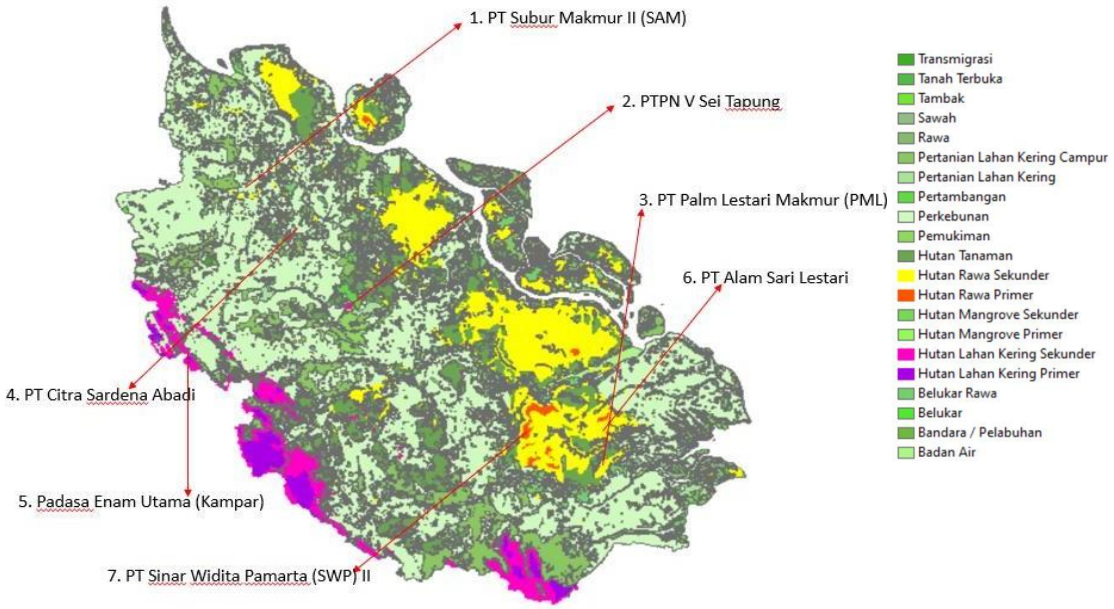

Figure 2. Location of Palm Oil Management Companies in Riau Province Forest Areas

PT. Subur Makmur II (SAM) has an area of oil palm land in a forest area of 5,735.44 Ha with secondary swamp forest land cover. PTPB V Sei Tapung has an area of oil palm land in a forest area of 1,085.64 Ha with secondary dry land forest land cover. PT Palm Lestari Makmur (PML) has an area of oil palm land in a forest area of 1,312.63 Ha with secondary swamp forest land cover. PT Citra Sardela Abadi has an area of oil palm land in a forest area of 1,158.95 Ha with secondary dry land forest land cover. Padasa Enam Utama (Kampar) has an area of oil palm land in a forest area of 5,302.26 Ha with primary dry land forest land cover. PT Alam Sari Lestari has an oil palm land area in the forest area of 1,527.09 Ha with secondary swamp forest land cover and PT Sinar Widita Pamarta (SWP) II has an oil palm land area in the forest area of 1,518.53 Ha with primary swamp forest land cover.

In the third company, the land area owned by PT. Palm Lestari Makmur (PML) reaches 1,312.63 Ha if according to LKH Ministerial Regulation No. 64 of 2017 the fine given to the state should be IDR 61,051,275,760 for a diameter>20cm 3 and IDR 1,710,909,525 for a diameter >50cm 3 so the total fine reaches IDR 62,762,185,285 but if you use Decree of the Minister of LKH No. 661 of 2023, the fine given to the state is only IDR. 1,339,245,504. The potential state loss from this company is IDR 61,142,924,917.

This also applies to the fourth to seventh companies where, potential state losses from PT's business activities. Citra Sardela Abadi with a land area of 1,158.95 Ha amounting to IDR 74,654,343,725. Padasa Enam Utama (Kampar) with a land area of 5,302.26 Ha has potential state losses of IDR 260,008,075,989 and state losses due to PT's business activities. Alam Sari Lestari amounting to IDR 74,168,317,956 with a land area of 1,527.09 Ha as well as state losses arising from the business activities of PT. Sinar Widita Pamarta (SWP) II amounting to IDR 75,190,924,068 with a land area of 1,518.53 Ha. The high rate of state losses will have a negative impact on the national economy. Not only are there financial losses, but the negative ecological and social impacts obtained are greater than the economic gains from long-term palm oil production (Putri et al., 2022). Even indigenous communities often face the threat of horizontal conflict due to competition over cultivated land, as well as environmental risks such as floods and landslides (Samho & Purwadi, 2023).

Based on the results of analysis from 7 palm oil management companies in forest areas in Riau Province, changes in the regulations for setting PSDH benchmarks before and after the Job Creation Law have brought about regulatory changes from Minister of Environment and Forestry Regulation No. 64 of 2017 to Minister of Environment and Forestry Decree No. 661 of 2023 which have an impact on changes in State Revenue. Tax (PNBP) which causes potential state losses of IDR. 875.732.734.813.

These calculated losses are limited to 7 palm oil management companies in forest areas with a land area of each company above 1000 Ha in Riau Province, this does not include losses caused by other licensed or unlicensed companies and companies located in the surrounding areas as well as other islands such as Kalimantan Island and Sulawesi Island also have oil palm plantations.

Policy Direction

This policy change received a lot of sharp criticism from forestry, environmental and academic observers. Susanti and Richwanudin (2020) also emphasized that changing the law regarding sanctions for illegal forest crimes reflects the government's compliance with corporate interests and provides unconditional exemptions for environmental violations committed by companies.

The policy directions that can be proposed following the enactment of this law include, first, institutional strengthening and the implementation of multi-level governance to improve the effectiveness of governance processes. Siagian (2023) highlighted that this multi-level approach is essential to enhance subnational mobilization (provinces and districts/cities), enabling them to actively participate in policies established by the central government. Provincial and Regency or City Governments are advised to immediately issue special regional regulations for logging or use of forest land for oil palm plantations. Second, the long-term strategy for smallholder palm oil. The term improvement refers to efforts to restore forest areas that have been converted by communities into oil palm plantations back into forest ecosystems through agroforestry practices (Piattoni, 2010). This strategy has the legal umbrella contained in Government Regulation (PP) number 23/2021 and PP number 24 of 21.

The third policy direction is to build local and international research partnerships with policy institutions. With the hope of achieving greater political accountability and more inclusive governance, this approach can be seen as part of a transformative drive toward improving environmental governance and strengthening tropical forest resilience (Kanashiro Uehara et al., 2023). Fourth is to design a sustainable development policy model that does not only focus on poverty alleviation, but also on providing multi- dimensional welfare and sustainable livelihoods. Fifth, try to review the fine regulations that must be given to companies without permits by not using the average fine that must be given. The simulation of new regulations could be in the form of tariffs on administrative sanctions if they are located in production forest areas and protected forest areas and conservation forests with the benchmark calculation of forest products based on the type of land cover and the potential for tree stands with diameters ranging from >5cm3 , 10 cm3 - 15cm3 , >15.1 cm3 – 20cm3, diameter 20.1 cm3 – 25cm3 , diameter 26.1 cm3 – 30cm3 to >50cm3 and PSDH rates are in accordance with rates for potential types of wood according to the area and diameter cut. This is suggested based on the conditions of tree stand diameters currently available.

4. Conclusion

Potential state losses arising from changes in regulations for managing palm oil plantations in forest areas in Riau Province reach IDR 875,732,734,813. Losses would be greater if calculations were carried out for all palm oil management companies in forest areas by taking-into account tree stand potential and PSDH price rates based on area and type of wood. The large losses resulting from changes in regulations require efforts to prevent potential state losses. Policy directions that can be implemented regarding potential state losses arising from changes in regulations for managing oil palm plantations in forest areas in Riau Province include strengthening institutions and multi-level governance, improving long-term strategies for smallholder oil palm, building local and international research partnerships with institutions. policy institutions, designing sustainable development policy models that not only focus on poverty alleviation, but also the provision of multi-dimensional welfare and sustainable livelihoods.

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