

Reconstruction of the Principle of Proportionality in Contract Law within the Palm Oil Plantation Sector

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Abstract

This paper investigates the urgent need to reconstruct the principle of proportionality within contracts for palm oil partnerships, where structural power imbalances, information asymmetry, opaque financing arrangements, and unilateral sanction mechanisms systematically disadvantage plasma smallholders. The study aims to identify the fundamental factors that hinder the effective application of proportionality in oil palm partnership and to formulate an operational framework capable of ensuring contractual justice within highly asymmetric agribusiness relationships. Employing a normative juridical method complemented by conceptual, comparative, and socio-legal approaches, this research analyses Indonesian contract law, institutional practices, and international regulatory models drawn from Malaysia, Thailand, and India. The findings reveal that the proportionality principle in Indonesia remains largely abstract and lacks enforceable parameters, enabling exploitative contractual clauses such as undisclosed deductions, disproportionate risk

distribution, and one-sided penalties to persist in nucleus plasma schemes. Comparative insights demonstrate that proportionality can be translated into practice through mandatory disclosure obligations, standardized minimum clauses, equitable risk-sharing mechanisms, contract registration, and accessible local dispute-resolution systems. The principal novelty of this study lies in proposing a three-pillar operational model of proportionality substantive, procedural, and sanction-based integrated with institutional governance reforms and community empowerment strategies. The paper concludes that reconstructing proportionality requires both normative refinement and structural intervention across negotiation processes, corporate procurement practices, evidentiary mechanisms, and state oversight. This integrated framework provides a concrete basis for embedding substantive justice within palm oil agreements and strengthening legal protection for structurally weaker parties.

Keywords

Proportionality Principle, Contract Law, Palm Oil Partnership, Socio Legal Study, Contractual Justice.

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Introduction

Over the past decades, the palm oil industry in Indonesia has become one of the principal pillars of both national and regional economies. However, the expansion of business activities and imbalanced partnership practices have frequently given rise to agrarian disputes, disparities in the performance of contractual obligations, and significant social and environmental consequences.¹ These circumstances necessitate a thorough examination of a more responsive contractual legal regime to ensure a balanced allocation of rights and obligations between the parties and to safeguard proportional legal protection.

In the implementation of plantation management agreements, including the nucleus–plasma model and partnership schemes between corporations and smallholders, the bargaining position of farmers or plasma participants is factually weaker than that of large companies, particularly in relation to capital structure and market access.² This imbalance is reflected in financing arrangements, interest imposition, output-deduction mechanisms, and penalty clauses that disproportionately allocate risks to farmers, thereby creating a hierarchical contractual relationship and rendering it vulnerable to exploitative practices.³

Corporate certification and partnership schemes do not always guarantee the enhancement of farmers' capacity and economic sovereignty; instead, they often reinforce corporate dominance and structural dependency. The application of the proportionality principle has thus become an urgent legal necessity to ensure a balanced

¹ David L. A. Gaveau et al., "Slowing Deforestation in Indonesia Follows Declining Oil Palm Expansion and Lower Oil Prices," *PLOS ONE* 17, no. 3 (2022), <https://doi.org/10.1371/journal.pone.0266178>.

² Sanaz Shoghi Kalkhoran et al., "Soil Acidity, Lime Application, Nitrogen Fertility, and Greenhouse Gas Emissions: Optimizing Their Joint Economic Management," *Agricultural Systems* 176 (November 2019): 102684, <https://doi.org/10.1016/J.AGSY.2019.102684>.

³ Kate Macdonald et al., "Jurisdictional Approaches to Sustainable Agro-Commodity Governance: The State of Knowledge and Future Research Directions," *Earth System Governance* 22 (December 2024): 100227, <https://doi.org/10.1016/J.ESG.2024.100227>.

distribution of rights and obligations between the parties and to prevent the formulation of contractual clauses that contravene the principle of contractual justice within the palm oil industry.

The application of the proportionality principle, which historically evolved within the tradition of public law and constitutional adjudication, has now expanded into the sphere of private law and contract law. This principle functions as a juridical parameter for assessing the fairness of the distribution of burdens, risks, and benefits among parties in a commercial agreement. A number of legal studies affirm that the application of proportionality provides an analytical foundation for judges and law enforcement authorities in determining whether a contractual clause satisfies the standard of justice or instead contravenes the principle of substantive fairness.⁴

In the context of palm oil plantation management contracts, the application of the proportionality principle encounters both normative and empirical challenges. First, within the framework of private autonomy, courts remain cautious in restricting freedom of contract, as it is emphasized that courts tend to defer to contractual autonomy unless there is clear evidence of unfairness or abuse. Second, the structure of the nucleus–plasma relationship reveals information asymmetry and limited legal literacy, whereby smallholders often lack access to legal and market information, reinforcing dependency and contractual vulnerability.⁵

This is further reinforced by findings indicating that contract farming schemes can institutionalize unequal power relations, thereby limiting farmers' bargaining capacity.⁶ Third, the fragmentation of regulations governing plantations, agrarian affairs, partnership schemes, and competition law results in the absence of uniform standards for assessing the fairness of contractual clauses, consistent with the view that

⁴ Tanto Lailam and Putri Anggia, "The Indonesian Constitutional Court Approaches the Proportionality Principle to the Cases Involving Competing Rights," *LAW REFORM* 19, no. 1 (August 2023): 110–27, <https://doi.org/10.14710/LR.V19I1.54087>.

⁵ Shoghi Kalkhoran et al., "Soil Acidity, Lime Application, Nitrogen Fertility, and Greenhouse Gas Emissions: Optimizing Their Joint Economic Management."

⁶ Ge Chen et al., "Minewater Deep Transfer and Storage," *Journal of Cleaner Production* 332 (January 2022): 129848, <https://doi.org/10.1016/j.jclepro.2021.129848>.

jurisdictional fragmentation complicates the establishment of unified norms in commodity governance.⁷ The foregoing conditions demonstrate the importance of a clear formulation of proportionality parameters, particularly in nucleus plasma contracts, so that reliance is not merely placed on general principles, but rather ensures a fair distribution of rights, obligations, and risks in accordance with the principle of substantive justice.

Equally important is the strengthening of social capital and the integration of local wisdom, which constitute determining factors in enhancing farmers' bargaining position and ensuring the sustainability of contractual relations. The reconstruction of the proportionality principle cannot be confined solely to a dogmatic normative framework; rather, it must be supported by institutional design, social mechanisms, and collaborative practices within local communities to ensure that contractual clauses are implemented in a fair and balanced manner. As noted by Guoliang Xu, social capital and local wisdom significantly influence the sustainability and fairness of partnerships in palm oil.⁸

Partnership arrangements in the palm oil sector, when designed to accommodate local social structures, are in fact capable of reducing inequality and enhancing transparency in contractual relations.⁹ Therefore, efforts to reform the proportionality principle in plantation contracts must adopt a legal approach that is responsive to communitarian social dynamics, including collective farmer participation and the recognition of customary values in agrarian governance. An examination of the regulatory and policy regime governing the plantation sector demonstrates that land governance configurations, disharmony and uncertainty in licensing mechanisms, as

⁷ Xiao Li et al., "Study on the Overall Performance of E-Waste Dismantling Industry Polluted Cultivated Land Utilization from a Holistic View," *Land Use Policy* 144 (September 2024): 107233, <https://doi.org/10.1016/j.landusepol.2024.107233>.

⁸ Guoliang Xu, Longchao Xu, and Li Jia, "Research on Mortality Risk of Chinese Older Adults from the Perspective of Social Health," *Sustainability* 14, no. 24 (December 2022): 16355, <https://doi.org/10.3390/su142416355>.

⁹ Herry Purnomo et al., "Reconciling Oil Palm Economic Development and Environmental Conservation in Indonesia: A Value Chain Dynamic Approach," *Forest Policy and Economics* 111 (February 2020): 102089, <https://doi.org/10.1016/j.forepol.2020.102089>.

well as global market pressures, particularly the European Union's anti-deforestation requirements, have a direct impact on the formation of contractual structures at the local operational level.

Such competitive pressures drive business actors to pursue strict cost efficiency measures, which in practice may lead to the creation of contractual clauses that are exploitative, unequal, and disproportionate for plasma farmers as the party with weaker bargaining power. The reconstruction of the proportionality principle in palm oil partnership agreements must therefore be situated within a legal-policy framework that accounts for the synergy between national regulatory dynamics and international legal and market demands to ensure the protection of contractual justice and legal certainty for all parties involved.¹⁰

A substantial implementation gap has been recognized in the realm of national legal scholarship, encompassing various studies that investigate the application of the proportionality principle in commercial agreements and contracts within the plantation sector. This gap is reflected in the role of public officials authorized to draw up deeds (notaries) and contractual drafting practices that have only partially considered the balance of bargaining positions between the parties, the weak supervision of potential abuse of dominant positions and unfair business practices, and dispute resolution mechanisms that are often insufficiently responsive to the reality of unequal legal relations between companies and plasma farmers.¹¹ These conditions underscore the need to reconstruct contractual norms and practices within the palm oil plantation sector in order to strengthen the application of the proportionality principle and promote the realization of effective contractual justice.

From a normative reconstruction perspective, the proportionality principle in palm oil plantation partnership agreements may be restructured through three key operational pillars. First, substantive

¹⁰ Erja Kettunen and Ayu Pratiwi, "Towards Collaborative EU-Indonesia Bargaining on Palm Oil Policy: Deconstructing the Public Discourse," *Asia Europe Journal*, June 2025, <https://doi.org/10.1007/s10308-025-00732-5>.

¹¹ Ageng Triganda Sayuti Busyra Azheri, "Penegakan Hukum Oleh Komisi Pengawasan Persaingan Usaha (KPPU) Dalam Perjanjian Inti Plasma Perkebunan Kelapa Sawit," *Ensiklopedia of Journal* 5, no. 4 (2023), <https://doi.org/10.33559/eoj.v5i4.1743>.

proportionality, which means that rights and duties should be shared equally and risks should be shared fairly between the parties. Second, procedural proportionality, which requires that both parties have enough access to information, that the weaker party can take part in negotiations, and that the drafting of contract clauses is open and clear. Third, proportionality in the imposition of sanctions requires that sanctions be implemented in a fair and rational manner, ensuring that neither party faces an undue burden.¹²

The tripillar formulation above reflects the integration of contractual justice theory and sustainable palm oil plantation governance practices, thereby serving as a conceptual and normative foundation for realizing effective and equitable legal protection for all parties bound by contractual relations. The aforementioned relevant studies provide an important basis for establishing the empirical and normative foundation of this research.

This includes studies on the sustainability of palm oil plantation partnership schemes emphasizing governance and equitable benefit distribution, research on law enforcement and the dynamics of injustice in nucleus plasma agreement practices, as well as legal literature examining the position of the proportionality principle within Indonesian legal theory and judicial practice.¹³ A comprehensive integration of these findings strengthens the reconstructive argumentation in this article, while ensuring that the development of the proportionality concept in contractual relations within the palm oil industry has a solid conceptual and empirical foundation.

Based on this background, the article has two main objectives. The first objective is to map and analyze various problems that arise from the application of the proportionality principle in palm oil plantation management agreements. Second, to formulate an operational model for

¹² Fiska Silvia Raden Roro, Agus Yudha Hernoko, and Ghansham Anand, "The Characteristics of Proportionality Principle In Islamic Crowdfunding In Indonesia," *Jurnal Hukum & Pembangunan* 49, no. 2 (July 5, 2019): 455, <https://doi.org/10.21143/jhp.vol49.no2.2013>.

¹³ Wa Kuasa Baka, Ilma Sarimustaqyma Rianse, and Zulfikar la Zulfikar, "Palm Oil Business Partnership Sustainability through the Role of Social Capital and Local Wisdom: Evidence from Palm Oil Plantations in Indonesia," *Sustainability* 16, no. 17 (August 2024): 7541, <https://doi.org/10.3390/su16177541>.

reconstructing the proportionality principle to ensure the achievement of contractual justice in palm oil plantation partnerships, through the strengthening of legal norms, contractual drafting practices, and the development of effective institutional mechanisms that provide protection for parties with weaker bargaining positions. The results of this study are expected to make a substantive contribution to policymakers, public officials authorized to draw up deeds (notaries), judges, and legal practitioners in promoting improvements in the structure and practice of contracts in the palm oil industry.

This article employs a normative juridical approach combined with conceptual and comparative approaches. The normative juridical approach is intended to examine the proportionality principle within the contractual legal regime through an analysis of the provisions of the Civil Code, statutes, sectoral regulations, and administrative provisions related to plantation business partnerships. The conceptual approach is used to construct a theoretical framework for the proportionality principle in modern contract law based on contractual justice theory and the principle of good faith. The comparative approach involves examining the application of proportionality in other jurisdictions, particularly in countries with advanced contract farming practices, in order to identify best practices for protecting the bargaining position of weaker parties in agribusiness contracts. Normative legal research aims to identify relevant legal principles and doctrines to address legal issues in a scientific and systematic manner.¹⁴

The data used in this study consist of primary, secondary, and tertiary legal materials, obtained through library research. Primary legal materials include statutory regulations. Secondary legal materials comprise academic literature, books, and nationally and internationally indexed scholarly articles on palm oil partnerships, the proportionality principle, and theories of justice. Data analysis is conducted using descriptive-analytical and prescriptive methods.

This analytical model aligns with Soerjono Soekanto's view that normative legal research emphasizes the interpretation and construction

¹⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revi (Jakarta Timur: Kencana, 2021).

of law to address juridical issues in a measured and systematic manner.¹⁵ The prescriptive approach is employed to formulate an implementable reconstruction of the proportionality principle in plantation partnership contracts.

The normative juridical method serves as the principal analytical framework in this study for identifying and evaluating legal principles relevant to the doctrine of proportionality within Indonesian contract law. This method entails a systematic assessment of the provisions of the Indonesian Civil Code (KUHPerdata) concerning the principles of freedom of contract and good faith, sectoral regulations governing partnerships in oil palm plantations, judicial interpretations including decisions of the Constitutional Court as well as doctrinal literature addressing proportionality, justice, and contractual fairness. This approach provides a normative foundation for reconstructing the principle of proportionality as a legal instrument capable of preventing exploitative contractual practices.¹⁶

In addition, this research employs a conceptual approach to construct the theoretical framework underpinning the principle of proportionality in contract law, drawing upon classical and modern theories of contractual justice, the development of the proportionality doctrine in both public and private law, scholarly interpretations of fairness, reasonableness, and the principle of good faith, as well as contemporary models of contract farming governance. Through this approach, proportionality is elaborated not merely as an abstract legal principle but as an operational doctrine governing the allocation of risks, benefits, and burdens within contractual relationships characterized by unequal bargaining positions between the parties.¹⁷

This study also adopts a comparative legal approach, examining several countries, including Malaysia, which regulates contract farming through a clear legislative framework and supervisory mechanisms; Thailand, through the Contract Farming Promotion Act, incorporates elements of proportionality and transparency in agricultural contracts. India has introduced the Model Contract Farming Act, which includes

¹⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 2010).

¹⁶ Peter Mahmud Marzuki, *Penelitian Hukum*.

¹⁷ Dick W.P. Ruiter, *Legal Institutions* (London: Oxford University Press, 2013).

procedural protections, dispute-resolution mechanisms, and a more balanced negotiation structure, while the Netherlands, as a civil law jurisdiction, has firmly integrated the principle of proportionality into its private judicial practice. This comparative analysis aims to identify best practices for achieving contractual justice and to provide a normative benchmark for reconstructing the doctrine of proportionality in partnerships related to oil palm plantations in Indonesia.

Although this study does not involve direct fieldwork, a socio-legal approach is nevertheless incorporated in recognition of the essential role of empirical grounding. This approach entails an examination of existing empirical studies on oil palm smallholders, including evidence of information asymmetries, opaque financing arrangements, sanction regimes, and the dynamics of local governance, as well as an assessment of the extent to which legal norms operate effectively or fail to operate in real contractual interactions. By situating doctrinal analysis within the socio-economic context of rural communities embedded in the oil palm industry, this approach ensures that the reconstruction of the proportionality principle is not solely theoretical but is firmly anchored in actual field practices.¹⁸

The analytical technique employed in this study is qualitative descriptive and prescriptive reasoning, wherein the descriptive analysis identifies relevant legal norms, doctrinal debates,¹⁹ and empirical patterns within oil palm partnership schemes, while the prescriptive analysis formulates recommendations and proposes a reconstruction of the proportionality principle based on the study's normative, comparative, and socio-legal findings. This technique is consistent with the views of Soerjono Soekanto and Peter Mahmud Marzuki, both of whom emphasize the importance of systematic interpretation and legal construction in normative legal research.

¹⁸ Dominic Rowland et al., "Oil Palm and Gendered Time Use: A Mixed-Methods Case Study from West Kalimantan, Indonesia," *Forest Policy and Economics* 137 (April 2022): 102682, <https://doi.org/10.1016/j.forepol.2021.102682>.

¹⁹ Soerjono Soekanto, *Pengantar Penelitian Hukum*.

A. Problems in the Application of the Proportionality Principle in Palm Oil Plantation Management Agreements

The application of the proportionality principle within the contractual legal regime essentially serves to ensure a balance of rights, obligations, and risk allocation among the parties. However, in practice, partnership relations in the palm oil industry often see this principle reduced by the nucleus plasma contractual structure, which factually places the core company in a dominant position and creates room for an imbalance in bargaining power.

Several academic studies emphasize that such structural inequality makes it difficult to realize distributive and procedural justice, so that clauses detrimental to plasma parties often escape proportionality scrutiny by authorities or courts. As Alexy asserts, the proportionality principle serves as a normative instrument for assessing the rationality and fairness of rights limitations within legal relations.²⁰ In the context of private contract law, modern contracts not only formalize the parties' intentions but also ensure substantive justice within the structure of obligations.

Governance dysfunctions and relational imbalances further hinder the principle of fairness in contract execution, while institutional integrity and equitable benefit distribution remain key elements for the sustainability of palm oil schemes. The proportionality principle in civil obligations and Indonesian judicial practice, within the framework of legal reconstruction and contractual justice, underscores the urgency of renewing normative and institutional approaches to protect parties in weaker positions within partnership relations.²¹

The integration of the proportionality principle into palm oil plantation partnership agreements is a juridical necessity to ensure contractual justice, prevent excessive clauses, and strengthen the

²⁰ Robert Alexy, "A Theory of Constitutional Rights," Oxford University Press, 2002.

²¹ Eko Nuriyatman et al., "Strategi Implementasi Tanggung Jawab Sosial Lingkungan Dalam Perusahaan: Dampak Dan Tantangan," LITIGASI 25, no. 2 (October 31, 2024): 269–89, <https://doi.org/10.23969/LITIGASI.V25I2.18877>.

legitimacy of sustainable governance in the palm oil sector.²² At the nucleus plasma partnership level, the financing structure, capital flows, and mechanisms for determining the price of fresh fruit bunches (FFB) are generally established through cost-cutting schemes, the imposition of loan interest, and complex administrative fees that are not fully transparent.²³

These conditions result in an imbalanced distribution of contractual benefits and burdens, so that contractual clauses substantively place plasma farmers in a vulnerable position and may be exploitative. The imbalance of power structures and information control between companies and farmers leads to limited bargaining power.²⁴ As a result, weaknesses in farmer institutions and economic dependence on the core company reinforce inequality in the distribution of partnership benefits.²⁵

In the context of governance, Matthew highlights that corporate dominance in the palm oil value chain creates structural vulnerabilities for smallholders within contractual arrangements.²⁶ The need to apply the proportionality principle in palm oil management agreements is not merely a theoretical demand but a juridical consequence aimed at ensuring effective legal protection for plasma farmers as the party with weaker bargaining power.

²² Agus Yudha Hernoko, “Asas Proporsionalitas Sebagai Landasan Pertukaran Hak dan Kewajiban Para Pihak Dalam Kontrak Komersial,” *Jurnal Hukum Dan Peradilan* 5, no. 3 (November 30, 2016): 447, <https://doi.org/10.25216/jhp.5.3.2016.447-466>.

²³ Suharno, Yuprin A.D, and Trisna Anggreini, “Model Kemitraan Inti-Plasma Pada Perkebunan Kelapa Sawit Rakyat Yang Dikelola Sepenuhnya Oleh Perusahaan Inti (Studi Pada KUD Krida Sejahtera Di Provinsi Lampung),” *Agrienvi: Jurnal Ilmu Pertanian* 14, no. 1 (2020).

²⁴ Idsart Jelsma et al., “Unpacking Indonesia’s Independent Oil Palm Smallholders: An Actor-Disaggregated Approach to Identifying Environmental and Social Performance Challenges,” *Land Use Policy* 69 (December 2017): 281–97, <https://doi.org/10.1016/j.landusepol.2017.08.012>.

²⁵ Lucas Jódar and Elena De la Poza, “How and Why the Metric Management Model Is Unsustainable: The Case of Spanish Universities from 2005 to 2020,” *Sustainability* 12, no. 15 (July 2020): 6064, <https://doi.org/10.3390/su12156064>.

²⁶ Matthew B. Anderson et al., “Developing the Water Commons? The (Post)Political Condition and the Politics of ‘Shared Giving’ in Montana,” *Geoforum* 74 (August 2016): 147–57, <https://doi.org/10.1016/j.geoforum.2016.06.002>.

Farmers, as the party with weaker bargaining power, often lack sufficient understanding of the substance of the contracts they sign, including contractual legal language, methods for calculating harvest yields, provisions on cost deductions, and mechanisms for fines and penalties. This lack of access to and understanding of information makes it difficult to effectively apply the proportionality principle, as evidence of unfair clauses often cannot be demonstrated when the obligations are created.

“Consequently, this situation creates room for inequality in rights and obligations within the legal relationship. Research by Nopriano Bere et al. emphasizes that low contractual literacy and structural dependence on the core company result in farmers lacking the capacity to assess the fairness of partnership clauses. Information asymmetry in the palm oil value chain creates institutional vulnerability for smallholders when facing complex contractual structures.

The weak legal literacy of farmers in plantation partnership agreements potentially undermines the protection of the principles of balance and proportionality, making the strengthening of state contractual control instruments imperative. Accordingly, proving violations of the proportionality principle in palm oil partnership agreements cannot be separated from the context of legal literacy and information gaps, which empirically constitute a serious obstacle to achieving contractual justice for plasma farmers.

Within the contractual legal regime of the palm oil plantation sector, the principle of freedom of contract is often invoked as juridical legitimacy by the core companies and public officials authorized to draw up deeds to enforce standard clauses that are non-negotiable for plasma farmers.²⁷ This principle is not absolute, as doctrinally it is subject to the principles of contractual justice, proportionality, and good faith as fundamental limits to prevent the abuse of dominant economic positions in imbalanced legal relationships.

In practice, within nucleus plasma arrangements, structural imbalances, limited negotiation capacity, and weak legal literacy among farmers demonstrate that the application of the freedom of contract

²⁷ Agus Yudha Hernoko, “Asas Proporsionalitas Sebagai Landasan Pertukaran Hak dan Kewajiban Para Pihak dalam Kontrak Komersial.”

principle without proportionality controls can give rise to contract abuse and exploitative clauses detrimental to plasma parties. Normative recognition of autonomy and will must be interpreted within a corrective framework that ensures a reasonable distribution of rights and obligations, consistent with academic views emphasizing the need to limit standard clauses to secure contractual justice in large-scale agribusiness relations.²⁸

The Constitutional Court of the Republic of Indonesia applies the proportionality principle as a juridical assessment instrument in cases involving conflicts or concurrent constitutional rights.²⁹ The proportionality principle is used as a parameter to assess whether state restrictions on a right can be constitutionally justified, taking into account the balance between regulatory objectives, the level of public interest to be protected, and the protection of individual rights that may be infringed.

This approach places the Constitutional Court in a strategic position to ensure that every public action or policy is not arbitrary and remains proportional in maintaining harmony between public interests and citizens' fundamental freedoms. The application of the proportionality principle in judicial review of legislation by the Constitutional Court functions not only as a mechanism of constitutional oversight but also as a normative principle for upholding constitutional supremacy and ensuring balanced protection of human rights in a democratic society.

Dispute resolution mechanisms in palm oil plantation partnerships, whether through general courts, arbitration, or alternative dispute resolution forums, often lack adequate sensitivity to the structural imbalances in contractual relations between core companies and plasma farmers. Courts tend to prioritize the principle of *pacta sunt servanda* and respect for the contract text as the main reference, even though during the formation of the agreement there may be indications

²⁸ Adelia Kusuma Wardhani, "Proporsionalitas Perjanjian Penerbit Dan Penyelenggara Securities Crowdfunding," *Jurnal Officium Notarium* 2, no. 2 (July 2022): 201–14, <https://doi.org/10.20885/JON.vol2.iss2.art1>.

²⁹ Tanto Lailam and Putri Anggia, "The Indonesian Constitutional Court Approaches the Proportionality Principle to the Cases Involving Competing Rights."

of pressure, economic dominance, or coercion experienced by the farmers.

Consequently, the substantive elements of contractual justice are frequently neglected, as evaluations typically emphasize the formal structure of the agreement over the equitable distribution of rights, obligations, and negotiating positions among the parties.³⁰ Comparative studies in other jurisdictions indicate that courts or arbitrators often face limitations in accessing empirical evidence regarding negotiation processes, risk distribution, and the socio economic conditions of farmers, thereby preventing the full application of proportionality analysis. This situation underscores the urgency of strengthening a contract evaluation framework based on proportionality and substantive justice in disputes over palm oil partnerships, so that dispute resolution forums do not become instruments legitimizing potentially exploitative contractual practices.

From the perspective of evidentiary law, the application of the proportionality principle in palm oil plantation partnership disputes faces significant obstacles. Indicators of disproportionality, including the imposition of concealed interest burdens, undisclosed service fees, and pricing mechanisms contingent upon the performance metrics of the mill or core company, are typically documented in internal corporate records and technical instruments that are not readily accessible to plasma farmers. This limited access to information makes it difficult for farmers to prove substantive imbalances in the execution of agreements, resulting in ineffective litigation and hindering the application of the proportionality principle.

This situation underscores the need to strengthen the principles of contractual transparency and the right to information in palm oil partnerships so that legal protection for the weaker party can be realized concretely rather than merely formally. Global market dynamics, including the implementation of the European Union's Deforestation Regulation and increasing demands for sustainability compliance and

³⁰ Fabrizio Cafaggi and Paola Iamiceli, "The Limits of Contract Laws. The Control of Contractual Power in Trade Practices and the Preservation of Freedom of Contract within Agrifood Global Supply Chains," *SSRN Electronic Journal*, March 2022, <https://doi.org/10.2139/SSRN.4048571>.

certification such as RSPO, push business actors in the palm oil sector to reduce production costs and adjust the contractual structure of partnerships.³¹

In practice, such adjustments often result in the transfer of economic and administrative risks to plasma farmers through increased costs, stricter quality requirements, and less transparent pricing mechanisms. These external pressures can exacerbate disproportionate contractual provisions and place farmers in an increasingly weaker bargaining position. Comparative literature in the global agricultural sector demonstrates a direct correlation between market fluctuations, international sustainability standards, and modifications in contractual instruments at the local level, especially when small producers are insufficiently informed and lack institutional protection.³²

The reconstruction of the proportionality principle in palm oil partnerships must take into account the intervention of international trade regimes and their impact on risk design and benefit allocation in agreements so that the principle of contractual justice can be effectively applied in a competitive global economic context. It should also be noted that corporate institutional culture, including internal corporate policies, mill operational standards, and procurement practices, often do not adhere to the principle of transparency, which is a prerequisite for procedural proportionality, namely, pre-contractual access to information and fair participation of the weaker party in the negotiation process.

In practice, corporate purchasing policies, quality mechanisms, and administrative procedures tend to be closed and standardized for corporate efficiency, resulting in continued information access barriers for smallholder farmers and making procedural exclusion a structural phenomenon. T.A. Gardner et al., in their article on supply chain governance, note that implementation gaps often occur at the corporate level, preventing transaction transparency, including disclosure of

³¹ Catherine Early, "How Forced Labour and Land Grabs Remain Sticky Issues for Palm Oil," Reuters, 2025.

³² Atiqah Amanda Siregar et al., "The Oil Palm Replanting Imperative: Are Smallholder Farmers Willing to Participate?," *Forest Policy and Economics* 169 (December 2024): 103362, <https://doi.org/10.1016/j.forpol.2024.103362>.

purchasing practices, financial flows, and contractual clauses used, so that pre-contractual procedures fail to meet standards of proportionate participatory engagement.³³ Such findings are reflected in international literature examining the role of information and corporate purchasing practices in the governance of global commodities.

Eka Intan Kumala Putri, in her article, highlights the low institutional functionality and the transparency barriers of companies in implementing sustainability standards.³⁴ This report indicates that the complexity of the supply chain and mill purchasing practices reinforce information asymmetry between companies and farmers, so that standard contracts and corporate procurement practices tend to weaken the bargaining position of smallholder farmers.³⁵ Efforts to reconstruct the proportionality principle require not only the reformulation of contractual norms but also a change in corporate institutional culture through transparent procurement policies, obligations to disclose transaction and financial flow information, and participatory mechanisms for farmers as operational prerequisites to ensure that procedural proportionality can be genuinely upheld.

Equally important is the role of intermediary actors in partnerships for palm oil plantations, including Village Unit Cooperatives (KUD), plasma cooperatives, local middlemen, and microfinance institutions, which have significant implications for the enforcement of the proportionality principle.³⁶ At the institutional practice level, these

³³ T.A. Gardner et al., “Transparency and Sustainability in Global Commodity Supply Chains,” *World Development* 121 (September 2019): 163–77, <https://doi.org/10.1016/j.worlddev.2018.05.025>.

³⁴ Eka Intan Kumala Putri et al., “The Oil Palm Governance: Challenges of Sustainability Policy in Indonesia,” *Sustainability* 14, no. 3 (February 2022): 1820, <https://doi.org/10.3390/su14031820>.

³⁵ Herdis Herdiansyah, Randi Mamola, and Ninin Ernawati, “Intragenerational Dynamics in the Indonesian Oil Palm Growth Zone: The Resolution between Circular Dimensions and Human Capital,” *Sustainability* 16, no. 8 (April 2024): 3345, <https://doi.org/10.3390/su16083345>.

³⁶ Obi Berillian Sidik et al., “Analysis of the Effect of Oil Palm Partnership Pattern on the Selling Price and Quality of Fresh Fruit Bunches (FFB) at the Level of Independent Farmers in Sumber Rejeki Village Sungai Lilin District Musi Banyuasin Regency,” *World Journal of Advanced Research and Reviews* 22, no. 2 (May 2024): 1240–54, <https://doi.org/10.30574/wjarr.2024.22.2.1415>.

intermediary entities often act as administrative links between the core company and plasma farmers; however, this intermediation function frequently represents corporate interests more than providing substantive advocacy for farmers.

When intermediaries act as compliance enforcers for company provisions without ensuring information equality, transparency in yield calculations, and negotiation protection for farmers, both substantive and procedural proportionality are further eroded, resulting in contractual relationships that are more hierarchical than partnership-based. In reality, there is significant variation in the governance quality of intermediaries, including managerial capacity, accountability, and integrity in executing their collective mandate.

The role of cooperatives as mediating institutions does not automatically result in a balanced distribution of benefits, as in many cases they actually reinforce the oligopolistic structure of companies and weaken the bargaining position of small producers.³⁷ Farmer institutions in nucleus–plasma partnerships often face governance, accountability, and limited negotiation capacity issues, and therefore do not always function as representatives of farmers' interests, but frequently serve as administrative extensions of the company.

An important point of concern is that provisions regarding sanctions and fines in palm oil plantation partnership agreements often constitute a critical area that generates legal disproportionality.³⁸ Sanction clauses are often unclear, disproportionately scaled, and applied unilaterally to plasma farmers, such as imposing heavy financial penalties for late FFB delivery or minor quality deviations, even when the violations are technical or minor in nature.

Meanwhile, breaches of obligations by the core company, such as delayed payments, non-transparent pricing offers, or unauthorized cost deductions, are rarely met with symmetrical sanctions or effective enforcement mechanisms. This asymmetric pattern creates an

³⁷ Fan Li et al., "Multi-Objective Energy Optimal Scheduling of Multiple Pulsed Loads in Isolated Power Systems," *Sustainability* 14, no. 23 (November 2022): 16021, <https://doi.org/10.3390/su142316021>.

³⁸ Intan Farida, "Klausul-Klausul Dalam Perjanjian Franchise Terhadap Pihak Yang Berat Sebelah," *Law, Development and Justice Review* 4, no. 2 (June 2022): 218–33, <https://doi.org/10.14710/ldjr.v4i2.14968>.

imbalanced contractual burden and demonstrates corporate dominance over farmers, thereby preventing the substantive realization of the proportionality principle and contractual justice. Consequently, there is a disparity in the sanction structure within the nucleus–plasma scheme and agribusiness supplier relationships, where farmers bear greater risks while companies enjoy institutional and contractual protections.

Studies on agrarian contract governance also underline that disproportionately designed sanctions undermine fairness and the rule of law in partnership relations, and exacerbate structural injustice in commodity markets.³⁹ The imbalance of sanction clauses in agribusiness relationships constitutes a deviation from the principles of equality of the parties and good faith in contracts. Therefore, the important starting point for sanctions is the existing positive law.

The current positive law instruments in Indonesia do not yet provide explicit regulation regarding the limits of proportionality in the context of palm oil plantation partnerships. Although the principle of good faith, as implied in Article 1338, paragraph (3), KUHPerdata, and the principle of protection for weaker parties through consumer protection and anti-standard clause norms (Law No. 8 of 1999) can serve as a basis for enforcing contractual justice, these provisions remain general and do not provide adequate operational guidance to assess proportionality in agribusiness partnership clauses.

The absence of specific sectoral norms creates a wide scope for interpretation by judges and notaries, yet there are no clear testing tools to ensure the equality of rights and obligations between the parties.⁴⁰ This results in a weak integration of the principles of fairness and substantive justice in commercial agricultural contracts in Indonesia.⁴¹ Clarity of the proportionality norm and sectoral guidelines is a prerequisite for

³⁹ Paulo Niederle et al., “Social Movements and Institutional Change in Organic Food Markets: Evidence from Participatory Guarantee Systems in Brazil and France,” *Journal of Rural Studies* 78 (August 2020): 282–91, <https://doi.org/10.1016/j.jrurstud.2020.06.011>.

⁴⁰ Agus Yudha Hernoko, “Asas Proporsionalitas Sebagai Landasan Pertukaran Hak dan Kewajiban Para Pihak dalam Kontrak Komersial.”

⁴¹ Nicola Caravaggio, “A Global Empirical Re-Assessment of the Environmental Kuznets Curve for Deforestation,” *Forest Policy and Economics* 119 (October 2020): 102282, <https://doi.org/10.1016/j.forepol.2020.102282>.

integrating the principle of contractual justice in agribusiness supply chains, especially in schemes involving smallholder farmers. The urgency of establishing a sectoral legal framework containing proportionality standards in plantation partnerships, including guidelines on risk allocation, cost transparency, negotiation mechanisms, and parameters for equitable sanction clauses, is increasingly apparent to ensure that the principle of contractual justice can be effectively implemented in the practice of nucleus plasma palm oil plantation relationships in Indonesia.

Palm oil farmers' access to legal aid and advocacy mechanisms remains very limited, thereby severely weakening their ability to enforce the proportionality principle in partnership agreements. This limitation allows burdensome contract clauses, such as obligations for maintenance costs, fertilizer financing, and non-transparent harvest deductions, to remain in effect without judicial oversight or balanced renegotiation.

The lack of legal empowerment and the gap in access to legal information are the main causes of injustice in the corporate–smallholder farmer relationship.⁴² Strengthening local legal empowerment programs, providing village-based sectoral legal aid, and implementing pre-contractual legal counselling mechanisms are urgent normative measures in partnerships for palm oil to ensure that the proportionality principle does not remain merely a normative concept but functions effectively as a corrective instrument in agribusiness relationships.

The role of notaries and contract drafters becomes subject to critique in partnership practices, as drafting clauses without considering the proportionality principle both substantively and procedurally tends to produce provisions that impose an unbalanced burden on one party. Contract law doctrine affirms that legal professionals have a normative obligation to perform oversight and ensure contractual balance so that agreements do not create structural or excessive injustice for the party with weaker bargaining power.

The sustainability of palm oil plantation partnerships is determined not only by the formal contractual design but also by the strength of social capital and local wisdom operating within farming

⁴² Rory Pilosof, "Farms, Farmworkers and New Forms of Livelihoods in Southern Africa," *Journal of Agrarian Change* 18, no. 2 (April 2018): 473–80, <https://doi.org/10.1111/joac.12261>.

communities. In areas with strong social cohesion and collective norms, imbalances in contract clauses, including risk allocation and pricing mechanisms, are often mitigated through informal mechanisms such as social control, customary deliberations, and community solidarity networks. However, such mitigative measures cannot be considered a substitute for formal legal protection, as they merely reduce the impact of injustice without rectifying the discriminatory contractual structure, highlighting the role of social capital and local wisdom in palm oil partnerships.⁴³

Social capital functions only as a temporary support for the weaker party, not as a permanent legal protection mechanism; therefore, the reconstruction of the proportionality principle in palm oil partnerships must integrate a normative approach through positive legal instruments and a social institutional approach to ensure substantive and sustainable contractual justice.⁴⁴ Standardization schemes and third-party audit mechanisms, such as RSPO certification and buyer due diligence obligations, theoretically have the potential to promote the drafting of more balanced and equitable contractual clauses in palm oil plantation partnerships.

However, the effectiveness of these instruments is often diminished by potential auditor conflicts of interest, limited scope of examination, and the fact that most audit schemes do not cover all plasma farmers comprehensively. Audit and certification mechanisms are not always capable of correcting structural imbalances in contractual relationships, making governance improvements through normative and regulatory approaches still necessary to ensure the effective application of the proportionality principle.

A purely normative solution (laws or administrative regulations) is insufficient if not accompanied by the strengthening of local oversight institutions, access to data, and effective administrative sanctions for

⁴³ Håkan Berg, Simon Dang, and Nguyen Thanh Tam, "Assessing Stakeholders' Preferences for Future Rice Farming Practices in the Mekong Delta, Vietnam," *Sustainability* 15, no. 14 (July 2023): 10873, <https://doi.org/10.3390/su151410873>.

⁴⁴ Herdiansyah, Mamola, and Ernawati, "Intragenerational Dynamics in the Indonesian Oil Palm Growth Zone: The Resolution between Circular Dimensions and Human Capital."

companies that violate the proportionality principle. Policy recommendations emphasize a combination of normative rules and implementation capacity.⁴⁵ The translation and application of this principle into the context of commercial agreements in the palm oil industry still require conceptual refinement and the strengthening of an empirical basis in order to be operationalized as a strong jurisprudential precedent.

The proportionality framework developed in constitutional jurisdictions does not automatically provide a mature normative foundation for resolving agribusiness contract disputes, necessitating the development of a more systematic doctrine. Studies of the decisions of the Constitutional Court of Indonesia have outlined a proportionality analysis structure that can be adapted as a methodological basis for assessing the balance and fairness of clauses in plantation partnership agreements.

B. Reconstruction of the Proportionality Principle to Realize Contractual Justice in Palm Oil Partnerships

Nucleus plasma partnership agreements in the palm oil plantation sector are normatively projected as legal instruments aimed at integrating and balancing the interests of corporations with those of local communities, particularly smallholder farmers, through the equitable allocation of obligations, risks, and benefits. At the implementation level, however, the contractual constructions often reflect significant economic, informational, and bargaining power asymmetries, placing plasma farmers in a vulnerable position vis-à-vis dominant and potentially exploitative provisions imposed by the core company. This reality indicates that the ideal of partnership has not yet been fully realized and continues to face structural imbalances that hinder the attainment of contractual justice and substantive legal protection for farmers.

⁴⁵ Siregar et al., “The Oil Palm Replanting Imperative: Are Smallholder Farmers Willing to Participate?”

The nucleus plasma model in tropical commodities, including palm oil, often reinforces asymmetric power relations between companies and smallholder farmers.⁴⁶ In practice, the institutional structure and information asymmetry in palm oil partnerships result in weak bargaining power for farmers, affecting their control over pricing and financing.⁴⁷ Nucleus plasma partnerships in Indonesia often leave protection gaps for farmers due to weak oversight and agreement standards.⁴⁸ This results in economic and political imbalances in palm oil partnerships, creating risks of unfair resource control and the marginalization of farmers.

Although conceptually the nucleus–plasma partnership is intended to serve as a mechanism for the equitable distribution of benefits, in practice the scheme remains dominated by corporate interests. Such an imbalance necessitates a reconstruction of contractual norms and the strengthening of the regulatory framework to ensure that the proportionality principle and the protection of the weaker party can be effectively implemented. This imbalance essentially originates at the pre-contractual stage, where negotiations occur under unequal conditions, accompanied by limited legal support or assistance for farmers at the local level and minimal transparency regarding production data and cost structures.

Consequently, the provisions set forth in the agreements often do not accurately reflect the empirical realities on the ground, resulting in a deviation between the normative terms of the contract and the actual conditions of the partnership. The application of the proportionality principle in contract law requires that the distribution of rights and obligations be assessed not merely by numerical measures or formal

⁴⁶ Hye-Kyung Lee, “Migrant Domestic Workers in Korea: The Effects of Global Householding on Korean-Chinese Domestic Workers,” *International Development Planning Review* 28, no. 4 (December 2006): 499–514, <https://doi.org/10.3828/idpr.28.4.4>.

⁴⁷ M. Ruiz-Ramos et al., “Adaptation Response Surfaces for Managing Wheat under Perturbed Climate and CO₂ in a Mediterranean Environment,” *Agricultural Systems* 159 (January 2018): 260–74, <https://doi.org/10.1016/j.agsy.2017.01.009>.

⁴⁸ Dahliana Hasan, “Konsep Pengenaan Pajak Alat Berat Pasca Putusan Mahkamah Konstitusi Nomor 15/PUU-XV/2017,” *Jurnal Hukum Ius Quia Iustum* 28, no. 3 (September 2021), <https://doi.org/10.20885/iustum.vol28.iss3.art3>.

balance, but also through an evaluation of fairness and reasonableness in the socioeconomic context and the concrete circumstances of the parties.

The application of this principle necessitates a substantive assessment of whether contractual benefits and burdens are allocated equitably and do not result in structural injustice, particularly when one party occupies a weaker bargaining position, as in the relationship between corporations and plasma farmers. Proportionality functions as a corrective mechanism against potentially exploitative clauses in business agreements. In contracts, proportionality must take into account the factual circumstances and capacities of the parties so that the principle serves as an instrument of substantive justice capable of providing effective protection for parties who are economically or informationally disadvantaged.

At the level of law enforcement practice, the application of the proportionality test in courts or arbitration is often hindered by evidentiary constraints. The dynamics of party negotiations, risk allocation mechanisms, and the economic capacity and conditions of plasma farmers are often not recorded or included in the case files. This limits the ability of judges or arbitrators to assess substantive justice and the actual balance in contractual relationships, resulting in dispute resolution that tends to adopt a formalistic approach, relying solely on the contract text without adequately evaluating the factual imbalances present during the contract formation process.⁴⁹

From the perspective of economic law and agrarian governance, the success of the nucleus–plasma model in the palm oil industry is largely determined by institutional design that clearly regulates financing mechanisms, cost deduction schemes, and risk allocation between the nucleus company and plasma farmers. Ambiguity or lack of transparency at these institutional points constitutes a primary source of contractual disproportionality, as it creates room for structural dominance by the company over farmers with weaker bargaining power. The success of

⁴⁹ Ke Mu, “A Comparative Study on Obtaining Third Party Evidence in Civil and Commercial Arbitration: Taking England and China for Example,” November 2022.

contract farming depends on an institutional structure that ensures balanced distribution of risks and information.⁵⁰

Marc F. Bellemare explains that contractual transparency and risk mitigation mechanisms are prerequisites for ensuring economic benefits for smallholder farmers.⁵¹ Agricultural contracts only yield benefits for farmers when there is clarity regarding the sources of financing, the method of fund disbursement, and the proportion of production failure risk borne by each party.⁵² Institutional imbalances in palm oil partnerships can result in uneven distribution of benefits and structural dependency on farmers.⁵³

Agricultural contracts generate benefits for farmers only when there is clarity regarding the sources of financing, the methods of fund disbursement, and the proportion of production failure risk borne by each party.⁵⁴ The application of the proportionality principle in the nucleus plasma scheme is not only concerned with the quantitative balance of rights and obligations but also with institutional clarity, financing transparency, and risk distribution as substantive legal instruments to ensure agrarian justice and the sustainability of partnerships.

Although contract farming schemes generally contribute to increasing average income, there are structurally vulnerable groups of

⁵⁰ Christopher B. Barrett et al., "Smallholder Participation in Contract Farming: Comparative Evidence from Five Countries," *World Development* 40, no. 4 (April 2012): 715–30, <https://doi.org/10.1016/j.worlddev.2011.09.006>.

⁵¹ Marc F. Bellemare, "As You Sow, So Shall You Reap: The Welfare Impacts of Contract Farming," *World Development* 40, no. 7 (July 2012): 1418–34, <https://doi.org/10.1016/j.worlddev.2011.12.008>.

⁵² Joseph V. Balagtas et al., "Did the Commodity Price Spike Increase Rural Poverty? Evidence from a Long-Run Panel in Bangladesh," *Agricultural Economics* 45, no. 3 (May 2014): 303–12, <https://doi.org/10.1111/agec.12066>.

⁵³ Raphael Ricardo Zepon Tarpani and Adisa Azapagic, "Life Cycle Costs of Advanced Treatment Techniques for Wastewater Reuse and Resource Recovery from Sewage Sludge," *Journal of Cleaner Production* 204 (December 2018): 832–47, <https://doi.org/10.1016/j.jclepro.2018.08.300>.

⁵⁴ Kukuh Dwi Kurniawan and Dwi Ratna Indri Hapsari, "Pertanggungjawaban Pidana Korporasi Menurut Vicarious Liability Theory," *Jurnal Hukum Ius Quia Iustum* 29, no. 2 (May 2022): 324–46, <https://doi.org/10.20885/iustum.vol29.iss2.art5>.

farmers who, in fact, bear a greater economic burden.⁵⁵ Specific financing and marketing schemes often bind this group, resulting in long-term dependency that resembles debt traps and market monopsony. This phenomenon is difficult to prove solely through the contract text, as the imbalance in relationships and economic pressures are more accurately reflected in the implementation practices and socio-economic dynamics in the field than in the formal contractual clauses.

The evaluation of contractual fairness cannot be limited to a normative examination of the documents but requires a contextual understanding of incentive structures, financing mechanisms, and the vulnerability conditions of smallholder farmers within the partnership ecosystem. The reconstruction of the application of the proportionality principle must begin at the pre-contractual stage, by enforcing social and economic due diligence, requiring full disclosure of information by the company, and granting the community and prospective partners access to production data, cost structures, financing mechanisms, and profit-sharing formulas.

Substantive and procedural balance is not assessed solely at the moment the contract is signed but is established through a pre-contractual process that is transparent, informative, and ensures equal bargaining positions for all parties. The implementation of such a principle constitutes a fundamental prerequisite to prevent contractual injustice from the outset and to ensure legal protection for structurally weaker parties within the partnership scheme.

Weak institutional support and limited capacity of farmers create a risk of exploitative contractual practices within palm oil partnerships, indicating that such partnerships require structural support mechanisms to counterbalance corporate dominance.⁵⁶ Community-based legal empowerment and paralegal assistance can improve farmers' ability to

⁵⁵ Eko Ruddy Cahyadi and Hermann Waibel, "Contract Farming and Vulnerability to Poverty among Oil Palm Smallholders in Indonesia," *The Journal of Development Studies* 52, no. 5 (May 2016): 681–95, <https://doi.org/10.1080/00220388.2015.1098627>.

⁵⁶ Andini Desita Ekaputri et al., "Uneven Participation of Independent and Contract Smallholders in Certified Palm Oil Mill Markets in Indonesia," *Communications Earth & Environment* 2025 6:1 6, no. 1 (August 2025): 1–18, <https://doi.org/10.1038/s43247-025-02683-6>.

negotiate better deals in agrarian schemes. The availability of independent legal support is not merely an adjunct in the contractual process, but a normative prerequisite for ensuring that the principle of proportionality functions effectively in protecting structurally vulnerable parties.⁵⁷

This approach integrates the paradigms of access to justice, fair bargaining, and contractual transparency as the foundation for reforming palm oil partnership governance. At the stages of contract formation and implementation, the principle of proportionality must be reflected through the formulation of clear clauses on the allocation and sharing of risks between the parties, including provisions on force majeure and responsibility for plantation maintenance costs.

The evidentiary system must allow for the use of alternative and complementary evidence, including certified field audits, testimony from community witnesses independently verified, and the utilization of neutral third-party data, such as official reports from plantation agencies, laboratory test results of fresh fruit bunch quality, and records of purchase transactions. Such an evidentiary framework provides an objective basis for assessing substantive and procedural fairness, particularly when power relations and information architecture are asymmetrical, so that the contractual documents do not accurately reflect the factual circumstances and negotiation processes of the parties.

The structure of the palm oil agribusiness involving local intermediaries and cooperatives gives rise to evidentiary challenges in contracts, as critical information is not reflected in notarial deeds and formal documents.⁵⁸ The evidentiary system should allow for the use of alternative and complementary evidence, including certified field audits, testimonies from community witnesses independently verified, as well as neutral third-party data, such as official reports from the plantation agency, laboratory test results of fresh fruit bunch quality, and records of harvest purchase transactions.

⁵⁷ Oly Viana Agustine, “Putusan Mahkamah Konstitusi Dalam Pembangunan Ekonomi Nasional Pada Pemuliaan Tanaman Dan Alat Berat,” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 7, no. 1 (April 2018): 131, <https://doi.org/10.33331/rechtsvinding.v7i1.212>.

⁵⁸ Mu, “A Comparative Study on Obtaining Third Party Evidence in Civil and Commercial Arbitration: Taking England and China for Example.”

Such an evidentiary scheme provides an objective basis for assessing substantive and procedural fairness, particularly when power relations and information architecture are asymmetrical, causing the contract documents to inadequately reflect the factual circumstances and negotiation process of the parties. It is essential for dispute resolution in agribusiness partnerships to utilize a field-based evidentiary model to identify structural imbalances within the contracts.⁵⁹

Independent empirical data is critically needed to assess the distribution of benefits in agricultural contracts, as information asymmetry between companies and farmers often affects the fairness of contractual outcomes. Verification of production data and farmers' access to technical information are key factors in proving disputes in plantation partnerships; however, existing evidentiary mechanisms remain inadequate. This alternative evidentiary approach aligns with the methodological prescriptions of Indonesian agrarian law, which require field-based fact-finding to evaluate the proportionality of legal relationships in the plantation sector.

From the perspective of civil law, the scope for courts to assess the fairness and reasonableness of contractual clauses, whether through the doctrine of unconscionability or the principle of public policy, needs to be expanded in judicial practice. This approach necessitates that courts do not depend exclusively on the contract text but also consider contextual evidence that illustrates the negotiation process, the parties' bargaining positions, and the socio-economic conditions prevailing at the time the agreement was established.⁶⁰

The broadening of interpretive scope corresponds with the principles of good faith and implied terms, which, in both theoretical and judicial contexts, can provide a foundation for courts to interpret and, when necessary, to ascribe obligations of fair conduct within contractual relationships. The reconstruction of the proportionality principle in plantation partnership contracts requires not only regulatory reform but

⁵⁹ Bo Shi et al., "A Theoretical Study on the Filtration Efficiency and Dust Holding Performance of Pleated Air Filters," *Helijon* 9, no. 7 (July 2023): e17944, <https://doi.org/10.1016/j.heliyon.2023.e17944>.

⁶⁰ Ewan McKendrick, "10 Good Faith in the Performance of a Contract in English Law," in *Comparative Contract Law* (Oxford University Press, 2015), 196–209, <https://doi.org/10.1093/acprof:oso/9780198728733.003.0022>.

also the development of progressive jurisprudence that recognizes substantive justice as an integral part of contract interpretation.⁶¹

Strengthening the power of local governments is a strategic way to make sure that partnership agreements are fair. Local authorities should be granted normative powers to establish binding minimum standards for partnership clauses, including provisions on price transparency, minimum contract duration, and prohibitions or limitations on unilateral amendments by business actors. Such regulations function as a legal safety net to prevent the formation of imbalanced agreements and to curb contractual practices that may disadvantage parties who are structurally in a weaker bargaining position, particularly small-scale enterprises or plasma farmers.

The development of a standardized contract model that internalizes the principle of proportionality, through a collaborative formulation process involving relevant ministries, farmer associations, and business actors, constitutes a strategic step to ensure the balance of rights and obligations between parties in partnerships. This type of contract model serves as a normative tool that gives clear instructions for how to carry out agreements at the regional level. This reduces the chance of structural imbalances and differences in treatment between regions with different socio-economic characteristics and institutional capacities. The application of uniform contractual standards, while remaining adaptable to local contexts, can reinforce the principle of reasonableness, prevent unilateral domination, and promote a more equitable and sustainable partnership relationship.

Agreements must be crafted contextually through a case-by-case methodology, acknowledging that each community possesses unique social structures, land tenure patterns, and resource management systems. Consequently, the assessment of proportionality and fairness in contracts cannot be conducted uniformly.⁶² Recognition of customary law is also essential as a parameter in agrarian contracts, with contractual

⁶¹ McKendrick.

⁶² Lucía Argüelles and Hug March, "A Relational Approach to Pesticide Use: Farmers, Herbicides, Nutsedge, and the Weedy Path to Pesticide Use Reduction Objectives," *Journal of Rural Studies* 101 (July 2023): 103046, <https://doi.org/10.1016/j.jrurstud.2023.103046>.

models that accommodate communal norms being more effective in ensuring equitable distribution of benefits in the local agrarian sector.⁶³

Integrating customary law into contractual mechanisms serves as an instrument to prevent corporate domination over communal land. The acknowledgment of customary norms in commercial contracts can be an effective mechanism to ensure fairness and balance between business actors and indigenous communities.⁶⁴ The regulation of partnership clauses based on local wisdom not only aligns with the principle of *pacta sunt servanda* and the freedom of contract but also reflects the State's constitutional commitment to the protection of the rights of indigenous communities as stipulated in Article 18B paragraph (2) of the 1945 Constitution of Indonesia.

Periodic monitoring and evaluation of partnership agreement implementation (mid-term review) by independent institutions, such as universities, civil society organizations in the agrarian sector, or professional social auditors, should be normatively mandated as an obligation within the contract. This mechanism aims to ensure that the

⁶³ Recognition of norms that live within society constitutes a fundamental foundation for achieving substantive justice and equality among legal subjects. The integration of customary law as a parameter in agrarian contracts, the political recognition of indigenous peoples as equal legal subjects within the framework of the National Criminal Code, and the expansion of the concept of *living law* beyond a narrow identification with customary law collectively underscore the urgency of inclusive legal reform to ensure juridical legitimacy, effective law enforcement, and the protection of justice for indigenous communities. Read on Sunardi Purwanda et al., "The Fate of Indigenous Peoples' Rights Recognition After the Enactment of the National Criminal Code," *Indonesian Journal of Criminal Law Studies* 9, no. 2 (2024): 357–88, <https://doi.org/10.15294/ijcls.v9i2.50321>; Umi Rozah and Aldi Yudistira, "Penal Policy Analysis of The Formulation of Customary Law in The 2023 KUHP," *Indonesian Journal of Criminal Law Studies* 10, no. 1 (2025): 83–114, <https://doi.org/10.15294/ijcls.v10i1.19939>.

⁶⁴ Pahlefi, Eko Nurayatman, and Lili Naili Hidayah, *Sumber Daya Alam Dalam Perspektif Hukum Adat* (Jakarta Selatan: Damera Press, 2023); Indigenous communities are often subjected to criminalization for their control and use of communal land in the interest of corporate activities, read on Septhian Eka Adiyatma, Ana Silviana, and Dorcas Adesola Thanni, "Criminalizing the Guardians: Eco-Justice and Indigenous Struggles in Indonesia and Nigeria," *Indonesian Journal of Criminal Law Studies* 10, no. 2 (November 2025): 901–50, <https://doi.org/10.15294/IJCLS.V10I2.33536>; Sunardi Purwanda et al., *Ibid.*

principle of proportionality in the distribution of rights and obligations is effectively implemented in practice, rather than merely included as a formal clause without real enforcement. External oversight functions as an instrument of substantive accountability, preventing structural imbalances, economic abuses, or violations of fairness and good faith in the contractual relationship between companies and plasma farmers.

C. Existing Construction of the Proportionality Principle in Indonesian Contract Law

The principle of proportionality in Indonesian private law does not derive from a single explicitly codified provision but instead emerges from a systematic interpretation of the Indonesian Civil Code (KUHPerdata), particularly the principle of good faith as stipulated in Article 1338 paragraph (3), as well as the principles of reasonableness, equity, and the evolving practices of judicial decision-making. In its present doctrinal framework, the proportionality principle is regarded as a tool for evaluating the equilibrium of rights, duties, and risk distribution in contractual relationships. The principle functions to prevent the inclusion of excessive clauses, restrain the dominance of one party's bargaining power, and ensure that an agreement does not impose unjust burdens on any party.⁶⁵

The application of the proportionality principle in Indonesian contract law remains largely conceptual and has not yet operated as a doctrine with concrete parameters. The KUHPerdata does not provide operational criteria or measurable indicators for assessing whether a contractual clause or arrangement satisfies the standard of proportionality.⁶⁶ Consequently, judges, notaries, and legal practitioners frequently rely on general principles such as equity, reasonableness, and good faith without structured guidance on how proportionality should

⁶⁵ Stephen A. Smith and P.S. Atiyah, *Introduction to the Law of Contract* (London: Oxford University Press, 2005).

⁶⁶ Lidia M. Mawikere, Jenny Morasa, and Peter Kapojos, "Pengaruh Peran Perangkat Desa Dan Kompetensi Aparat Pengelola Dana Desa Terhadap Akuntabilitas Pengelolaan Keuangan Dana Desa Di Kecamatan Kawangkoan Barat," *Jurnal Syntax Admiration* 3, no. 12 (December 20, 2022): 1491–1504, <https://doi.org/10.46799/JSA.V3I12.514>.

be applied,⁶⁷ particularly in complex commercial relationships such as partnerships in oil palm cultivation.

Indonesian courts tend to take a formalistic view of the principle of freedom of contract, giving a lot of weight to agreements that the parties are thought to have made voluntarily. This approach creates a doctrinal gap, as the enforcement of standard form contracts in socioeconomically unequal relationships often contradicts the spirit of proportionality and substantive justice.⁶⁸ Although the Constitutional Court has employed a structured proportionality test in constitutional adjudication, this analytical model has not been systematically integrated into the enforcement of private contract law (Constitutional Court Decision No. 85/PUU-XI/2013, Constitutional Court Decision No. 50/PUU-VI/2008).

The absence of statutory norms explicitly regulating proportionality in agribusiness partnerships creates wide discretionary space, yet this discretion is not accompanied by strong operationalisation. As a result, clauses relating to financing, penalties, output deductions, risk allocation, and pricing mechanisms in oil palm partnership contracts often escape legal scrutiny, even when such clauses generate substantive injustice for plasma farmers. This condition reveals a regulatory vacuum that prevents the proportionality principle from functioning as a corrective instrument against structural imbalances within contractual relationships.

This lack of clarity becomes increasingly problematic in asymmetric contractual relationships, where nucleus companies possess significant economic and informational advantages over plasma farmers. Legal scholarship underscores that without measurable indicators, the principle of proportionality cannot perform its corrective function against contractual dominance.⁶⁹ Institutional fragmentation across agrarian, plantation, cooperative, and competition law regulations further exacerbates the situation, as none of these instruments

⁶⁷ Dick W.P. Ruiter, *Legal Institutions*.

⁶⁸ Rob Cram and John F. McCarthy, *The Oil Palm Complex: Smallholders, Agribusiness and the State in Indonesia and Malaysia* (Singapore: NUS Press, 2016), <https://doi.org/10.2307/j.ctv1xz0km>.

⁶⁹ Stephen A. Smith and P.S. Atiyah, *Introduction to the Law of Contract*.

incorporate proportionality as a mandatory standard for assessing partnership fairness, as identified in governance studies on partnership schemes by Molenaar et al.⁷⁰

From an empirical perspective, numerous studies demonstrate that plasma farmers face limited bargaining power, information asymmetry, non-transparent financing schemes, opaque pricing mechanisms, and one-sided penalty structures that create economic dependency on nucleus companies.⁷¹ Without normative intervention, nucleus plasma relationships tend to produce substantive injustice,⁷² the gap between law in books and law in action becomes increasingly evident because the doctrine of proportionality in Indonesia is seldom grounded in empirical data regarding contract formation, clause patterns, cost deductions, and sanction mechanisms. Socio legal theory supports the necessity of aligning legal norms with empirical practices.

International practice demonstrates that proportionality can be effectively operationalised through mandatory disclosure obligations, standardised contracts, oversight regimes, and clear risk-sharing arrangements. Comparative studies in Thailand, Malaysia, and India show that contract farming regulations incorporating proportionality are capable of structurally balancing agribusiness relationships. Fairness in contracts can only be achieved through clear and legally binding proportionality standards,⁷³ reconstruction is required to transform proportionality into an operational legal principle, establish indicators of

⁷⁰ Jinlong Gao et al., "Understanding the Underutilization of Rural Housing Land in China: A Multi-Level Modeling Approach," *Journal of Rural Studies* 89 (January 2022): 73–81, <https://doi.org/10.1016/j.jrurstud.2021.11.020>.

⁷¹ Jacqueline A. C. Vel, John F. McCarthy, and Zahari Zen, "The Conflicted Nature of Food Security Policy: Balancing Rice, Sugar and Palm Oil in Indonesia," *Anthropological Forum* 26, no. 3 (July 2016): 233–47, <https://doi.org/10.1080/00664677.2016.1190919>.

⁷² Tim Williamson, Hayley Hessel, and Mark Johnston, "Adaptive Capacity Deficits and Adaptive Capacity of Economic Systems in Climate Change Vulnerability Assessment," *Forest Policy and Economics* 15 (February 2012): 160–66, <https://doi.org/10.1016/j.forepol.2010.04.003>.

⁷³ Mohammad Rezaul Karim, Mohammad Tarikul Islam, and Bymokesh Talukder, "COVID-19's Impacts on Migrant Workers from Bangladesh: In Search of Policy Intervention," *World Development* 136 (December 2020): 105123, <https://doi.org/10.1016/j.worlddev.2020.105123>.

contractual fairness, integrate international best practices, and ensure legal protection for plasma farmers as the structurally weaker party.

D. Comparative Legal Analysis: Models of Proportionality in Agricultural Contracts

The comparative analysis in this study focuses on four jurisdictions whose legal frameworks are considered relevant and provide operational examples of the application of the proportionality principle as well as protection mechanisms for parties with weaker bargaining positions in contract farming practices. First, Malaysia, whose palm oil industry is closely linked to that of Indonesia, has a comparatively more structured partnership governance system that is oriented toward the integration of smallholders.⁷⁴ Second, Thailand, through the Contract Farming Promotion Act, provides a regulatory model within the Southeast Asian region that governs transparency, mandatory disclosure obligations, and farmer protection.⁷⁵

Third, India, with its Model Contract Farming Act, is regarded as having one of the most comprehensive legal frameworks governing agricultural contracts, encompassing provisions on transparency, risk-sharing, and dispute resolution.⁷⁶ The selection of these three countries is based on their empirical relevance, their structural similarity to the Indonesian partnership model, and their conceptual contribution to the development of the proportionality doctrine in agribusiness contract law.

The comparative insights drawn from these legal systems provide illustrations of the diverse doctrinal, regulatory, and institutional approaches that may serve as normative and operational references in

⁷⁴ Nicolas Martin, “The Dark Side of Political Society: Patronage and the Reproduction of Social Inequality,” *Journal of Agrarian Change* 14, no. 3 (July 2014): 419–34, <https://doi.org/10.1111/joac.12039>.

⁷⁵ Pakapon Saiyut et al., “Changing Age Structure and Input Substitutability in the Thai Agricultural Sector,” *Kasetsart Journal of Social Sciences* 38, no. 3 (September 2017): 259–63, <https://doi.org/10.1016/j.kjss.2016.07.004>.

⁷⁶ Mohammad Rezaul Karim, Mohammad Tarikul Islam, and Bymokesh Talukder, “COVID-19’s Impacts on Migrant Workers from Bangladesh: In Search of Policy Intervention.”

reconstructing the principle of proportionality in partnerships for oil palm cultivation in Indonesia. This need arises from the importance of reforming partnership contract law to address the structural inequalities between nucleus companies and plasma farmers, as well as the necessity for operational proportionality parameters within Indonesian contract law.

1. Malaysia: Statutory Guidance and Structured Oversight in Contract Farming

Malaysia, as one of the world's largest palm oil producers, possesses a relatively more advanced and structured legal framework for agricultural partnerships (contract farming) compared to Indonesia, making it a relevant comparative model for reconstructing the proportionality principle in contracts for oil palm partnerships. Although Malaysia does not have a single statute expressly titled the Contract Farming Act, partnership practices are regulated through the Federal Agricultural Marketing Authority Act 1965 (FAMA Act) and various government-issued guidelines and partnership schemes, such as the Contract Farming Programme, which provide substantive and procedural protections for smallholder farmers. However, Malaysia has succeeded in establishing a more inclusive value chain for palm oil agribusiness through transparent and standardised partnership governance.⁷⁷

Transparency functions as the principal instrument of substantive proportionality because each contract must include pricing formulas, cost-sharing mechanisms, financing structures, and quality and delivery standards, thereby reducing information asymmetry that has long constituted a fundamental problem in Indonesian partnership contracts. On the procedural side, the Malaysian government plays an active role as a mediator and facilitator in negotiations between farmers and companies,

⁷⁷ Nicolas Martin, "The Dark Side of Political Society: Patronage and the Reproduction of Social Inequality."

ensuring the absence of hidden burdens and clauses that disadvantage the weaker party.⁷⁸

In addition, the guidelines issued by FAMA and the Malaysian Ministry of Agriculture prohibit unilateral penalty clauses and undisclosed cost deductions, and further require that any penalty must be proportionate and supported by clear justification, thereby emphasizing the relevance of a fair penalty structure in contract farming.⁷⁹ What is occurring in Indonesia today is that the oil palm partnership model remains dominated by unilateral cost deductions and financial burdens imposed without transparency.⁸⁰

This comparison indicates that Malaysia's success rests on three principal pillars: first, mandatory disclosure obligations as an element of substantive proportionality; second, state involvement as a supervisory and mediating authority to ensure procedural proportionality; and third, minimum contractual standards that prevent corporate dominance. This model is highly relevant for Indonesia, given that positive law such as the Plantation Law No. 39 of 2014 has yet to regulate operational parameters of proportionality. Malaysia's experience provides a strong comparative foundation demonstrating that proportionality can be operationalised through transparency obligations, state oversight, standard form contracts with mandatory clauses, non-litigation dispute resolution mechanisms, and prohibitions on unilateral penalties, all of which may serve as conceptual and regulatory references for reforming oil palm partnership law in Indonesia.

⁷⁸ Pakapon Saiyut et al., "Changing Age Structure and Input Substitutability in the Thai Agricultural Sector."

⁷⁹ Norsida Man and Nolila Mohd Nawi, "The Practices of Contract Farming Among Fresh Fruit and Vegetable Suppliers in Malaysia," *American Journal of Agricultural and Biological Sciences* 5, no. 3 (March 2010): 321–30, <https://doi.org/10.3844/ajabssp.2010.321.330>.

⁸⁰ Anette Ruml and Matin Qaim, "Smallholder Farmers' Dissatisfaction with Contract Schemes in Spite of Economic Benefits: Issues of Mistrust and Lack of Transparency," *The Journal of Development Studies* 57, no. 7 (July 2021): 1106–19, <https://doi.org/10.1080/00220388.2020.1850699>.

2. Thailand: Contract Farming Promotion Act and Farmer Protection

Thailand is widely regarded as one of the jurisdictions with the most explicit and structured legislative framework governing contract farming, embodied in the Contract Farming Promotion Act 2017, which integrates the principle of proportionality across both substantive and procedural dimensions. The Act requires that all contract farming arrangements be executed in written form and contain mandatory minimum clauses, including pricing formulas, commodity-quality specifications, allocation of production risks, delivery schedules, and accessible dispute resolution mechanisms. This statutory design operationalises proportionality by embedding transparency, information disclosure, and normative certainty into contractual relations between agribusiness firms and smallholders.

The establishment of clear minimum standards, transparency obligations, and risk-sharing provisions constitutes essential elements for mitigating bargaining asymmetries in agricultural contracts.⁸¹ Empirical studies on contract farming in Southeast Asia demonstrate that well-structured legal frameworks such as Thailand's Contract Farming Promotion Act play a significant role in enhancing contractual fairness, reducing information asymmetry, and strengthening farmers' bargaining capacity.

These findings are consistent with the analysis of Marks, Baird, and Jirasatthumb, who emphasize that Thailand's regulatory model becomes effective only when it imposes clear minimum standards, transparency duties, and risk-sharing obligations to safeguard smallholders from the dominance of large agribusiness entities.⁸² The inclusion of mandatory contractual

⁸¹ Chunhua Tang, Huiyuan Zhang, and Jiamuyan Xie, "Optimal Contract Design in Contract Farming under Asymmetric Effort Information," *Sustainability* 14, no. 22 (November 2022): 15000, <https://doi.org/10.3390/su142215000>.

⁸² Danny Marks, Ian G. Baird, and Norachit Jirasatthumb, "Thailand's Contract Farming Act at a Crossroads: Impacts, Shortfalls, and the Need to Better Protect Smallholders," *Critical Asian Studies* 56, no. 3 (July 2024): 350–70, <https://doi.org/10.1080/14672715.2024.2365872>.

clauses constitutes a critical legal mechanism for protecting weaker parties within unequal agribusiness structures, a conclusion consistently reflected in the broader international literature on contract farming in developing countries. Contractual attributes characterized by clarity and transparency materially influence farmers' preferences and bargaining positions within partnership schemes.⁸³

More broadly, proportionality in agricultural contracts has been recognised as a cornerstone of equitable contract governance, where fairness, transparency, and balanced allocation of obligations serve as indicators of contractual justice.⁸⁴ The Thai model therefore provides a compelling comparative reference for Indonesia, demonstrating how a legislative framework can transform proportionality from an abstract doctrinal principle into an operational legal standard capable of correcting structural inequalities in agribusiness partnerships.

3. India: Model Contract Farming Act and Procedural Fairness

The 2018 Model Contract Farming Act of India constitutes one of the most comprehensive legal frameworks in Asia for ensuring the practical application of the proportionality principle in agribusiness contracts, particularly those involving smallholder farmers as parties with weaker bargaining positions. The law says that fairness in contracts must start before the contract is signed. This means that companies must fully disclose all costs, risks, and obligations related to inputs, production, the market, and delivery before the contract is signed.

The Model Act grants farmers the right to obtain legal and technical assistance from government agencies or local agricultural institutions, which, according to Singh, constitutes a form of institutionalised bargaining support capable of counterbalancing

⁸³ Nguyen Hung Anh et al., "Smallholders' Preferences for Different Contract Farming Models: Empirical Evidence from Sustainable Certified Coffee Production in Vietnam," *Sustainability* 11, no. 14 (July 2019): 3799, <https://doi.org/10.3390/su11143799>.

⁸⁴ Marc F. Bellemare, "As You Sow, So Shall You Reap: The Welfare Impacts of Contract Farming."

corporate dominance in contractual negotiations.⁸⁵ Substantive protections are reflected in provisions that expressly prohibit the transfer of land ownership, the use of land as collateral, or the pledging of land as security within contract farming arrangements.

This prohibition is recognized as one of the most critical forms of structural protection, as it prevents the risk of land loss, an issue that many scholars have warned constitutes a form of 'agrarian dispossession'.⁸⁶ The Model Act provides that companies are not permitted to shift the entire risk of production failure onto farmers; instead, risks must be allocated proportionately in accordance with the capacity and contributions of each party.⁸⁷ Risk imbalance constitutes one of the most frequent sources of contractual unfairness in contract farming, particularly when agronomic risks are transferred unilaterally by companies to farmers.

India has set up local dispute-settlement committees that provide non-litigious ways for smallholder farmers to settle contract disputes quickly, cheaply, and easily. This system functions as a critical safeguard against exploitative corporate practices, particularly those that take advantage of the high transaction costs associated with formal litigation.⁸⁸ To strengthen legal certainty, the Model Contract Farming Act also requires that all contracts be formally registered with designated local authorities, thereby creating an official legal record subject to government supervision. This approach aligns with Swain's

⁸⁵ Jyotirmoy Koley, "Contract Farming in India: Evolution, Models, and Socioeconomic Impacts," *International Journal of Latest Technology in Engineering Management & Applied Science* 14, no. 8 (September 2025): 1440–48, <https://doi.org/10.51583/IJLTEMAS.2025.1408000183>.

⁸⁶ Ritika Shrimali, "Accumulation by Dispossession or Accumulation without Dispossession: The Case of Contract Farming in India," *Human Geography* 9, no. 3 (November 2016): 77–88, <https://doi.org/10.1177/194277861600900306>.

⁸⁷ Ashok K Mishra et al., "Production Risks, Risk Preference and Contract Farming: Impact on Food Security in India," *Applied Economic Perspectives and Policy* 40, no. 3 (September 2018): 353–78, <https://doi.org/10.1093/aepc/ppy017>.

⁸⁸ Sukhpal Singh, "Contracting Out Solutions: Political Economy of Contract Farming in the Indian Punjab," *World Development* 30, no. 9 (September 2002): 1621–38, [https://doi.org/10.1016/S0305-750X\(02\)00059-1](https://doi.org/10.1016/S0305-750X(02)00059-1).

observation that the registration of agricultural contracts enhances corporate accountability and facilitates more effective regulatory oversight by the state.

From the perspective of comparative contract law, India's legislative approach offers both empirical and normative evidence that the principle of proportionality can be translated into an effective legal instrument within inherently asymmetric contractual relationships. The strength of India's proportionality framework lies in its combined reliance on substantive safeguards such as prohibitions against onerous contractual terms and requirements for equitable risk allocation and procedural protections, including the right to meaningful negotiation and the presence of state oversight.⁸⁹

This model reflects the vision of a responsive contract law, namely a legal framework that affords enhanced protection to parties who are structurally vulnerable within contractual relationships. In the Indonesian context, the relevance of India's Model Contract Farming Act is particularly pronounced, as numerous studies document structural power imbalances, information asymmetries, and the dominant role of nucleus companies within oil palm nucleus plasma partnership schemes.⁹⁰

Plasma farmers frequently enter into contractual arrangements without a clear understanding of cost structures, risk distribution, or the underlying basis for price determination problems that could be addressed through mandatory pre-contractual disclosure requirements similar to those adopted in India. A substantial number of plasma contracts contain unilateral cost deductions and penalty clauses, reflecting the absence of proportionality standards within Indonesia's partnership contract law.

⁸⁹ Muhammad Shifuddin Mahmud, Dik Roth, and Jeroen Warner, "Rethinking 'Development': Land Dispossession for the Rampal Power Plant in Bangladesh," *Land Use Policy* 94 (May 2020): 104492, <https://doi.org/10.1016/j.landusepol.2020.104492>.

⁹⁰ John F. McCarthy, "Processes of Inclusion and Adverse Incorporation: Oil Palm and Agrarian Change in Sumatra, Indonesia," *The Journal of Peasant Studies* 37, no. 4 (October 2010): 821–50, <https://doi.org/10.1080/03066150.2010.512460>.

The Indian Model Contract Farming Act demonstrates that the principle of proportionality can be operationalized within positive law through the regulation of pre-contractual fairness, proportional risk allocation, the prohibition of exploitative clauses, the provision of accessible local dispute-resolution mechanisms, and the mandatory registration of contracts as a tool of state oversight. Indonesia, on the other hand, still relies on the general ideas of good faith and fairness, which are too vague to deal with the complexities of contractual relationships in nucleus plasma partnership schemes. Accordingly, India's experience offers a relevant legal blueprint for Indonesia in reconstructing the doctrine of proportionality to ensure equitable benefit-sharing, the protection of smallholders, and contractual justice within the palm oil industry.

Empirical evidence indicates that the execution of nucleus plasma partnership contracts in the palm oil sector occurs under conditions of considerable information asymmetry, thus rendering the principle of proportionality ineffective in practice. Plasma smallholders generally do not receive full access to the contractual documents, lack understanding of the financing structure, and are not informed of the methods used to determine pricing or the basis for deductions imposed by the company. Findings by Jelsma et al. further indicate that smallholders often lack the capacity to assess the fairness of contractual clauses or to negotiate rights and obligations on an equal footing, resulting in contractual relations that are structurally imbalanced and systematically disadvantage the weaker party.⁹¹

Substantial imbalance in nucleus plasma partnership contracts primarily arises from non-transparent financing schemes. Nucleus companies typically determine initial investment costs, maintenance expenses, loan interest, and administrative charges without any mechanism for independent oversight or verification. Eko and Hermann found that plasma

⁹¹ Jelsma et al., "Unpacking Indonesia's Independent Oil Palm Smallholders: An Actor-Disaggregated Approach to Identifying Environmental and Social Performance Challenges."

smallholders frequently bear debt burdens far exceeding those disclosed during the pre-contractual stage, and often without receiving adequate amortization details.⁹² Undisclosed deductions from harvest proceeds also constitute a systematic finding, directly contravening the principle of proportionality.

Conclusion

This study presents a distinctive scholarly contribution by offering a multidimensional reconstruction of the proportionality principle within Indonesia's palm oil contracts, integrating normative juridical analysis, comparative legal frameworks, and socio-legal empirical findings into a single analytical model that has not previously been articulated in Indonesian legal literature. The article advances the novelty of applying proportionality as an operational doctrine rather than an abstract concept through the formulation of substantive, procedural, and sanction-based proportionality indicators capable of guiding courts, notaries, and regulators in assessing contractual fairness within asymmetric agribusiness relationships. By adapting the proportionality-testing structure used by the Constitutional Court into the realm of private contract law, this study proposes a cross-regime doctrinal innovation that broadens the interpretive tools available to judges in disputes involving unequal bargaining power. The comparative analysis of Malaysia, Thailand, and India provides further novelty by extracting transferable mechanisms such as mandatory disclosure obligations, standardized minimum clauses, proportional risk-sharing, contract registration, and community based dispute-resolution forum elements that can materially strengthen Indonesia's currently fragmented regulatory landscape. The article also presents a novel analytical perspective by correlating contractual injustice with institutional opacity, intermediary governance deficiencies, procurement practices in the supply chain, and insufficient legal literacy. This approach broadens the methodological scope of contract law research through interdisciplinary integration with agrarian governance and global commodity-chain studies. Ultimately, this study offers an original hybrid

⁹² Jelsma et al.

normative institutional model combining legal reform, judicial reinterpretation, corporate transparency obligations, and community empowerment, which provides a comprehensive and empirically grounded framework for embedding substantive justice and proportionality within Indonesia's palm oil partnership schemes.

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