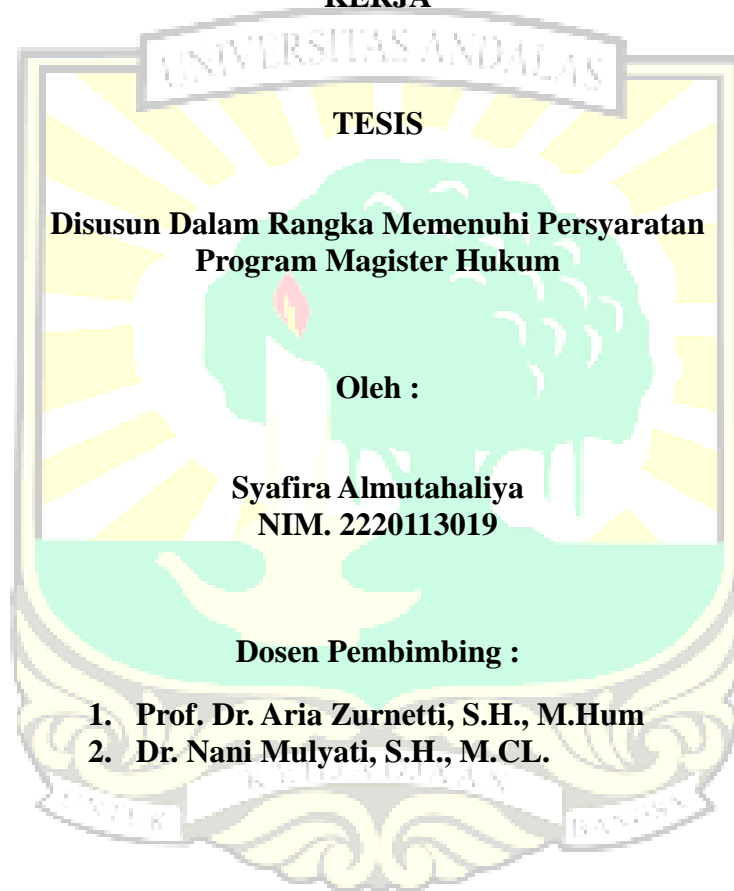




**IMPLEMENTASI PRINSIP *ULTIMUM REMEDIUM* TERHADAP
KETERLANJURAN KEGIATAN PERKEBUNAN KELAPA SAWIT DI
DALAM KAWASAN HUTAN BERDASARKAN UNDANG-UNDANG CIPTA
KERJA**



TESIS

**Disusun Dalam Rangka Memenuhi Persyaratan
Program Magister Hukum**

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ABSTRAK

Ketentuan pada Pasal 37 angka 20 Undang-Undang Cipta Kerja, mengatur prinsip *ultimum remedium* terhadap keterlanjuran kegiatan perkebunan kelapa sawit yang tercermin dari diselipkannya Pasal 110A dan 110B di antara Pasal 110 dan Pasal 111 Undang-Undang Nomor 18 Tahun 2013 tentang Pencegahan dan Pemberantasan Perusakan Hutan. Ketentuan ini mengedepankan pengenaan sanksi administratif sebelum dikenakan sanksi pidana terhadap keterlanjuran kegiatan perkebunan kelapa sawit di dalam kawasan hutan. Dilatarbelakangi hal tersebut, permasalahan dalam tesis ini adalah: 1) Bagaimanakah implementasi Prinsip *Ultimum Remedium* terhadap keterlanjuran kegiatan perkebunan kelapa sawit di dalam kawasan hutan berdasarkan Undang-Undang Cipta Kerja oleh Dinas Kehutanan Provinsi Sumatera Barat? 2) Bagaimanakah kendala dalam Implementasi Prinsip *Ultimum Remedium* terhadap keterlanjuran kegiatan perkebunan kelapa sawit di dalam kawasan hutan oleh Dinas Kehutanan Provinsi Sumatera Barat? Penelitian ini merupakan penelitian yuridis empiris, bersifat deskriptif analitis dengan menggunakan data primer yang diperoleh dengan mewawancarai Seksi Pengendalian Kerusakan dan Pengamanan Hutan di Bidang Perlindungan Hutan dan Konservasi Sumber Daya Alam dan Ekosistem (KSDAE) Dinas Provinsi Sumatera Barat serta menggunakan data sekunder yang diperoleh melalui studi kepustakaan terhadap berbagai regulasi dan literatur hukum kemudian dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa: 1) Penerapan asas *ultimum remedium* terhadap keterlanjuran kegiatan perkebunan kelapa sawit dalam kawasan hutan diselesaikan dengan mengurus izin dengan membayar provisi sumber daya hutan (PSDH) dan dana reboisasi (DR) kepada kas negara. Kemudian terhadap setiap orang yang tinggal di sekitar dan/atau di dalam kawasan hutan selama 5 (lima) tahun berturut-turut, dapat dikenakan pengecualian atau maksimal dikenakan sanksi administratif berupa, penghentian sementara kegiatan usaha, pembayaran denda administratif, dan/atau paksaan pemerintah. 2) Kendala dari implementasi asas *ultimum remedium* terhadap keterlanjuran kegiatan perkebunan kelapa sawit di dalam kawasan hutan berupa permasalahan teknis di lapangan seperti, kurangnya pemahaman masyarakat, tidak kooperatifnya pejabat berwenang, dan penyelewengan yang dilakukan oknum-oknum penegak hukum.

Kata Kunci: *Ultimum Remedium*, Keterlanjuran, Kelapa Sawit, Cipta Kerja

**THE IMPLEMENTATION OF THE ULTIMUM REMEDIUM PRINCIPLE
AGAINST THE ADJUSTMENT OF PALM OIL PLANTATION ACTIVITIES IN
THE FOREST AREA BASED ON THE OMNIBUS LAW ON CIPTA KERJA**

*(Syafira Almutahaliya, SID. 2220113019, 103 Pages, Master of Law Studies Program,
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ABSTRACT

The provisions in Article 37 number 20 of the Job Creation Law regulate the principle of ultimum remedium against continued oil palm plantation activities, which is reflected in the insertion of Articles 110A and 110B between Articles 110 and 111 of Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction. This provision prioritizes the imposition of administrative sanctions before criminal sanctions are imposed on continued oil palm plantation activities in forest areas. Against this background, the problems in this thesis are: 1) How is the implementation of the Ultimum Remedium Principle against continued oil palm plantation activities in forest areas based on the Job Creation Law by the West Sumatra Provincial Forestry Service? 2) What are the obstacles in the Implementation of the Ultimum Remedium Principle against continued oil palm plantation activities in forest areas by the West Sumatra Provincial Forestry Service? This research is an empirical legal research, descriptive analytical in nature using primary data obtained by interviewing the Forest Damage Control and Security Section in the Forest Protection and Conservation of Natural Resources and Ecosystems (KSDAE) of the West Sumatra Provincial Service and using secondary data obtained through library studies of various regulations and legal literature then analyzed qualitatively. The results of the study indicate that: 1) The application of the ultimum remedium principle to the continuation of oil palm plantation activities in forest areas is resolved by taking care of permits by paying forest resource provisions (PSDH) and reforestation funds (DR) to the state treasury. Then, anyone who lives around and/or in a forest area for 5 (five) consecutive years may be subject to exceptions or a maximum of administrative sanctions in the form of temporary suspension of business activities, payment of administrative fines, and/or government coercion. 2) Obstacles to the implementation of the ultimum remedium principle against the continuation of oil palm plantation activities in forest areas are in the form of technical problems in the field, such as lack of community understanding, lack of cooperation from authorized officials, and abuses committed by certain law enforcement officers.

Keyword: Adjustment, Ultimum Remedium, Palm Oil, Cipta Kerja