

PALM INSIDE

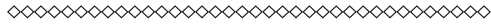
**“Resolving the Oil Palm Invasion
inside Forest Zone”**



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- HERY SANTOSO • WIKO SAPUTRA

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RESOLVING THE OIL PALM INVASION INSIDE FOREST ZONE

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FOREWORD

Indonesia has now become the world's largest palm oil producer. Unsurprisingly, palm oil plays a leading commodity in the country's national economy. The palm oil export from Indonesia contributes so high value to the country's foreign exchange it exceeds that of other top commodities such as oil, gas and coal. In addition, the widespread practices of oil palm cultivation have become a new alternative for alleviating poverty in rural folks. The high oil palm economy posed an irresistible bonanza for people across the country swiftly to make massive exodus from rubber cultivation and other conventional commercial crops.

Apart from its undeniably-crucial role for the nation's economy, the palm oil industry has been under the spot light criticisms and challenges from local and global parties. The practice of Indonesian oil palm plantations is suspected of being one of the triggers of various environmental and social problems— such as deforestation, peat land clearing, forest fires, loss of biodiversity, and tenure conflicts. Of about 16.8 million hectares the total area of Indonesian oil palm plantations, some 3.47 million hectares turn out to have been cultivated on the wrong place: inside forest areas. This figure is quite large when viewed from the size of Indonesia's forests which unfortunately continue to decrease. Not to mention the forest land conversion that happened legally when the Government purposely releases forest areas for oil palm plantations. From the KEHATI Foundation and its partners experience in identifying, registering, and mapping oil palm inside those 3.47 million hectares forest area, it is clear that the expansion of oil palm plantation into those forest areas has been committed by almost all types of oil palm businesses. They include companies, surrounding communities, migrants, and "individual investors", all of whom play each role in oil palm expansion into the forest zone.

This condition has become a particular concern to the KEHATI Foundation. Therefore, in the past two years the KEHATI Foundation and partners have been trying to carry out identification and assessment on smallholder's oil palm and options that can be implemented to resolve the problems. This book describes a series of learning that the KEHATI Foundation and partners have obtained for approximately two years working on this issue. This book also offers ideas for solutions to be adopted to help resolve the problems sparked by oil palm practices in Indonesia and to support the growth of the people's palm oil industry. Happy reading!

Jakarta, November 2019

Riki Frindos

Chairperson of KEHATI Foundation

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TABLE OF ACRONYMS AND ABBREVIATIONS

AD/ART	Basic Rules (<i>Anggaran Dasar/Anggaran Rumah Tangga</i>)
APBD	Local Government Budget (<i>Anggaran Pendapatan dan Belanja Daerah</i>)
APBDDesa	Village Budget (<i>Anggaran Pendapatan dan Belanja Daerah Desa</i>)
APL	Area for Other Purposes (<i>Areal Penggunaan Lain</i>)
ATR/BPN	Agraria and Spatial Planning/National Land Agency (<i>Agraria dan Tata Ruang/Badan Pertanahan Nasional</i>)
BIG	Geospatial Information Agency (<i>Badan Informasi Geospasial</i>)
BPS	Statistics Indonesia (<i>Badan Pusat Statistik</i>)
BUMDesa	Village-owned Enterprise (<i>Badan Usaha Milik Desa</i>)
COP	Conference of the Parties
CPO	Crude Palm Oil
DAS	Water Cathment Area (<i>Daerah Aliran Sungai</i>)
DFID	Department for International Development
Ditjenbun	Directorate General of Plantation (<i>Direktorat Jenderal Perkebunan</i>)
DIY	Special Region of Yogyakarta (<i>Daerah Istimewa Yogyakarta</i>)

EU	European Union
FGD	Focus Group Discussion
Ha (ha)	Hectare(s)
HAM	Human Rights (<i>Hak Asasi Manusia</i>)
HD	Village Forest (<i>Hutan Desa</i>)
HGU	Right of Tenure (<i>Hak Guna Usaha</i>)
HKm	Community Forest (<i>Hutan Kemasyarakatan</i>)
HL	Protected Forest (<i>Hutan Lindung</i>)
HPH	Forest Management Right (<i>Hak Pengelolaan Hutan</i>)
HPHD	Village Forest Management Rights (<i>Hak Pengelolaan Hutan Desa</i>)
HPK	Converted Production Forest (<i>Hutan Produksi Konversi</i>)
HPT	Hutan Produksi Terbatas (<i>Limited Production Forest</i>)
HTR	Community Timber Plantation (<i>Hutan Tanaman Rakyat</i>)
ILUC	<i>Indirect Land Use Change</i>
Inpres	Presidential Instruction (<i>Instruksi Presiden</i>)
Inver	Inventory and verification (<i>Inventarisasi dan verifikasi</i>)
IPHKm	Business Permit for Community Forest Utilisation (<i>Izin Usaha Pemanfaatan Hutan Kemasyarakatan</i>)
IPHPS	Permit for Social Forestry Forest Utilisation (<i>Izin Pemanfaatan Hutan Perhutanan Sosial</i>)
ISPO	<i>Indonesian Sustainable Palm Oil</i>
IUP	Business Permit for Utilisation (<i>Izin Usaha Pemanfaatan</i>)
IUPHHK-HTR	Business Permit for the Utilisation of Forest Products in Community Timber Plantation (<i>Izin Usaha Pemanfaatan Hasil Hutan pada Hutan Tanaman Rakyat</i>)
Kemenko Ekon	Coordinating Ministry for Economic Affairs (<i>Kementerian Koordinator Bidang Perekonomian</i>)
KLHK	Ministry of Environment and Forestry, MoEF (<i>Kementerian Lingkungan Hidup dan Kehutanan</i>)
KPH	Forest Management Unit, FMU (<i>Kesatuan Pengelolaan Hutan</i>)
KPK	The Corruption Eradication Commission (<i>Komisi Pemberantasan Korupsi</i>)

KSA/KPA	Nature Reserve / Nature Conservation Area (<i>Kawasan Suaka Alam/ Kawasan Pelestarian Alam</i>)
KSP	Single-map Policy (<i>Kebijakan Satu Peta</i>)
KST	Presidential Staff Office (<i>Kantor Staf Presiden</i>)
KTH	Forest Farmers' Group (<i>Kelompok Tani Hutan</i>)
KUHP	Book of Criminal Law (<i>Kitab Undang-Undang Hukum Pidana</i>)
LAPAN	Institute of Aviation and Space (<i>Lembaga Penerbangan dan Antariksa</i>)
m	Meter
MA	Supreme Court (<i>Mahkamah Agung</i>)
MMU	Minimum Mapping Unit
Monev	Monitoring and Evaluation (<i>Monitoring dan Evaluasi</i>)
Musdes	Village Council (<i>Musyawarah Desa</i>)
NLC	National Land Council
PADesa	Village Original Income (<i>Pendapatan Asli Desa</i>)
PBB	Penetapan dan Penegasan Batas (<i>Border Demarcation and Delimitation</i>)
Permen	Ministrial Regulation (<i>Peraturan Menteri</i>)
Permen LHK	Minister of of Environment and Forestry's Regulation (<i>Peraturan Menteri Lingkungan Hidup dan Kehutanan</i>)
Permendagri	Minister of Home Affairs' Regulation (<i>Peraturan Menteri Dalam Negeri</i>)
Permentan	Minister of Agriculture's Regulation (<i>Peraturan Menteri Pertanian</i>)
Perpres	Presidential Regulation (<i>Peraturan Presiden</i>)
PIAPS	Indicative Map of Social Forestry Area (<i>Peta Indikatif Areal Perhutanan Sosial</i>)
PIR	Community-based Plantation (<i>Perkebunan Inti Rakyat</i>)
PNBP	State's Non-tax Revenues (<i>Penerimaan Negara Bukan Pajak</i>)
PS	Social Forestry (<i>Perhutanan Sosial</i>)
PT	Limited Liability Company (<i>Perseroan Terbatas</i>)
PTPN	"PT Perkebunan Nusantara"
RA	Agrarian Reform (<i>Reforma Agraria</i>)
RED	Renewable Energy Directives
Renstra	Strategic Planning (<i>Perencanaan Strategis</i>)

RI	Republic of Indonesia
RPJMN	National Medium Term Development Plan (<i>Rencana Pembangunan Jangka Menengah Nasional</i>)
RTRW	Spatial Plans (<i>Rencana Tata Ruang Wilayah</i>)
RTRWP	Provincial Spatial Plans (<i>Rencana Tata Ruang Wilayah Provinsi</i>)
SDA	Natural Resources (<i>Sumberdaya Alam</i>)
SDG	Sustainable Development Goals (<i>Tujuan Pembangunan Berkelanjutan</i>)
SHM	Ownership Certificate (<i>Surat Hak Milik</i>)
SJB	Recovery Period Strategy (<i>Strategi Jangka Benah</i>)
SK	Decree (<i>Surat Keputusan</i>)
SKT	Land Certificate (<i>Surat Keterangan Tanah</i>)
SPOT	<i>Satellite Pour l'Observation de la Terre/ Systeme Probatoire d'Observation de la Terre</i>
Stranas	National Strategies (<i>Strategi Nasional</i>)
TBS	Fresh Fruit Bunches (<i>Tandan Buah Segar</i>)
TGHK	Forest Use Agreement (<i>Tata Guna Hutan Kesepakatan</i>)
TNGL	Mt Leuser National Park (" <i>Taman Nasional Gunung Leuser</i> ")
TORA	Land for Agrarian Reform Object (<i>Tanah Obyek Reforma Agraria</i>)
UGM	University of Gadjah Mada (Yogyakarta)
UNDP	United Nations Development Programme
USD	United States Dollar
USDOC	<i>United States Department of Commerce</i>
USITC	United States International Trade Commission
UU	Law (<i>Undang-undang</i>)
UUPR	Law on Spatial Planning (<i>Undang-undang tentang Penataan Ruang</i>)



CHAPTER I

Indonesia's Palm Oil Dynamics and Dialectics

Palm oil is a leading commodity and the pillar of the Indonesia's economy. The fact is that Indonesia is the largest palm oil producer in the world. In this country, the palm oil serves the biggest contributor to its foreign exchange, surpassing the contribution of oil, gas, and coal. In addition, this native African monoculture plant also supports some of the livelihoods of rural communities, shunning off the previous commodities such as rubber and other conventional commercial crops that people once embraced.

However, unfortunately the existence of large-scale palm oil industry has not so far brought significant impact of fair distribution of fortune to local communities, especially to those who take part in the smallholders' oil palm. On the one hand, the company-owned plantations are strong enough to seize the control over vast lands and they hold more power in determining the purchase price from the smallholders' oil palm. On the other hand, the smallholders' oil palm is almost always unfortunately small-scale and unproductive. This indicates that something has gone wrong, provided that since the beginning of Indonesia's Independence Day in 1945 industrial development was initially designed to provide supports to people's oil palm plantations.

The history of the development of the Indonesian palm oil industry following the Independence Day can be divided into two main phases where the Government plays its role through different mechanisms. First, the phase when the government's dominance phase (from 1970s to 1998) was characterised by the emergence of smallholder oil palm in Indonesia. In that phase, the bureaucrats produced subsidy policies for national plantations and people's oil palm. As a result, private investments found it hard to compete.

Second, the phase where the market dominance (1999-present) has been characterised by the liberalisation of the Indonesian palm oil market and the prevalence of company plantations (Gatto et al. 2015). During this phase, the Government has come to realise the importance of creating a market that is open to private investment. Such awareness was triggered by the Government's decreased ability to continue to finance the subsidised policies for industries that turned out to keep growing.

In the end, the liberalisation of the national palm oil industry market managed to drive the growth of the palm oil industry significantly. Since the liberalisation of the oil palm in-

dustry in 1994, the areas of oil palm plantations has been increasing by almost 700 percent, from 1.8 million hectares in 1994 to 14.3 million hectares in 2018 (Directorate General of Plantation, 2017). However, what consequences such condition eventually have in store: a warehouse-full of environmental and social problems throughout the country!

THE ECONOMY OF PALM OIL AND ITS IMPACTS

Since 2008, Indonesia has become the largest palm oil producer in the world (McCarthy, 2010). In 2017, Indonesia’s palm oil production alone contributed 54 percent to global consumption (Iskandar, 2018). Indonesia has even become the leader in the world vegetable oil market. This is because palm oil dominates the world’s vegetable oil consumption which tends to increase.

The dominance of oil palm in the world’s vegetable oil market cannot be separated from the competitive price of palm oil due to its productivity that stands far beyond that of other vegetable oils. The productivity of oil palm plantations reached 4.27 tons of CPO per hectare, much too far from the productivity of sunflower oil (0.52 tons), rapeseed (0.69 tons), and soybean (0.45 tons) per hectare (Paspi, 2017).

Palm oil unsurprisingly has become a strategic commodity for the Indonesia’s economy. This country managed to ship palm oil for export at 24.3 million tons with economic windfall reaching USD 16.2 billion (Directorate General of Plantation, 2017 and Statistics Indonesia, 2016) – thanks to the palm oil production that reached 32 million tons in 2016. With those figures of such values, palm oil becomes the biggest contributor to Indonesia’s foreign exchange earnings.

In addition, the development of the oil palm plantation industry also contributed to the growth of the rural economy. It is estimated that the area of smallholder’s oil palm reach-

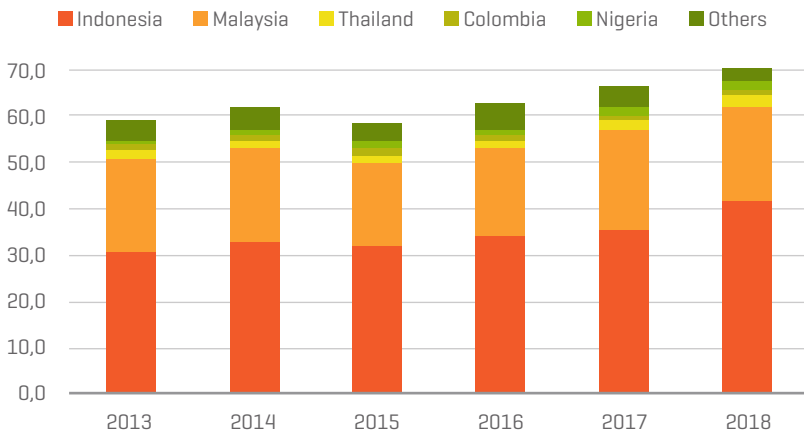


Figure 1.1. The World’s Palm Oil Producers
Source: United States Department of Agriculture [2019]

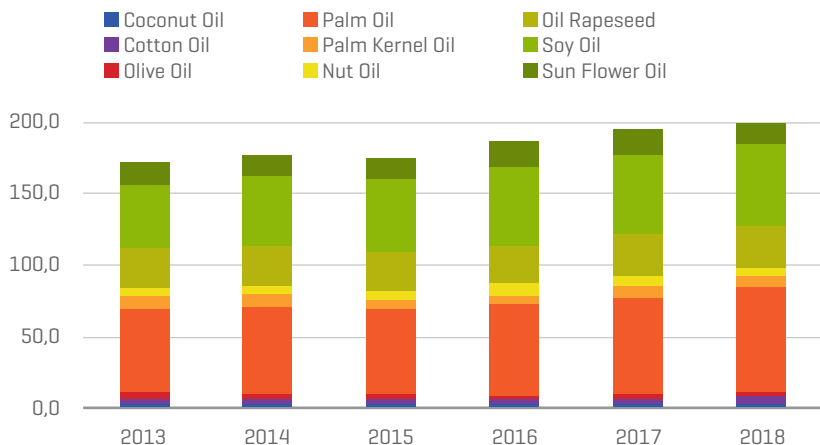


Figure 1.2. Palm Oil Dominance over the World's Vegetable Oil Consumption
 Source: United States Department of Agriculture [2019]

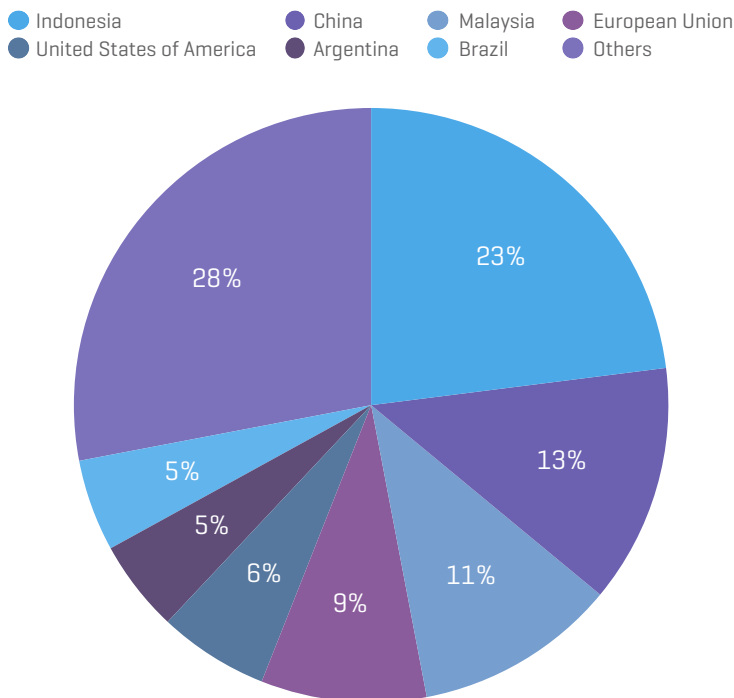


Figure 1.3. The World's Vegetable Oil Producers
 Source: United States Department of Agriculture [2019]

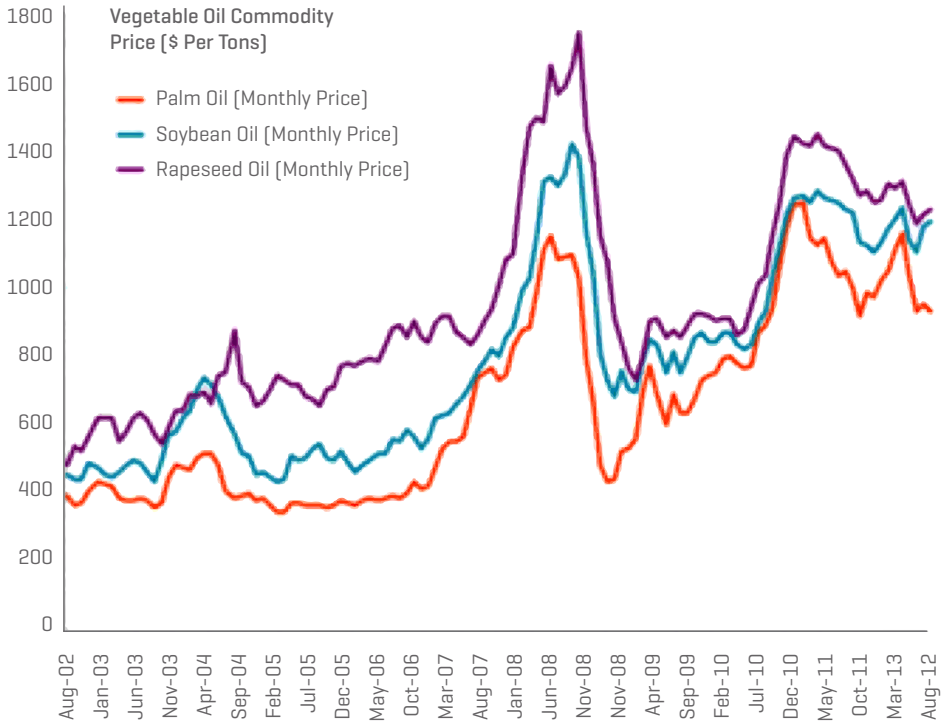


Figure 1.4. Comparison of Vegetable Oil Prices Based on the Different Plant Types
Source: Malins [2013]



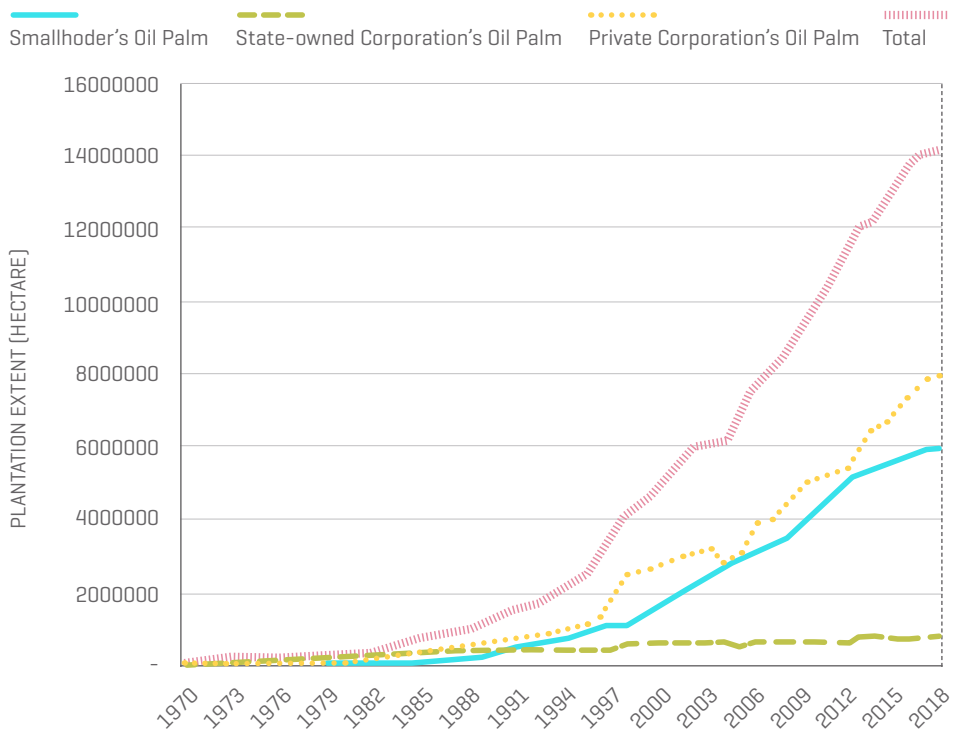


Figure 1.5. The Extent of Oil Palm in Indonesia Based on Its Ownership
 Source: Directorate General of Plantation [2017]

es 40 percent of 14.3 million hectares of the total national oil palm plantation areas in 2018 (Directorate General of Plantation, 2018).

According to the Coordinating Ministry for Economic Affairs, the oil palm industry is able to provide 17 million direct and indirect employment for the entire Indonesian population (Coordinating Minister of Economic Affairs, 2019). The palm oil industry also provides employment for around six million poor people in the interior of Indonesia (Worldgrowth, 2011). Not to mention employment it makes for the downstream sector of palm oil.



It is estimated that 3.6 million workers will be absorbed in the palm oil-based biofuels industry, simultaneously reducing 16 percent of rural poverty (Obidzinski et al., 2012). No doubt, the palm oil industry is the choice of the government's solution for the high national unemployment rate (Worldbank, 2011).

The ravaging expansion of oil palm continues to this day. From Sumatra Island, oil palm

Ophir that Turns down the Stigma

DESPITE the area of the smallholder's oil palm which estimatedly comprised 40 percent of Indonesia's total oil palm plantations, its productivity is unfortunately low [Directorate General of Plantation, 2017]. Based on its ownership, the productivity of oil palm can be identified as follows: the smallholder [3.01 tons of CPO per hectare per year], state-owned palm company [3.91 tons of CPO per hectare per year], and private company [3.90 tons of CPO per hectare per year]. Meanwhile, the national average productivity is 3.55 tons of CPO per hectare per year [Directorate General of Plantation, 2017]. Thus, it is not completely wrong if the smallholder's palm oil has long been stigmatised as less efficient than other oil palm plantations.

However, the stigma finds untrue in Nagari Ophir, West Pasaman Regency [West Sumatra Province]. In that area, productivity turns to manage to surpass the national average productivity. This even outnumbers the productivity of the holding plantation [PT Perkebunan Nusantara, PTPN VI]. A study by Jelsma et al. [2017] found that productivity is above five tons of CPO per hectare per year, while the holding plantation's productivity only ranges from three to four tons of CPO per hectare per year.

While coffee and rubber plantation was built in 1926 by *Cultuur-Maatschappij Ophir NV* of the Dutch's colonial government, the community's oil palm of Ophir are cultivated over 8,600 hectares of land. The first oil palm species was introduced in 1973. And in 1982, the development of oil palm plantations began to be carried out massively with the establishment of the Cooperative 1 supported by funding scheme from the German Government.

The German Government grants a number of funds with a hope that the community's oil palm in return can help reduce the poverty of the locals. Local farmers are invited to get engaged actively in the business management of the local palm oil industry, so that they do not any more necessarily rely on PTPN VI's favour for a meager job.

The grant is in line with the Indonesian Government's existing programme entitled the Community-based Plantation [*Perkebunan Inti Rakyat, PIR*] at that moment. In 2009, the community's oil palm in Ophir Nagari made a surprising pace where it manage to accommodate 2,400 farmers to work over 4,800 hectares of land with five active coopera-

tives. There are some reasons that help the oil palm of Ophir become very productive.

In his study, Jelsma et al. (2017) recognised that geographical conditions and the use of quality seeds contribute to the achievement of land productivity. However, it seems that those are not the only reasons since in the same location there is also PTPN VI that uses the same seeds. In that study, Jelsma et al. explained that the community's oil palm of Ophir have a unique characteristic, namely the practice of collective management institution that look to be absent in the other community's oil palm. Jelsma et al (2017) built an analysis by using the principles of public natural resource management designed by Ostrom (1990), as follows:

Table A. Analysis of public natural resource management

Principles	Findings in the community's oil palm of Ophir
The effective organisational structure	Farmers' organisational structure is divided into three levels, namely: 1) Group (25 families, 25 hectares); 2) Cooperative (20 groups, 1,000 hectares); dan 3) Supra cooperative (5 cooperatives, 4,800 hectares). Each level holds its responsibilities of their own. The division is meant to enhance effective works when the organisations enlarge.
Clear boundaries	The community's oil palm of Ophir have clear boundaries among farmer's land (2 hectares each plot), among every group, among every cooperative, and among oil palm of Ophir and its immediate neighbouring plantations.
Clear regulations	Harvesting schemes are regulated at the cooperative level, and all members are subject to follow. As sales is only allowed to be made through cooperatives, the income of each farmer is distributed equally from each group's income. Transparency is the key to the success of the sales mechanism within the organisation of community's oil palm of Ophir. Since 1987 all transactions within the organisation are recorded and computerised. Financial reports are disclosed at group's monthly meetings. Plantation management regulations are issued by cooperatives and must be obeyed. These regulations include fertilisation and pest control.

Collective decision-making	The designation of rules in the organisation of the community's oil palm of Ophir is carried out by accommodating input from the lowest level of the organisation, namely the Groups. Aspirations from each Group come from each member's meeting.
Effective control	Monitoring at the Group level occurs are made by every farmers in it. As the income of every farmer is divided equally from Group's income, each farmer will voluntarily monitor the work of other farmers. This oversight mechanism takes place with relatively very low costs.
Clear sanction mechanism	Sanctions will be imposed on individuals who do not comply with the agreed rules. Sanctions usually begin with social therapy by disclosing a farmer's non-compliance in a group meeting. Furthermore, sanctions can be imposed in the form of fines of up to IDR 50,000 for those who do not attend monthly member meetings, for example.
Conflict resolution mechanism	Conflict resolution among farmers in Groups is resolved at monthly member meetings. Meanwhile, conflict resolution with other parties will be initiated by the Group leader by bringing together the parties involved.
Ownership rights guaranteed	The community's oil palm of Ophir are built under the PIR scheme by the Government of Indonesia, where the ownership of land for each farmer has been guaranteed by the issuance of a Property Right [<i>Surat Hak Milik, SHM</i>].

Collective work of planters succeeds in producing responsibility of each individual to achieve common goals. In addition to the clarity of the boundaries of each planter's responsibilities, the scheme of supervision among planters also takes place in a natural manner. Regular meetings serve as a forum of gathering to collect the aspirations of each planter in making important decisions, including organisational regulations.

The involvement of planters in the decision-making mechanism is important as it helps foster a sense of ownership of the jointly constructed scheme, and enables the entry of the community's local values. In that way, the collective work of community's oil palm management of Ophir succeeds in eliminating the stigma about oil palm of the less productive people. This collective work scheme is hopefully can be replicated for other smallholder oil palm throughout Indonesia.

Source: Jelsma et al. (2017)

expanded to Kalimantan where lands were once vast and affordable. However, in 2010, lands in Kalimantan became increasingly more expensive due to the highly rising demands. Now, the expansion of oil palm is starting to leapfrog eastwards into the interior areas of Papua (Andrianto, 2019).

Palm oil is undeniably a new commodity that is more promising for the economy of local communities in various regions, such as Sumatra and Kalimantan. The advantage is that oil palm offers the provision and faster circulation of cash, at least when compared to other commodities that communities have been cultivated for generations, such as rubber, coffee, nutmeg, and others. The high production costs of palm oil commodity are compensated by extremely large and increasing market demand, which drives flows of rapid cash. That is why people find the spell of the oil palm irresistible.

The credit system on oil palm is very wide open, with a variety of funding schemes that financing industries offer. Finally, palm oil has become a driving force for rural social transformation, converting the system of subsistence society into a consumption society, supported by widespread and far-reaching infrastructure and penetration of technology in the countryside.

However, the lethal combination of rapid development and poor governance has led expansion to various environmental and social problems. Palm oil is stigmatised negatively by the global community for being a driver of deforestation and ecosystem damage in tropical forests and peatlands (Obidzinski et al., 2012; Gerber, 2011; Koh & Ghazoul, 2010).

A study by Austin et al. (2017) at least noted that from 1995-2015 period deforestation caused oil palm reached an annual average of 117,000 hectares, at a rate that tend to decline in the last ten years. A research by Lee et al. (2014) also noticed that large oil palm companies should be responsible for 90 percent of forest loss in Sumatra from 2000-2010. Even the Ministry of Forestry in 2012 noted that there were around 282 oil palm companies in Central Kalimantan illegally penetrating three million hectares of forest areas (Setiawan et al., 2016).

The practice of land clearing by burning out the forests is also common in oil palm hectic expansion. This worsens environmental degradation and increases greenhouse gas emissions in Indonesia. A study by Varkkey (2012) found that about 80 percent of forest and peatland fires involved oil palm companies. It is unsurprising that the change of land use accounts for 75 percent of national greenhouse gas emissions (Cronin et al., 2016). This condition has placed Indonesia in the world's top three countries producing greenhouse gas emissions (Bissonnette, 2016).

The condition gets even worse with the absence of a good governance system, particularly in land management, where oil palm expansion has led to imbalances in rural land tenure (Obidzinski et al. 2014). In many places, the palm oil industry tends to provide more benefits to migrant growers than to their local counterparts, as is the case in Kalimantan. This is because migrant planters are regarded to have more capabilities in oil palm cultivating practice. (Obidzinski et al., 2012).

The palm oil industry is also not free from social problems. One of them is a social conflict in indigenous peoples. The expansion of oil palm has triggered encroachment of indigenous peoples' land, causing social and land conflicts (Marti, 2008). The overlapped claims between plantation land and customary land not only increases land conflict but also sparks local food vulnerability due to shifting traditional agricultural patterns (Orth, 2007). McCarthy (2010) argues that oil palm have the potential to influence socio-economic relation and customary land.

THE GLOBAL CONTROVERSY: DEFORESTATION ISSUES AND TRADE WAR

Palm oil not only has become a domestic issue but also received special attention of global communities. The international communities launch criticism against the practice of palm oil in Indonesia so harsh it is difficult to separate whether this is indeed related to environmental and social issues or this is a black campaign of trade war. Each country of palm oil consumer has its own different interests and different arguments.

There is an issue of palm oil that is said to have failed to meet the standards of sustainability and to have caused damages of environment. In the last two decades, the issue has been published heavily from various parties, from consumers to world environmental and social organisations. Even at the Conference of the Parties (COP) 24 in Paris— which serves as the first high-level meeting in collecting emissions reduction commitments for all countries in the world— the issue of notorious palm oil became prominent. Deforestation of tropical rainforests due to expansion of oil palm has been under the spotlight.

The issue of deforestation by oil palm has also become a hot issue in the European Union (EU) in the last three years. Having been unsuccessful in playing out the issue of dumping on Indonesian palm biodiesel, they are looking for other breakthroughs to find other issues— environmental and clean energy issues— to prevent Indonesia's palm oil from entering the EU region.

On 4th April 2017, the European Parliament in Strasbourg issued a *Report on Palm Oil and Deforestation of Rainforest*. It specifically states that the issue of oil in Indonesia is a big problem that is associated with environmental issues, corruption, child labour, human rights

violations, the elimination of indigenous people's rights, and such. Those actions were suspectedly rigged by the parliament's desire to protect other vegetable oils, such as sunflowers and rapeseeds, which are produced in that territory.

Unsatisfied with the resolution, on 21st December 2018, they published *The Promotion of Energy from Renewable Energy Directives* (RED) II. The publication was intended to promote the use of renewable energy in the EU region. The RED II was an update version of RED I which expires in 2020. The official RED II document published in the *Official Journal of the European Union* in December 2018 set a new target for EU renewable energy use, to 32 percent of final energy consumption in the year of 2030.

In addition, in the second week of February 2019, the European Union Commission published a *Draft Delegated Regulation* that would set criteria for high-risk biofuels and certification for low-risk biofuels. Countries or parties that have interests in RED II were allowed to provide their responses until 8th March 2019. On that occasion, Indonesia was also invited to participate in the *EU Stakeholder Meeting* on 5th March 2019 to get input on the *Delegated Act Draft* which classifies palm oil as a high risk commodity for Indirect Land Use Change (ILUC), so that they insisted that it is considered unsustainable.

On 14th March 2019, the EU Commission adopted the *Delegated Act* which was then submitted to the EU Parliament and the EU Council. Within the next two months following the moment the *Delegated Act* was adopted, the EU Parliament and the EU Council would review the RED II *Delegated Act* after which they would issue a decision whether to accept or to reject the *Delegated Act*. The assessment period can be extended for the next two months if needed.

There are likely some impacts that Indonesia will suffer from if the *Delegated Act* is approved by the EU Parliament and the EU Council? The concept called ILUC was introduced to intervene in the regulation of calculating the contribution of palm biofuel to renewable energy targets. The document explains that ILUC occurs when planting crops for biofuels replaces the production of traditional plants for food and feed. The consequence is that there will be increasing pressure on the land, so that the expansion of into lands with high carbon stocks (such as forests, wetlands and peatlands), leads to increased greenhouse gas emissions.

Through the RED II document, the ILUC is utilised as a method to determine whether a biofuel is at high risk or low risk to ILUC. Starting in 2023, high-risk biofuels against ILUC will be phased out, reaching zero percent by 2030, and consumption is limited by 2019. This decision does not necessarily mean to bar oil palm traffic to the EU. Palm oil commodities are still freely consumed for any needs, such as for food, cosmetics and medicine, even for the energy sector.

However, when it specifically comes to energy sector, if palm biofuel is finally considered as high risk ILUC, its consumption will gradually no longer be considered as a contribution in meeting the target of renewable energy. That means, the RED II endorsement is the end of all policy support including subsidies for palm biofuel in EU countries. Policy support is usually used to provide incentive for efforts to supply energy from renewable sources.

Oil palm plays an important role in supporting Indonesia's economy as it makes the most important contribution to Indonesia's global market. Indonesia's export of palm oil to the UE market comprises 15 percent of Indonesia's total palm oil exports in 2018. This is the

second largest export volume after India. Most of the exports are in the form of biodiesel and crude palm oil to be processed into biodiesel once it reaches the export destination. Thus, if the regulation is passed, there will be a decline in Indonesia's palm oil exports to the EU.

Furthermore, the RED II will also have an impact on the palm oil market in the long run. The EU has the potential to influence markets in other regions, such as America or Eastern Europe to follow suit. In addition, there is a possibility that the EU market protection will continue to expand for other sectors where palm oil is often used— such as food, cosmetics, and medicine. The protection of markets in the energy sector through the RED II could be the beginning of the history of eliminating the use of palm oil products in the vegetable oil market in the EU.

Historically, this EU policy is not only a matter of environmental and social issues. Deep behind the curtain, they are playing out the palm oil issue in an effort to provide protection for their own oil commodities. It must be understood that the palm oil has strategic presence in the global vegetable oil market. Its market share is getting higher and it poses a threat to other vegetable oil commodities. The Indonesian government views the controversy that the EU sparks as a practice of trade war. The actions that the EU takes are considered an obstacle to the entry of oil commodities into the EU territory. The narrative of this trade war was built to outshadow the climate change narrative that the EU and its environmental and social organisations has so far been echoing. For that reason, the Indonesia Government through the Coordinating Ministry for Economic Affairs strongly opposes the adoption of the *Delegated Act*. Indonesia Government has expressed objections to the discriminatory actions of trade in palm oil in trade and investment relations with the EU.

The objections were made on the ground that palm oil commodities play important role for the national economy since they have become the main source of foreign exchange from exports and created vast employment. Palm oil also supports the achievement of the Sustainable Development Goals (SDGs), particularly those related to poverty alleviation. Unfortunately, the Government of Indonesia did not provide scientific arguments in each response, while the substance of the *Delegate Act* and RED II related to high and low risk ILUC was fragile as it used unscientific assumptions.

Apart from the EU, the controversy over palm oil also comes from the United States of America (USA). The drums of trade war and protectionism launched by President Donald Trump of the US has caused a harmful impact on Indonesia's palm-based biodiesel. The United States International Trade Commission (USITC) decides on the imposition of anti-dumping import duties (anti-dumping duty) and the duty of balancing counter-failing duty on imported palm oil-based biodiesel from Indonesia. USITC charges a tariff of 126.97 percent to 341.38 percent. The decision is set out in *Federal Register / Vol 83, No 81 / Thursday, April 26, 2018 / Notices*.

This problem stems from a complaint from The National Biodiesel Board Fair Trade Coalition in Washington DC to the US Department of Commerce (USDOC) and the US Trade Commission (USITC). They reported that two countries, namely Indonesia and Argentina, had carried out unfair trade practices of dumping in the US biodiesel market which losses to the country. Based on the complaint report, the USITC made a follow-up actions by issuing an order to conduct an investigation. The order was set out in USITC Publication 4690 (May 2017) entitled *Biodiesel from Argentina and Indonesia: Nos Investigation 701-TA-571-572 and 731-TA-*

1347-1348. The *Nos Investigation 701-TA-571-572* dealt with counter-failing duty, while the *Nos Investigation 731-TA-1347-1348* was about anti-dumping duty.

On 21st February 2018, the USDOC announced the outcomes of its investigation. The two biggest producers of biodiesel from Indonesia were said to be proven to have dumped with dumping values of 92.52 percent and 276.65 percent. The outcomes of this investigation were corrected by USITC, based on the *Tariff Act of 1930*, which stipulated anti-dumping duty and counter-failing duty of 126.97 percent to 341.38 percent. This policy has the potential for the US to call off biofuel imports from Indonesia where the value reached USD 268 million in 2016 (Walsh, 2017).

The two cases above have a broad impact on policies in other countries. In December 2018, the Norwegian Parliament passed a regulation banning import of oil palm biofuels (Sitzer, 2018). The decision was taken after the controversy over the ban on imports of palm biofuel in Norway took place since 2017. However, the ban does not apply to palm oil for food, cosmetics, and medicine.

EFFORTS TO IMPROVE GOVERNANCE

Confronted with various issues developed and afflicted the Indonesia's palm oil industry in the world, oil palm stakeholders need to react wisely. The key is to focus on improving governance, especially by building a palm oil industry that is more inclined to care for the environmental and social concerns, while at the same time is sustainable. It seems that the Indonesia's palm oil industry needs to take a long way to prove to be sustainable practices as the world market requires.

According to Hospes (2014), sustainable practices have four dimensions— namely environmental, social, economic and legal— all of which must be taken into account. The converted function of forest zone into oil palm in Indonesia without a sustainable practice perspective, was resulted from chaotic land allocation arrangements. Studies by Suyanto (2007); McCarthy & Cramb (2009); Brockhaus et al (2012); Galudra et al (2014); Sahide & Giessen (2015); Wibowo & Giessen (2015); Djaenudin et al (2016); Setiawan et al (2016); Susanti & Maryudi (2016); Harahap et al (2017); and Prabowo et al (2017) show that the arrangement of land allocation in Indonesia was formulated on complex and overlapping regulations. The arrangement also involved a number of stakeholders whose authority and interests are contradictory and inconsistent with one another, which leads to problems with land allocation.

This complexity has been going on for a long time. The land system in Indonesia is still not integrated; with redundancies take place in coordination between national offices and their regional counterparts, and among sectoral agencies. Land management is the key to demonstrate commitment to improving the practices of sustainable oil palm. Therefore, the Indonesia Government has designed regulations— such as Agrarian Reform, One Map Policy, Indonesian Sustainable Palm Oil (ISPO) Certification, and Palm Licensing Moratorium Policy— that are expected to be able to encourage changes in land allocation arrangements.

The One Map Policy is a programme to collect all Indonesian geospatial data from 2010 and to this day. This policy aims to provide geospatial information data (basic and thematic) for every sector in Indonesia, which can serve as a reference for planning that is integrated

with Spatial Planning Documents, including geospatial oil palm. This policy is believed to function as a solution in responding to various challenges and obstacles during the development process which often leads to overlapping land use conflicts, including deforestation.

Furthermore, the government launched the ISPO certification through the *Minister of Agriculture Regulation (Permentan) No 19 of 2011*. There are three main agenda underlying the establishment of ISPO— namely climate change mitigation, increasing awareness of the importance of sustainable palm oil production, and increasing the competitiveness of Indonesia's palm oil in the global market (Hospes, 2014). The policy breakthrough was made by President Joko Widodo (Jokowi) Administration in 2018 when the Government ratified the *Presidential Instruction (Inpres) No. 8 of 2018 concerning Postponement and Evaluation of Licensing of Oil Palm and Increased Productivity of Oil Palm*, known as the *Palm Moratorium*. This policy can mark a momentum for rearranging the extent of land allocation caused by the development of oil palm so far.

In addition, in order to encourage the expansion of the management space of the smallholder's oil palm— including the strengthening of their tenure— the Government has also issued a *Presidential Regulation (Perpres) No 86 of 2018 concerning Agrarian Reform and Presidential Regulation No 88 of 2017 concerning Settlement of Land Use in Forest Areas and Minister of Environment and Forestry Regulation (LHK Regulation) No 83 of 2016 concerning Social Forestry*. This policy package provides a hope to improve the management of smallholder's oil palm. ❖

CHAPTER II

Oil Palm inside Forest Zone

The unwanted presence of oil palm land inside forest zone has caused controversy. The issue is no longer merely about a trade war— like the refusal carried out by the EU and several other countries— but also an accusation that such condition can trigger deforestation and loss of tropical forest biodiversity (*Gaveau, 2016; and Vijay, 2016*). The opening of oil palm inside forest and peatland areas contributes greatly to the increasing greenhouse gas emissions, which has a negative impact on climate change mitigation, leading to worse condition (*Malins, 2017; and Wijedasa et al, 2017*).

The liberalisation of oil palm industry has contributed to the high expansion of land for oil palm in Indonesia (*Malins, 2018*). Decentralisation— which means to deliver authority to local governments for the issuance of oil palm permit— increasingly triggers new land clearing of forest zone for oil palm in the regions (*Resosudarmo, 2005; and McCarthy and Zen, 2010*).

With the absence of a control system over the licensing process, many oil palm licenses tend to violate the provisions of spatial planning and environmental capacity. Palm oil are often found located inside forest zone or overlapping with other permits (*KPK, 2016*). Oil palm located inside forest zone is not a new issue, it is a condition that is very easily to find in the field. Research by the Faculty of Forestry of UGM in 2018 found out that there were around 2.8 million hectares of oil palm in Indonesia located inside forest zones, where as much as 65 percent of the total area of the unlawful oil palms were company owned (*Faculty of Forestry of UGM, 2018*). The presence of oil palm inside forest zone is clearly a violation (*Pramudya et al, 2018*).

The issue of land status and licensing in Indonesia adds up to the complexity of the presence of oil palm inside forest zone. And things get worse since there is no data regarding the condition of oil palm inside forest zone— for example, spatial data on the extent of oil palm cover in forest zone.

OIL PALM COVER IN INDONESIA

Indonesia's Commission of Corruption Eradication et al (2019) released data on palm oil cover in Indonesia that it had obtained by analysing high-resolution satellite images. The report said that the area of oil palm cover in Indonesia reaches 16.8 million hectares. The availability of spatial-based palm cover data is a useful breakthrough, with which people

now can identify oil palm inside forest zone more easily and more accurately. Previously, data had never been that comprehensive. The spatial database can be integrated with data on forest estates and spatial planning.

The data integration is very helpful as this can produce information on how much the extent of oil palm cover inside forest zone— all complete with precise administrative locations, such as the name of regencies / municipalities and the name of provinces. Furthermore, the database can be used to evaluate licensing. The database can reveal the location of oil palm permits within the forest zone and prove that such location is against the spatial allotment. Thus, efforts to resolve oil palm conflicts inside forest zone can be dealt with by looking at the control characteristics in each location.

BOX 2.1

The Mapping Process of Oil Palm inside Forest Zone

DATA

Basic data using: Images of SPOT 6 Satellite, images of Pleiades Satellite, aerial drone photos, and images of Landsat 8 Satellite. Map of land and area cover is obtained from the MoEF's data.

Map of forest cover in each province is as follows: Aceh [SK 105 of 2015], Banten [SK 419 of 1999], Bengkulu [SK 784 of 2012], Gorontalo [SK 325 of 2010], West Jawa [SK 195 of 2003], West Kalimantan [SK 733 of 2014], South Kalimantan [SK 435 of 2009], Central Kalimantan [SK 529 of 2012], East Kalimantan and North Kalimantan [SK 718 of 2014], Bangka Belitung Islands [SK 798 of 2012], Lampung [SK 256 of 2000], Moluccas [SK 854 of 2014], North Moluccas [SK 302 of 2013], Papua [SK 782 of 2014], West Papua [SK 783 of 2014], Riau [SK 314 to SK 393 of 2016], West Sulawesi [SK 862 of 2014], South Sulawesi [SK 434 of 2009], Central Sulawesi [SK 869 of 2014], Southeast Sulawesi [SK 465 of 2011], West Sumatra [SK 35 of 2013], Jambi [SK 863 of 2014], South Sumatra [SK 454 of 2016], and North Sumatra [SK 579 of 2014].

STEP-BY-STEP MAPPING PROCESS OF PALM COVER

The step-by-step mapping process of palm cover can be seen below:

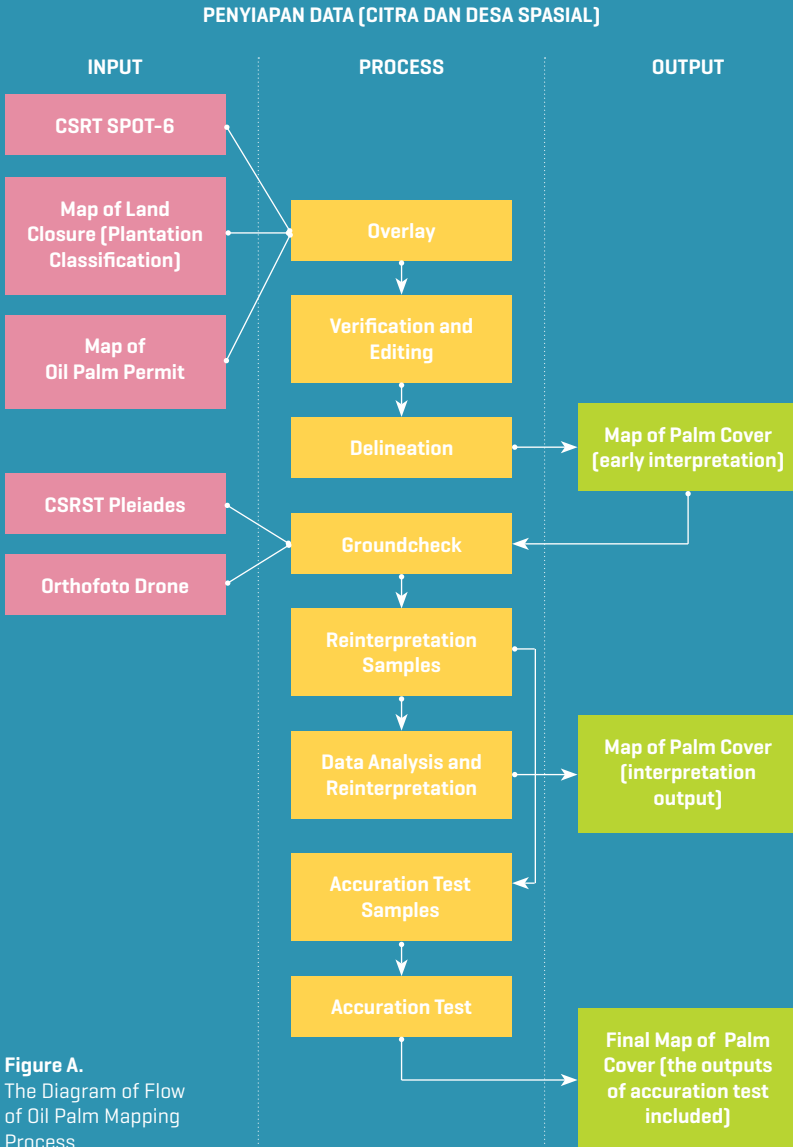


Figure A.
The Diagram of Flow of Oil Palm Mapping Process

THE VISUAL INTERPRETATION OF PALM COVER


Visual interpretation involves efforts to detect, to identify, to delineate, and to classify the appearance of land cover in an image by relying on visual observation and manual boundary line drawing. The current visual interpretation process of digital images is often conducted with the help of a monitor screen through an on-screen mechanism or heads-up digitisation. The process of interpretation is often called manual interpretation.


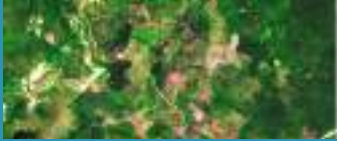
Palm cover mapping is made by interpreting the object of land on which oil palm plants are growing, both in large-scale oil palm [companies owned] and the smallholder's oil palm. Particularly for large-scale oil palm, the land being developed is also included in the palm cover classes. Large-scale oil palm are marked with a map of permit maps.

There are two approaches used in the interpretation of palm oil cover, namely the photo-key approach and the landscape ecological approach. The photo-key approach merely relies on information from the image, while the landscape ecological approach can utilise information from outside the image through an ecological context.

The photo-key approach can be applied to cases where the object or land cover category can be identified solely from its photomorphic appearance. If this photographic-key approach fails to produce the correct detection, identification and delineation of objects, so a landscape ecological approach must be used.

Table A. Classification, Description, and Monogram of Oil Palm Cover

Classification	Description	Monogram
Company owned oil palm.	Land where oil palm plants are growing in the form of a wide expanse, homogeneous, and regular patterns. Usually characterised by the existence of road networks between regular planting plots. Company managed.	

Oil palm areas	Land being developed or prepared to grow oil palm. Usually marked by land clearing activities in planting plots within the company's palm oil concession.	
Smallholders' oil palm.	Land cultivated with oil palm plants, homogeneous, cropping patterns tends to be irregular. Smallholder managed..	

The smallest / minimum mapping unit [MMU] size is applied for visual-interpretation mapping. Scaleless as it is, the MMU size can still be drawn manually with eye capabilities and drawing tools or digitising tools in defining the smallest mapping unit. MMU on a print scale of 1: 25,000 [spatial resolution of 1.5 m] is 62.5 m x 62.5 m.

The use of same the scale of image input as the scale of the map output may be at risk of inaccurate or uneven lines of delineation result during the on-screen digitisation, due to the rare storage of vertices. To reduce this risk, it is necessary to determine the use of enlarged image display on the monitor screen, so that digitisation can be done more carefully and with a higher vertex intensity.

In order to become the basis for on-screen visual interpretation, the standard image display scale needs to be three times greater than the map output scale. In that way, that the map will be generated on a scale of 1: 25,000, the display of composite images and digitisation is carried out on a minimum scale of 1: 8,500, referring to the scale displayed on the monitor screen.

OIL PALM DELINEATION

Delineation is a measure to show the exact position of an appearance or object in the interpretation process, conducted by drawing the lines or dots of the object being observed, and determining its limits in detail and accurately.



Map of closure and plantation area before the process of editing and delineation



Results of editing and delineation of palm cover based on SPOT-6 images.

Figure B. Editing and Delineating Oil Palm Cover

Technically, there are three stages that must be taken to produce a palm cover map in the initial interpretation process. First, to merge the layer map of plantation land cover and oil palm plantation licensing into one basic layer of cover and the use of plantation land. Second, the merged layers are then divided into a grid index of 1: 25,000. Third, to verify and to edit each index grid based on the appearance of palm cover on SPOT-6 images [Figure 4]. Editing is required to [a] delete and correct unsuitable polygons or not palm cover based on the results of SPOT-6 image interpretation, [b] add polygons that are not detected as palm cover but are still in one plantation overlay, [c] delineate new polygons detected as palm cover.

OVERLAPPING MAP OF PALM OIL COVER AND FOREST ZONE

To analyse palm oil cover in the forest area, it requires to overlaying of the existing data. Several data that need to be overlain include maps of oil palm plantation permits, palm cover maps, and maps of forest areas.

The oil palm cover and plantation business licenses inside forest zone need to be broken down into two categories, namely those who have already obtained the Forest Area Release Decree and those who have not. Palm oil cover and oil palm plantation permits that invade forest zone are oil palm cover and oil palm plantation permits that are included in forest areas, but they do not have the SK Forest Area Release. Illustration can be seen in the following figure.

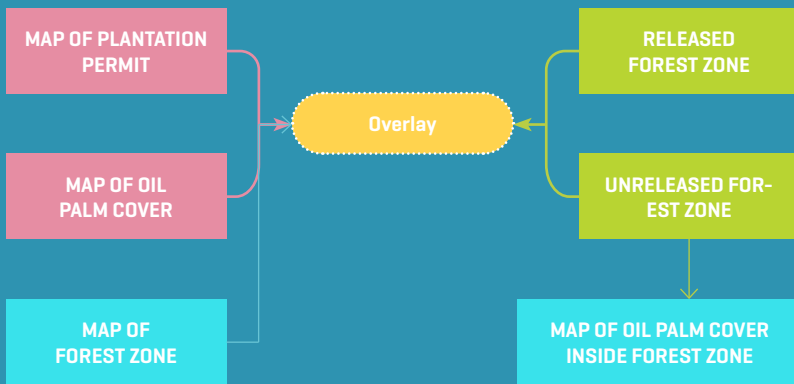


Figure C. An Overlay of Data on Oil Palm Coverage, Oil Palm Permits, and Forest Zone

PALM COVER INSIDE FOREST ZONE

Overlaying palm oil cover data with forest zone data would produce oil palm cover data inside forest zone. The results show that from 16.8 million hectares of oil palm cover, around 3.4 million hectares are located inside forest areas or 20.2 percent of the total oil palm cover in Indonesia. Ironically, this figure includes oil palm which hold permits, while the rests are managed by unlicensed oil palm companies and smallholder’s oil palm.

Furthermore, data on palm cover inside forest zone can be classified based on the function of the forest zone. The results show an area of 115 thousand hectares of oil palm located inside the nature reserve area (KSA / KPA) or 3 percent of the total oil palm cover in the forest zone. In addition, 174 thousand hectares (five percent) inside protected forest (HL), 454 thousand hectares (13 percent) inside limited production forest, 1.4 million hectares (43 percent) inside production forest, and 1.2 million hectares (36 percent) inside convertible production forest.

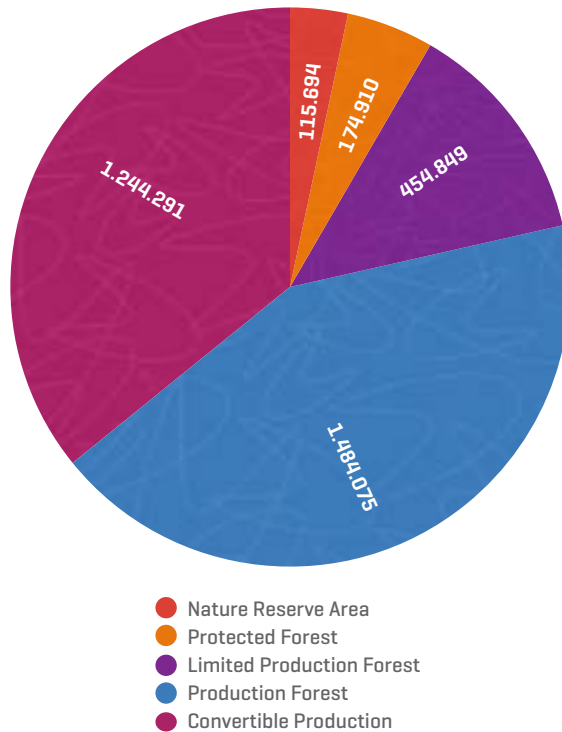


Figure 2.1. Amount of Oil Palm Cover according to Forest Function in Indonesia
 Source: Kementan, LAPAN, BIG, and KPK [2019] [remake]

With the data above, resolution of conflicts over oil palm land in forest zone can be conducted based on the functions of the forest estate and its types of control. Settlement of land conflicts in conservation areas with limited production forests will be certainly different. Conflict resolution will also differ based on its state of ownership, whether the plantation is company owned or that of the smallholder's ones.

DISTRIBUTION OF OIL PALM COVER BY REGION

Data on oil palm cover can be broken down into that at provincial and regency / municipality levels. That means, ones can find out in more detail the distribution of palm cover in the forest zone by its location. First, distribution of palm cover at provincial level. The results show that there are 1.2 million hectares or 35 percent of the total area of oil palm cover in the forest area in Riau Province, the largest of all other provinces. It is not surprising to find Riau's emergence as the largest province of oil palm inside forest zone. The expansion of oil palm is indeed massive in the province.

According to a monitoring by *Eyes on the Forest* (2018a), the expansion of oil palm illegally has been taking place until these days. These findings show that there are 10 companies

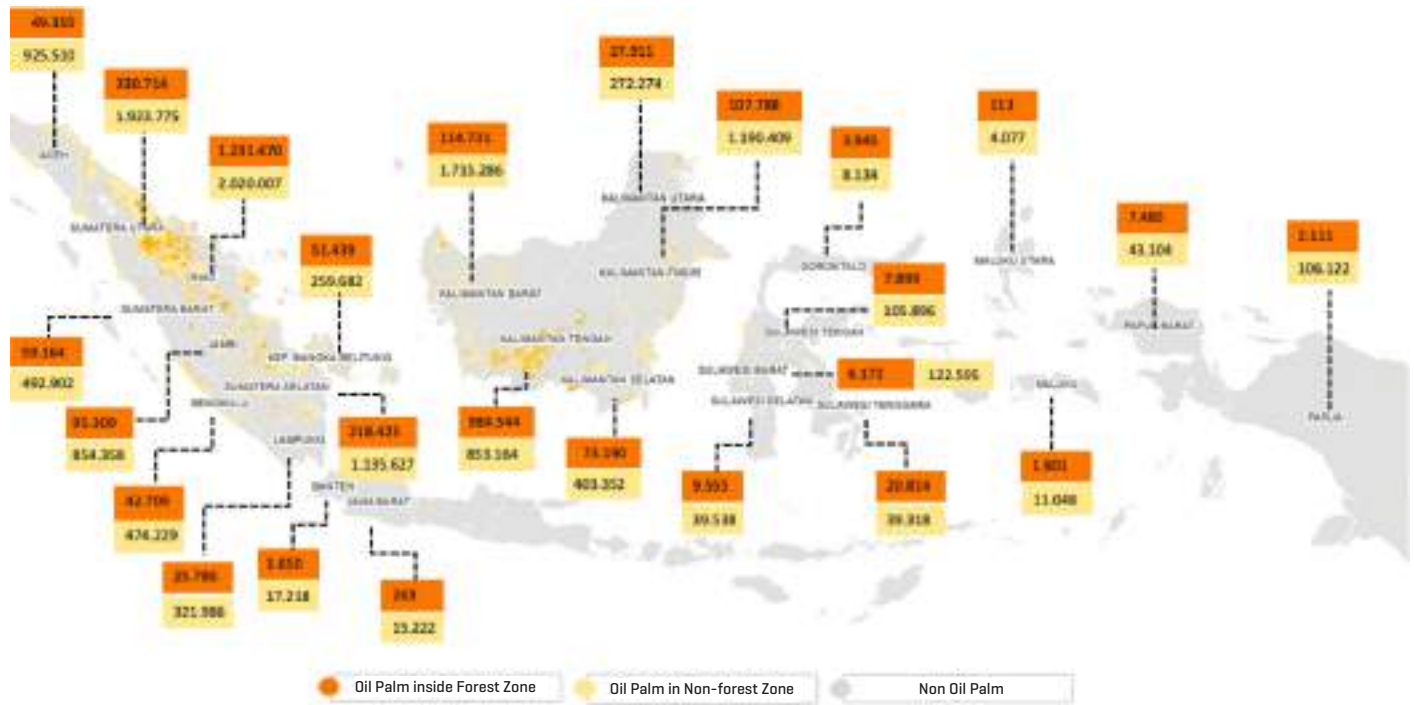


Figure 2.2. Oil Palm Cover inside Forest Zone and Non-forest Zone by Provinces in Indonesia [in hectares].
 Source: Commission of Corruption Eradication et al [2019] (remake)

indicated to run oil palm inside forest zone, and to ones' disbelief some of them can show their land-using lisencc (HGU).

The issue of spatial planning is the main trigger for the expansion of oil palm inside forest zone in Riau Province. Many plantation licenses (IUPs) that the regents' had issued proved to be not in accordance with the existing regional spatial plan (Eyes on the Forest, 2018). Law enforcement must be made against such violation. However, law enforcement is often impotent. As a result, the conversion of forest zone is getting worse. Examples of cases can be seen in the number of oil palm inside the Tesso Nilo National Park and inside the Giam Siak Kecil Biosphere Reserve (Pramudya et al. 2018).

Following Riau Province, Central Kalimantan is a province with second largest oil palm inside forest zone. The condition in Central Kalimantan is almost similar as that in Riau Province. Uncertainty over the arrangement of regional spatial plans has led to massive expansion of oil palm in the province (Sumarga 2016). It is recorded that around 984.5 thousand hectares of land inside forest zone have been cultivated with oil palm.

Overall, the practice to grow oil palm on land inside forest zone has spread through all provinces where oil palm has its economic spell. The distribution of oil palm invasion into the heart of forest zone can be seen in **Figure 2.2**.

Table 2.1. Amount Oil Palm Cover according to Forest Functions in Indonesia
Source: Commission of Corruption Erradication et al [2019] (remake)

Provinces	Amount of Areas [hectare]							
	Oil Palm	Oil Palm on Lands of Other Uses [APL]	Oil Palm inside Nature Reserve/ Conservancy [KSA/KPA]	Oil Palm inside Protected Forest [HL]	Oil Palm inside Limited	Oil Palm inside Production Forest [HP]	Oil Palm inside Convertible Production Forest [HPK]	Total Amount of Oil Palm inside Forest Zone
Aceh	974.860	925.510	6.060	12.879	2.599	22.646	5.166	49.350
North Sumatra	2.254.488	1.923.775	8.462	21.752	49.863	202.300	48.336	330.714
West Sumatra	552.066	492.902	1.399	11.278	4.127	17.284	25.076	59.164
Riau	3.251.477	2.020.007	34.619	54.352	250.115	353.361	539.023	1.231.470
Jambi	949.667	854.358	2.562	5.085	10.647	69.089	7.926	95.309
South Sumatra	1.354.052	1.135.627	16.458	3.066	24.099	121.905	52.898	218.425
Bengkulu	516.938	474.229	3.225	4.073	22.062	3.996	9.354	42.709
Lampung	347.771	321.986	415	1.459	1.637	22.275	-	25.786
Bangka Belitung Islands	311.121	259.682	1.247	8.621	-	41.570	-	51.439

West Java	15.485	15.222	85	-	104	74	-	263
Banten	18.869	17.218	-	181	450	1.020	-	1.650
West Kalimantan	1.830.017	1.715.286	1.299	7.076	13.041	69.895	23.421	114.731
Central Kalimantan	1.837.709	853.164	11.638	31.664	62.627	401.459	477.156	984.544
South Kalimantan	476.542	403.352	5.006	914	511	39.049	27.709	73.190
East Kalimantan	1.298.197	1.190.409	20.982	5.130	1.199	73.754	6.722	107.788
North Kalimantan	300.185	272.274	-	643	593	26.246	430	27.911
Central Sulawesi	113.795	105.896	1.071	634	184	1.811	4.200	7.899
South Sulawesi	49.103	39.538	36	3.856	4.682	764	228	9.565
Southeast Sulawesi	60.133	39.318	156	167	786	12.498	7.208	20.814
Gorontalo	12.079	8.134	974	413	1.550	744	264	3.945
West Sulawesi	128.768	122.595	-	1.634	1.557	925	2.056	6.172
Moluccas	12.949	11.048	-	-	-	-	1.901	1.901
North Moluccas	4.190	4.077	-	-	-	24	89	113
West Papua	50.589	43.104	-	-	1.694	518	5.273	7.485
Papua	108.232	106.122	-	32	723	870	485	2.111
Indonesia	16.829.282	13.354.833	115.694	174.910	454.849	1.484.075	1.244.921	3.474.449

Second, the distribution of palm cover at regency / municipality level. The results show there are 221 regencies / municipalities in Indonesia where oil palm cover can be found inside forest zone. When viewed in the ten largest regencies / municipalities, there are around 1.7 million hectares (50 percent of the total national) where oil palm are cultivated inside forest zone. Findings at the provincial level indicate that ten regencies with largest oil palm inside forest zone are mostly located in Riau Province (six regencies) and Central Kalimantan Province (three regencies)— and one regency with a great number of oil palm inside forest zone is located in South Sumatra Province. ❖

Table 2.2. Ten Regencies/ Municipaplties with Largest Oil Palm Cover in Indonesia
Source: Auriga [2019] [remake]

No	Regency/ Municipality	Forest Estates [Ha]					Total inside Forest Zone [Ha]	Percent against Total Forest Zone
		Natural Reserve Area / Nature Conservation Area [KSA / KPA]	Pro- tected Forest	Limited Pro- duction Forest [HPT]	Production Forest [HP]	Converti- ble		
1	Kotawaringin Timur	-	40	11.962	105.176	201.350	318.527	9%
2	Rokan Hilir	-	9.097	89.749	75.451	109.285	283.582	8%
3	Rokan Hulu	-	33.822	53.278	40.189	97.672	224.961	6%
4	Seruyan	5	-	37.471	57.373	68.863	163.712	5%
5	Kampar	3.996	1.495	27.129	47.694	65.260	145.573	4%
6	Bengkalis	20.897	-	21.507	58.480	28.466	129.350	4%
7	Kotawaringin Barat	21	-	-	48.291	67.008	115.320	3%
8	Musi Banyuasin	15.565	152	10.385	57.411	29.648	113.162	3%
9	Indragiri Hulu	1.128	660	13.094	9.664	88.084	112.630	3%
10	Kab. Indragiri Hilir	19	1.239	10.794	3.971	78.191	94.214	3%
Total		41.630	46.505	275.369	503.699	833.827	1.701.030	49%

CHAPTER III

Problems with Policies and the Moment to Improve

The previous two chapters describe the fact about some 3.4 million hectares of oil palm cultivated inside forest zone. This is certainly a heavy homework for all stakeholders of the national palm oil industry to solve the problem. This problems need to be contained immediately, otherwise the conditions will get worse over times. The global market gives Indonesia's palm oil a bad name for being forest and environment destroyers (Vijay 2016; and Lee 2018). Even the EU has openly declared to ban the use of palm oil for biofuels in the continent on the ground that it is considered as high risk and creating deforestation (European Commission 2019).

Bilateral and multilateral economic diplomacies are often disrupted once the issues of oil palm are discussed. Tension between Indonesia and the neighboring countries (Malaysia and Singapore) reached its peaked when haze originating from land and forest fires in oil palm concessions in Indonesia blew over both countries' sky (Wardhani 2008). Such factual condition caused the Indonesia Government to finds it difficult to issue counter arguments. The problems of legality of Indonesia's palm oil is in the spotlight in global trade.

Buyers will always need to find out if there is a chance they can find a way to obtain palm oil which from illegal plantations. Indonesia has difficulty making sure since until now it does not have yet a traceability system. All of these problems result from the presence of oil palm inside forest zone. Policy makers know this. However, policies to resolve the problem has always come to no avail (Auriga 2019).

There must be problems with policies— namely the absence of comprehensive data and information regarding the control of oil palm in forest zone with various characteristics. Policies are often misdirected, and even counterproductive to the resolution. For example, the policies to resolve the problem of invaded land inside forest zone, agrarian reform, and social forestry.

As for the data, problems arise again regarding the establishment of boundaries of forest zone and regional spatial planning. The conflicting interests of the two policies led to unclear land status on oil palm is cultivated. For example, there are times when— according to

data at the Ministry of Environment and Forestry— an oil palm is included in a forest area. However, according to the regional spatial planning, the plantation is not included in the forest zone. This case occurs in many regions, especially in Riau and Central Kalimantan.

As a matter of fact, there are several policy instruments with which land tenure conflicts that are sparked by oil palm inside forest zone can be resolved. The policy instruments include the one on law enforcement (*Law No 18/2013 on Prevention and Eradication of Forest Destruction*), on release and exchange of forest zone (*PP No 104/2015 concerning Procedures for Changing the Designation and Function of Forest Zone*), on agrarian reform and social forestry (*Permen LHK 83/2016 concerning Social Forestry, Presidential Regulation 86/2018 concerning agrarian reform; Presidential Regulation No 88/2017 concerning Settlement of Land Tenure in Forest Estae; and Permen LHK No 84/2015 concerning Forest Zone Tenurial Conflict Management*). However, the implementation of the policy is far from the expectation of improving the management of oil palm in Indonesia.

This chapter tries to analyse the problematic policy of improving oil palm management with the aim to find out the problems during the time the policies are being implemented. The analysis is drawn from the perspective of regulation, institutions, and the implementation process. Furthermore, there is a closing analysis on the palm moratorium policy (*Inpres No 8/2018 concerning the Postponement and Evaluation of Licensing of Oil Palm Plantations and Increasing Productivity of Oil Palm Plantations*). The moratorium is regarded as a momentum to restructure the management of oil palm in Indonesia.

PROBLEMS WITH LICENSING AND SPATIAL PLANNING

The main problem in controlling the presence of oil palm inside forest areas has to do with previous unruly process of licensing and spatial planning. Based on the legislation, companies that hold concession to run oil palm are subjects to submit a set of permits. The permits include location permits, environmental permits, plantation business permits (*IUP*), decree on the release of forest areas and utilisation rights (*HGU*). Such permits can only be issued for oil palm plantation companies which have been able to prove that their areas are located outside forest zone. In case the palm area is located inside a converted production forest zone, then the company must be able to submit a permit named the *SK* (decree) stating that the the area has been released for plantation purpose and no longer functions as a forest zone.

The licensing procedure clearly indicates that no permit allowed to be issued for oil palm company whose area is located inside forest zone. But the facts are different in the field. Many oil palm permits have been issued for companies whose areas are sitting on lands inside forest zone.

The findings of the KPK (2016) illustrate that the licensing system for oil palm is far from being accountable. It lacks of spatial-based licensing planning mechanisms with which oil palm plantation businesses can be controlled in transparent and law-abiding manner. The KPK's findings also give hints about the ineffectiveness of cross-agency coordination in the issuance and control of oil palm permits. As a result, many permits were issued for palm companies whose areas are located inside forest zone and overlapping with one another or with lands of other purposes (KPK 2016).

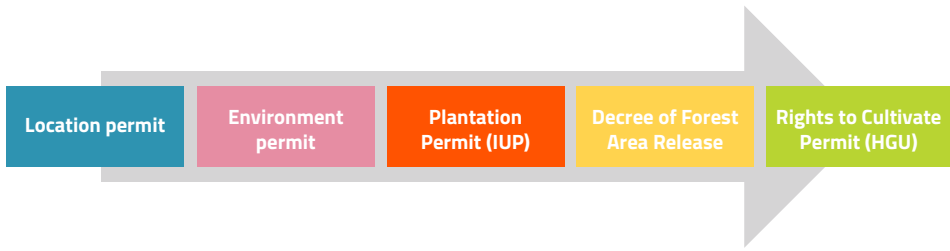


Figure 3.1. The Flow of Oil Palm Permits

In many places, the issuance by regents/ mayors for location permits and IUPs simply disregards the existing regional spatial regulations. In fact, in accordance with the *Regulation of the Minister of Agriculture (Permentan) Number 98 of 2013 concerning Guidelines for Licensing of Plantation Businesses*, applicants (oil palm companies, to be specific) must attach recommendations for conformity with plantation development planning (*Article 21*). Oil palm companies are also required to attach a location permit which indicates that the coordinates of the location must precisely be in accordance with the regional spatial plan. The recommendations and location permits are issued by the regent / mayor who in so doing should have referred to the detailed regional spatial plan.

The problem is that many regions do not possess such detailed spatial plans to which the regional authorities should refer when it comes to licencing for oil palm areas. It is in the condition where reference data are barely available that the regents/ mayors are forced issue the land conformity recommendations. This problem causes the conflict over oil palm permits with forest zone.

Apart from the licensing problems, in some areas there are also other problems arising from the regional spatial planning which turns to be so unclear that people find it hard to look for adequate basis for building mechanical licensing of oil palm. Indeed, the *Law No 26 of 2007 concerning Spatial Planning (UUPR)* have urged the government— national, provincial, regional/ municipal— to develop a spatial plan (*RTRW*) of their own.

However, there are provinces— Central Kalimantan and Riau, again— that have not completed their *RTRWP*. One reason is because there is no harmony between Forestry Spatial Planning and the *RTRWP*. This inevitably causes conflict in the use of lands, for example the use of non-procedural forest areas for oil palm inside forest zone (Setiawan 2017). For the sake of spatial planning for development, Indonesia Government issued *Law 24 of 1992 concerning Spatial Planning*. No matter how the regulation has tried to introduce the term of spatial patterns as cultivation areas and protected areas where forest zoneis included, it fails to specifically provide sound explanations about forest zone.

After the enactment of *Law No 24/1992*, government offices seems to be more serious in creating harmony between the Forest Use Agreement (*TGHK*) and the *RTRWP* until 1999. The outcomes were then used as the basis for the Minister of Forestry in designating forest zone after the enactment of *Law No 41 of 1999 concerning Forestry*. The process of policy changes above, in general, has been implemented throughout Indonesia. However, until

2012 Riau and Central Kalimantan still found it hard to build harmonious match between the *TGHK* and the *RTRWP*— a step that both province should have achieved by 1992-1999 (Kartodihardjo 2008; and Rompas and Waluyo 2013). This is what caused the invasion of oil palm inside forest zone.

BOX 3.1

Spatial Polemics in Central Kalimantan

DETERMINATION of the forest zone of Central Kalimantan Province was based on the *Minister of Agriculture Decree Number 759 / Kpts / Um / 12/1982 dated 12th October 1982 concerning the Appointment of Forest Areas in the Central Kalimantan Province I Region* commonly called the *TGHK*, while the *RTRWP* was contained in the *Regional Regulation Number 5 Year 1993 which was a follow-up to Law Number 24 of 1992 concerning Spatial Planning*.

Central Kalimantan Provincial Government did produce three *RTRWPs*— namely the *1993 RTRWP*, the *1999 RTRWP*, and the *2003 RTRWP*— all of which have not received approval from the central government. The inconsistency of regional and forest spatial planning has resulted in conflicts of interest between the national government and its regional counterparts.

On the hand the national government allocates more than 80 percent of the forest zone [*SK 529 of 2012*], on the other hand the regional government through its *RTRWP* would rather to opt to allocate forest zone below 70 percent [*RTRWP 2003*]. However, the regional government continues with its standpoint to adopt the *Local Regulation Number 8 of 2003 concerning the RTRWP* as a basis for the construction and issuance of plantation licensing. This explains why under the *2003 RTRWP* many oil palm licenses issued fall inside forest zone.

LAW ENFORCEMENT AGAINST FOREST ENCROACHMENT BY OIL PALM COMPANYY

Various cases in the field indicate that when the licensing and spatial planning process turns to be problematic, chances are violations will occur. However, the government tends

to be reluctant in enforcing the law. Supposedly, law enforcement instruments against violations of licensing and spatial procedures should have been brought to effect to help resolve the problem of land encroachment by oil palm company inside forest zone. But the fact is, the law fails to work as expected.

Regarding land occupation inside forest zone, the *Law No 18/2013* very clearly prohibits any person or group to get engaged in forest destruction activities. *Article 11 (1) Law No 18/2013*: “The acts of forest destruction as referred to in this law include illegal logging activities and / or illegal use of forest areas carried out in an organised manner”. However, the regulation fails to stop the community, community groups, or corporations from utilising forest zone. The practise to utilise forest zone is in some way justified as long as this is conducted legally and complying with the existing regulations (*Article 11 e and f of Law No 18 of 2013 concerning Prevention and Eradication of Forest Destruction*).

The rules within the *Law 18/2013* only suggest that a ban should be imposed on the practices of forest destruction in the form of illegal logging, unlicensed mining, and unlicensed plantations that cause state losses, damage to socio-cultural life and the environment, and increase global warming. This part refers to the *Consideration of Letter D of Law No 18 of 2013 concerning Prevention and Eradication of Forest Destruction*. The [*Article 17 (2) of Law No 18/2013*] prohibits plantation activities inside forest zone. The prohibition includes carrying heavy equipment and / or other tools that are common or reasonably suspected to be used to carry out plantation activities and / or transport cultivation produces without permission; carrying out plantation activities without permission, transport and / or accepting plantations, selling, controlling, owning, and / or storing plantation products, and buying, marketing and / or processing plantation products.

Those who violate the provisions are subject to face punishment as it is stipulated in the *Law No 18/2013* regarding sanctions, ranging from criminal sanctions to administrative sanctions, such as government coercion, forced money, and / or revocation of licenses [*Article 18 (1) Law No 18/2013*]. According to Prodjodikoro (1986), the purpose of punishment is to develop deterrent effect. The deterrent effect is defined as to scare people (*generals preventive*) and to cause fear against certain people who prove have committed crimes so that in the future they will not commit crimes again (*speciale preventive*); or educate and improve people who commit crimes to become good persons, so that they benefit the community (Prodjodikoro 1986).

The RUU KUHP (Criminal Code Bill) explains that the purpose of criminalisation are (1) to prevent criminal acts by enforcing legal norms for the sake of community protection; (2) to socialise the convicted person(s) through a coaching mechanism so that they become a good and useful person; (3) to resolve conflicts arising from criminal acts, restoring balance, and bringing about peace in society; (4) to free the convicts from being haunted by guilty; (5) the criminalisation is not intended to recite and demean human dignity [*Article 54 paragraph (1) and (2), Law Draft on the Criminal Code (Criminal Code)*].

In the criminal law system, punishment is not the only way to achieve the objectives. There are many other things than punishment that can be taken, one of which is to resolve cases outside the court (Winarni 2016). It is in line with the theory of criminal law that Barda Nawawi Arief introduces, saying that to achieve the goal of punishment we can use a means of reasoning that is through litigation / court or through non-reasoning facilities or problem

solving by non-litigation / out-of-court resolution (Arief 2007). Thus, resolving cases of forest destruction through the *Law 18/2013* can be categorised as settlement by reason.

Based on the records at the Ministry of Environment and Forestry, in the last three years there are thousands of reports on public complaints related to environment and forest destructions. In 2017 there were 1,113 reports, in 2018 there were 1,322 reports, and as of March 2019 there were 425 reports (MoEF, 2019). Of those numerous cases of environment and forest destructions, some failed to be thoroughly resolved through litigation.

By using such regulation, the cases of land-grabbing practice inside forest zone by oil palm should theoretically have been able to be settled. But in the field, law enforcement through the *Law No 18/2013* could not be brought to practice optimally, especially when it comes to cases involving the capital-loaded and company-owned plantations. What is worse, there are examples when the court verdicts had declared to have found some suspects guilty thus must be sentenced, still there was no execution because various technical obstacles got in the way.

In short, optimal law enforcement is still absent from the land use cases within the forest zone, both land use for the benefit of the company's accumulated profits (*HGU* holders) and land use for the benefit of community livelihoods. The litigation approach for resolving land cases, especially the ones where public's space is concerned, is seen as not effective enough. This is because community relations with land resources are generally not structural, but instead cultural ones.

That is why the Government then seemed to acknowledge the downsides of the *Law No 18/2013* when implemented in coping with cases of encroachment of land inside forest zone. The Government and then published several affirmative policies, such as the *Presidential Regulation 86/2018 concerning Agrarian Reform* and the *P 83/2016 concerning Social Forestry*. The two regulations look to be non-litigation instruments intended for the settlement of cases of encroachment of land inside forest zone, especially when the land encroachment is motivated by the efforts to support community's livelihoods.

The two instruments were then determined to be important options for resolving the problem of invasion over land inside forest zone, as contained in the *Presidential Regulation 88/2017 concerning Settlement of Land Use inside Forest Zone*.

POLICIES ON THE DESIGNATION CHANGING AND THE FOREST ZONE FUNCTION

In 2015, through the *Economic Policy Package II*, the Government issued *Government Regulation No 104/2015 concerning Procedures for Changing the Designation and Function of Forest Areas*. This regulation at that time served as one of the Government's steps to resolve the problems concerning the already invaded lands inside forest zone, one of which was conducted by companies of oil palm. The rules have two instruments: exchange of forest zone and release of forest zone. The rules raised criticism from many circles, though, saying that the regulations were meant to laundry those troubled oil palm licenses (Forest Watch Indonesia 2018).

The regulations served as the Government's effort to settle the problems of land invasion by oil palm inside forest zone by means of non-litigation. Unfortunately, the imple-

mentation did not work, either. The main problem is the disputes over licensing of oil palm and spatial planning that are difficult to resolve because of the Government's ignorance. So, it takes a process to evaluate the licensing mechanism. In the field, there are also problems with unequal allocation of land due to permit issuance. One year turns to be not enough to process the implementation of these regulations for oil. There were also problems at the institutional level implementing the regulations.

POLICIES FOR SETTING LAND TENURE INSIDE FOREST ZONE, AGRARIAN REFORM, AND SOCIAL FORESTRY

The data show that 32.4 million people in Indonesia living around forest zone. In addition, there are some 2,037 villages located inside forest estate, and some 19,247 villages are located immediately nearby (Statistics Indonesia 2014). People who live closely around and inside the forest zone can be ascertained to depend on forest sources of forest and forest lands— such as oil palm cultivation— for living. In such cases, if the solution uses a law enforcement approach there will be too many people to be brought to jail or given other sanctions for allegedly damaging the forest.

In such condition, the affirmative strategy, if not to say non-litigation, is carried out with policies that make it easier for the public to obtain legal certainty over the land that they manage. The *Article 5 of Law 18/2013* requires the (national) Government and / or Regional Governments to prevent forest destruction. Meanwhile for prevention purpose, the *Article 6 of Law 18/2013* was implemented with support from other national and regional policies.

The *Article 7 of Law 18/2013* emphasises that the acts to prevent forest destruction must be carried out by communities, legal entities, and / or corporations that have been granted of forest utilisation permits. Thus the formulation of policies and the involvement of the community, legal entities, and / or corporations is an important measure in order to resolve forestry problems in Indonesia. The *Article 7 of Law 18/2013* gives room to the public and legal entities that have obtained forest utilisation permit in an effort to prevent forest destruction. Meanwhile, the *Law 18/2013* unfortunately does not provide opportunities for those who have not yet obtained permits no matter how long they have been utilising and depending their life on forest resources. In case they are caught utilising forest products, cutting down trees, cultivating forest land for commercial garden, selling forest products and so on, then they must face the *Law 18/2013* for settlement, meaning they should be criminalised.

The rules within the *Law 18/2013* do not either regulate how to encourage people to find legal access over the land that they have long cultivated and utilised. Thus the discretion of stakeholders is needed in formulating policies that can help the community accelerate to get legal access to the forest land that they have utilised. If this is achieved, it will help the Government easily control and ensure that the forest is intact. This can be done by actively involving the community in managing and using the forest by adhering to the principles of sustainable forest resource management.

The *Presidential Regulation No 88 of 2017 (Perpres 88/2017) concerning Settlement of Land Tenure in Forest Areas* functions as the Government's effort in resolving forestry problems in Indonesia through non-litigation channels. *Presidential Regulation 88/2017* is intended to resolve and provide legal protection for community rights inside forest zone who also cultivate land

inside forest zone. The Consideration refers to the *Point A* of the *Presidential Regulation No 88 of 2017 concerning Settlement of Land Control in Forest Estate*.

Based on the *Article 8 of Presidential Regulation 88/2017* stating that the settlement pattern for land parcels controlled and utilised after the land parcel have been designated as a forest area are as follows: a). to issue land parcels in forest zone through changes in forest boundaries; b). to exchange the forest land; c). to provide access towards forest management through social forestry programmes; or d). to impliment resettlement (*Article 8 of the Presidential Regulation No 88 of 2017 concerning Settlement of Land Control in Forest Areas*).

The issuance of *Presidential Regulation 88/2017* needs to be appreciated, although it still contains several provisions that turn to be contradictory to other existing laws and regulations. Thus, it needs some improvements to the *Presidential Regulation 88/2017*.

A joint study by AMAN, Epistema, and HUMA on this *Perpres* implies that the *Presidential Regulation 88/2017* eliminates learning from previous policies such as the Minister of Environment and Forestry's Regulation (*LHK Regulation*) which regulates social forestry, rights forests, regulations concerning indicative maps of forestry areas social, as well as that of Minister of Agrarian and Spatial Planning's Regulation on Communal Rights (*AMAN 2017*). One example in the study illustrates that if land entitlement is located inside a conservation and protection area, then resettlement becomes the option for resolution according to the *Presidential Regulation 88/2017*. Whereas in reference to social forestry policies, the choice of settlement can be made through conservation partnerships.

The *Presidential Regulation 88/2017* also has not yet accommodated cases on oil palm inside forest areas. This defies the fact that in various land tenure problems inside forest areas include oil palm invasion, it does not matter if the oil palm plantations are corporation owned or those of local community's. A study by Maria SW Sumardjono et al cites that with such provisions it is hard for the *Presidential Regulation No 88/2017* to reach its purpose— especially in terms of protecting people's rights. This is because the forestry legislation treats oil palm plants as non-forestry plants (Sumardjono 2018).

In relation to that case, Maria SW Sumardjono et al in her writing recommended that the provisions of *Article 5 paragraph (4)* of the *Presidential Regulation 88/2017* which reads “*cultivated land is a field of land in a forest zone used and utilised by a person or group of people, and it can be rice fields, fields, mixed gardens, and / or ponds.*” The word “can” in *Article 5 paragraph (4)* of the *Presidential Regulation 88/2017* is meant to express the scope of the term “cultivated land”, to be interpreted as open, creating the opportunity to include oil palm plants or palm as being cultivated land. In that way, the Government can take discretionary steps in order to further organise the *Presidential Regulation 88/2017* by interpreting the provisions of the *Presidential Regulation 88/2017* (Sumardjono 2018).

Apart from its imperfectness, the *Presidential Regulation No 88/2017* at least has served as a reference to which the existing problems can be resolved. As stated in the *Presidential Regulation 88/2017*, social forestry scheme can function as one of several other ways through which the problem of land tenure inside forest zone can be dealt with.

The policy on social forestry is included in the *Minister of Environment and Forestry Regulation's No P 83 / Menlhk / Setjen / Kum 1 / 10 / 2016 concerning Social Forestry* (P 83 / 2016). This policy comprises five schemes— namely community forest (*HKm*), village forest (*HD*), community plantation forest (*HTR*), forestry partnership, and customary forest (*HA*). Through the *Per-*

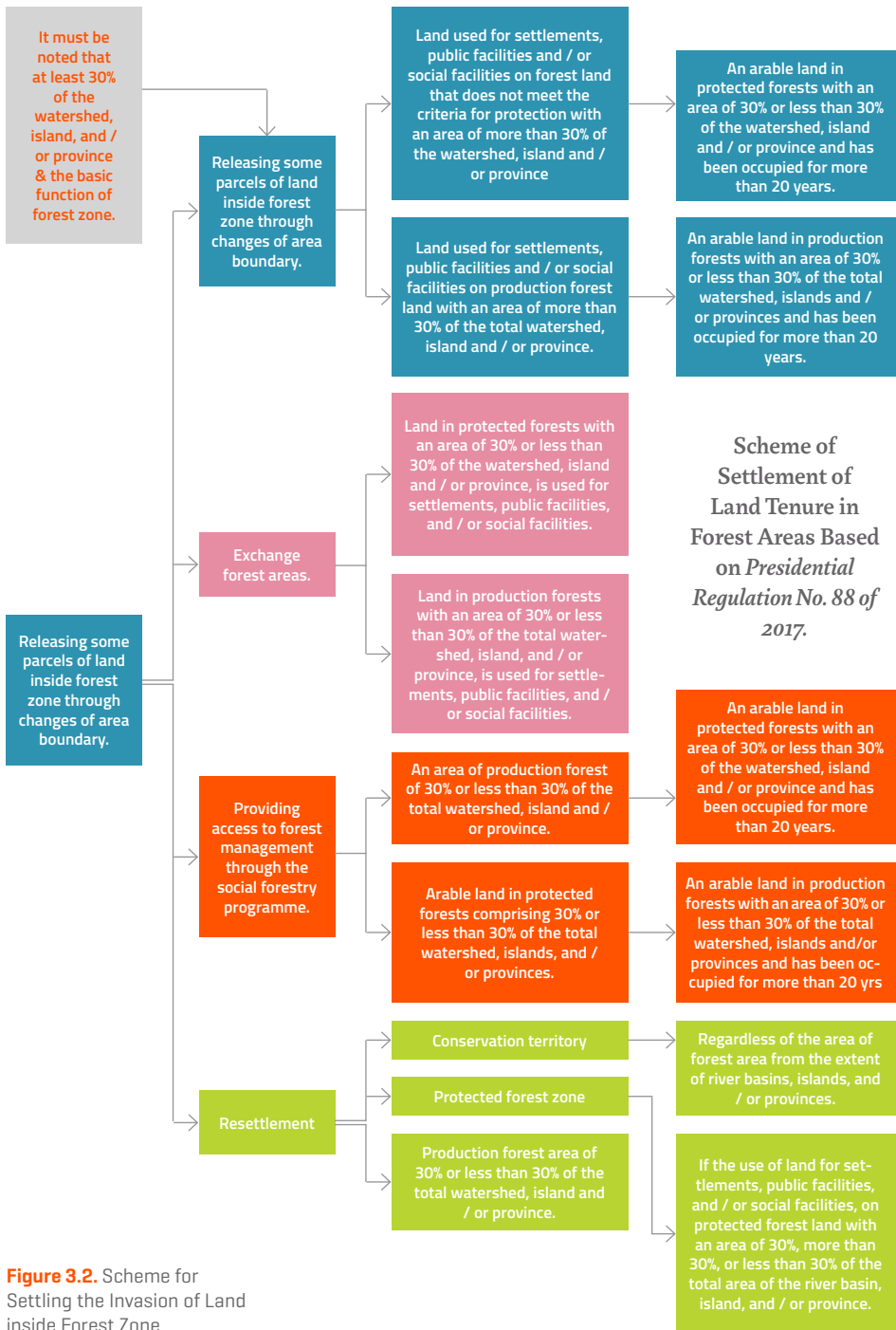


Figure 3.2. Scheme for Settling the Invasion of Land inside Forest Zone

men LHK P 83 / 2016, it is possible for people who have been illegally utilising forests (where no legal permits available) to propose fresh utilisation legalities through five schemes of social forestry. And then it surely depends on the conditions and characteristics of the region and the community's preference which scheme to choose. However, the problem is that the *Permen LHK No P 83 / 2016* has not yet accommodated oil palm as a crop that is allowed to cultivate in social forestry area. It only tolerates oil palm as long as 12 years since the start of planting.

In fact, based on Auriga's note, there are currently 3.4 million hectares of land inside forest zone cultivated with oil palm. It is undeniably that there are oil palm crops cultivated by community who live inside and around the forest zone (Saputra 2018). For this reason, Maria SW Sumardjono et al argues that if the policy discretion by the Government determines that oil palm plant is categorised as mixed plantations, that means the provisions implicitly recognises that oil palm plant belongs to forestry plants. Thus, the discretionary policies can promote oil palm to be regarded as agroforestry ecosystem. So that it can be used as a basis to revise the *Permen LHK No 83/2016* which should have categorised oil palm cultivation into forestry plants (Sumardjono 2018).

In addition to social forestry, the Agrarian Reform scheme— in which the *Presidential Regulation No 88/ 2017* refers— can be a choice for forest land tenure resolution. If the Agrarian Reform scheme is the option for resolution, all it requires is to rearrange the composition of ownership, control, and utilisation of agrarian resources (especially land), for the benefit of the community (farmers, farm labourers, the homeless, etc) in a comprehensive manner. In general the objectives of the Agrarian Reform Programme are to help, to bring justice, and to eliminate or at least reduce inequality (Wiradi 2017)

The Agrarian Reform is regulated in the *Presidential Regulation Number 86 of 2018 concerning Agrarian Reform (PP 86/ 2018)*. In accordance with this policy, the Agrarian Reform is implemented through restructuring of land control, land ownership, land utilisation, and more equitable utilisation of land through Asset Arrangement accompanied with Access Arrangement (*Article 1 Number 1 of Presidential Regulation Number 86 of 2018 concerning Agrarian Reform*).

Asset restructuring in the context of Agrarian Reform means to redistribute land originating from the release of state's forest zone and / or the results of changes in forest boundaries determined by the Minister of Environment and Forestry as a source of TORA. This includes: (1) land in a forest zone that has been released in accordance with legislation becomes TORA; and (2) land in a forest zone that has been controlled by the community and complied with the provisions of legislation (*Article 7 of the Presidential Regulation Number 86 of 2018 concerning Agrarian Reform*).

Procedure for land release should refer to the *Government Regulation No 104 of 2015 concerning Changes of Allotment of Forest Zone* in conjunction with the *MoEF's Regulation No P17 / Menlhk / Setjen / Kum 1 / 5/2018 concerning Procedures for the Release of Forest Zone and Changes of Boundaries of Forest Estate for Land Resources for Objects of the Agrarian Reform*.

The issue of illegal acquisition over forest land should not only be seen as a legal phenomenon as seen in the formulation of *Law 18/ 2013*. This, instead, must also be viewed that there is a social phenomenon, where forest has become a source of livelihood for the community who live inside and around the forest zone. Thus, solving such problems should not

simply use law enforcement mechanisms through litigation / on-court. Instead, it can also use non-litigation / non-court policy tools to ensure economic and ecological justice for all Indonesian people, especially those who live in frontier area.

The description above assures that there have been several regulatory instruments for the Government and other stakeholders to deal with problems of land invasion inside forest zone by oil palm. Still, there are many obstacles getting in the way, too. Government should realise that those numerous obstacles actually stem from its own ineffectiveness in coping with such forest land problems. The problems should have been contained given that the Government had had firm and sky-clear standpoint in enforcing the law, especially when it comes to unlawful corporations.

OIL PALM MORATORIUM AS A MOMENTUM FOR IMPROVEMENT

The previous description has elaborated the weakness of the implementation of policies for resolving oil palm acquisition over lands inside forest zone in Indonesia. The problems begin to spark from the poor coordination among the Government institutions. The unavailability and the absence of national data on oil palm pose a major problem. Data of palm oil licensing that are scattered in each government institution, makes the licensing arrangement difficult. With scarce data on the smallholder's oil palm at hand, it is even harder to optimise the settlement the problems concerning land invasion by the smallholder's oil palm inside forest zone.

The schemes of moratorium policy to deal with land issues are actually not new in Indonesia. The Government, for example, has had a legal instrument— the *Presidential Instruction No 10/2011 concerning the Postponement of the Granting of New Licenses and Improvement of the Management of Primary Natural Forests and Peatlands*— with which it should be able to use in coping with such issues. The *Inpres* was revised into the *Presidential Instruction No 6 of 2013* and then further into the *Presidential Instruction No 8 of 2015*, where there are some adjustment concerning the amount of areas of some 5,055,089 hectares (reduction) and then another adjustment of some 2,353,151 hectares (additions). The wayward decisions on the amount of the areas within the revised presidential decree has the potential to open opportunities for new permits, causing the presidential instruction to fail in the efforts to achieve its fundamental objectives (Firmansyah 2017).

In 2015 forest fires raged and brought to ashes about 2.6 million hectares of peatlands and forest zone in Indonesia (World Bank 2015). This incident partly explains how the implementation of the moratorium in fact did not succeed in resolving the problems of overlapping regulations and sectoral management of forests and peatlands in Indonesia (Firmansyah 2017).

Presidential Instruction (Inpres) No 8 of 2018 concerning Delays and Evaluation of Licensing of Oil Palm and Increased Productivity of Oil Palm, better known as the “Oil Palm Moratorium”, provides an opportunity and momentum for rearranging the land issues, especially oil palm. The *Inpres* encourages ministers or heads of institutions and regional governments to evaluate all oil palm licenses— such as location permit, *IUP*, Decree on Forest Area Release, and *HGU*— that have been issued. The evaluation was carried out for three years.

The implementation of the palm oil licensing moratorium was executed by National

Government together with its regional partners, under the Coordinating Minister for Economic Affairs' coordination. Furthermore, the work team was established at the national and regional levels. Each task is described as follows:

- ▶ Coordinating Minister for Economic Affairs
 1. To coordinate with government institutions related to the implementation of presidential instructions, through an establishment of a work team.

- ▶ Minister of Environment and Forestry
 1. To call off release or exchange of forest zone for oil palm;
 2. To evaluate data on release or exchange of forest zone for oil palm;
 3. To identify oil palm inside forest zone;
 4. To ensure the allocation of 20 percent for the smallholder's oil palm upon the release of forest zone for oil palm.

- ▶ Minister of Agriculture
 1. To evaluate data and maps of national Plantation Business Licenses and Registration of Oil Palm Businesses nationally;
 2. To foster oil palm farmers' institutions;
 3. To ensure the adoption of the Indonesian Sustainable Palm Oil (ISPO) standard.

BOKS 3.2

Welcome, Oil Palm Moratorium!

AFTER almost two and a half years of waiting, regulation regarding oil palm moratorium were finally issued by the Government. The regulation was mandated in the *Presidential Instruction Number 8 of 2018 concerning the Postponement and Evaluation of Licensing of Oil Palm and Increased Productivity of Oil Palm*

A lot of hopes arise with the issuance of the palm moratorium rules. First, the oil moratorium is expected to at least prevent new permit to open oil palm land for the next three years to create a new balance in the palm oil market. In the past decade, rampant permits for land clearing have caused production boom. But the increase was not balanced with

demand, resulting in excess production reaching 4.8 million tons. As a result, the selling price fell. The increasing conversion of forest land into oil palm, Indonesia has excess plantation areas of around 960 thousand to one million hectares.

Second, the moratorium is a momentum for structuring oil palm area and strengthening its legality. Currently the area of oil palm reaches 16.6 million hectares and mostly causing problems. One of them comes from the conversion of natural forests that triggers deforestation. Auriga [2018] noticed that 3.4 million hectares of land that has been cultivated with oil palm are located inside forest zone.

The lack of good management of the licensing of land for oil palm also triggers land conflicts. The licenses are not only awarded to lands inside forest zone but also overlap with other permits, such as industrial plantations and mining. There are also many permits that conflict with the community because the process of transferring rights is not in accordance with the existing rules. Palm oil moratorium partly aims to resolve such problems.

Third, the oil palm moratorium supports the Agrarian Reform programme. The spirit of the moratorium is the improvement of land redistribution. The release of land from forest zone triggered many licences for oil palm plantation but unfortunately the land was not distributed to the community through, for example, a foster partnership programme by palm corporation. Supposedly, in each land release from forest zone a corporation must give up 20 percent of it to community.

The oil palm moratorium addresses this. Corporations that proved to have not spared 20 percent of its land will be forced to hand it over to the community. In addition, redistribution of land to the community can be carried out on oil palm business rights [HGU] where land is abandoned and oil palm permits are issued without compliance with procedures. These lands could become the object of agrarian reform.

Nevertheless, this expectation is difficult to realize unless the Government implements it seriously. One of the biggest challenges is the unavailability of valid data on lands of the moratorium object. The most crucial sources of data for licensing arrangements include the data of location permit, oil palm permit [IUP], and oil palm cultivation certificate [STDB].

Since the Government introduced decentralisation, all of the data has been collected by the regional government because they have the authority to issue it. The problem is that local governments and their national counterpart do not document properly the entire data. Some

data are recored, though, but mostly only numerical with scarce spatial information— a mandatory requirement for licensing evaluation and arrangement.

Data on the cover of oil palm throughout Indonesia are also hardly available. With such data, if only they had been available, people could have read real conditions of the amount of the area cultivated with oil palm. Such data are of great importance as they help people see the extent to which corporations and community have been utilising the land.

In the end, we need to appreciate the issuance of the moratorium rules. There is a lot of hope that we can have to improve the governance of sustainable oil palm. We need to urge all stakeholders to seriously implement each of point of the instructions.

Source: Saputra, 2018

- ▶ Minister of Agrarian Affairs and Spatial Planning
 1. To evaluate the HGUs;
 2. To help accelerate the issuance of land rights on the smallholder's oil palm.
- ▶ Minister of Home Affairs
 1. To provide guidance and supervision to governors and regents / mayors in implementing this presidential instruction.
- ▶ Head of the Coordinating Investment Board
 1. To call off new investment applications or expansion of oil palm whose areas are located inside forest zone.
- ▶ Governors
 1. To call off issuance of recommendations / business licenses for oil palm and permits for land clearing for oil palm inside forest zone;
 2. To evaluate data and maps of location permits and business licenses or plantation business registration certificates.
- ▶ Regents/ Mayors
 1. To call off issuance of recommendations / business licenses for oil palm and permits for land clearing for oil palm inside forest zone;
 2. To evaluate data and maps of location permits and business licenses or business registration certificates;
 3. To follow up recommendations related to the cancellation of Plantation Business Permits or Plantation Business Registration Certificate inside forest zone.

The outcomes of licensing evaluations can function as material and data for resolving conflicts over oil palm invasion inside forest areas. The evaluation report will show the typology of ownership of oil palm permits inside forest areas, which will help resolve the problem more optimally. For example, the problem of *IUPs* that have been issued inside conservation areas can be resolved through law enforcement.

However, not all of those settlements are made by implementing law enforcement. For example, the problems where *HGUs* have been issued inside a converted production forest zone and where a Forest Area Release Decree is unavailable can be resolved by reviewing the permits' history. It should be questioned whether the *HGUs* had been issued before or after the moment the forest zone was established?

If the *HGUs* had been issued before the forest zone establishment, the settlement can be made through forest estate-releasing mechanism. If the *HGUs* was issued after the forest zone establishment, law enforcement is the right answer for solution. This means, studying from the outcomes of the evaluation of oil palm licenses, there are some problem-solving instruments to be implemented. With the Palm Moratorium at hand, the government can fix the database of all oil palm issues in Indonesia. In that instruction, all types of oil palm permits must be collected and evaluated.

The step to collect permits throughout Indonesia serves as the basis for building databases (one data, one map). From that data, the Government can arrange and organise the direction of its national policies concerning palm oil industry development and build a sus-



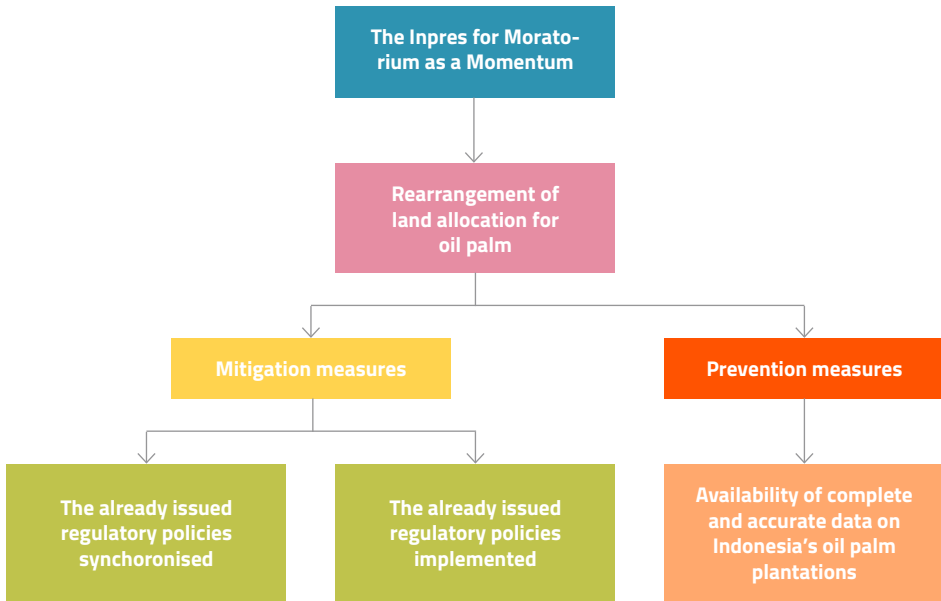


Figure 3.3. The Inpres Moratorium as a Moment for Restructure

tainable palm oil industry system. So that it is appropriate to call that the *Inpres Moratorium* a momentum to restructure the management of oil palm land in Indonesia. In that case, the rearrangement can be viewed as an effort to prevent plantation violations, as well as an effort to prevent such violations from being committed again in the future.

The database developed through the moratorium is also useful for the Government that can utilise them to encourage the acceleration of the implementation of Indonesia Sustainable Palm Oil (ISPO) — provided the database of permits and maps is complete. The database can also be utilised to build an integrated palm oil industry traceability system. Both of those policies are believed to help lead to the development of the Indonesian palm oil industry towards a sustainable system so that it could be optimally accepted in the global vegetable oil market.

However, the success of implementing the oil moratorium depends on several factors. First, the Government's political will for the palm moratorium working team (national and regional), to implement this policy optimally since the team that functions as a key player of major role in the successful implementation of the moratorium.

Second, coordination between teams, both vertically (national Government and its local partners) and horizontally (among sectors). It must be understood that the involvement of many institutions in a team often turns out to be ineffective because each institution has its own interests. Moreover, the institutions are those which responsible for issuing permits so that they tend to protect their interests.

Therefore, public involvement and transparency building in the implementation of the

palm oil licensing moratorium are important. It requires to involve civil society organisations (NGOs) to implement them, where they can get engaged in the work team or become an independent monitor who can at any time provide input to the Government in implementing the oil palm moratorium.

In the end, disputes over palm oil governance and its conflict against the sovereignty of forest zone will be resolved if the Government has a strong commitment in implementing the oil palm moratorium. The President already promised to endorse with political will to encourage each institution concerning the *Inpres* really performs its duties and functions properly. There is no momentum for change other than utilising the oil palm moratorium as an entry point for efforts to improve governance of sustainable palm oil industry.

BOX 3.3

The Initiative for Palm Restucture in Central Kalimantan

CENTRAL Kalimantan is one of the national centers of palm oil production, along with other leading provinces such as West Kalimantan, Riau, and North Sumatra. Referring to the records of the Central Kalimantan Plantation Service (2016), the province at least has 1,411,018 hectares of oil palm plantations. Meanwhile, referring to the National Palm Oil statistics (2015-2017) issued by the Directorate General of Plantation, Ministry of Agriculture of the Republic of Indonesia, the areas of large plantations in Central Kalimantan reached 1,072,624 hectares. Meanwhile, those of the smallholder's only amounted to 155,251 hectares—approximately 11 percent of the total area of oil palm plantations in the province.

The initiative to rearrange oil palm plantations which previously have been carried out by the Central Kalimantan Regional Government requires a specific approach of its own, different from that taken by other regional administrations such as Aceh and Berau (East Kalimantan). In Aceh structuring initiatives are more driven by the forestry sector and tend to put forward the approach of violence (forced logging). Whereas in Berau (East Kalimantan) the initiatives are driven by village administrations and carried out by prioritising a partnership approach (espe-

cially with village administrations and FMUs). Meanwhile, structuring initiatives in Central Kalimantan are driven by the Regional Government and carried out with land release [through the *RTRWP*], encouraging the conversion of land functions from being forest zone to plantations [this may be due to the small proportion of Other Use Areas / *APL* in Central Kalimantan, only about 18 percent].

Referring to the statements of stakeholders within the Central Kalimantan Regional Government, the arrangement so far is still prioritised on large-scale oil palm plantations and or that owned by community of corporate's partner. Cases that involve independent [self-help] smallholder's oil palm— within the non-forestry cultivation area [*KBNK*] and inside the forestry cultivation area [*KBK*]— have not received adequate attention. Even the so-called structuring is still conducted limitedly to data collection for the sake of orderly regional administration. Matters relating to productivity, sustainability, equity, and legality have not been viewed as strategic issues that need to be addressed, even though in aggregate the amount of smallholder's oil palm reach a considerable extent. ❖

CHAPTER IV

Arrangement of Smallholder's Oil Palm inside Forest Zone

The previous chapter explained that the forestry sector suffers the most unintended impacts from the expansion of oil palm plantations. This can be seen from the more extensive conversion of forest zone into oil palm plantations. This conversion has an impact on increasing forest fragmentation, which affects the biodiversity of flora and fauna (Fitzherbert et al, 2008). In addition, the impacts also harm seasonal water availability (Tarigan et al, 2018), increasing greenhouse gas emissions, and decreasing soil surface carbon stocks (Fargione et al, 2008; Ravindranath et al, 2009).

However, to take a “hostile” stance against oil palm is not the solution. Oil palm has emerged as an important commodity of national economic drivers (Susanti and Maryudi, 2016) and of regional economy, too (Budidarsono et al, 2013) while at the same time provide employment especially in rural areas (Van Noordwijk et al, 2001). However, it is also inappropriate to necessarily categorise oil palm as one of forestry plants only in order to prevent the oil palm plantation from being accused of having caused deforestation (Infosawit, 2019). Oil palm plantation is not the root of the problem.

At present, what needs to be done is how to stop the expansion of oil palm plantations inside forest zone, and how to solve the problem of the forest zone that has long been invaded oil palm plantations by community and by corporation. Such practices have posed major problem in the management of the oil palm industry in the country. And the best moment to solve this problem is now.

The Government issued the *Presidential Instruction No 8 of 2018 concerning Postponement and Evaluation of Licensing of Oil Palm Plantations and Increased Productivity of Oil Palm Plantations* better known as “Oil Palm Moratorium Inpres”. This policy needs to be followed up with strategic steps to resolve the problem involving expansion of oil palm plantations inside forest

zone. In addition, the Social Forestry and Agrarian Reform can also serve as a solution in resolving the oil palm conflict where land inside forest zone have long been invaded by oil palm plantation.

SMALLHOLDER'S OIL PALM INSIDE FOREST ZONE

Auriga's data (2018) estimate that there are some 3.4 million hectares— or around 20 percent of some 16.8 million hectares of total oil palm cover in Indonesia— of oil palm is located inside forest zone. Of this amount, approximately 1.2 million hectares of smallholder's oil palm are cultivated inside the forest zone (Faculty of Forestry UGM, 2018). The invasion of smallholder's oil palm inside forest areas is a classic problem in the management of oil palm plantations in the country. The problem is very complex. The onlicts are not only between oil palm and forest zone but it is also rooted in the pattern of inequality in land ownership in the countryside. Land occupation by oil palm companies and condition of poorly-structured forest areas have almost nullified community management space to land to a minimum quantity. The necessity to struggle for daily livelihoods has eventually forced them grab the forest zone.

The problems with smallholder's oil palm inside forest zone is intertwined with its low productivity. So, the policy to solve the problem with smallholder's oil palm must be oriented to address those two problematic conditions. Thus, the momentum of the Moratorium Inpres and the Agrarian Reform, and the Social Forestry should be use as an effort to resolve land invasion by smallholder's oil palm inside forest zone.

The oil palm moratorium is a measure to encourage increased productivity of smallholder's oil palm and to clarify land ownership status so that it can facilitate the public to gain access to capital. Whereas the Agrarian Reform and Social Forestry serve as a process of allocation of land ownership and access to permits for the management of the smallholder's oil palm area inside forest Zone.

THE AGRARIAN REFORM

In the last half decade, the Government has been intensifying the Agrarian Reform programme. The aim is to reorganise the unequal agrarian structure to be just, to resolve agrarian conflicts, and to prosper the community. Fundamentally the target of the programme is to solve the problem of poverty in rural communities by improving welfare through national food independence; to increase land productivity; to provide recognition of rights to private-owned land, state-owned land, and publicly-owned land utilised to fulfill the community's needs (Djauhari et al, 2018).

Technocratically speaking, the 2015-2019 National Medium-Term Development Plan (RPJMN) document stated that the Agrarian Reform includes two main programmes, namely asset legalisation and land redistribution (see **Figure 4.1**).

To follow up the Agrarian Reform agenda, the *Government issued the Presidential Regulation No 86 of 2018 concerning Agrarian Reform*. This regulation serves as the basis for resolving oil palm land conflicts in forest zone as well as redistribution of land to the community in order to expand and strengthen the smallholder's oil palm. Furthermore, the issue of land

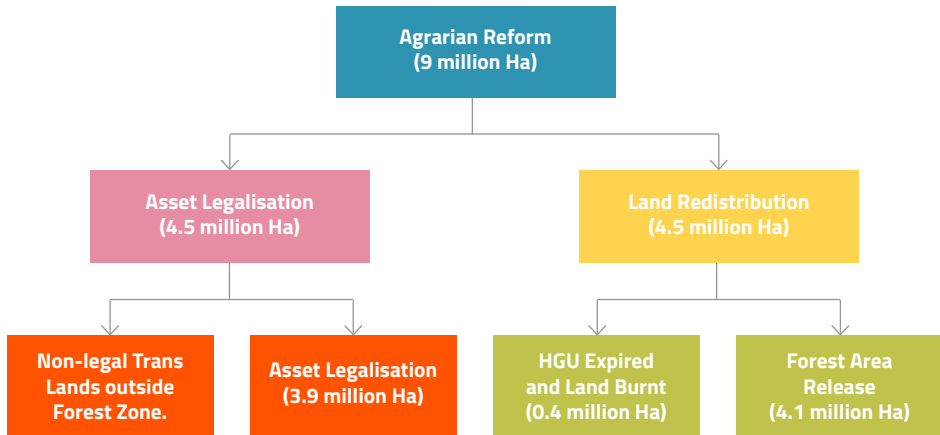


Figure 4.1. The Agrarian Reform’s Targets: Asset Legalisation and Land Redistribution

access to oil palm plantations in forest zone began to come to light with the issuance of the *Minister of Environment and Forestry’s Regulation Number P17 / MENLHK / SETJEN / KUM 1 / 5/2018 concerning Procedures for the Release of Forest Areas and Amendments The boundary of Forest Area for Land Resources Object of Agrarian Reform (TORA)* functioning as an implementing regulation of Agrarian Reform.

Article 2 (1) states that 20 percent of forest zone are sources of TORA intended for plantations. Furthermore, in article 2 (3), it is explained that the forest zone is, among others, a) unproductive production forest estate (HPK); and b) production forest estate or protected forest zone that have been occupied, owned, used, and utilised for settlement, public facilities and / or social facilities, farm land.

Referring to the *Presidential Regulation No 86 of 2018*, what is meant by the Agrarian Reform programme is the restructuring of the scheme, ownership, use, and utilisation of land in more equitable manner through the arrangement of assets and accompanied by structuring access for people’s prosperity. Meanwhile, what is meant by asset structuring is the rearrangement of ownership, entitlement, use, and utilisation of land in order to ensure justice out of the land ownership and land entitlement. Whereas the arrangement of access means the provision of opportunities for access to capital and to other supports to the subject of Agrarian Reform, in order to improve welfare based on land use, which is also called community empowerment.

The aim of the Agrarian Reform programme, as explained in the *Perpres*, is to: a) reduce inequality in land occupation and land ownership in order to create justice; b) deal with agrarian disputes and conflicts; c) create a source of agrarian-based prosperity and welfare through regulation of land ownership, land entitlement, land use, and land utilisation; d) create employment opportunities to reduce poverty; e) improve people’s access to economic resources; f) increase food security and food sovereignty; g) improve and maintain the quality of the environment.

To achieve such goals, several provisions are stipulated in the Agrarian Reform programme saying that land entitlement must be at least 20 years, with a maximum area of five hectares / person, the person must live in the place where the land is located, and the determination of the Agrarian Reform should be made based on the existing land.

CHALLENGES TO THE AGRARIAN REFORM

Apparently, it is not always easy to implement the Agrarian Reform policy when faced with conditions and dynamics in the field. For instance, an experience the in pushing the policy implementation in Tepian Buah Village, Segah District, Berau Regency (East Kalimantan) showed this. Many provisions in the regulation failed to be implemented in that village. Improvisation and out-of-the box breakthroughs are needed (discretion).

The provision requiring the 20 years' time of land entitlement, for example, was inapplicable. In an inland area of Kalimantan like Tepian Buah, land documents are totally scarce. Most documents with which land entitlement could have been traced— such as land selling and land purchasing, and other formal land papers, particularly those inside the forest zone— are not made in accordance with official procedures.

The only document most commonly available is a piece of paper that people call “land certificate” (*SKT*) issued by village head. Even for lands that people have obtained beyond buying-and-selling mechanism but through labor investment such as direct forest clearing for example, there will never be any document.

In rural areas, there are a great deal of such lands and the practice has closely related to the locals' agricultural traditions: shifting fields. Meanwhile, the provision of maximum land ownership of five hectares per household is perceived as Javanese bias by those Kalimantan locals, as this does not reflect the traditional land entitlement in a region such as that in Kalimantan where “free” land is vast all over several locations. This is closely related to the the tradition where the locals have long been accustomed to extensive farming model that they inherited from their predecessors for decades. The mobile farming communities have long practiced low-input production mechanisms in terms of labour and other production inputs.

Therefore, in order to achieve adequate results, the economic model of such cultivation always requires large patches of land. No wonder, there is one household that needs to occupy some 30 hectares of land for mobile farming in one time to make its ends meet. Extensive and widespread land occupation for temporary farming, worsened with scarce land documents has posed complicated challenges. Such condition should be treated as a precious lesson learnt from the process of Agrarian Reform practice in the mobile cultivation community.

The Agrarian Reform scheme needs to have high and rapid ability to adapt with such challenges, otherwise it cannot work well in the field, especially in rural areas where the traditional land entitlement, land ownership, and land use is not entirely the same as the sedentary agricultural model that farmer community in Java have traditionally developed. Without high and rapid ability to adapt with such challenges, it is difficult for the Agrarian Reform to able to rearrange the structure of land ownership (of course including the structure of land ownership which has been dominated by corporations). What might emerge

is likely to be social conflict due to the lack of land in the field that is eligible to meet the requirements for Agrarian Reform.

BOX 4.1

Land Limit in Agrarian Reform

REFERRING to the outcomes of the inventory and verification in Tepian Buah Village by the Inver Team of the East Kalimantan Forest Service, only 163 hectares turned to meet the requirements of Agrarian Reform, about 6.6 percent of the 2,452 hectares of total area proposed. Of course, this reality will not be easily accepted by Tepian Buah community.

The outcomes even look disheartening when the structure of the critically-unequal land occupation in the village is taken into account of, where only seven percent of the village's area [16 thousand hectares] can be spared for the local community to utilise. Whereas the remaining 93 percent of the villave's area is occupied and utilised by corporations in the form of forest concessions and HGU for oil palm.

The Agrarian Reform scheme has become the pathway through which the Government and local community hopefully can overcome such land entitlement imbalances. Even so, the policy could only be a false hope, said the Head of Tepian Buah Village. He concedes, "Agrarian Reform cannot overcome the unequal land entitlement structure in the village. So it is better not to apply the Agrarian Reform over the lands that the community have been cultivating now. Because after all, people really have a hope from the Agrarian Reform, at least for the land that is now being proposed for entitlement, approximately 471 separated locations with a total area of 2,452 hectares".

Eventually, the Agrarian Reform in Tepian Buah Village needs to rely on the Social Forestry scheme, as officials at the Ministry of Environment and Forestry and the East Kalimantan Provincial Forest Service frequently have conceded. That is because the proposed lands are viewed not to meet what the Agrarian Reform requires. Learning from this case, it is almost certain, the whole program of Agrarian Reform outside Java will be likely to suffer the same fate.

The problems with land entitlement and land use in remote areas

outside Java are almost the same: inavailability of not formal documents for legal supports, extensive agroecosystem tradition based, if not mobile cultivation; all of which are now being traded as commercial commodities to sustain the boom of production crops, especially oil palm. Without adaptation, and perhaps also discretion, the Agrarian Reform will not be able to be effectively implemented as a scheme to rearrange the unequal land entitlement structure.

Thus, again, to implement the Social Forestry can be a way out through which the agrarian reform deadlocks can be resolved. It does not necessarily means to change the unequal structure of land entitlement, considering that the state of those Social Forestry lands remain to be state-owned land which the Government can reclaim any time.

The following are challenges necessary to be considered and taken into account of in the efforts to improve the Agrarian Reform in the future:

1) FARMING TRADITION

The land entitlement system amidst a mobile cultivation tradition is very unique. Laboures are not only engaged in working on one single farm— which usually varies from two to four hectares— in one time, but also on other neighboring farms simultaneously. Land entitlement in this kind of farming system is based on the principle of labour investment. On that basis, even though the farm is eventually abandoned someday, the people still think that there have been labour investments made in that farm before (for example labour investment which has been previously deployed to open the farm), then the land ownership is seen as still remaining in the abandoned farm.

This type of farm land entitlement allows every household to control extremely large farm lands in several locations. Someone perhaps only works on one or two farm fields at one time. But when the previous labour investment that he has made on several abandoned farm lands was added, that means he possess a great deal of land entitlement. Such condition sparks a popular expression among the locals when asked to what extent the farm lands that he possesses is, where they would reply, “*As far as the eye can behold...*”.

Because of such a situation, the Agrarian Reform scheme is required to adapt itself with the existing specific condition, in that case it should determine the time limit and the land limit that each household is allowed to obtain a farm land entitlement. Chances are, the local community will react with a question, how much extent of land each of them will be allowed to own farm land that the Government distributes through the Agrarian Reform. They are worried that the size of the land will refers to land ownership by farmers in Java. For

farmers and planters of Tepian Buah, the entitlement of a five-hectare land each, as stipulated in the Agrarian Reform scheme, is something normal and not considered excessive.

For those who have long been accustomed to practicing mobile cultivation, land entitlement is inherent within labour investment in the farm field. If later on the Agrarian Reform requires entitlement over the farm land— particularly that that are not being cultivated, or the abandoned farm land— to be cut off, then the Agrarian Reform indirectly will be viewed to be notorious for having edged off the community from the land that they have controlled and utilised. Thus, it requires urgent breakthroughs to deal with the limitation of farm land and the limitation of land entitlement period to implement the Agrarian Reform in the community of farmers and planters such as that in Tepian Buah Village.

2) CONSUMPTION COMMUNITY

According to Hefner (1990), a consumption community refers to a group of people who are economically dependent on market mechanisms. The consumption community is characterised by the need for cash which has been increasing rapidly; at least when compared to the subsistence community— namely those who are economically not oriented to the market mechanism.

The emergence of a consumption community is usually preceded by a social transformation. In some rural areas, social transformation often occurs due to production boom of commercial crops such as coffee, chocolate, and oil palm. In other words, the production boom of commercial crops tends to encourage social change: from subsistence community to consumption community, where economic parameters will follow to change; and of course economic and social instruments often associated with local wisdom will also change.

The tradition of mobile cultivation, slowly but surely, has been shifting into settled plantation practice aimed at the production of commercial crops such as oil palm. Those changes, however, are not new phenomenon. There is a string hint that long before embracing the palm oil, the rural communities had adopted other commercial crops such as rubber, coffee, and chocolate. Until now, some communities continue to preserve the model of mixed crops, because they still find it economically helpful in supporting their economy.

The emergence of commercial cultivation complements the mobile cultivation model that still prevails; which can be understood since in the inland areas nowadays the consumption community is actually undergoing a transitional phase. The community still practices older non-market economic principles which depend on the mobile cultivation side by side with the commercial oil palm plantations that they are beginning to cultivate. Such condition helps us understand why one's land entitlement in Tepian Buah looks to be random: the extent of area varies greatly, based on varied instruments, intended for various economic interests (market and non-market). Without properly internalising these problems, it can be ascertained that the implementation of Agrarian Reform would experience deadlocks.

The Agrarian Reform policy scheme in the *Presidential Regulation 86/2018 on Agrarian Reform* has implied that it relies on normative assumptions: it applies to settled subsistence farming community. It is almost certain, this is the kind of community that will only be

found predominantly in Java where people in rural areas economically rely on an intensive agricultural model (paddy fields), while people in larger islands rely on an extensive agricultural model (farming).

3) FRAGMENTED LANDS

Referring to the academic forestry model (Scott, 1998), productive and sustainable forest management begins with a territorial or correct boundary process as much as possible to avoid excessive fragmentation of the forest zone. Forest management under the academic forestry model requires a compact forest zone. This is not only for economic reasons (efficiency) and sociological reasons (security), but also ecological reasons (preventing the decreasing watershed function and disruption of the availability of wildlife corridors and the safety of plants' biodiversity flow).

Probably that is why the division of forest management units (*KPH*) is always made on the basis of the compactness of the watershed area (*DAS*). On that basis, in the view of for-

BOX 4.2

Land Fragmentation of the Agrarian Reform

THE CASE in Tepian Buah Village provides us with an apparent example of how the area is severely fragmented. With only referring to the normative technical aspects of the Agrarian Reform, as stipulated in the two Perpres-es above, it is almost impossible to prevent the forest zone from becoming fragmented.

As discussed earlier, of the total forest zone of 2,452 hectares [383 locations] proposed, only about 6.6 percent [163 hectares] turn out to be eligible in fulfilling the requirements for rearrangement of land boundaries that only involves 29 locations. If implemented, this would lead to extraordinary fragmentation of forest zone in Tepian Buah Village. That would be a great setback that should be avoided in the delineation or territorialisation model of academic forestry.

On this basis, new approaches are needed to help prevent Agrarian Reform from harming forest zone into fragments. In this case, specific approaches that consider anthropological, sociological, and ecological aspects need to be proposed to complement the normative approaches within the Agrarian Reform.

esters, the pattern of settlement of utilisation of land inside forest zone through land release, or rearrangement of forest boundaries, as mandated by the *Presidential Regulation No 86 of 2018* and the *Presidential Regulation No 88 of 2017*, requires to consider the compactness of an area that is being released or its boundaries that are being rearranged.

Land release or boundary structuring of lands inside forest zone where the area is not intact will cause fragmentation of forest zone. This economically will result in inefficient costs of land security, land protection, and land management. Even in terms of ecology, fragmentation of forest zone is also viewed to harm the function of its environmental support capacity. Fragmented forest zone reduces the function of watersheds, disconnects wildlife corridors, and interrupts the flow of plant biodiversity.

AGRARIAN REFORM DILEMMA

The Agrarian Reform, together with the Social Forestry, now has become as one of the Government's priority programmes. The Government has allocated at least 12.7 million hectares of forest zone for Social Forestry and around nine million hectares for Agrarian Reform. The echo of this programme has been heard for a long time, reaching out to remote villages in rural areas such as the Tepian Buah Village, one of the village models of Agrarian Reform in East Kalimantan. Chances are, the community will hopefully turn their head to rely on the programmes for great expectations.

The community views that land with property right status that they manage to obtain through the Agrarian Reform is more valuable than the land with simply the status of utilisation rights through the Social Forestry. That is why people in several places would adopt the Agrarian Reform rather than the Social Forestry to resolve legality cases of oil palm located inside forest zone. However, as a matter of fact there is a dilemma in the implementation of Agrarian Reform. One consequence that often escapes the public's concern is the requirements for them to comply with terms and conditions. This, among others, requires a maximum limit of land ownership by local community of 20 hectares (referring to the *Agrarian Law No 5/1960*). That means, the lands under control of community from outside the village are potentially excluded from TORA list. Land ownership over 20 hectares (and even possibly under 20 hectares) are also subject to reduction.

The application for Agrarian Reform is not automatically granted, either. This particularly occurs when an inventory and verification process (inver) finds the lands are not eligible enough to meet the requirements (for example, because the land utilisation is still under 20 years, the status of the land is seen as high value so it is impossible to be converted, the land is disaster-prone, etc) - all of which will cause the application to be dumped. This means that the Agrarian Reform program cannot provide a definite guarantee that every application will be granted. Therefore, the conflict resolution institutions as social safety nets for the community must be prepared with readiness and smartness; otherwise, instead of being able to help improve community's welfare, the Agrarian Reform would trigger conflict escalation— from simply land disputes into social conflicts. Rejection of application for Agrarian Reform may disappoint the community who are in return would be very likely to make a legal appeal. Without adequate institutions and social safeguards, social contraction (if not social conflict) may spark.

THE SOCIAL FORESTRY

The Social Forestry programme aims to reduce poverty, unemployment, and inequality in the forest zone management / utilisation by providing legal access to local communities through the management of village forest (*HD*), community forest (*HKm*) Business Permits, Community Plantation Forests (*HTR*), forestry partnerships, and customary forest. The 2015 - 2019 *RPJMN* targets to grant access (permits) for forest management of 12.7 million hectares to the surrounding communities through the Social Forestry programme.

However, until the end of October 2017, the programme could only achieve around 1.09 million hectares (8.6 percent of the target of 12.7 million hectares). Because of the extremely wide gap from the target, in 2018 the MoEF was required to make adjustment and lowered its target from originally 12.7 million hectares to 4.38 million hectares by the end of 2019 (JPNN.com, 2018).

Table 4.1. Social Forestry Development, 2018

Types of Social Forestry	Amount	Areas [Ha]
Village Forest Management Rights [<i>HPHD</i>]	268	496,400
Business Permit for Utilising Community Forests [<i>IUPHKm</i>]	633	255,741
Business Permit for Utilising Forest Products in Community Plantation Forests [<i>IUPHHK-HTR</i>]	2,845	236,906
Forestry Partnership	168	77,652
Permit for Utilising Social Forestry [<i>IPHPS</i>]	8	5,439
Customary Forest	10	8,795

It should be admitted that the Social Forestry scheme still applies discriminatory policies towards oil palm plants. This can be seen evidently in the *MoEF Regulation No 83 of 2016* that regulates the Social Forestry, where its Article 56 (5) states that holders of Social Forestry licenses through the schemes of *HPHD*, *IUPHKm*, *IUPHHK-HTR*, Forestry Partnership and Customary Forest, are prohibited from growing oil palm plants on the areas under their rights or permits. Furthermore, the *Article 65 (h)* also states that if the land with a Social Forestry permit or has already been cultivated with oil palm plants while still in on-going process for the Social Forestry application, since this regulation was brought into effect, is allowed to continue for 12 years since the planting period provided that the owners are obliged to grow at least 100 wooded trees per hectare among the oil palm plants.

Obviously, this clause is considered to ignore facts in the field (Sumardjono et al, 2018). In Tebo Regency, Jambi, there are five forest farmer groups (*KTH*) succeeding in receiving permits for the management of community plantation forests (*HTR*) despite the fact that they prove to have practiced monoculture: 15-year-old oil palm plants (monoculture) on

the forest land. Interviews conducted with those farmer groups indicated that they expressed their gratefulness for having been granted the Social Forestry licenses for the land that they have managed since the 1990s. Yet they said that it was impossible for them to dismantle the 15-year-old oil palm plants that are entering their peak of production. For them, the *Article 56 (5) of the MoEF Regulation No 83/2016* is considered impossible to be brought to practice.

OIL PALM AGROFORESTRY

So far, the initiative to develop palm agroforestry as a part of the agrarian resolution for the problem of oil palm's presence inside forest zone has received greenlight from stakeholders at the regional and national levels, including academics in universities, especially experts in agroforestry. Some experts perceive agroforestry tends to be focused on conventional commodities which are not intensive. That is partly explains that there are some who find it challenging— and a breakthrough, too— to develop an agroforestry where oil palm plant is the focus.

Practically speaking, such a breakthrough may provide a middle ground for difficult choices which stakeholders have faced in arranging oil palm's presence inside forest areas. They are forced to pick two hard options— to release the land (land laundrying) or to bulldoze the plantation (closing). Both options require the same huge costs— socially, economically, politically. To release forest land on which oil palm crops have been cultivated will take a great deal of cost, particularly when international ecology politics are concerned. Likewise, to cancel out or to demolish the oil palm plants which have been cultivated (inside forest zone) will also require large social and economic costs. Those challenges probably have caused why the efforts to settle the problem of oil palm plantations' presence inside forest zone have never made meaningful progress.

To promote the oil palm agroforestry as a breakthrough of middle ground through which the problem of oil palm plants' presence inside the forest zone can be resolved, it requires an academic text functioning as a basis for reviewing the *MoEF Regulation P 83 of 2016 concerning Social Forestry*, especially the Article that sets a 12-year-time limit for oil palm plants which have been cultivated inside the area of Social Forestry. It is expected that oil palm that have been designed in the form of agroforestry can become a part of sustainable Social Forestry schemes, as is the case with the agroforestry of rubber, coffee, and so on.

On that basis, to encourage oil palm to become part of a forest ecosystem in a sustainable manner, it requires information on what it will look like when a monoculture plantation is transformed into a mixed or agroforestry zone (without having to first determine that oil palm is a type tree that belongs to forest plant, as several forestry experts has initiated). It is urgent to prepare new supports for policies and regulations for the development of palm agroforestry (if not oil palm forestry) inside forest zone. The new supports should be equipped with capacity to help build a clearer path through which the problem of oil palm inside forest zone can find a way out.

In addition, the new supports should also help create a condition where at least the solution is no longer trapped inside a dilemmatic situation of the two choices that are equally difficult to choose, whether to release the land or to close the plantation. The new supports are supposed to be capable of helping provide other options for solution through develop-

ment of Social Forestry schemes— such as partnerships, community forestry and village forests. It is inevitable that the new policy will make way for the emergence of a new Social Forestry model based on intensive crops with high productivity such as oil palm: such as palm partnership, palm community forestry, and palm village.

Those options are very possible. A policy study by Faculty of Law of UGM underlies that; *First*, the *MoEF Regulation P 83 in 2016* does not have a rational explanation regarding the exclusion of oil palm as non-forestry cultivation from the Social Forestry area, and neither does about the a 12-year period. This indicates that this regulation is not an evidence-based policy. *Second*, agroforestry systems are currently being developed and they results in the change of plant categorisation where some forest vegetations (trees) are regarded as inter-crops for oil palm (Sumardjono et al, 2018).

On that basis, it is proposed that the *Article 56 paragraph (5) of the MoEF Regulation P 83 in 2016* should be amended to read as follows: *Those who hold HPHD, IUPHKm, IUPHHK-HTR, and Forestry Partnership are allowed to cultivate oil palm in their lands with rights or permits by complying with the provisions regarding management of mixed cultivation (agroforestry) that will be further regulated in ministerial regulations* (Sumardjono et al, 2018). Whereas the *Article 65 of Letter h* is also suggested to be amended into: *In the case of the Social Forestry area or in the proposed Social Forestry area that have been cultivated when this Regulation is brought to effect, it is required for the permit holders to build agroforestry in the form of lanes or mosaics, by planting woody trees of at least 100 (one hundred) trees per hectare* (Sumardjono et al, 2018).

As for the settlement of land invasion inside conservation forest zone, referring to (Sumardjono et al, 2018), adjustments can be made by opting the strategy that the *MoEF Regulation of P 83* offers rather than the *Presidential Regulation 88*. Even if it can only be conducted in utilisation zones, traditional zone, and rehabilitation zone inside national park area and inside the utilisation block in the nature tourism park and the forest park area, the farm land inside conservation forest can be subject to be implimented.

It needs to be noted that the Forestry Partnership scheme can be implemented for utilisation of land inside conservation forest zone for smallholder's oil palm. In that way, it requires to refer to the provisions in the *Permenko* or the revisions of the *MoEF Regulation P 83 of 2016* both of which revoke the enactment of the *Article 56 Paragraph (5)* and the *Article 65 Letter h* of the *Permen LHKP 83 of 2016*. Those provisions will later be affirmed in the clause in a note of cooperation agreement between forest management (national park) and local communities by mentioning them as one of the rights that should be entitled to local community to utilise partnersip lands on which oil palm crop is cultivated.

The formulation of new policies and regulations, as proposed by Sumardjono et al (2018) is an important prerequisite for the process of structuring the oil palm inside forest zone— in production forest zone as found in Tepian Buah Village (Berau District, East Kalimantan) and in conservation area as found in the ADB PIR Village (Langkat Regency, North Sumatra). However, the settlement of land invasion inside forest zone has become part of the national development plans, especially the medium term. This has become the official policy of the Government as outlined in the *2015-2019 RPJM*. The policy is clarified in the strategic planning documents (*Renstra*) of the MoEF, the Strategic Plan of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency, and National Strategy (*Stranas*) of the Presidential Staff Office (KSP). All the planning documents, affirmatively view that the set-

tlement of land invasion inside forest zone functions as an effort to expand community's access towards forest resources through which they expectedly can increase their welfare.

According to the *2015-2019 National Medium-Term Development Plan (RPJMN)*, the Government has allocated 12.7 hectares and 4.1 million hectares of lands inside state-owned forest area to expand people's access through the Social Forestry and the Agrarian Reform schemes. This implies that the Social forestry is perceived as a model of low-risk solution. At least the potential for horizontal conflicts among groups of people that the Social Forestry may inflict is not as large as that in the Agrarian Reform schemes.

Social Forestry can foster social modalities in the form of collective action. Through tenure schemes, a collective social forestry (utilisation rights, management, and entitlement), communities are indirectly encouraged to strengthen social networks in carrying out the production process. Market mechanisms that tend to transform collective actions into individual actions can at least be curbed by the mechanisms of Social Forestry.

Some oil palm growers view that the Social Forestry tends to be less strategic in its function to support the palm oil production process, which is undeniable. In the view of the consumption community, which has been fully integrated with the market, the production process based on collective rights is often seen to potential to hinder the rate of profit accumulation because the commodification process cannot occur perfectly. However, rationally, the Agrarian Reform scheme that promises individual rights is not entirely applicable, given the prerequisites that cannot easily fulfilled by oil palm production practices which generally are beginners.

Therefore, the Social Forestry turns out to become an option that seems unavoidable in the process of structuring oil palm inside forest areas. For this reason, it requires to immediately start the process of internalisation and negotiation with the community. In addition, strengthening the support of policies and institutions for Social Forestry also needs to be reviewed. The Social Forestry has been challenged with the fact that there is a consumption society that in term of its economy is completely oriented towards profit accumulation, not to say commodification. The old Social Forestry model which tends to be romantic, unproductive, communal oriented (not collectivity) can only be accepted by the subsistence community.

As long as the Social Forestry cannot move from its old model, the process of internalisation and negotiation with the consumption community— and with oil palm growers, as well— will be likely to lead to deadlocks. The Social Forestry must first prove that it succeeds in transforming itself into new schemes until it can provide comprehensive answers to the economic anxiety of the consumption community. This serves as the test whether the Social Forestry has become viable enough to function as a model for agrarian resolution for the smallholder's oil palm inside forest zone. To the consumption community, including those oil palm growers, what matters most is to what extent the schemes that the agrarian resolution offers can guarantee the certainty and sustainability of the production process.

THE PROSES TO PREPARE POLICIES ON OIL PALM AGROFORESTRY

Initiation of the palm agroforestry needs to be preceded by preparing the right policy

framework. Such framework will serve as a legal umbrella which serves as safeguards for the process of structuring the smallholder's palm oil which have been cultivated in locations inside forest zone. As the *Presidential Regulation No 88 of 2017 concerning Settlement of Land Use within the Forest Zone* has mandated, such settlement process can be carried out through several options of solution, one of which is the Social Forestry.

So far, the Social Forestry has indeed become a mechanism for resolving conflicts over cultivation lands inside forest zone, especially those involving the interests of the community. However, referring to the *MoEF Regulation P 83 of 2016*, land conflicts involving smallholder's oil palm is an exception. Social Forestry under the logic of the *MoEF Regulation P 83 Year 2016* is excluded when community's mixed cultivation with mainly oil palm crops is

Table 4.2. The Matrix of Clause Change in the MoEF Regulation K P 83 of 2016

No	Old Norms	New Norms	Notes
1.		Considering: <ul style="list-style-type: none"> a. That the community has practiced agroforestry while implementin the Social Forestry. b. That the agroforestry provides economic and environmental benefits. 	Communities [at least in Palangkaraya, Berau, and Besitang] have practiced agroforestry. In addition, with agroforestry, the community has more options to plant commodities that greatly help the economy.
2.	Article 1 number 1 Social Forestry is a system of sustainable forest management carried out in state owned forest or customary forest / forest areas by local community or customary community as the main actors to improve their welfare, environmental balance and socio-cultural dynamics in the form of Village Forests, Community Forests, Plantation Forests, People, Community Forests Customary Forests and Forestry Partnerships.	Article 1 number 1 Social Forestry is a sustainable forest management system including the agroforestry carried out in state-owned forest or customary forest / forest areas by local community or customary law community as the main actors to improve their welfare, environmental balance, and socio-cultural dynamics in the form of Village Forests, Community Forests, Community Plantation Forests, Community Forests, Customary Forests and Forestry Partnerships.	The agroforestry must be considered as part of the Social Forestry.

No	Old Norms	New Norms	Notes
3.		Article 1 number 25 Agroforestry is a land use system that combines trees with agricultural crops to increase benefits economically and environmentally.	Agroforestry is a combination of plants in one land that is very useful for improving the community's economy.
4.		Article 1 number 26 The recovery period is the duration needed to restore the structure and function of forest ecosystems in forest areas that have already been damaged.	Periodisation is needed for the application of agroforestry.
5.	Article 56 paragraph [5] Holders of <i>HPHD, IUPHKm, IUPHHK-HTR</i> , Forestry and Customary Forest Partnerships are prohibited from planting oil palm on the entitled lands.	Article 56 paragraph [5] Holders of <i>HPHD, IUPHKm, IUPHHK-HTR</i> , Forestry and Customary Forest Partnerships are prohibited from planting oil palm on the entitled lands, except in the form of agroforestry.	Holders of Social Forestry permits are allowed to plant any commodity as part of agroforestry.
6.	Article 65 letter h In the case of the Social Forestry area or in the Social Forestry proposal there have been oil palm plants since the regulation was enacted, permit is given for 12 [twelve] years since the planting period and among oil palm plants should be cultivated with at least 100 wooded trees per hectare.	Article 65 letter h In the case of the Social Forestry area or in the Social Forestry proposal there have been oil palm plants since this regulation was implemented, the agroforestry is applied.	Pemberlakuan Agroforestri bagi semua jenis skema lahan.
7.		Article 65 letter n The implimenttaion of agroforestry as referred to in the letter h is conducted with the recovery period system.	Agroforestri harus memperhatikan jangka benah.

concerned. Oil palm is only allowed to grow inside forest zone for 12 years since the start of planting period.

With such a logic, it is a big failure to adopt the Social Forestry schemes as an effort to resolve problems of the smallholder's oil palm is located inside forest zone. But if the Social Forestry schemes are necessarily needed to be adopted, there must be a review, especially over certain clauses which have been the basis for not allowing the development of the Social Forestry's mixed oil palm model. Of course, the review must be supported with adequate academic reasons: that the adoption of mixed oil palm plantations in the Social Forestry scheme will be able to contribute positively to ecological, social, and economic aspects. Without a strong academic foundation, instead of empowering the community, such effort will fall into a process of simply legalising forest destruction.

A review was conducted by the Faculty of Law Team of UGM chaired by Prof Maria H (2018) over an adoption of the Social Forestry policy aiming to support the smallholder's mixed oil palm inside forest zone. The outcomes of the study indicate that the opportunity to develop Palm Social Forestry is actually wide open, considering that there are a great number of mixed oil palm mixed that the smallholder in several regions has developed. However, there must be efforts to provide detailing and wording of such policies on mixed oil palm. Thus the process of adopting the smallholder's mixed oil palm inside forest zone into Social Forestry can be executed immediately. Initiatives to develop mixed oil palm or agroforestry crops, as already found in the field, need to immediately receive adequate legal protection. There are two reasons for that reasoning; *first*, to immediately end the long-labelled illegal status; *second*, to ensure that the expansion and performance of such mixed or agroforestry crops are controllable.

At least, by adopting the mixed crops into Social Forestry, the land can be transformed into legal and agroforestry expansion and performance can be intervened. At least, possible expansion of mixed plantation or oil palm agroforestry can be kept under control. The following are the results of a review and the proposed adjustments to the clauses related to oil palm inside forest zone.

THE RECOVERY PERIOD STRATEGY

In a Focus Group Discussion (FGD) - organized by the Faculty of Forestry of UGM on 30th May 2018 and attended by representatives from various institutions including the UGM Faculty of Agriculture, KEHATI Foundation, IRE, AURIGA, and JAVLEC— an idea emerged to change the landscape of monoculture palm forests into mixed oil palm as an alternative solution for the smallholder's oil palm inside forest zone. This idea was motivated by an initial assumption that adding forestry plants to a stretch of monoculture oil palm, better known as building agroforestry systems, will form a layered canopy structure that resembles forest cover (close to nature). Thus, in the long run, the ecological function of the area will return to normal.

With this model of agroforestry land management, the debate over whether oil palm belongs to forest plants or not becomes no longer relevant (Santoso, 2018). However, the approach to addressing the problems of oil palm inside forest zone does not simply mean to switch the monoculture oil palm agroecosystem into oil palm mixes by adding other crops

(forestry) to oil palm land with certain cropping patterns, but it also need to discuss other important aspects, namely the community's social and economic aspects, institutional aspects, and aspects of the supporting policies. The Recovery Period Strategy (SJB) concept offered by the UGM's Faculty of Forestry seeks to cover all these issues.

THE RECOVERY PERIOD

The Recovery period is one of the concepts in forest management. This especially ocured in the management of teak production forests in Java in the first half of the 20th Century. In the context of yield regulation, the recovery period is a span of time needed to regulate forest standing stocks (in production forests) so that the standing stock of the forest becomes normal and can produce forest products (timber) sustainably (Simon, 1993).

It is the concept to normalise forest condition with disrupted function that is being adopted and reformulated in the typology of monoculture oil palm inside forest zone. In this case, definition of the recovery period is adjusted to an elapse of time needed to achieve a desired forest structure and desired ecosystem function in accordance with the management objectives of scheduling silvicultural actions or other measures.

The SJB is a plan containing a set of strategies in the form of silvicultural actions and other measures (community's socio-economic aspects, institutional aspects, and supporting policy aspects) needed to achieve a desired forest condition in the future. The objective is to improve community's economy, to create balanced environment and socio-cultural dynamics.

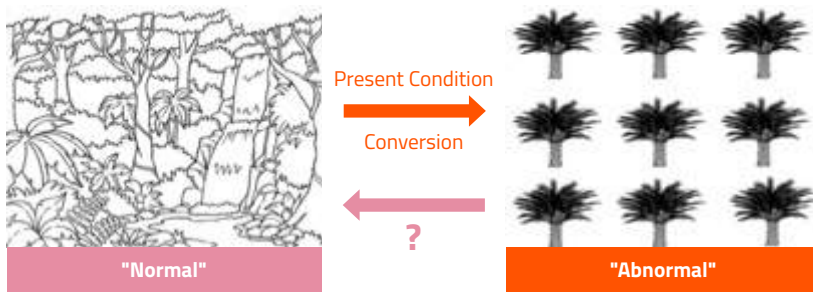


Figure 4.2. Changes from "normal" condition of natural forests into "abnormal" condition of monoculture oil palm. The recovery period strategy attempts to reverse the "abnormal" condition back to "normal" again.

THE RECOVERY PERIOD STAGES

Broadly speaking there are two stages through which the SJB is implimented. *First*, improvement of forest structure where the output target is the formation of mixed oil palm that will have a positive impact on improving ecosystem function. *Second*, restoration of ecosystem functions in which land cover conditions in the form of mixed oil palm will develop into

land cover that resembles natural forest (close to nature), as is the condition of forest land before being converted into monoculture oil palm plantations.

The first step of the recovery period plays a key role before embarking into the next term. Thus, silvicultural actions to form mixed palm oil agroecosystems are very important. In the context of efforts to improve ecosystem function, the first phase of the recovery period is similar to land rehabilitation efforts. Meanwhile, the second phase is similar to the efforts of regional restoration.

There are benchmarks through which the success of the SJB's first phase are measured, namely (i) the emergence of ecological transformation signified with an improved ecological function of the area, (ii) the emergence of community's economic transformation signified with increased income from mixed oil palm, and (iii) the emergence of social transformation with increased community's participation in sustainable regional management forest.

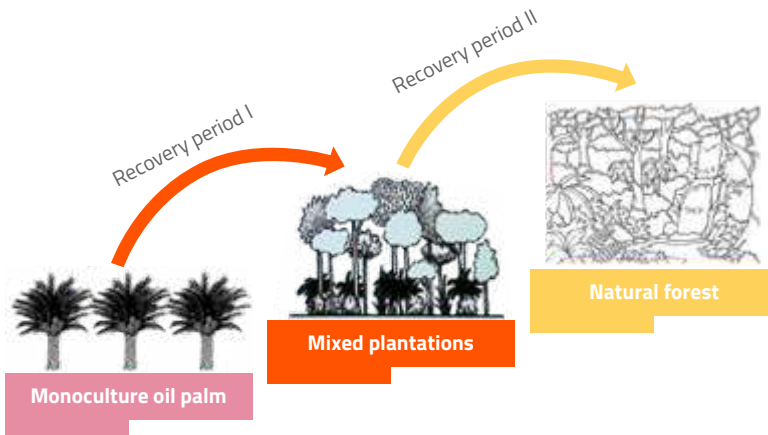


Figure 4.3. The Recovery Period Stages Starting from Monoculture Palm Crops into Mixed Palm [The Recovery Period Phase 1] and Becoming Natural Forests as before [The Recovery Period Phase 2].

THE SJB THROUGH THE SOCIAL FORESTRY SCHEME

The adoption of the SJB as a solution to the settlement of the smallholder's oil palm inside forest zone is proposed through the Social Forestry scheme. By entering through the scheme for the issuance of Social Forestry licenses for oil palm inside forest zone, the SJB can be implemented more optimally because of its mandatory nature that is attached within the Social Forestry permit. Thus, it is possible to carry out monitoring and evaluation (mo-nev) every five years, in accordance with regulation that the Social Forestry requires.

And for more effective implementation, there must be first revisions over the *LHK P 83 of 2016 concerning Social Forestry*, especially the *Article 65 (h)*. If the SJB is implemented in oil

palm plantations inside forest zone through Social Forestry licenses, then the clause on the 12-years limit for oil palm plants and a minimum limit of 100 trees of forest plants that must be planted on oil palm is no longer relevant.

In the SJB scheme, silvicultural techniques that include the arrangement of mixed oil palm cropping patterns and selected types of plants to convert monoculture oil palm agroecosystems into mixed oil palm will vary greatly, depending on the typology of the area which includes land suitability, economic value, community's adoptability, and ecology function. By adopting the SJB as a part of the terms of the Social Forestry permit, spatially, the scope of the SJB implementation target will involve all community-owned monoculture oil palm in the area of the Indicative Map of Social Forestry Areas (PIAPS).

Schematically, this spatial scope is presented in *Figure 4.4*.

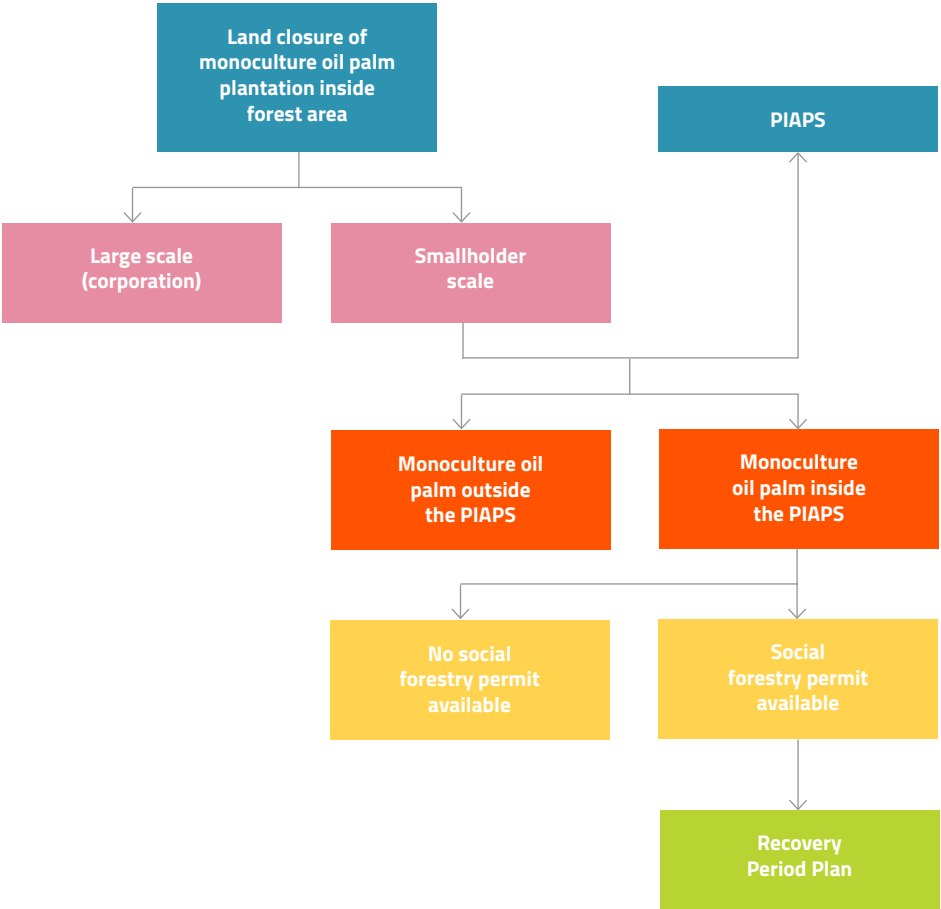


Figure 4.4. Spatial Scope of the Recovery Period Phase I.

OPPORTUNITIES AND CHALLENGES FOR IMPLEMENTING THE SJB

Indeed, the practice of mixing oil palm with other types of (forest) plants in the same stretch has been conducted in Indonesia and in other tropical countries. Palm agroforestry practices, for example have been carried out in Malaysia (Ismail et al, 2009; Khasim et al, 2009), in Costa Rica (Höbinger et al, 2012), and in South Africa and West Africa (Bhagwat and Willis, 2008).

In Indonesia, the practice of mixing plantation crops such as oil palm with timber, fruit, and sap forestry plants has actually been conducted by local community in several regions. They even have their own terms for the mixed garden, for example “*simpukan*” (East Kalimantan), “*tembawang*” (West Kalimantan), “*repong*” (West Lampung), “*para*” (West Sumatra), and “*talun*” (Sunda) (Santoso, 2018). A survey was carried out in various regions in Indonesia— Palangkaraya (Central Kalimantan), Langkat (North Sumatra), and Tebo (Jambi). It found various mixed oil palm practices that the local community have long developed.

In general, the mixed crop practices adopt the oil palm as one component of vegetations to grow together side by side with other types of vegetation on one unit of the same land. It is where all vegetations on the land function as a source of income for the owner. However, each region has their own different patterns of mixed crops. In Palangkaraya (precisely in Sei Gohong Subdistrict, Bukit Batu Subdistrict) there was a four-hectare mixed oil palm owned by a local farmer that the nearby neighbours called Mr Ibak, a native of Dayak Tribe.

He develops the oil palm and mixes it with various types of timber plants— rubber, albasia, jelutong, bitter bean, and even fruit-producing plants such as pineapple. He conceded that the main motivation to practice oil palm cultivation mixed with other crops is to maintain income stability in case there were fluctuated price of palm oil or rubber. With such a mixed land processing pattern, he feels more financially secure because he has more varied sources of income in stre.



Figure 4.5. Oil Palm-Rubber Mixed Configuration of Mr Ibak's, a Mixed Palm Crop in Palangkaraya

In addition to the mixed oil palm land that Mr Ibak owns, in Kelurahan Sei Gohong, alongside the road from Palangkaraya to Kasongan, some farmers also practice the mixed oil palm-rubber crops. They develop the mixed plantations in more systematic manner by applying planting pattern of 5 x 5 square meters of rubber plants and 9 x 7 square meters of oil palm crops. First, they planted the rubber plants. But when they heard about the downward trend of rubber price, they began to start to grow the oil palm plants in between.



Figure 4.6. The Practice of Mixed Palm Gardens with a More Systematic Planting Pattern between Palm Oil and Rubber Crops in Palangkaraya (Central Kalimantan).

Meanwhile in Langkat (North Sumatra), community develop mixed oil palm crops in random cropping pattern over smaller lands (less than one hectare) nearby their houses. In several locations along Lubuk Kertang (Stabat, Langkat) the smallholder's oil palm they mix with cocoa, durian, banana, and even vegetable crops such as mustard, spinach, and so on.

Random as they look, the mixed crops even succeeded in creating a complete vegetation structure. The farmers said that the main motivation to grow the mixed oil palm crops was to build an economic safeguard in case one of the crops' prices turned low they still could get a hope from the other crops.

In Tebo (Jambi), community have been growing oil palm plants that they mixed with forest plants (meranti, *Shorea sp*) for over the last 15 years, and the obvious impacts seem financially promising. A farmer named Mr Edy, who also makes fortune by opening a res-



Figure 4.7. Configuration of a Mixed Oil Palm on a Residence's Yard in Langkat [North Sumatra].

taurat “Singgalang” in Kuamang Kuning (Pelepat), grows the meranti plants with spacing pattern of 3x3 meters among 9 x 9 square meters of oil palm crops. The mixing of the two types of plants seems to be quite successful, where the plants of both types show a good growth. However, there is no attempt to explore further the impact of mixing the two types of plants in terms of productivity, especially that of the oil palm crops’.



Figure 4.8. Configuration of Mixed Oil Palm Crops with Meranti Plants in Kuamang Kuning [Tebo, Jambi].

It is believed that there are many more examples of smallholder's mixed oil palm practices. With the many examples of mixed oil palm practices in several regions, it indicates that the community have been quite familiar with agroforestry practices, where the combination of plants does not only involve the agricultural crops, but also forest vegetations. Such practices become a potential social capital to support the successful implementation of SJB in order to resolve the problem over the presence of monoculture oil palm inside forest zone.

However, it should be noted that income security plays as the main factor that encourages farmers to grow mixed oil palm. The choice of the combined plant types is made on the basis which commodities may potentially make good price in the future (Budiadi et al, 2018).

In addition to market motivation, biophysical factors also play a role in influencing farmers' decisions in adopting the mixed crops, where the selection of plants is adjusted to the existing land condition. For example, farmers in Palangkaraya who grow oil palm on marginal peatlands will tend to combine it with other types of vegetation which they hope to serve as alternative source of income.

However, it should be noted, in addition to the physical condition of the land, low palm productivity is also caused by limited access for farmers towards quality oil palm. A smallholder's oil palm with low productivity will only produce about 40 tons to 60 tons of fresh fruit bunches (TBS) / hectare in one harvest time (every two weeks). The field surveys indicate that palm farmers have been conducting trial-and-error mechanism to find out which land use models may provide the most economic security in obtaining income.

The emergence of mixed oil palm practices shows that there are opportunities to implement SJB. Still, there are challenges getting in the way, one of which is that only few farmers

Table 4.3. Types of Mixed Oilm Palm Farmers in Several Provinces

Management unit	Ammounts of area	Land management model	Commodities	Motivations
Small	< 3 hectares	Mixed oil palm [random]	<ul style="list-style-type: none"> • Uncertified oil palm seedlings • Livestock 	<ul style="list-style-type: none"> • Limited lands • Diversification/ secure family income • Lack of knowledge
Medium	3 – 10 hectares	Mixed oil palm [regular]	<ul style="list-style-type: none"> • Non-certified palm seedling • Rubber / albasia • Jelutong, bitter bean, pineapple, dll. 	<ul style="list-style-type: none"> • Limited land • Diversication/ household income security • Scarce knowledge
Large / industry	> 10 hectares	Mixed oil palm [regular] industrial scales	<ul style="list-style-type: none"> • Certified and non-certified palm seedling • Rubber/ albasia/ agarwood • Track planting pattern 	<ul style="list-style-type: none"> • Profit optimisation • Diversified incomes • Knowledge and experience

dare themselves to begin to adopt this practice. They said that it is unusual to mix oil palm with other plants in a cropping practice. This is due to several reasons: (i) farmers are worried that the presence of other types of plants will be disrupt production of oil palm crops; (ii) lack of well-documented knowledge and information on palm agroforestry practices, and; (iii) lack of supporting factors (institution, advocacy for farmers, market) for palm oil agroforestry practices.

Those three factors pose enormous challenges for the broader implementation of SJB in monoculture oil palm within forest zone. Therefore, a demonstration plot should be developed for the SJB practice that can be used as a reference in mixed palm oil management and support in its management, especially the market guarantee for mixed timber products from mixed oil palm.

In addition, to ensure the success of the SJB, information and examples of clear calculations regarding the productivity and the recovery period sustainability are needed, specifically the certainty of regulations on the implementation of SJB as an instrument for the solution of oil palm. ❖

CHAPTER V

Settlement over Corporation's Oil Palm inside Forest Zone

The oil palm entitlement inside forest zone does not only involve community but also oil palm corporations. Whereas, the licensing procedure regulates the prohibition of issuing permits to land entitlement for oil palm inside forest zone except that inside convertible production forests that requires the Decree (*SK*) for Release of Forest Zone. Example of issuance oil palm licenses inside forest zone even can be found in conservation and protection forests such as the Tesso Nilo National Park (Riau) (Eyes on the Forest, 2018).

Cases involving the issuance of permits inside forest zone was also hinted by the Corruption Eradication Commission (KPK). In 2016 it found out that legal cases on unaccountable palm oil licensing system has triggered overlapping land permits with forest territory. Such issue was initially sparked by the problem of spatial planning in the regional level and licensing corruption involving local political elite in the region. This was also triggered by a disintegrated licensing procedures involving cross-government and cross-sectoral levels all of which cause inoptimum licensing and control functions.

A solution to this problem needs to be adopted immediately. The government cannot allow this problem to continue. There must be a concrete solution that can optimally resolve this. The Government has indeed issued a number of policies to resolve the conflicts of oil palm's presence conflict inside forest zone. However, these policies are not optimal in solving problems that occur in the field.

This chapter analyses the options with which problems of oil palm presence inside forest zone are dealt with. It begins with building a licensing evaluation system by integrating data on oil palm permits, on palm oil cover, and on forest zone. The next step is to evaluate oil palm licensing by conducting a case study in Central Kalimantan to find out the typology of corporation's control over oil palm inside forest zone was known by the company, which would later be used as a measure indicator.

Methods for Analysing Oil Palm Corporate’s Control inside Forest Zone

THE METHOD to analyse the ownership of oil palm permit holders in forest zone is conducted by overlaying maps of all permits— location permits, IUP, HGU, forest zone. The the HGU permits inside the forest zone was split into two, namely those which have obtained the Decree on the Release of Forest Areas and those which have not.

To find out whether or not it is operating, all of the maps are overlaid with that palm cover. The illustration can be seen in Figure A.

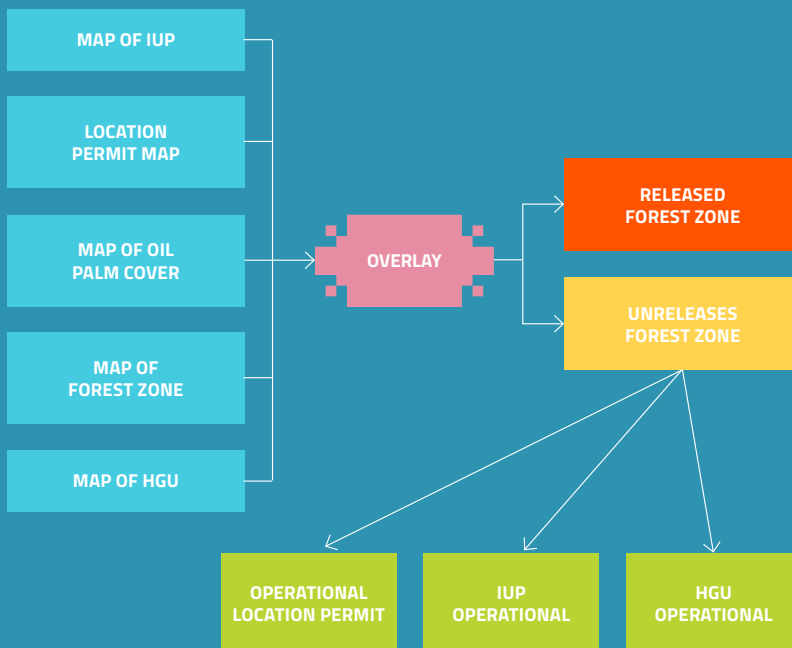


Figure A. The Overlay Procedure of Maps of Palm Cover, Palm Permits, and Forest Zone.

The oil palm licenses to be complied consist of location permits, plantation business licenses, the Decree on the Release of Forest Areas, and the HGU. The procedure through which the data were compiled can be seen in Figure B.

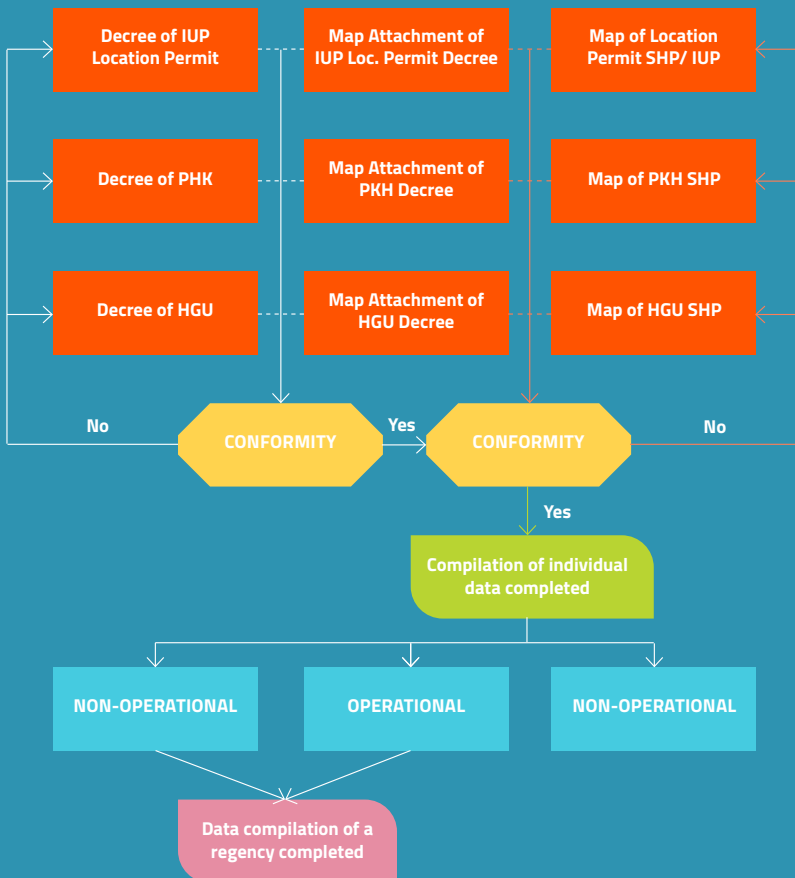


Figure B. Data-compiling Procedure of palm Permits

The overlay produces a typology of land entitlement by oil palm inside forest zone. The typology can be seen in the following table:

Table A. Typology of Land Entitlement by Oil Palm inside Forest Zone and the Analysis Units in the Policy Paper.

Types of Permits	Types of Land Ownership inside Forest Zone by Oil Palm Corporation		Analysis Units
A	A1	Location permits, IUPs, forest area release decrees, and HGUs are available and operational.	No
	A2	Location permits, IUPs, forest area release decrees, and HGUs are available but nonoperational yet.	No
B	B1	IUP was issued for over the last 2 years, decree for the release of forest zone available, no HGU yet, but already operational.	No
	B2	IUP was issued for over the last 2 years, decree for the release of forest zone available, no HGU yet, and nonoperational yet.	No
C	C1	Location permit was issued for over the last 3 years, IUP unavailable, decree for release of forest zone unavailable, HGU unavailable, and are nonoperational	No
	C2	IUP was issued for over the last 2 years, decree for the release of forest zone unavailable, HGU unavailable, and not yet operational.	No
D	D1	Location permit was issued for over the last 3 years, IUP unavailable, release decree of Forest zone unavailable, HGU unavailable, but already operational.	Yes
	D2	IUP was issued for over the last 2 years, decree on the release of forest unavailable, HGU unavailable, but already operational.	Yes
E	E1	IUP was for over the last 2 years, decree on the release of forest zone unavailable, HGU available, and nonperational.	No
	E2	IUP was issued for over the last 2 years, decree on the release of forest unavailable, HGU available, and already operational.	Yes
F	F1	No available at all, inside forest zone, and already operational.	No

Furthermore, the unit of analysis in this chapter comprises [1] location permits have been issued for over the last three years, IUP inavailability, forest area release decree inavailability, HGU inavailability, and operability; [2] IUP has been issued for over the last two years, decree for release of forest area inavailability, HGU inavailability, and operability, and; [3] IUP has been issued for over the last two years, decree on forest area release inavailability, HGU availability, and operability.

EVALUATION OVER PALM PERMITS INSIDE FOREST ZONE: CENTRAL KALIMANTAN CASES

Chapter 2 explains that Central Kalimantan is a province with the largest invasion of oil palm inside forest zone in Indonesia, second to Riau. The invasion not only involves community but also oil palm corporations— hundreds of them and all which claim to have obtained licences - to have cultivated oil palm plants inside forest zone. Such condition has caused problems that are not easy to resolve. This is not a matter of licensing problem, but instead there is very substantial condition which poses as the cause of the problem, namely spatial issues (spatial cases, which is already discussed in Chapter 2).

The high problem escalation can only be resolved by conducting a comprehensive evaluation over all oil palm permits— such as location permits, IUP, Decree on the Release of Forest Areas, and HGU - in Central Kalimantan. The one-map policy (*KSP*) may serve as one of the licensing evaluation instruments. The KPK, the Geospatial Information Agency (*BIG*), the Ministry of Agriculture, regional governments, and Auriga carried out the process at the light of the National Movement for the Rescue of Natural Resources (*SDA*).

The result is that until 2017 license issuance for oil palm in Central Kalimantan reached three million hectares. Of that area, only around 36 percent or 1.13 million hectares have already carried out the process of land rights settlement; some are still in the cadastral process (land map), some have already obtained the HGU certificate. The remaining 1.49 million hectares are still in the process of filing plantation business permits (*IUP*), and the other 0.48 million hectares are still in a process to obtain location permits. Of the 1.13 million hectares that already have obtain the *HGU*, only 759 thousand hectares or 67 percent already operate (when land has been cultivated with oil palm), while the rests are still not planted or simply abandoned). Then, of 1.97 million hectares of land that only has obtained the *IUP*, only 619 thousand hectares have been planted with oil palm or 32 percent of the total *IUP*.

That means there are still many oil palm plantations that have not started to grow the plants despite the licenses (*IUP* and *HGU*) which they had obtained. Oil palm corporations simply keep such empty land for reserve (land bank).

There are some 425 thousand hectares or 68.8 percent of land inside forest zone that already have obtained location permit and the *IUP* and have been cultivated with oil palm. Meanwhile, there are some 240 thousand hectares of land with the *HGU* (31.6 percent of the total *HGU*) located inside forest zone and has been cultivated with oil palm crops. Totally, around 666 thousand hectares of land with oil palm licenses and oil palm plants growing on it located inside forest zone.

Table 5.1. Area of Oil Palm Permits that Has Been Cultivated inside the Forest and Non Forest Zone, Central Kalimantan.
Source: Auriga, 2019 [remake]

Types of Permit	Forest Zone [Hectare]	Non-forest Zone (APL) [Hectare]	Total [Hectare]
Location Permit and IUP	425,998 [68.8%]	193,593 [31.2%]	619,591 [100%]
<i>HGU</i>	240,195 [31.6%]	519,293 [68.4%]	759,488 [100%]
Total	666,193 [48.3%]	712,886 [51.7%]	1.379.079 [100%]

There are several types of control over oil palm inside forest zone in Central Kalimantan. *First*, permits for oil palm that have already been cultivated and invading conservation areas. There are 5,000 hectares of them, all of which have possessed location permit and the *IUP*. *Second*, permits for oil palm that have been cultivated and invading the protected forest zone, covering some 12 thousand hectares of land consisting of location permit and the *IUP* (8,000 hectares) and the *HGU* (4,000 hectares). *Third*, permits for oil palm that have been cultivated and invading the limited production forests covering an area of 58 thousand hectares, which

Table 5.2. Permit for Oil Palm that Have Been Cultivated and Invading Forest Zone according to Forest Area Functions, Central Kalimantan.
Source: Auriga, 2019 [remake]

Forest Zone	Licensed Oil Palm Plantations [Hektare]		
	Location Permit/ IUP	HGU	Total
Nature Reserve Area/ Conservancy	5.738	0	5.738
Protected Forest	8.256	4.091	12.347
Limited Production Forest	40.374	18.076	58.450
Production Forest	248.604	34.591	283.194
Convertible Production Forest	122.974	183.490	306.464
Total	425.946	240.248	666.193

consists of location permits and the *IUP* (40,000 hectares) and the *HGU* (18,000 hectares). *Fourth*, permits for oil palm that have been cultivated and invading production forest zone, covering 283,000 hectares of land consists of location permit and the *IUP* (248,000 hectares) and the *HGU* (34,000 hectares). *Fifth*, permits for oil palm that have been cultivated and invading convertible production forest zone, covering an area of 306 thousand hectares consisting of location permit and the *IUP* (122,000 hectares) and the *HGU* (183,000 hectares).

CONFLICT RESOLUTION OVER CORPORATION'S OIL PALM ENTITLEMENT INSIDE FOREST ZONE

The evaluation over the practice oil palm permits in Central Kalimantan found out several types of land invasion by oil palm corporations inside forest zone. The, the solution must take into account of each specific types. Whatever the condition may have in store, law enforcement must come first to be implemented as the main instrument to resolve the conflicts. And then, other instruments beyond litigation may follow. The following are several policies that can be adopted as options through which problems of land invasion by oil palm corporations inside forest zone must be resolved.

A. TO SPEED UP THE IMPLEMENTATION OF THE EVALUATION OVER OIL PALM LICENSES THROUGH THE PRESIDENTIAL INSTRUCTION NO 8 OF 2018

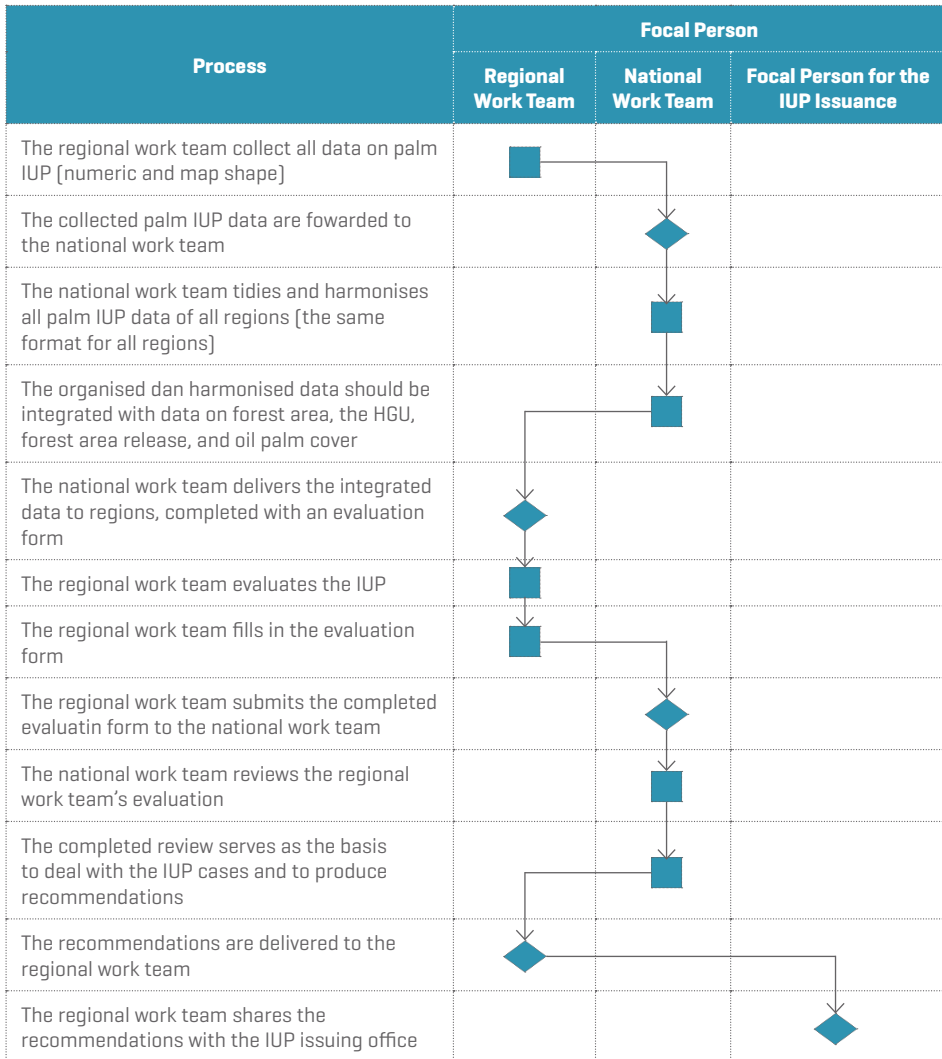
The evaluation in Central Kalimantan has helped unearth the once unknown conflicts over land control by oil palm corporations inside forest zone. Such measure needs to be encouraged and to be replicated in other regions where oil palm plantations are developed in massive quantity. The evaluation has already been legally safeguarded by the *Inpres No 8 of 2018 concerning Postponement and Evaluation of Oil Palm Licensing and Increased Productivity of Oil Palm*. Its mandate requires that all permits that have been issued and are not in accordance with the legal provisions— invading forest zone, for example— must be addressed to abide the existing laws.

However, this *Inpres* needs to be supported by derivative policy instruments. It needs technical guidelines for the implementation of licensing evaluations, institutions designated in the licensing evaluation process, and post-evaluation licensing policies. To encourage the implementation, it requires:

1. THE COORDINATING MINISTRY FOR ECONOMIC AFFAIRS TO PREPARE TECHNICAL GUIDELINES FOR EVALUATING THE LICENSING SYSTEM OF OIL PALM PLANTATIONS AS A STANDARD FOR THE LICENSING EVALUATIONS BY THE MORATORIUM TEAM AT THE NATIONAL AND REGIONAL LEVELS;

Oil palm permit evaluation only can work if there are technical instructions for its implementation. This is because the *Inpres* only functions as a norm and must be elaborated more technically into detailed instructions— for example, a mechanism for evaluating *IUP* by regional work teams. The technical instructions should elaborate the process flow from beginning to end and are equipped with a flowchart.

Table 5.2. An Example of an IUP Evaluation Mechanism Flowchart



2. TO ESTABLISH AN IMPLEMENTING WORK TO EVALUATE OIL PALM LICENSING SYSTEM

In accordance with the *Presidential Instruction No 8 In 2018*, the Coordinating Ministry for Economic Affairs establishes an implimenting work team for the licensing evaluation, consisting of national and regional work teams.

The national level work team consists of:

- a) Deputy for Coordination of Energy, Natural Resources and Environment Manage-

ment at the Coordinating Ministry for Economic Affairs who simultaneously serves as Chair.

- b) Director General of Forestry Planning and Environmental Management of the Ministry of Environment and Forestry as members.
- c) Director General of Plantation of the Ministry of Agriculture as a member of the National Level Work Team.
- d) Director General of Legal and Administrative Relations of the Ministry of Agrarian Affairs and Spatial Planning as members.
- e) Director General of Regional Development Development of the Ministry of Home Affairs as a member.

The National Work Team is responsible to the Coordinating Minister for Economic Affairs. It will provide periodic reports to the Coordinating Minister for Economic Affairs as a notification of the outcomes of the licensing evaluation.

Furthermore, in assisting the work of the National Work Team, a Technical Team is established, which consists of:

- a) Ministerial Directors/ Ministerial Deputy Assistant;
- b) Experts;
- c) Professionals; and / or
- d) Non-governmental organisations that possess technical capacity in the environment, forestry, or oil palm plantations sectors.

Meanwhile, the Provincial Work Team comprises of:

- a) Governor;
Head of Regional Office of the National Land Agency;
- b) Head of the Forest Area Consolidation Center;
- c) Regent / Mayor.

3. THE GOVERNMENT PREPARES A FRAMEWORK FOR RESOLVING LAND INVASION OVER FOREST ZONE BY OIL PALM CORPORATION AFTER THE LICENSING EVALUATION

The licensing evaluations will reveal that there is a great number of problems to resolve—for example, a problem involving a forest zone invaded by an *HGU* with long validity period.

In such a case, it is very likely that the existing policies will take a bold option to revoke the *HGU*. But it is not always that easy. Once the *HGU* is revoked, the post-licensing evaluation must provide a hint about who would take care of the plantation that has been operating since. This also must explain about the transferring management. And last but not least, the evaluation should find mechanism to guarantee the plantation's continuity, to cope with potential conflicts, and to take care of environmental management.

It is predicted that there will be many other complicated cases that the licencing evaluation will discover. Thus, it is important to bolster the policy framework for the resolution before and after the evaluation. Therefore, the national and regional governments must closely coordinate to prepare regulation to deal with the oil palm conflicts during post forest permit evaluation.

B. TO ENFORCE THE LAW AGAINST CORPORATIONS THAT VIOLATE LICENSING PROCEDURES AND INVADE FOREST ZONE.

Law enforcement seems to be a policy instrument that is relevant to be adopted in dealing oil palm plantation permits in forest zone. This instrument is available within the *Law No 18 of 2013 concerning Prevention and Eradication of Forest Destruction*. The law requires that violations which prove to have caused forest destruction are subject to criminal sanctions and administrative sanctions (state coercion, mandatory fines, and / or revocation of licenses). But when implemented, such a will find many obstacles getting in the way; for example, the mechanism to be adopted to excute confiscation of oil palm plantations as the court's verdict has instructed, and also the mechanisms to regulate redistribution of land where the licenses have been revoked. Therefore, in order to strengthen law enforcement, the following provisions must be regulated:

1. TO REGULATE THE MECHANISM FOR IMPLEMENTING THE COURT'S VERDICT AGAINST OIL PALM CORPORATIONS WHOSE LAND SHOULD BE CONFISCATED BY THE STATE IN THE NAME OF JUSTICE

Why does this have to be arranged? This may refer to a case involving a citizen named Mr Sitorus whose 47,000-hectare oil palm proved to be located inside forest zone. When the case went to court upon the state's appeal, the Supreme Court (MA) produced a verdict instructing the state to seize Mr Sitorus's plantation. The Supreme Court's *Verdict No 2642K / Pid 2006* dated on 12th February 2007 was endorsed with another verdict the *MA No 39PK / Pid Sus / 2007* on 16th June 2008. The problem is, the verdict has not yet been executed until now, and the land remains untouched. The oil palm even continues to operate and makes trillions of rupiah of fortune each year.

The story is clear, the law enforcement that had been taken and resulted in the Supreme Court's verdict to confiscate the oil palm plantations went busted once it faced complicated constrains during its implimentation. Supposed the plantation is confiscated, there must be clear folow-ups; such as the steps to take during the land confiscation is being executed, and to whom the land should be transferred to be taken care of. It must be kept in mind that the palm oil plantation and its factory are huge productive assets and must continue to operate for economic reasons. Nobody can delay harvest season when the palm fruit is ripe to be picked and to be immediately processed in the factory.

That means, the state should not leave alone the assets and let them uncared. This requires measures to pepare competent institutions that take care of and to keep the operation of the oil palm plantations and the factories. During the confiscation over Mr DL Sitorus' oil palm, there was a resistance by the surrounding community. The uprising was especially conducted by those who had benefited fortunes from several partnership programmes that Mr DL Sitorus' company and the community developed side by side. On the one hand, the state came and deployed its force under the name of justice. On the other hand, the people viewed that the state's law force enforcement as a threat to their economy and thair livelihood which they thought to be worth fighting for, at all costs.

Such case implies that the Government needs to be affirmatively urged to make improvement in order to prevent the same old problems as such— a huge quantities of them are still looming in almost all regions and remaining unexposed to the surface now— from



recurring in the future. The Government needs to develop a policy framework that regulates the mechanism of confiscation and management of confiscated palm as an effort to handle post-evaluation circumstances.

2. TO REGULATE THE MECHANISM OF LAND REDISTRIBUTION TO THE COMMUNITY OR VILLAGE INSTITUTIONS AS THE OBJECT OF LAND REFORM (TORA)

The licensing evaluation would certainly find many illegal company-owned oil palms that violate the law. This includes the practice of abandoning the *HGU* or palm corporations which encroach forest land beyond the extents that the *HGU* allows. Such cases can be resolved by taking over land of oil palm corporations that have proved to violate the provisions of the *HGU*. The seized land automatically becomes state-owned land.

The government is currently very focused on the agrarian reform programme, one of which is to redistribute land to community. In that situation, the evaluation of oil palm licensing is a momentum to accelerate the agrarian programmes by redistributing the *HGU* land that violates the provisions of legislation to community and village institutions. And it is necessary to include it and categorise into the land of agrarian reform objects (TORA). Meaning that it is necessary to develop rules regarding the mechanism of land redistribution in order to deal with the abuse case.

3. TO REGULATE THE MECHANISM OF COERCIVE FINES TO BE RETURNED FOR THE FUNCTION OF RESTORING FOREST ZONE

Coercive fine serves as one of the instruments of law enforcement against violations that oil palm corporations commit inside forest zone. The forced penalties should go into state revenue of non-tax state revenue (*PNBP*). The problem is that the money from the coercive fine does not return for the restoration of forest zone. The money should have been spent for recovery at the location where the problem have occurred.

The poor regulation system that ironically makes way to oil palm invasion over the land inside forest zone has caused irreversible damages. The environmental degradation is even getting worse from time to time. This means that the mechanism of coercive fines is only intended as an instrument of state revenue rather than as an instrument of restoring forest destructions. This needs correction. The government must establish an arrangement to ensure that the coercive fines are returned for the function of restoring forest damages.

C. TO DEVELOP A ONE-MAP POLICY ON OIL PALM BASED ON THE LICENSING EVALUATION

Evaluation over palm licensing serves as a material to accelerate the one-map policy process (*KSP*). So that the *Inpres* on the permit evaluation can help the implementation of *Presidential Regulation Number 9 of 2016 concerning the Acceleration of the Implementation of the One Map Policy at the Level of Accuracy of the Scale 1: 50,000*. Furthermore, *KSP* can also serve became as the basis with which the government compiles spatial plans for oil palm and its development plans. Data contained in the one-map policy must be open to the public. ❖

CHAPTER VI

Settlement of Land Conflicts and Village-based Oil Palm Consolidation

To solve the problem of the smallholder's oil palm, especially those that are located inside forest zone, a village-based resolution can be proposed as a new option. The *Law No 6 of 2014 concerning Villages (Village Law)* - through recognition and subsidiarity - is likely to make a pathway villages to play a productive role. The recognition and subsidiarity principles position and place the village not in the subordinate system of regional government as stipulated in the *Law No 23 of 2014 concerning Regional Government (Local Government Law)*.

According to the *Village Law*, the position of the village is defined as an entity or legal community unit in the regency / municipal area (*Article 5 of the Village Law*), which is in charge and responsible for regulating and managing government affairs and the local community's interests (*Article 1 Point 1 of the Village Law*). The village system that is expected to be established and developed today is a formally decisive village; possessing village authority, village governance, and village planning, and budgeting (Sutoro, 2015). Before this discussion integrates the issue of smallholder's oil palm in the village system, it is important to describe first the aspects of the village system.

First, village authority aspects. In the concept of state administrative law, authority is the ability to carry out positive legal provisions, which causes the formation of legal relations between the state and citizens (IRE and CCES 2016). Thus, village authority can be interpreted as the power and responsibility of the village as a legal entity to regulate and manage the village. The term "to govern" refers to the act of establishing legal norms in the village. Whereas the term "to care" is an act of village responsibility to pay attention to, protect, and serve the interests of the village community.

Second, village governance aspects. The villages which are called "special regions" in the 1945 *Constitution* and the explanation of the *Village Law*, with the original arrangement that

they have and are still ongoing to this day, indicate the existence of procedures and values in fulfilling the necessities of communal living. To the notion of Soemardjan (1991), village is understood as an organic-sociological unity. So it is important to view the village as a whole and to believe it from within. The spirit of mutual cooperation, kinship, togetherness, and harmony becomes local values that are in conformity with the procedures and values that are currently developed globally. The current governance desired by the Village Law is the procedures and values that grow from within themselves (locality) and their adjustment to universal (global) procedures and values.

Third, aspects of village planning and budgeting. Consolidation of public resources is the fundamental spirit of the Village Law— both inward consolidation and outward consolidations. Therefore, the orientation of village budgeting system is targeting one village, one planning and, one budgeting. This spirit requires the village to become the centre of consolidation of all resources entering the village and that the village itself produces. This resource-consolidating strategy is actually in line with the strategy of participatory budgeting movement that has established good practices in Porto Alegre (Brazil) and in Kelara (India) (Sugeng and Tagarao, 2008). The basic idea of this movement is community's collective action to get themselves engaged in the redistribution of public resources and to control during implementation.

A strong village system can serve as an instrument of sustainable resolution for community palm oil. The vulnerability of smallholder's oil palm is now triggered by the following conditions such as land expansion due to the economic scale of oil palm, unoptimal cultivation, exploitative commercial chains— which looks interesting to be treated as part of local community's concerns and therefore need to be integrated into the village system. This chapter will specifically offer the village system to respond to the problem of legal negligence and the challenges to find resolution regarding land use planning and consolidation inside forest zone.

VILLAGE ASSETS

The perspective of sustainable livelihood views asset (capital) as a livelihood platform. Speaking of livelihood asset, Chambers and Conway (1992) believe that a person in carrying out life requires at least needs five important assets to sustain livelihood; namely natural asset, human asset, physical asset, social asset (social capital), and financial asset (financial capital). The perspective of the *Village Law* does not fully apply the pentagonal asset approach, though. In the provisions of *Article 1 Number 11* of the *Village Law*, what is meant by village asset is village's properties originating from the village's original wealth, bought or obtained at the expense of the Village's Budget (*APBDesa*) or the acquisition of other legal rights.

Referring to Chambers and Conway (1992), village asset is a certain part of tangible assets as the pentagonal asset approach explains. Meanwhile, the intangible assets and their accessibility that the village highly demands to meet the needs of communal living are very relevant to the formulation that the *Village Law* stipulates. The current condition of village assets varies in origin, type, and authority. The origins of village assets are those genuine values inherited from the predecessors. Some are purchased with the village's budget. Some

come from the upper level of governments' grants and from other sources from outside the village.

The village assets that are easily and clearly found today are those of immovable properties— such as land and buildings. There are also village assets of movable properties— such as farm tractors, cars, motorbikes, and others. Land of village assets in different villages may come from different origins. The circumstance of different land origins in different villages can also be found in Java where the land entitlement may as well be different. Village's land, in many circumstances, functions as the heart of the village and its inhabitants, too. Village's land serves as the vital means of production for the livelihoods of rural communities. It even is very closely linked to economic resources (livelihoods), social resources (settlement-life), and ecological resources (living space). Village's land is the most tangible and functional village origin for the village and its community. Villages in the past utilised the village's land as a way of shared prosperity. They distributed the village land's equally for agricultural estate, plantations, and settlements. The village itself utilises the village's lands for mutual interests— such as village offices, village fields, village cemeteries, and others. Each village has its own scheme and rules for the village's land.

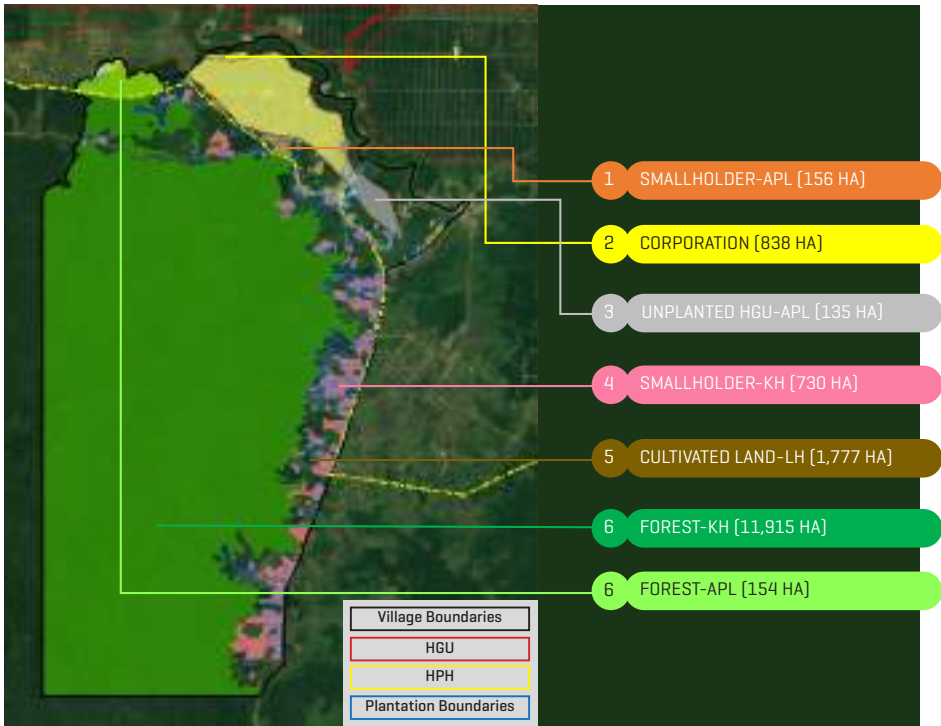
LESSONS LEARNT FROM ACEH AND EAST KALIMANTAN

The case that IRE-JAVLEC Team (2018) discovered in Alur Bani Village (Aceh) and in Tepiah Buah Village (East Kalimantan) gave a clear picture of dilemma caused by the oil palm land entitlement in the village. The two villages reflect the local political economic situation that local communities experience when participating in the palm oil economy. The problem in Alur Bani Village occurred because of the state's negligence when community invaded and utilised forest zone to expand their oil palm. And again, the state also seems to have simply remained ignorant when company-owned oil plantations suspectedly had done the same.

Then there came a time when the state unilaterally implemented the principles of law enforcement in Leuser Mountain National Park (TNGL) zone (Aceh). Instead of using the village authority which now has been legally allowed to regulate and deal with tenure and economic interests - such as the smallholder's oil palm inside forest zone— the state deployed its power sectorally to enforce the provisions of legislation related to land use inside forest zone. Meanwhile, the problem in Tepiah Buah Village indicates land crisis in the community. A mapping process reveals that the village's land in there is divided into four main areas— namely residential area (0.7 percent), cultivation area (6.9 percent), HGU private oil palm (5.5 percent), and area under HPH of PT Inhutani of Labanan Makmur's entitlement (86.9 percent).

The similar problem such as that in Tepiah Buah Village turns to be found in other villages. For example, in Labanan Makmur village (Berau District) there are HGU plantations and mining sites located within in the village's administrative territory, which craves the availability of land for other public's interests, leaving small lots of land for local community.

The cases in the two villages above can be approached with the perspective of the *Village Law*. The main elements of a village as stipulated in the *Article 1 Number 1* of the *Village Law* consist of residents, territories, and authorities. Community have economic, social, poli-



Gambar 4.5. Tipologi Status dan Tutupan Lahan Kampung Tepian Buah
 Sumber: Auriga, 2018

tical, and cultural interests that village should regulate and deal with. Village's authority to regulate and to deal with administration and the local community's interests must be limited in the administration scopes in accordance with the existing rules.

Referring to the above discussion, Tepian Buah Village would only be allowed to sovereign over 7.6 percent of its administrative area, which is counterproductive. The *Minister of Home Affairs (Permendagri) Regulation No 45/2016 concerning Guidelines for Determination and Affirmation of Village Boundaries* explains that village boundaries are the border lines of inter-village's administrative territories, including coordinate points in the form of natural hallmarks (mountain's back, river's median) and artificial signs (poles, pillars) as depicted in maps of village's administrative territories. In the *Minister of Home Affairs' Regulation*, village boundaries are stipulated through *Regulations of Regents / Mayors*.

The problems in Tepian Buah Village, Alur Banning Village, and other villages can be called a tragedy of encroachment over the sovereignty of village's territories. The *Village Law* turns impotent when coping with such tragedy. The utilisation of economic resources can be categorised as unlawful practice when it is conducted in productive lands inside forest zone under village's jurisdiction. Villages are not sovereign over corporations that cultivate village's lands for plantation or mining.

Villages are currently exercising authority over large sum of village's finances, still they cannot spend even a single rupiah in most of their territories. This problems needs immediate measures to address so as that village can improve its governance and responsibilities.

First, village needs to renew its definit and bold boundaries. Villages immediately close to forest zone are required to re-examine village's boundaries, and to identify status of lands inside village's administrative territories. To adpot the *Permendagri No 45/2016* will be an appropriate measure with which villages can initiate the establishment and enactment of Village Boundary Determination and Confirmation Teams (Village PPB Teams) at the village level. Regents need to be reminded to establish a Village PPB Team at the district level, and actively coordinate with the Village PPB Team at the national level. The national government should comprehensively conduct a village boundary audit, especially villages which located immediately nearby forest zone. If not aduit, the option at least there is to establish a special task at the Ministry of Home Affairs to be dedicated to the Village PPB Team to respond to the process of determining and asserting village boundaries.

Second, village submits for grants / release of state-owned agrarian resources that the state has been neglecting. Asset grants to villages from state is possible. The *Article 76 Paragraph (3) of the Village Law* opens a chance for villages to obtain local scale village assets that the Government or regional government possesses. Cultivated land or plantation land that have already been located inside forest zone, for example, can thus be classified as local scale village assets owned by the Government (state-owned property). Such land can be proposed by the village to be granted from the Government to the village.

In a situation where there many people have had utuised lands inside forest zone— and thus triggering land conflicts— the approach where the Government donates such land to the village will be an important policy choice for the state to take. A recognised and respected village has local-scale local authority and based on original rights, the village is also subject to be trusted to obtain a grant on the village-scale local asset.

Once the ownership of land inside forest zone is transfered from national Government to the village administration, the village has now hold a full authority to consolidate and to manage the land. Villages can take a variety of management schemes, according to the village agreements voiced during village consultation (*Musdes*). There are several options of schemes to take into account of, namely;

A. AGRARIAN REFORM

Village redistributes the granted land to each citizen to own, and takes a part of the land for village land.

B. VILLAGE-OWNED ENTERPRISE

In a situation and condition in a particular village, there may be a chance where the most suitable choice is that the village itself manages the granted land. There are several land management patterns to adopt, such as; a) the village rents the land to its own villagers below the existing market price, b) the village allocates some parts of the ganted land for free ti its poor villagers, disabled villagers, single-parent female villagers; or rents it openly to whoever needs it, c) the village treats the lands as village business capital of its village-owned enterprise (*BUMDesa*).

The scheme for participating venture capital into the *BUMDesa* is in accordance with the perspective the *Article 87 of the Village Law* offers. It says that villages are allowed to establish *BUMDesa* to be functioned to optimise village's assets, such as land or estate it controls, for the welfare of the community and the village.

The scheme of managing village's assets (land, village's estates) through the *BUMDesa* will be of strategic value to the village's economic and social system. Utilisation of village's land will not only produce village's original income (*PADesa*), but also reduce social upheaval and address socio-economic imbalances in the village.

VILLAGE SYSTEM FOR LAND CONSOLIDATION

The economy scale of the smallholder's oil palm has triggered land expansion into forest zone. The first part of this chapter explains the relevance and urgency of the village system to solve problems with the smallholder's oil palm. The chapter also addresses one of the main problems with the smallholder's oil palm, namely; land area and its legality. This village system is put forward as a resolution, in a sense, incorporating the issues and problems with the smallholder's oil palm into the system of village's power and responsibility (authority), the village's government system, and the village's planning and budgeting system.

Incorporating the issue of the smallholder's oil palm into the village's system is tantamount to institutionalising the public interests on oil palm business through single door in the village. The expansion of the smallholder's oil palm land into forest zone and the vulnerable oil palm chains have become a serious challenge for the village system in the *Village Law* era. What is worse, the palm oil will always require vast land to meet its economy scale.

The data which IRE-JAVLEC and Auriga collected with supports from KEHATI Foundation during a study and advocacy in Tepian Buah Village (Berau Regency) confirms the presence of the smallholder's oil palm invading the lands inside forest zone. The oil palm's economic charm had bewitched so much the peasant folks in villages that forest zones within the administrative area of the village became the most rational targets for expanding the oil palm (IRE and JAVLEC, 2018). The lessons learnt from such practices and from the joint advocacy in the village can be explained in the following village system framework.

First, to strengthen awareness of village's sovereignty. The main key for the village to move collectively now is the awareness that village does have political sovereignty. Elite of Tepian Buah Village clearly had an initial awareness of such sovereignty. During the interaction, there was an effort to explain about the village authority which serves as of village's sovereignty function. The result is that they began to discover their true identity.

Awareness of village authority that can regulate and manage oil palm interests in the village— such as land problems, cultivation, and post-production trading system— has sparked powerful internal energy to embark into the next step. It is important for other villages to examine the fundamental aspects related to the awareness and understanding of village authority which function as the framework of village's sovereignty.

Second, to initiate services for the community who have concerns in oil palm business. The study by IRE-JAVLEC captured a phenomenon where relation of village community (mass) with village administration (elite) in the study locations comprising plantation villages tended to be dominated by administrative aspects. The day-by-day problems and

challenges that the oil palm farmers experienced were obviously far away from any programme / activity planning ideas that the elites were up to. The connectedness between the community’s concerns and the village administration services that the elites orchestrated became a phenomenon in non-plantation villages (KPKMD, 2017).

Third, to institutionalise the interests of oil palm in village’s planning and budgeting. Most villages today are still unaware about the importance of village’s planning documents— let alone to utilise them— as a medium of negotiation with some other parties. In the case of oil palm in Tepian Buah, the village’s planning (*RPJMDesa, RKPDesa*) barely included land issues, cultivation processes, and trade chains of FFB. Just after the IRE-JAV-

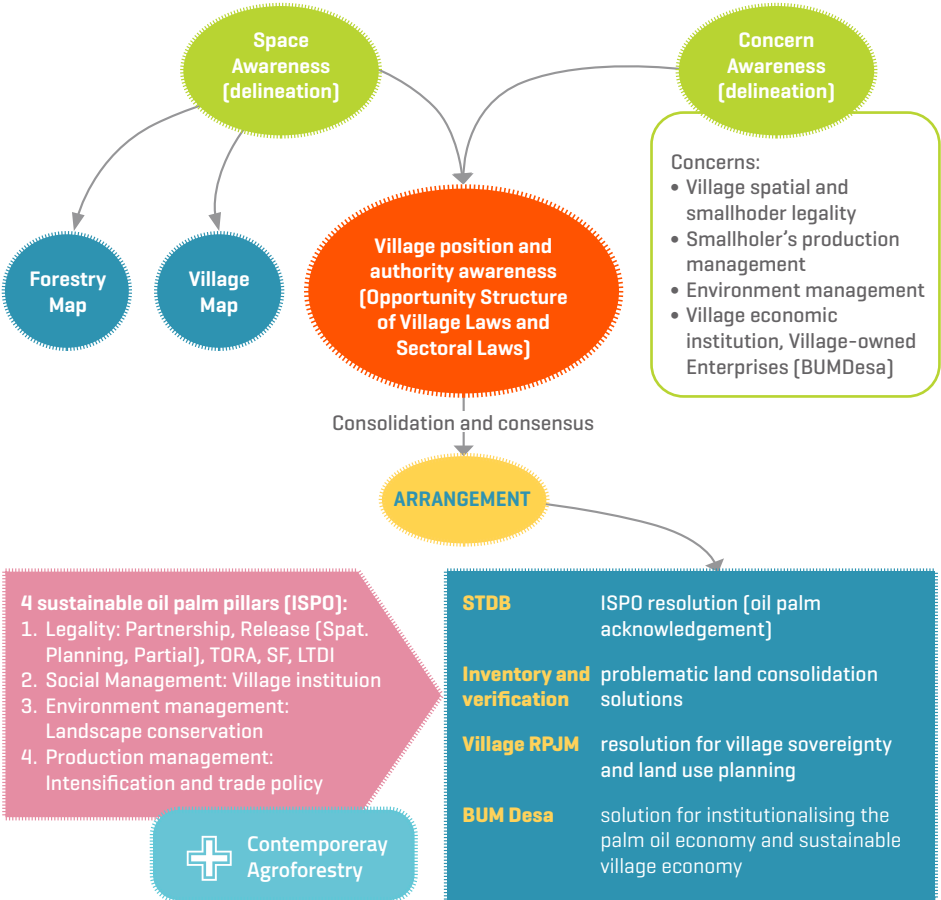


Figure 6.2. A Village Model as a Resolution over Problems and Challenges of Smallholder’s Oil Palm in the Village
 Source: Policy Brief IRE, 2018, “Resolusi Desa untuk Penataan Sawit Rakyat”

LEC team elaborately explained how important it is to take into account of land issues, cultivation processes, and trade chains of FFB in village's planning, the locals began to come to understand and they started to include the significance of oil palm in the villages into village's planning documents (new *RPJMDesa*).

With the *RPJMDesa* which has designed a vision for village change and steps taken to set out four strategic areas and what stages (milestones) to get through where oil palm is concerned, it can be said that the journey to overcome the oil palm problems has made it halfway. And in Tepian Buah and Labanan Makmur the community have agreed to adopt the *BUMDesa* as a solution to the oil palm problems at present and in the future.

The experience in advocating community in the villages of Tepian Buah and Labanan Makmur is helpful when used as a basis to develop a village model for the resolution for the palm oil problems (**Figure 6.2**). It is very important to build linkages among awareness, knowledge, and instruments to verify and to prove the village's planning ideas (village administrative maps, forest maps, aerial photography of land cover in the village, *RPJMDesa*). It is crucial for the village's elites and community to obtain structural awareness. Since spatial awareness and interest awareness are not linked into awareness of village's position and authority, the village system will only evolve to vent the village elite's administrative desire, instead of the fulfilling and protecting the folks' interests.

VILLAGE-OWNED ENTERPRISE FOR THE SMALLHOLDER'S OIL PALM

Village collective action is expected to be contained through the *BUMDesa* and the *BUMDesa Bersama*. It is undeniable that cooperatives are one of the strong economic institutions of rural communities. However, many people complain about village cooperatives' poor performance. A member-based cooperative tend to be established as large as possible for its members' benefits. Whereas the *BUMDesa* is designed as a collective village action, without considering membership, intended to optimise village's assets, to ensure public's basic services, and to initiate village's businesses which are more strategic and more capable of build synergies with other village's economic entities. The *BUMDesa* and the cooperatives does not necessarily need to be contested to eachother, as each of them has its own distinct scopes to work together.

The real challenge now is to develop the *BUMDesa* to enhance the village socio-economic transformation. Conditions in the oil palm village like Tepian Buah Village and the mining site village like Labanan Makmur have have put the community in a situation where they have long been forcibly facing hard social and economic challenges. A *BUMDesa* established and developed in such villages is required to become a capable socio-economic institution to deal with the oil palm farmers' interests in the village and to overcome the problems of the oil palm economic chain vulnerabilites. Even in perspective of sustainable livelihood, a *BUMDesa* must be able to modify access for all community members and their assets, as well.

The illustration in **Figure 6.3** shows the framework of sustainable livelihood that places the *BUMDesa* into oil palm economic chain. The framework is based on a livelihood platform relying on five assets (the pentagonal assets). Through the modification of access, the *BUMDesa* or the *BUMDesa Bersama* is expected to be able to provide access for all villagers. The

BUMDesa must recognise the context of oil palm vulnerability in the villages, so that it can formulate livelihood strategies precisely.

The villages located immediately nearby forest zone certainly can benefit from natural and non-natural resources. Thus, it must be carefully wise in choosing a business or activity intended to create benefits for the community. The experience in advocating the establish-



Figure 6.3. The Framework of Sustainable Livelihood
 Source: Policy Brief IRE [2017], "Mengembangkan BUMDesa untuk Petani Sawit"

ment of *BUMDesa* in the villages of Tepian Buah and Labanan Makmur indicates that new guts have emerged within the *BUMDesa* managers to show up and take care of the interests of oil palm from upstream to downstream despite several challenges that they still face this time.

“Tiga Tawai” *BUMDesa* in Tepian Buah, for example, is now confident enough to operate seven hectares of palm oil business unit which in the past was not equipped with a revenue

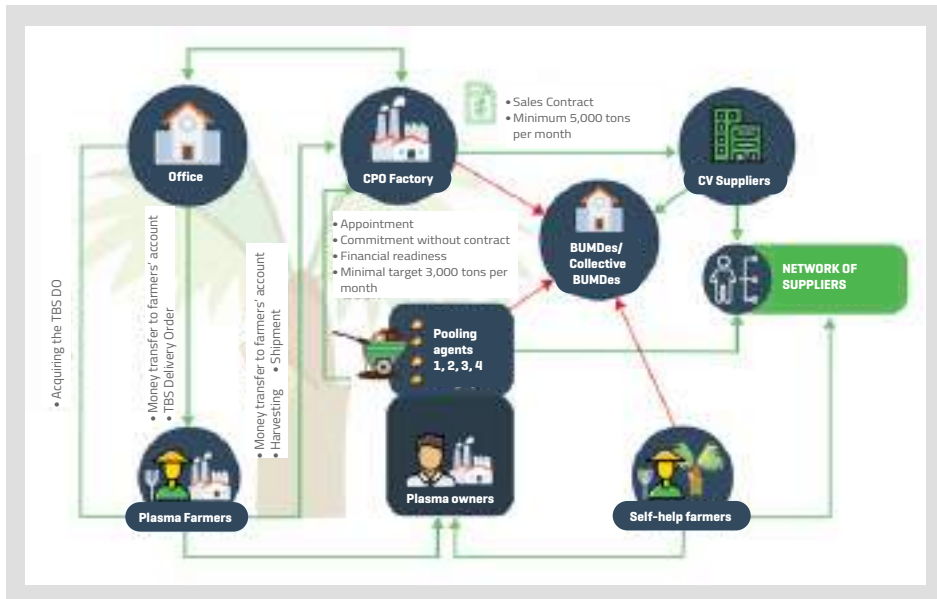


Figure 6.4. The Idea on the BUMDesa’s Roles in Palm Oil Chain
Source: Policy Brief IRE [2017], “Mengembangkan BUMDesa untuk Petani Sawit”

sharing scheme and management unit. Through several capacity building sessions, it currently has been able to formulate a more transparent and workable scheme and management. There are some basic values that BUMDesa intends to develop, namely the statutes / bylaws (*AD/ART*) which in the past did not yet demonstrated a clear system of rules and values. They renew it and gradually internalise the rules and values in the *AD/ART* documents into the interaction and institutional relations of the *BUMDesa* with other institutions in the village.

The information presented in **Figure 6.4** shows the *BUMDesa*’s central roles in the FFB trade system. The *BUMDesa* facilitates various parties who have an interest in smallholder’s oil palm through brokers’ roles in the TBS trade system. So far, FFB from the smallholder’s oil palm goes to collectors who have direct connection with CPO mills. Now the village is obliged to be condicent to establish a *BUMDesa* to deal with the FFB trade. It is hoped that in the future the *BUMDesa* can establish a CPO management company of its own, so that it will help narrow the gap of the economic chains. ❖

CHAPTER VII

Closing

The problems with the oil palm invasion over the lands inside forest zone must be resolved immediately. If unchecked, it will harm the development of the oil palm industry— including the smallholder’s palm industry which has been serving as a pillar of the local economy— to get worse. Indonesia’s palm oil commodities will continue to face trade barriers from global market. Ignorance will worsen the image of Indonesia in a global agreement on climate change and hamper the business climate in the sector.

The palm oil industry has indeed become a major source of the Indonesia’s economy. In addition to contributing greatly to foreign exchange, this industry also creates employment opportunities, and becomes a corridor for the process of social transformation at the grassroots level through improvements of the local economy. However, in general, the oil palm management is still poor, especially when it comes to land entitlement. Therefore, it requires strategic efforts for the Government to resolve the problems on land governance, especially in terms of resolving the land conflicts triggered by invasion of oil palm inside forest zone.

The situations where oil palm have invaded lands inside forest zone are illustrated in the previous chapter. Forest encroachment— some 3.4 million hectares or 20 percent of the total area of oil palm cover in Indonesia— is not only committed by local communities but also palm corporations. Analysis over various cases has revealed variations of land entitlement patterns inside forest zone by oil palm. For example, most smallholder’s oil palms claim that they are innocent about the fact that their palm locations have actually invaded forest zone. They would tend to argue that the land was a customary land that they have been cultivating from generation to generation. It has been decades that they have lived in and built farms on such land.

In addition, the community find out that they have to recognise a surrender to bigger corporation in competing for the village's land, which results in the larger part of the village's land falls into corporation's dominance, leaving only small part of it for the community. This situation forces the community to look for and clear a new land which happens to be located inside forest zone.

However, there are also cases of the smallholder's oil palm deliberately encroaching the land inside forest zone because of financial drive to make more and more profits. Such case occurred in Tesso Nilo National Park (Riau). The National Park— whose properties inside should have not been allowed to be converted into any other functions— was simply traded by the surrounding community. This practice of land encroachment involved a great deal of financiers who are notoriously called "*cukong*". Some of them were ordinary citizens, some were state's civil servants, some were armed and police officers, some were persons from palm corporations.

The rise of land-grabbing practise inside forest zone by the smallholder's oil palm is implicated by the imbalance in land entitlement in rural areas. For example in Tepian Buah (Berau, East Kalimantan) where most of the village's land have been occupied by corporations of oil palm plantations (*HGU*) and forestry (*HPH*). Of 16.5 thousand hectares of the village's total area, only 7.6 percent left for the community to utilise legally. Such cases are common in villages located inside and immediately close to forest zone.

In the case of land invasion inside forest zone by palm corporations, the characteristics also vary. Some corporations were quite surprisingly allowed to obtain permits to open plantation inside forest zone— not only in production forests that can be converted but also in conservation areas and protected forests where the lands are inconvertible. This is clearly a violation of the law.

The case above is also caused by land entitlement problems and the undecided determination of the function of forest zone. Historically, a plantation permit inside forest zone was recognised and had been issued for a land at the time before it was later designated as a forest zone by the Ministry of Environment and Forestry. Such case does not breach the law, but instead a matter of the Government's poor land management.

Various problems of oil palm invasion on lands inside forest zone requires characteristically different measures to address. The resolution of problems involving the smallholder's oil palm will certainly be different from that involving corporations' palm. Land entitlement by the smallholder's oil palm also varies. The problems due to unintended land occupation requires measures which are different from that caused by the intended and organised encroachment by community, and from that by corporation, as well. Some solutions can be encouraged through law enforcement. Some others go through forest-zone releasing process.

THE "HALF-HEARTED" AGRARIAN REFORM

Agrarian Reform can serve as one of options to solve the conflicts over oil palm invasion on the lands inside forest zone. It even gives more ideal resolution for the problems of oil palm land invasion that has long been committed by community, where the invasion is often triggered by a stressful condition of imbalance land entitlement in the village.

As explained in Chapter Three, there are about 32.4 million people in Indonesia living

around forest zone— some 2,037 villages are located inside forest zone, and some 19,247 others are located nearby. This shows how high the potential to spark land conflicts inside forest zone apparently looks to be. Things get worse when the highly promising palm oil profits irresistibly lure the local community inside and around forest zone to dare to invade the land inside forest zone for larger portions of fortune.

This policy option already exists in the *Perpres No 88/2017 concerning Settlement of Land Problems inside Forest Zone*, and in the *Presidential Regulation 86/2018 concerning Agrarian Reform*. However, the rules on the resolution of conflicts over oil palm inside forest zone turn to fail to get along with the existing conditions in the field (as already illustrated explained in **Chapter 4**).

Chapter 4 clearly explains why the efforts to solve a land invasion problem in Tepian Buah failed due to differences in rules and conditions in the field. Village's elites looked to be too reluctant to accommodate the land problems at community level into the village' ruling system. For example, there was no village rule to regulate the maximum land ownership. This resulted in a rampant condition where a community's entitlement over five hectares of forest land per household can be found all over the place, while the community still have been practicing mobile farming with neverending drive to find new lands, leaving the old ones abandoned.

Meanwhile, the Agrarian Reform regulates a maximum land entitlement of five hectares per household. But to the local community, the five-hectare maximum regulation is impossible to comply with, causing the community to fail in obtaining land legality. The other regulation that turns to be practically nonsense is the policy to settle land conflicts in forest zone through *Presidential Decree No 88/2017*. This regulation does not accommodate land entitlement by the smallholder's oil palm. This regulation simply disregards the fact that most problems concerning land conflict inside forest zone are triggered by unequal forest land distribution that almost always favour corporations rather than community, meaning that the Agrarian Reform is somewhat half-hearted in coping with problems.

The Social Forestry policy also suffers the similar problems. It is only willing to accommodate oil palm as a part of mixed crops up to 12 years. Once the 12-year period passed, oil palm must be cleared off the land to be replaced with forest cultivations. The existing condition indicates the contrast, though. Oil palm planters will never be willing to simply crush the palm since the 12 years of age is the moment the palm plants are in its blooming peak.

Meanwhile, most of the existing oil palm plants are over 12 years old which means that they must be exterminated immediately once the Social Forestry is adopted. Implicitly, the Social Forestry scheme is not prepared to be adopted to solve the problem of oil palm crops that ever since have been cultivated on the lands inside forest zone. Basically, the Agrarian Reform's characteristic of being "half-hearted" is clearly visible. The Government has not yet addressed the issue of land entitlement inequality. There are a great number of village's lands that have long been entitled by oil palm corporations with plantation permits (the *IUP* and the *HGU*).

As a result, the land spared for community's agricultural interests is drastically marginalised, a condition which forces them to encroach lands inside forest zone. That means, in order to halt the encroachment, the Government should encourage the redistribution of oil palm licenses to the community. Such measure can be conducted by distributing the *HGU*

lands that almost reach their expiry date to the community (poor farmers, smallholders, and farm labourers). The Government can also allow the state to take over the abandoned *HGU* lands (lands which is not cultivated with oil palm plants for any reason) and turn their legal entitlement to become the Land of Agrarian Reform Objects (TORA).

This, however, does not necessarily mean that the Agrarian Reform merely has to do with land redistribution. The policy is also designated to deal with much broader scopes—namely resolving agrarian conflicts, increasing food security, improving and maintaining a quality environment, improving people's access to economic resources, reducing poverty and creating jobs, and creating sources for community's prosperity and welfare. Therefore, the land redistribution programme must be implemented in conjunction with other programmes, such as community economic development, food security, and environmental sustainability. Otherwise, the lands that have been just redistributed could be seized again by company for their own commercial benefits, which causes the social and environmental problems to recur on and on.

BUILDING A HOPE THROUGH THE VILLAGE

Villages play unquestionably important roles in resolving the problems of land invasion inside forest zone by oil palm. Experience in resolving such issues at village level— as explained in **Chapter 4** and **Chapter 6**— provides lessons learnt that it is crucial to strengthen villages' roles in the Agrarian Reform and in spatial planning through which the oil palm conflicts inside forest zone can be resolved.

All of those problems took place in the village. Thus, the dynamics of the problems can be traced if the unit of analysis starts at the village. Even the land administration system (formal and informal) starts from the village. Thus, again, the identification of the characteristics of the issue of oil palm conflict inside forest zone is very plausible through a starting point from the analysis of village's spatial planning.

Chapter 6 outlines several policy breakthroughs at the village level. For example, regarding land redistribution, one of the best breakthroughs is to transfer the land as a village's asset, which later can be utilised through a partnership with the village community. In that way, the process of land consolidation can be assured sustainably.

Village can also develop village's spatial planning by balancing the allocation of land entitlement in fair manners and by providing benefits for the village community's welfare. The national and regional governments need to be actively involved in formulating village's spatial-based land systems. With this instrument, control and monitoring over forests and lands can be done at the village level.

THE GRAND VISION TO COPE WITH PALM CONFLICTS INSIDE FOREST ZONE

It should be understood that the Indonesia's palm oil industry was first built through smallholder plantations. It began with a community-based plantation programme in North Sumatra which later on expanded to other transmigrant sites in Indonesia. However, the palm oil rapid economic development has changed the structure of control, from commu-

nity-based plantation to become corporation-owned plantation in gigantic industrial scale. Until now, the corporation turns to be the one that gains the profits most from this industry— meaning, “community started, corporation enjoy”.

Inequal palm management between the smallholder and the corporation has brought about a great deal of complicated problems in managements of and oil palm industry in the country. Large-scale land occupation by palm corporations has totally outperformed the local community. What is worse, such condition also created poverty among communities who lived in areas where oil palm were established. In order to survive, the community eventually looked for vacant lands inside forest zone on which they could cultivate palm crops.

That is the point where a great number of complicated problems emerged. It begins with, among others, the negative stigma of the smallholder’s oil palm as the main cause of deforestation and discriminated palm price that corporations offer to community. What is worse, the local community forcibly surrendered to palm corporations in competing their own village’s. They were marginalised, driven out of their farm land. And when they had invaded lands inside forest zone for palm crops, they later found out that they did not have any paper to prove the land-utilising legality. There were times when the conflict costed human lives.

The accumulation of these problems has caused a severe impact of being viewed notorious to the Indonesia’s palm oil industry. Such problems are frequently manipulated by global market to block Indonesia’s palm oil commodity. International pressure is escalating and disrupting Indonesia’s trade diplomacy abroad. Therefore, there is no other way to improve the oil palm industry in the country than to resolve the issue of conflicts over oil palm land inside forest zone and to create new balance over its control, no matter how these efforts often create obstacles during implementation.

It is difficult to impliment the resolution of land conflicts in Indonesia. This happens because there is no strong, competent, and autonomous land institution in the country. Indonesia’s administration system is indeed equipped with a Ministry of Agrarian Affairs and Spatial Planning. However, this institution has only a small role in land regulation. It is even trapped in land administration function. Disputes over land issues occur because the management is partial, divided into several sectors and institutions. The impact is, when there is a land that has been cultivated with oil palm and is located inside forest zone under the MoEF’s authority, the settlement will get complicated because it involves cross-sectoral and cross-institutional to be implimented. Such circumstance has made difficult the resolution of conflict over oil palm land inside forest zone. The bureaucratic system in Indonesia is complicated and full of sectoral ego.

The Government needs to reform its land system and institutions. Land governance must be in one institution, such as the National Land Council (NLC) of Malaysia where all land affairs are dealt with by a single office instead of being partially regulated by many sectors and institutions. On the technical aspects of resolving conflicts over oil palm land inside forest zone, the priority is to establish a resolution scheme favouring the smallholder’s oil palm. The government must accommodate all land entitlement by the smallholder’s oil palm inside forest zone, as long as the community have good faith. The key is not to curb the land, but to understand the community’s characteristics.

Farmers with have good intentions are impossible to rob hundreds of hectares of land

inside forest zone. Land robbery is only likely to be committed by landbrokers (the “*cukong*”). During the post-completion, the Recovery Period (agroforestry) schemes, as discussed in **Chapter 4**, can be adopted as a breakthrough in the development of a sustainable palm oil plantation system by local community. This model must also be integrated with the industrialisation system and the market so that there are post-harvest guarantees. The Agenda for Agrarian Reform is in line with village’s development policies. Villages must play the role as the main tool in all resolutions of land entitlement problems by oil palm inside forest zone. The village not only functions as a public service, but it also must be built as an economic entity to consolidate production factors.

Finally, it is necessary to build industrialisation at micro level, such as mini-based palm oil factory in order to create balance among business actors. All of those measures must be integrated from the village, regency / municipality, province, and national governments in one institutional format.

RESOLUTION STRATEGY

The following are several policy options for resolving conflicts over land entitlement inside forest zone by oil palm:

1. RESOLUTION OF CONFLICTS OVER LAND ENTITLEMENT BY PALM CORPORATIONS INSIDE FOREST

The findings show that there were corporation-owned oil palm invading lands inside forest zone. Some corporations had licenses (such as the *IUP* and the *HGU*), but some dit not. Land invasion was, among others, caused by the problem of land permit uncertainty. But there are times when many illegal practices were committed by corporations. To resolve this, a number of recommendations need to be proposed, namely:

A. To accelerate evaluation over oil palm permit licensing evaluation through the Presidential Instruction No 8/ 2018.

The Government has issued the *Presidential Instruction No 8/2018 concerning the Postponement and Evaluation of Oil Palm Licensing and Increased Productivity of Oil Palm*. One of the mandates of the *Inpres* is evaluation of licensing. The *Presidential Instruction* urges the necessity exterminate land licenses that have been issued but later on they turned out to have had abode the law, for example when the land proves to have invaded forest zone. To encourage this action, it requires:

1. The Coordinating Ministry for Economic Affairs formulates technical guidelines for evaluation of oil palm licences functioning as a standard through which the moratorium team can evaluate the permits in national and regional levels;
1. To promptly build a moratorium implementing teams in national and regional levels in accordance with the mandate of *Presidential Instruction No 8/ 2018*;
2. The moratorium teams prepare a work map for the implementation of licensing evaluation. The preparation of this work map is carried out with the following stages: data compilation, data integration, and data synchronisation;
3. The moratorium teams conduct licensing evaluations.

B. To carry out law enforcement against corporations that prove to have violated licensing procedures which had enabled them to invade forest zone.

Corporations that were found to have violated licensing procedures and invaded forest zone must be subject to law enforcement actions. The execution can use the *Law No 18/2013 concerning Prevention and Eradication of Forest Destruction*. In the provisions, violations can be subject to criminal sanctions and administrative sanctions (government coercion, forced money, and / or revocation of licenses). To fortify the implementation of law enforcement, the following provisions must be arranged:

1. To formulate mechanism to implement court's verdicts against oil palm corporations;
2. To formulate mechanism to manage the confiscated oil palm as the court's verdicts;
3. To formulate mechanism of land redistribution to the community or to village institutions as Land for the Objects of Agrarian Reform;
4. To formulate mechanism the forced fines that the state has returned for the expense of restoring the degraded forest areas.

C. To develop a one-map policy on oil palm as the licensing evaluation suggests.

A set of permits that the licensing evaluation has regarded to be a Clean and Clear (C&C) permit status should be treated as a basis for compiling a map (one map) of oil palm. Such map serves as the basis for the Government to formulate oil palm spatial plans and the development plans.

Data contained in the one-map policy must be open to the public.

2. RESOLUTION OF CONFLICTS OF LAND INVASION BY NON-PERMIT HOLDERS OF OIL PALM (CORPORATIONS' AND SMALLHOLDER'S) INSIDE FOREST ZONE

Many findings indicate that there is land ownership of oil palm by community inside forest zone. To address this problem, a number of recommendations are proposed, such as:

A. To encourage completion through the Presidential Regulation No 88/2017 concerning Settlement of Land Control in Forest Areas

The *Presidential Regulation No 88/2017* provides opportunities for the completion of land entitlement by community inside forest zone. However, the *Perpres* does not implicitly mention oil palm as objects of land entitlement. Thus the opportunity to encourage conflict resolution of land entitlement by oil palm planters inside forest zone are technically constrained. It requires several conditions for the *Perpres* to be viable as an instrument for conflict resolution, namely:

1. To incorporate oil palm as objects of settlement of land ownership in forest zone by interpreting the terms of "crop land" and "mixed crops";
2. To improving the interpretation for a 20-year or more period of land entitlement by taking into account the average length of oil palm entitlement by community which is mostly less than 20 years;
3. To improve the provisions on the five-hectare maximum area for the Agrarian Reform by considering the average area of community's land entitlement and the practice of mobile cultivation communities outside Java Island;

4. To improve the provisions related to the Social Forestry (*Permen LHK No P83 / 2016*) which only allows oil palm plants that are 12 years old or less by considering the productive period of oil palm plants;
5. To introduce the Recovery Period concept of palm agroforestry into the Social Forestry policies.

B. Law enforcement against palm plant entitlement by community or by corporation over 25 hectares of land without permits inside forest zone

The two cases above show that there is barely good faith with those who control the lands of oil palm. Their objective is clear: to encroach lands inside forest zone. On this basis, a law enforcement against such unlawful practice is required. ❖

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GLOSSARY

Access is an opportunity to obtain benefits, such as access to capital and other assistance to the subject of Agrarian Reform in order to improve welfare based on land use, which is also called community empowerment.

Agrarian Conflict is an agrarian dispute between individuals, groups, groups, organisations, legal entities, or institutions that have a tendency or have wide social, political, economic, defense or cultural impacts.

Agrarian Disputes (disputes) are agrarian discrepancies between individuals, legal entities or institutions that have no broad impact.

Agrarian Reform is the rearrangement of structure of entitlement, ownership, use, and utility of land to bring justice through asset arrangement accompanied access arrangement of for Indonesian people's prosperity.

Agriculture is an activity of managing biological natural resources with the help of technology, capital, labour, and management to produce agricultural commodities that include food crops, horticulture, plantations, and / or livestock in an agroecosystem.

An Official is a person who is ordered or someone who because of his or her position has authority with a certain task and responsibility.

Asset Arrangement is an effort to restructure entitlement, ownership, use, and utility of land to bring justice.

Building Use Rights (HGB) are rights to land as referred to in the *Law Number 5 of 1960 concerning Basic Regulations on Agrarian Matters*.

Business Permit for the Utilisation of Timber Forest Products in Community Plantation Forest (IUPHHK-HTR) is a business permit to utilise forest products in the form of

timber and associated forest products in production forests given to community groups or individuals by applying appropriate crop cultivation techniques to ensure forest resource sustainability.

Certificates of Legality of Forest Products are documents that constitute proof of the legality of forest products in each segment of activities in the administration of forest products.

Community Forest (HKm) is a state forest whose main purpose is to empower the community.

Community Plantation Forest (HTR) is plantation inside production forest zone developed by community groups to increase the potential and quality of production forests by applying silviculture in order to ensure the sustainability of forest resources.

Corporation is a group of people and / or assets that are organised in the form of legal entity or non-legal entity.

Customary Forest is a forest within the territory of a customary law community.

Customary Law Community is a group of people who have traditionally lived in a certain geographical area in the Unitary State of the Republic of Indonesia because of the existence of ancestral ties, strong relationships with land, territories, natural resources that have customary governance institutions and customary law in the region.

Customary Rights are the authority of the customary law community to collectively regulate the use of land, territories, and resources in the community's area which serve the source of life and livelihood.

Eradication of Forest Destruction is all efforts to take legal action against perpetrators of forest destruction directly, indirectly, or other related matters.

Every Person is an individual and / or corporation that carries out organized forest destruction in Indonesia's jurisdiction of Indonesia and / or has legal consequences in Indonesia's jurisdiction.

Forest is an ecosystem unit in the form of expanse of land containing long-lived resources which are dominated by trees in the fellowship of their natural environment, which cannot be separated from one another.

Forest Damage Prevention is all efforts to eliminate the opportunity for forest destruction.

Forest Destruction is the process, method, or act of destroying the forest through illegal logging activities, the use of forest areas without permits or the use of permits that are contrary to the intent and purpose of granting permits within a designated forest area, which has been designated, or is being processed by the Government.

Forestry Partnership is a collaboration between local community and forest manager, the holder of a forest utilization / forest service business permit, a lease-to-use forest land permit, or the holder of a forest product primary industry permit.

Forest Utilisation is an activity to utilise forest in the form of timber and non-timber forest products through nurseries, planting, maintenance, harvesting, processing, and marketing based on the principle of forest sustainability, social and environment and / or in the form of utilisation of environmental services through, among others, ecotourism services, water management services, biodiversity services, carbon sequestration / storage services.

Forest Zone Designation is the initial determination of a certain territory as a forest zone.

Illegal Logging is all organised illegal use of timber forest products.

Indicative Map of the Social Forestry Area (PIAPS) is a map containing areas of state forest area reserved for social forestry.

Joint Ownership Rights to Land are property rights granted to community groups within a certain area of several land parcels owned jointly and upon which a certificate is issued containing the name and size of each part of the joint rights given to one of the right holders of joint ownership upon a written appointment of rights holders.

Land is the surface of the Earth in the form of land and water in a certain extent as long as its use and utilisation is related directly to the surface of the Earth, including the space above and within the body of the Earth.

Land Consolidation is an arrangement of land entitlement, ownership, use, and utility in accordance with the regional spatial plan, as well as the provision of land for development purposes, in the context of improving environmental quality and conserving natural resources by involving community's active participation.

Land for Agrarian Reform Objects (TORA) is land that is controlled by the state and / or land that is owned by the community to be redistributed or legalized.

Land Rights are rights and obligations arising from legal relations between right holders with land, space above land, and / or underground to control, own, use, and utilise the land, including underground space, water, and the space above it, is only necessary for the interests directly or indirectly related to its use.

Local Community is a social unit consisting of citizens of the Republic of Indonesia who live in the vicinity of the forest zone as evidenced by a National Identity Card or who resides in the state forest zone proven by having a social community in the form of a history of cultivating a forest area and depending on the forest and their activities can affect forest ecosystem.

Local Community Groups are groups of individuals both men and women from the local community.

Ministers are direct officials in the president's cabinet who are in charge of certain fields.

National Government (Government) is the President of the Republic of Indonesia who holds the authority of the Government of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.

Non-agriculture is an activity beyond agricultural area in urban or rural areas.

Organised is an activity carried out by a structured group, consisting of two or more people, and who act together at a certain time with the aim of destroying forests, not including groups of people who live in or around forest areas that carry out traditional agriculture and / or do logging for their own needs and not for commercial purposes.

Permanent Forest is a forest zone preserved permanently as a forest area; consisting of conservation forest, protected forest, and production forest.

Plantation is all activities of managing natural resources, human resources, production facilities, tools and machinery, cultivation, harvesting, processing, and marketing related to plantation plants.

Plantation Business is a business that produces plantation commodities and / or services.

Plantation Business Actors are owners of plantation corporations or those who are in charge to manage plantation businesses.

Plantation Business Registration Certificate for Cultivation (STD-B) is a cultivation information given to plantation farmers.

Plantation Corporation is a legal entity established according to Indonesia's law and takes place in Indonesia's territory, which manages plantation businesses on a certain scale.

Plantation Crops are annual crops or annual plants of which type and purpose of management are determined for plantation businesses.

Plantation Laboures are individuals who carry out plantation business without certain business scale to reach.

Plantation Land is a field of land for plantation business purposes.

Plantation Produces are all plantation produces and their management consisting of main produces, processed produces to extend storage capacity, by-produces, and follow-up produces.

Plantation Product Management is a series of activities on crop products to meet product quality standards, to extend shelf life, to reduce loss and / or damage, and to obtain optimal results to achieve higher added value.

Private Forest is a forest located on land that is weighted with land rights.

Proprietary Rights are hereditary rights, strongest and most fully owned rights that people can have over land.

Regional Governments comprise of governors, regents or mayors, and regional apparatus as an element of regional government administrators.

Resettlement is the movement of people from a forest zone to areas outside forest zone.

Right of Use is the right to use and / or collect outcomes from land owned by another person, which gives authority and obligation specified in the decision of the award by an

official authorised to provide it or in an agreement with the land owner, which is not a lease agreement or land processing agreement, any other thing as long as it does not conflict with the spirit and the provisions in the *Law No 5/1960*.

Right to Utilise (HGU) is the right to land as referred to in the *Law Number 5 of 1960 concerning Basic Regulations on Agrarian Matters*.

Rural Area is an area whose main activities is agriculture, including natural resource management with the arrangement of the function of the area as a place for rural settlements, government services, social services, and economic activities.

Social Forestry is a system of sustainable forest management in state forest areas or private forests / customary forests by local communities or customary law communities as the main actors to improve their welfare, environmental balance. and social cultural dynamics in the form of Village Forest, Community Forest, Forests Community Plantations, Customary Forests, and Forestry Partnerships.

Social Forestry Acceleration Working Group (Pokja PPS) is a working group that helps facilitate and verify social forestry acceleration activities.

Social Mapping is an action to verify demographic, geographical, and spatial data and other information in a single location.

Spatial Planning is a system of spatial planning processes, spatial use, and spatial use control.

State Land is land that is not owned with any rights to land as referred to in the *Article 16 of Act Number 5 of 1960 concerning Basic Regulations on Agrarian Principles*, and / or does not constitute customary land of the customary law community, endowment land, state property / area / village or state-owned enterprise / regional-owned enterprise, and land that is already in the possession of and has not been entitled to with any land rights.

State Forest is forest that on land that is not encumbered with land rights.

Subject of Agrarian Reform is the TORA recipient who fulfills the requirements and is determined to receive the TORA.

Timber Forest Product Utilisation is an activity to utilise and commercialise forest products in the form of timber through logging, rejuvenation, transportation, processing, and marketing without damaging the environment and without reducing its main function.

Trees are plants with woody stems and can reach a diameter of ten centimeters or more measured at an altitude of 1.50 meters above the ground.

Unauthorised Use of Forest Areas is organised activities in forest areas for plantations and / or mining without the permission of the ministers.

Village is village and customary village or what is called by other names, hereinafter referred to as village, is a legal community unit that has territorial boundaries; authorised to regulate and manage government affairs, local community's interests based on

community initiatives, origin rights, and / or traditional rights recognised and respected in the government system of the Unitary Republic of Indonesia.

Village Administration is responsible to deal with village's government affairs and the local community's interests in the government system of the Unitary Republic of Indonesia.

Village Community Empowerment is efforts to develop community's independence and prosperity by increasing knowledge, attitudes, skills, behaviour, abilities, awareness; utilising resources through the determination of policies, programs, activities, and advocacies in accordance with the essence of the problems and the community's prioritised needs.

Village Consultative Body is an institution in village that carries out governmental functions whose members are representatives of the villagers based on regional representation and are democratically determined.

Village Council or referred to by other names is a deliberation between the Village Consultative Body, the Village Government, and elements of the community organised by the Village Consultative Body to agree on strategic matters.

Village Development is efforts to improve the quality of life for the community's optimum welfare.

Village Regulations are laws determined by village head after being discussed and agreed with village consultative body.

Village's Assets are village's property that originates from the village's original wealth, bought or obtained at the expense of the village's budget and other legal rights.

Village-owned Enterprises (BUM Desa) is a business entity whose entire or part of the capital is owned by the village through direct participation originating from village's assets that are separated to manage assets, services, and other businesses for the community's optimum welfare.

Village Finance is all village rights and obligations that can be valued with money and everything in the form of money and goods related to the implementation of village rights and obligations.

Village Forest (HD) is a state-owned forest managed by the village and utilised for the welfare of the village.

Village Forest Management Institution (Village Institution) is a village community organisation whose task is to manage the village's forest.

Village Forest Management Rights (HPHD) are management rights in protected forest areas or production forests granted to village institutions.

Village Government is village head or referred to by another name assisted by the village apparatus as village's government-implementing element.

PALM INSIDE

**“Resolving the Oil Palm Invasion
inside Forest Zone”**

INDONESIA is the largest palm oil producer in the world. More than 50 percent of the world's palm oil consumption comes from Indonesia. For Indonesia itself, palm oil is the largest contributor to the country's foreign exchange. However, the issue of climate change poses a serious challenge for the sustainability of the oil palm economy in major producing countries, including Indonesia. Oil palm plantations are notoriously said to be the main drivers of deforestation and peatland degradation.

This book— PALM INSIDE, Resolving the Oil Palm inside the Forest Zone— signifies an effort to describe the situation of oil palm export, especially those related to deforestation issues, such as: the global situation; the contribution of oil palm to Indonesia; the problem of oil palm and forest areas; government policies and efforts; and ideas to find a solution to the existing problems. This book presents data, facts, as well as ideas for solutions to the problems of oil palm plantations in Indonesia's forest areas. ◊

TEAM EDITORS

THE PALM OIL has become an important part of the national economy stronghold, especially in terms of investment, job creation, and export value. However, it also causes heaps of socio-economic-environmental residues. The quality of Indonesia's future development can be imagined from— among others— the way of managing this strategic issue. This research-based book does not merely describe the problem in a vast perspective, but also narrates the solution completely. ◊

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