

Information Brief

Agrarian Resolution: Settlement for Smallholder Oil Palm Plantations in Forest Areas

Oil Palm Cover in Forest Areas

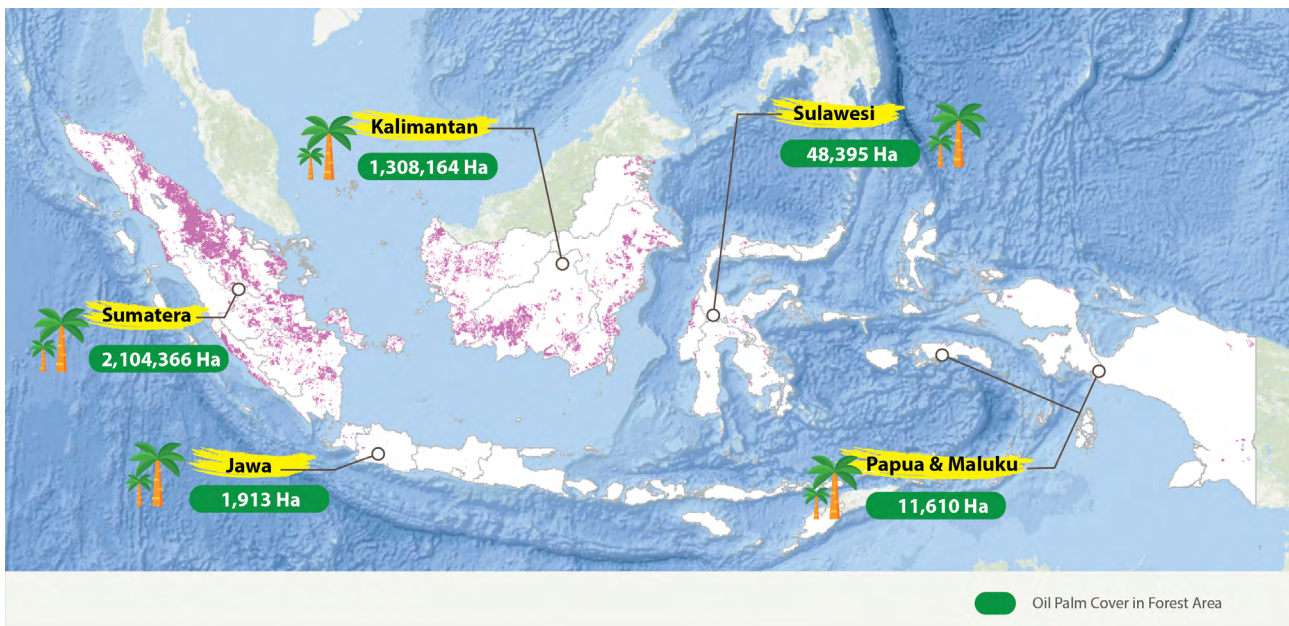


Figure 1. Oil Palm in Forest Areas in Indonesia. Source: AURIGA (2018)

Out of 125,922,474.73 Ha of State Forest Area (MoEF, 2017), 3,474,449 Ha are covered by Oil Palm (AURIGA 2018).

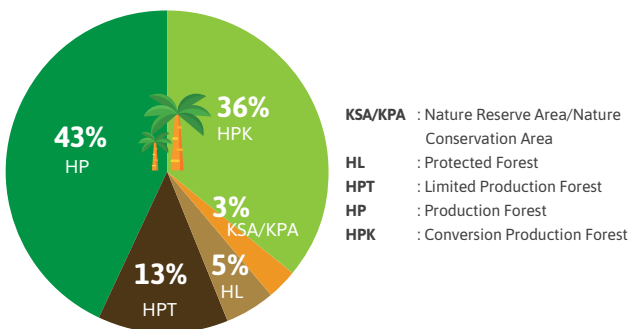


Figure 2. Oil Palm Cover in Each Type of Forest in Indonesia Source: AURIGA (2018)

To have a deeper understanding on oil palm plantations in Forest Area, KEHATI and partners (AURIGA and JAVLEG) conducted further study in 12 villages, namely:

- Alur Banning Village (Southeast Aceh, Aceh),
- PIR ADB Village (Langkat, North Sumatera),
- Parenggean Village and Mekar Jaya Village (East Kotawaringin, Central Kalimantan),
- Tepian Buah Village, Labanan Makmur Village, Harapan Jaya Village, Gunung Sari Village, Pandan Sari Village, Bukit Makmur Village, Batu Rajang Village and Sidung Indah Village (Berau, East Kalimantan)

Based on study in the villages, forest land occupation for oil palm is not only done by companies, but also by smallholders. Plantations in Forest Areas owned by company and smallholder have different characteristic, as follows:

- Company's plantations:
 - Land occupation is carried out by company;
 - Occupation area starts from hundreds to thousands Ha;
 - Plantations in Forest Areas can occur because the company planted outside the Cultivation Right (HGU), and also because of overlapping

permits such as the HGU or Plantation Business Permit (IUP).

- Smallholder’s plantations:
 - Land occupation is carried out or controlled by individuals or families from local communities, migrants, or investors from outside the village;
 - Occupation area varies, ranging from 0.5 ha - hundreds of hectares;
 - Development of plantations in Forest Areas is driven by economic, social and cultural factors.

The existence of oil palm plantations in Forest Area becomes a dilemma for Indonesia. Palm oil commodity is the biggest contributor to the country’s exports. In 2016, export value of oil palm products reached 11.21% of total national export value of US\$ 145,186,200,000 (BPS, 2016). Palm oil industry also provided six million employments for people living in rural areas in Indonesia (World Growth, 2011). However, Indonesia is pressured to reduce deforestation rate caused by various economic activities, including palm oil industry. Therefore, there needs to be a right solution for oil palm plantations in Forest Areas.

Agrarian Resolution

Agrarian Resolution is options for settlement of smallholder land occupation in-Forest Areas. These options comprise of Agrarian Reform, Social Forestry, and Communal Plantation Management as Village Asset.

- Agrarian Reform (Presidential Decree No. 88/2017, Presidential Decree No. 86/2018 and Regulation of the Coordinating Minister for Economic Affairs No. 3/2018)
- Social Forestry (Regulation of the Minister of Environment and Forestry No. 83/2016)
- Communal Plantation Management as Village Asset (Implementing Law No. 6/2014 on Village)

Case Study: Tepian Buah Village

Village Profile

Tepian Buah Village is the capital of Segah Subdistrict, Berau District, East Kalimantan. Established in 2003 from the expansion of Gunung Sari Village, Tepian Buah Village finally obtained its official regional border in 2016 through ratification of Decree of Bupati of Berau No. 632/2016. Total area of the village is 16,558.76 Ha. In 2018, population of the village is 987 people, consisting of 240 households.

Digitation of drone image by AURIGA (2018) shows that the village’s total area of 16,558.76 Ha consist of 14,360 Ha of Production Forest managed by PT Inhutani I; 916 Ha of APL managed by PT Natura Pacific Nusantara (PT NPN); and 1,258 Ha of APL for villager’s cultivation and settlement areas. The cultivation and

settlement areas are space available for villagers, accounting for around 7.6% of total area of village. Given limited APL available, oil palm plantations of smallholders in Tepian Buah Village and in other villages are then developed in Forest Area.

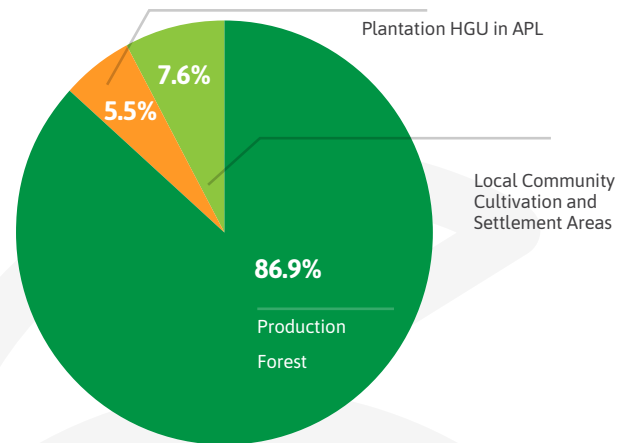


Figure 3. Spatial Allocation in Tepian Buah Village
Source: AURIGA (2018)

The villagers have cultivated 2,507 Ha of Production Forest Areas in Tepian Buah Village. They use 730 Ha of land for oil palm plantations, while the rest 1,777 Ha are used for other agricultural crops.

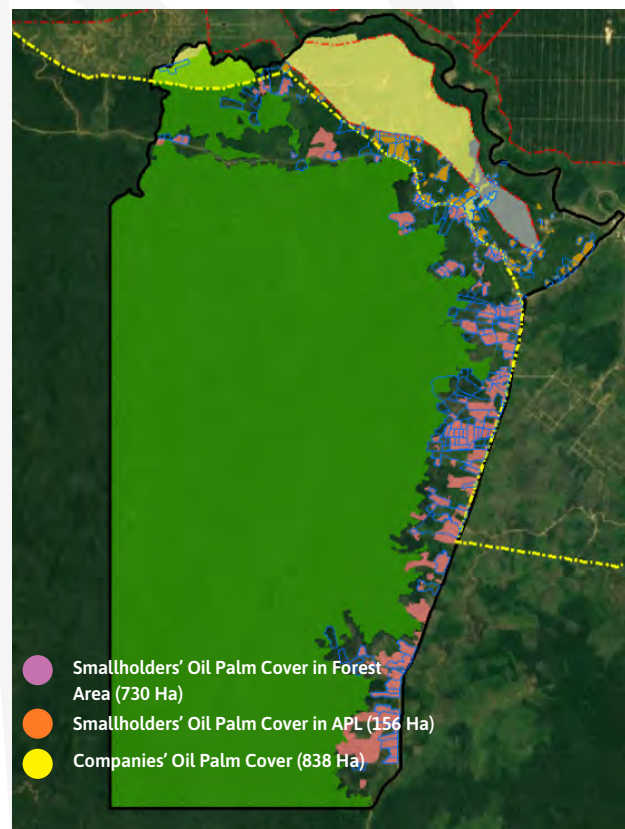


Figure 4. Map of Land Status and Function and Palm Oil area in Tepian Buah Village
Source: AURIGA (2018)

Settlement for Smallholder Plantations in Forest Areas

Residents of Tepian Buah Village have been hoping for a resolution for the legality of their land for years. PT Inhutani I and the Forest Management Unit (KPH) of West Berau believe that this problem should be solved soon because areas used by the locals and outsiders in Forest Area are growing.

Since January 2018, KEHATI and partners (JAVLEC and AURIGA) have facilitated to resolve smallholders oil palm plantations in Forest Area in Tepian Buah Village so that the village can be a national model.

After going through two dialogues, it was agreed that the Tepian Buah Village case would be solved through the Settlement for Land Occupation in Forest Areas (*Penyelesaian Penguasaan Tanah dalam Kawasan Hutan or PPTKH*) which is regulated by Presidential Decree No. 88/2017 and Permenko Perekonomian No. 3/2018. According to those regulations, process of the settlement can be seen in Figure 5.

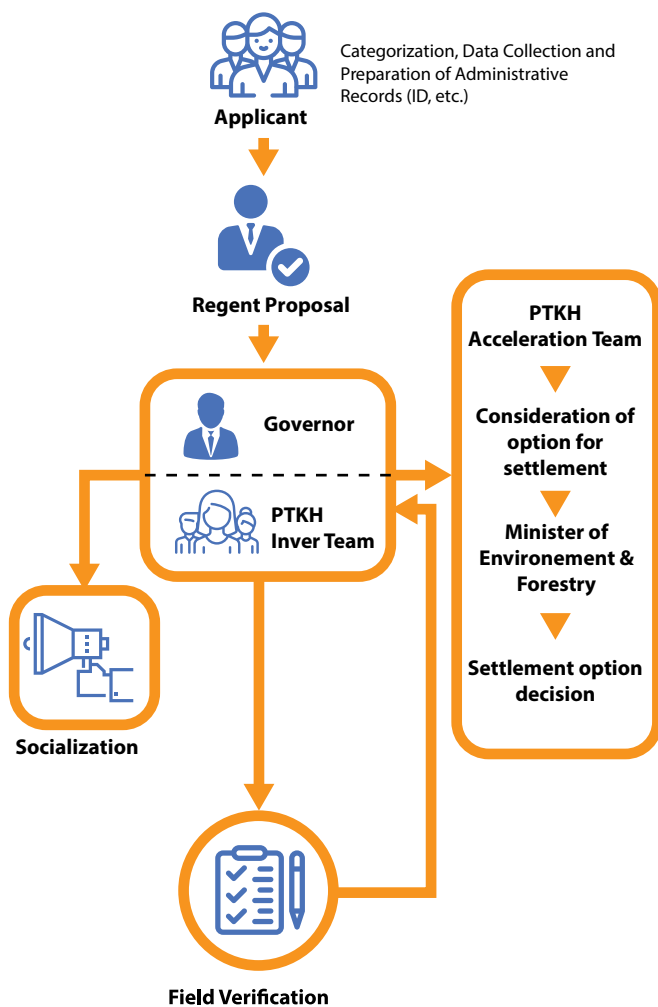


Figure 5. Process of Settlement for Land Occupation in Forest Area (Presidential Decree No. 88/2017 and Permenko Perekonomian No. 3/2018)

Before submitting request for settlement through PPTKH, JAVLEC and AURIGA have facilitated a team established by village apparatus to identify land in the Forest Area occupied by villagers. This action resulted in the collection of data on 471 plots of land.

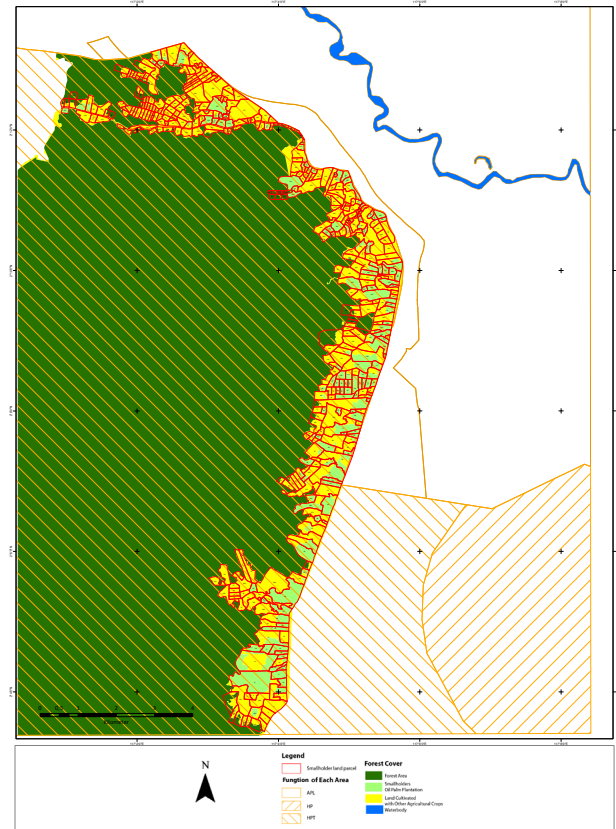


Figure 6. Land Occupation In Forest Area (Penguasaan Tanah dalam Kawasan Hutan or PPTKH) Map of Tepian Buah Village
Source: AURIGA and JAVLEC (2018)

Identification of land ownership in Tepian Buah Village can help to identify the typology of land occupation, which is arranged according to the following regulations. First, Permenko Perekonomian No. 3/2018 on maximum limit of individual land ownership claim which is 5 Ha (CHAPTER III, Point B, Number 8). Second, Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency (BPN) No. 16/2016 on Management of Agricultural Land Occupation. This regulation stipulates that agricultural land can only be owned by residents in one subdistrict (*kecamatan*) with maximum total area of 20 hectares. Therefore, land occupation by smallholders in Forest Area in Tepian Buah Village can be grouped in typologies as follows:

1. Land occupation ≤ 5 Ha, is individually managed by local farmers and/or migrants.
2. Land occupation 5 – 20 Ha, is controlled by local farmers and/or migrants, involving local labours.

- Land occupation > 20 Ha, is controlled by local farmers and/or investors, involving local and/or migrant labours.

After data collection had been done, KEHATI and partners continued their cooperation with the Government of Tepian Buah Village, Berau District Government, Provincial Forestry Office, Region IV of BPKH and East Kalimantan BPN to look for a resolution for this case. This process started with the Berau District Government's proposal to the Governor of East Kalimantan through the submission of Bupati's Letter No. 522.11/275/ek on 3 October 2018. The letter is enclosed with map and results of data collection.

The letter was followed up by assigning the PTKH Inver Team to conduct a desk study and verification of documents submitted. This activity was held from 15 to 29 October 2018 by the PTKH Inver Team with support from the Village Government's Team. The PTKH Inver Team's verification resulted in 471 plots of land verified (2,450.47 Ha). The total of verified land is 390 plots of land (1,908.82 Ha) proposed on behalf of individual and 81 plots of land (541,65 Ha) proposed on behalf of Village Assets or Tanah Kas Kampung. The proposal on behalf of *Tanah Kas Kampung* was made because the land ownership could not be verified. Typologies of land occupation by smallholders in Forest Area in Tepian Buah Village can be seen in Figure 7.

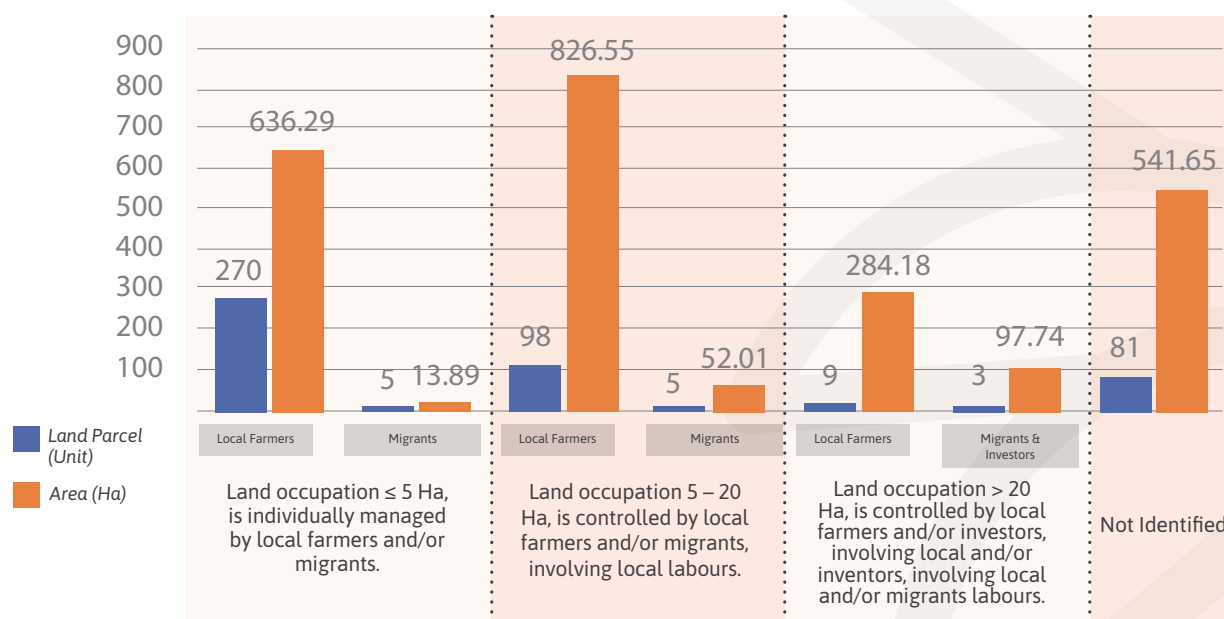


Figure 7. Typologies of land occupation by smallholders in Forest Area in Tepian Buah Village

Further Actions

To complete this settlement process, next step for the East Kalimantan Provincial Government and related ministries (Ministry of Environment and Forestry, Coordinating Minister for Economic Affairs, and Ministry of Agrarian Affairs and Spatial Planning) is to make decision on the options for settlement based on verified data and information. This decision can be and can be not different with the villagers' expectations. For instance, not all proposals can be granted. Furthermore, some decisions might involve law enforcement actions, land redistribution, and renegotiation with PT Inhutani I as the license holder. However, it is indeed the time for the government to solve the land occupation in Forest Area by using applicable scheme. **Agrarian Reform, Social Forestry, and Communal Plantation Management as Village Asset** are options that can be used in implementing Agrarian Resolution.

References

BPS 2016, 'Statistik Kelapa Sawit Indonesia 2016' [Palm Oil Statistics in Indonesia 2016], Badan Pusat Statistik, Jakarta.

World Growth 2011, *The Economic Benefit of Palm Oil to Indonesia*, World Growth, viewed 1 June 2017, <http://worldgrowth.org/site/wp-content/uploads/2012/06/WG_Indonesian_Palm_Oil_Benefits_Report-2_11.pdf>.

All facilitation activities are implemented by JAVLEC and AURIGA, with support from Yayasan KEHATI and UKCCU. Maps in this publication are from digitation on drone image by AURIGA (2018), with support from Yayasan KEHATI and UKCCU.

This information brief can be accessed in <http://revampingispo.com/publikasi>