

SPATIAL PLANNING, LAND TENURE, AND INCREASING CONFLICTS OVER LAND CLAIMS IN SUMATERA AND KALIMANTAN: ECONOMIC DEVELOPMENT, POLICY DYNAMICS, AND THE PACE OF INVESTMENT

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Executive summary

Conflict over land and natural resources in Indonesia is a phenomenon very much like the tip of an iceberg – with a number of issues and factors that are invisible above the surface. Land use and resource management conflicts are closely tied to the rapid increase in demand for land by a variety of interests, particularly large scale industrial expansion, as in palm oil plantations, industrial forest plantations (HTI) to support the pulp and paper industry, and mining. The intensity of this demand for land is in stark contrast to continued uncertainty over the legal framework for land use and ownership, as well as ongoing spatial planning efforts. In this context, land use policies that should provide the primary consideration for decisions over permitting have limited actual authority.

Legally, policies over spatial planning in Indonesia are intended to guide land use based on broader environmental concerns, and these considerations are reflected in the planning, land use, and spatial management process. However, in actual implementation, land use policies are subjected to a range of challenges

when confronted with the realities of economic growth in the plantation and forestry sectors.

Implementation of landuse policies in Indonesia lacks underlying consistency, so that efforts to resolve or prevent conflicts, based on formal spatial planning initiatives, often only serve to exacerbate these conflicts. One of the major sources of land use conflicts is the application of the Regional Spatial Planning process (*Rencana Tata Ruang Wilayah*, or RTRW), as the many discrepancies inherent in this process result in confusion in applying regulations on the ground. This is often due to the fact that even while the RTRW is being formulated at the provincial (RTRWP) or District/Municipal (RTRWK) level, the pace of development continues. This means that land use decision making is often based on spatial planning guidance that has yet to be approved.

This study by the *Urban and Regional Development Institute (URDI)*, commissioned by the *Conflict Resolution Unit* of the *Indonesia Business Council for Sustainable Development (CRU-IBCSD)*, is an attempt to provide a clearer picture of how

spatial planning policies contribute to the rise of land use conflicts, both in exacerbating existing conflicts, as well as in planting the seeds of future conflicts.

Because land use conflict is extremely contextual, we have chosen to use a case study approach that will provide a deeper understanding about the process of land investment in particular locations. Two cases with very different settings were selected for the study: Pulau Padang in the Meranti Islands District, Riau Province, and the case of Block C, formerly part of the Peatlands Development Project (PLG) in Pulang Pisau District, in Central Kalimantan. Using a chrono-spatial analysis, we examined the intersection between land use planning and conflict over land and natural resources. The two case studies offer important empirical insights about the relationship between forest industrial estates, palm oil plantations, and the process of defining regulations over spatial planning, seeking to delineate the conflicts inherent in these processes.

Among the key findings of the two case studies:

- The extended process of developing the RTRW has the potential for sowing the seeds of land conflict because it leads to confusion over guidance related to land use decision making. Potential conflict arises because development doesn't stop while the RTRW is under development. This was evident in Pulau Padang, where ongoing disagreement over the RTRW document between Riau Province and the central government could not be resolved. In the end the previous RTRW regulation was used as guidance for land use in the name of development. The existing land use policies contradicted decisions outlined in the newer RTRW document.
- Changes in the RTRW led to inconsistencies in land use regulations, for example over permitting of Industrial Forest Plantations (HTI). In the Pulau Padang case, discrepancies over HTI permitting were the result of changes in provisions within the RTRW. Prior to 2013, the RTRW provided the foundation for these

recommendations. However, in the more recent regulations over permitting (post 2013), the RTRW was considered the foundation for land use recommendations, but the final decision on HTI permitting was under the authority of the Minister of Environment and Forestry. This change created opportunities for HTI permitting issued by the Minister that conflicted with guidance contained within the RTRW. In short, the Minister could issue HTI permits even though they contradicted recommendations outlined by local governments. In the case of Block C ex PLG, the application of regulations based on the new provincial level RTRW had a major impact on land use investment that was based on the previous RTRW.

- RTRW development, as a top-down process that lacks effective integration at the local level, results in deadlock in RTRW implementation. In the Block C ex PLG project, the local and central government could not agree on their land use goals. This created uncertainty over the spatial planning process, to the point that large-scale land use could not be evaluated for suitability.
- Policies related to resolving disputes over regional administrative boundaries further complicate issues with spatial planning. Decisions stalled on the overall direction for spatial planning, resulting in both short and long term conflicts. For example, disagreements over boundaries intersecting the company's concession area triggered conflicts between administrative villages in Pulau Padang. In the Block C ex PLG case, the lack of clarity over village administrative boundaries, even though it did not directly lead to conflict, it did result in disappointment for the village government due to the loss of corporate contributions to the community.
- Participatory approaches to resolving village administrative boundaries are a high priority that should be addressed before concession permits are issued. With greater local participation, spatial planning regulations can be more effectively enforced at the local

level. The resolution of village administrative boundaries also indirectly leads to further empowering communities, because this puts them in a stronger position to negotiate with companies when conflicts arise.

These case studies offer the empirical evidence about the potential for conflict when the spatial planning process is incomplete. In these situations, opportunities arise that are then utilized by parties to make adjustments and provide justification for their actions. This is why it is important to fully analyze cases of land use conflict that include a spatial planning perspective in order to design more comprehensive, and more effective solutions for these settings.

Meanwhile, policy-related conflicts must be also addressed to encourage more durable resolution of local level conflicts. Resolving conflict at the local level must seek compromise among varying levels of policy, such as policies related to concession boundaries. This is where public policy mediation may be applied, since it encourages policy makers to collectively work toward more constructive and sustainable solutions in resolving conflicts.

Spatial planning regulations are designed to protect the balance between economic interests and environmental sustainability. Nevertheless, spatial planning efforts should consider innovative approaches such as the use of land maps, which illustrate the current actual situation, including accommodations in defining village boundaries. In addition to reducing the potential for these boundary conflicts, these initiatives can also strengthen spatial planning regulations and increase the value of spatial regulation as a primary reference for land use. In the same context, it is important to ensure that conflict management approaches are fully integrated within the RTRW development process.

Key words: conflict, conflict resolution, conflict management, mediation, spatial planning, RTRW.

LAND AND NATURAL RESOURCE CONFLICT IN INDONESIA IS A PHENOMENON VERY MUCH LIKE THE TIP OF AN ICEBERG OF A NUMBER OF ISSUES IN SPATIAL AND LAND - USE POLICIES.

LAND EXPANSION AND INCONSISTENCY IN SPATIAL ARRANGEMENTS

PALM OIL INDUSTRY

THE BIGGEST IN THE WORLD

PULP INDUSTRY

6TH IN THE WORLD

ECONOMIC DEVELOPMENT PACKAGE

DRIVE
ATTRACT NEW INVESTOR!

LAND EXPANSION

1000 LAND CONFLICT IN 2013 - 2017

350.000 HA OF FOREST AREA DISAPPEARED

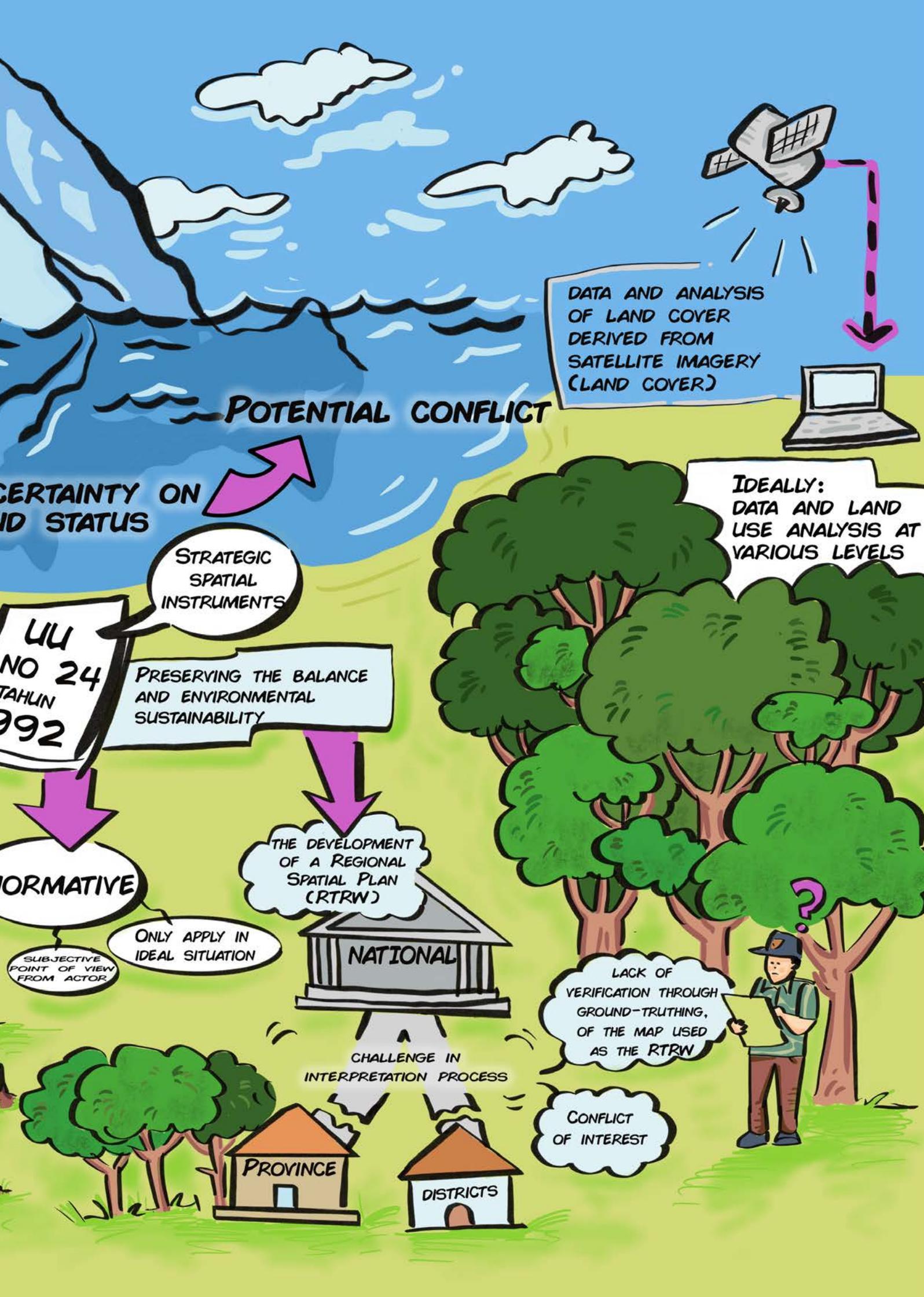
OVERLAPPING FUNCTIONS AND UTILIZATION OF FOREST AREAS

GAPS

UNC
LAN

19

N



DATA AND ANALYSIS OF LAND COVER DERIVED FROM SATELLITE IMAGERY (LAND COVER)

IDEALLY: DATA AND LAND USE ANALYSIS AT VARIOUS LEVELS

STRATEGIC SPATIAL INSTRUMENTS

PRESERVING THE BALANCE AND ENVIRONMENTAL SUSTAINABILITY

THE DEVELOPMENT OF A REGIONAL SPATIAL PLAN (RTRW)

NATIONAL

CHALLENGE IN INTERPRETATION PROCESS

PROVINCE

DISTRICTS

LACK OF VERIFICATION THROUGH GROUND-TRUTHING, OF THE MAP USED AS THE RTRW

CONFLICT OF INTEREST

CERTAINTY ON LAND STATUS

POTENTIAL CONFLICT

UU NO 24 TAHUN 1992

NORMATIVE

ONLY APPLY IN IDEAL SITUATION

SUBJECTIVE POINT OF VIEW FROM ACTOR

BACKGROUND

Land and resource management conflicts in Indonesia are like an iceberg, where a number of issues and causal factors are invisible above the surface. These conflicts are especially relevant given the increasing demand for land for expansion of large-scale industrial uses, such as palm oil plantations¹ and industrial forest plantations (HTI) for the pulp and paper industry. In 2016, 11.9 million hectares were devoted to palm oil plantations, and 4.9 million hectares to HTI². This development has made Indonesia the world's largest producer of palm oil³, and fourth largest in the pulp and paper industry⁴. These two sectors have become primary drivers of economic development in Indonesia.

The Indonesian government provides support for investment in these sectors through the banking sector. The credit application system, in particular, has provided support to aided palm oil investors. It is estimated that until the end of 2016, 8% of loans provided by four of the largest Indonesian banks, worth US\$ 12.5 million, were disbursed to the palm oil sector⁵.

National and regional policies have been conspicuous in their support for investment, for example through President Joko Widodo's 16 volume economic development package. These policies have sought to simplify a variety of regulations in order to reduce operational costs, strengthen the investment climate and stimulate the entry of new investors. Among these is the simplification of licensing procedures, requiring

regions to create One-Stop Integrated Services (PTSP) to facilitate the licensing process. The National Investment Coordinating Board (BKPM) has worked with relevant ministries to promote this policy.

The push for the development of the palm oil and pulp and paper sectors has further intensified demand for land on a massive scale. Expansion of plantation development is unavoidable. At the same time, a movement for improved spatial planning in Indonesia is also just developing. The first spatial law was only issued in 1992 (Law No. 24 1992, on Spatial Planning). This law is a strategic instrument to encourage economic growth while maintaining proper environmental function and balance. This law mandates the establishment of a Regional Spatial Plan (RTRW) for policy direction and as a means to develop a spatial utilization strategy.

By law, Indonesia's spatial policy has the authority to regulate land use. However, the process of determining the RTRW can sometimes require extended time periods, mainly due to the process of translating the national level RTRW (RTRWN) into the provincial level RTRW (RTRWP) and the district level RTRW (RTRWK). In addition, conflicts of interest often arise in discussions over spatial planning guidelines.

At the same time, the process of development continues apace, without waiting for decisions related to spatial planning. As a result, the high demand for land for large scale land-based industries often proceeds without appropriate legal clarity from the spatial planning process. In these settings, the spatial planning policies that should be one of the key considerations for licensing lacks the necessary regulatory authority.

The existing spatial regulations are still considered normative, and merely provide general guidance so that they only apply to ideal situations. The technical description includes more detailed plans and tactical interpretation

1 Direktorat Jenderal Perkebunan, 2016, Statistik Perkebunan Indonesia 2015-2017: Kelapa Sawit. <http://ditjenbun.pertanian.go.id/tinympcuk/gambar/file/statistik/2017/Kelapa-Sawit-2015-2017.pdf>

2 <http://industri.bisnis.com/read/20160203/99/515864/jokowi-kaget-hutan-industri-kalah-luas-dari-kebun-sawit>. Jokowi Kaget Hutan Industri Kalah Luas dari Kebun Sawit (3 Februari 2016)

3 <https://kumparan.com/@kumparanbisnis/ri-masih-jadi-raja-sawit-dunia>. RI Masih Jadi Raja Sawit Dunia (4 Februari 2017)

4 <http://bisnis.liputan6.com/read/2448844/menperin-industri-kertas-ri-duduki-peringkat-6-dunia>. Menperin: Industri Kertas RI Duduki Peringkat 6 Dunia (1 Maret 2016)

5 Aidenvironment, 2017, Nordic investments in banks financing Indonesian palm oil. <https://fairfinanceguide.org/media/373743/2017-05-nordic-investments-in-banks-financing-indonesian-palm-oil-no.pdf>

containing special development rules that have not been well structured. Because of its normative nature, the spatial regulations result in gaps in spatial plans which are then understood only subjectively by the actors who use them. In the long run, this can lead to conflict because of these subjective differences.

Spatial planning in Indonesia is also greatly influenced by the information available during the spatial planning process. At present, spatial planning efforts mainly use data and analysis of land cover data derived from satellite imagery, but this is not verified through ground-truthing, so that it represents land use data at various levels (planning level). This is due to the limited availability of land use maps at various scales, despite the increasing use of satellite imagery as input data, and despite the fact that results (interpretation) can vary between land use maps and maps from satellite imagery. As an example, the land cover of an area may be identified as forest, but its land use may be defined for tourism, so clearly the activities and impact can be very different⁶. As a result, the RTRW doesn't always reflect the reality on the ground. The impact of this discrepancy becomes increasingly obvious when there is an increase in demand for land for large-scale land-based industries. Thus we often see cases where the Government allocates permits to investors in areas that are actually being managed by local communities.

The use of land cover analysis without the necessary field checking also affects the increasing trend toward District government requests to secure Alternative Use Area (APL) status, which is broader than the designated forest area in the region. This results in confusion in drafting the RTRW, and it can become a source of tension between the regional and central governments, especially with the Ministry of Environment and Forestry (KLHK).

On the other hand, the Ministry of Agrarian Affairs and Spatial Planning (ATR) has been unable to play an effective role in bridging these disagreements due to the limited power of the ATR Ministry to regulate the delineation of forest areas. Confusion over this overlapping jurisdiction, over the determination of functions and utilization of forest areas, has resulted in the loss of more than 350 thousand hectares of natural forest, along with the emergence of more than 1,000 conflicts in eight provinces in Indonesia during 2013 - 2017⁷. Misunderstandings over forest and land use governance have proven to be a significant new source of conflict.

Clearly there is a fairly close association between the development of large-scale land-based investments, inconsistencies in spatial planning arrangements, and the potential occurrence of land and natural resource conflicts. Based on these concerns, the Urban and Regional Development Institute (URDI) with support from the Conflict Resolution Unit (CRU) and the Indonesian Business Council for Sustainable Development (IBCSD) conducted a study to determine how the expansion of land-based investment, given the policy uncertainties related to the spatial planning process, has contributed to the growth of conflict over land and natural resource management.

6 Interview with Roos Akbar, Professor, School of Architecture, Planning, and Policy Development, Bandung Institute of Technology, 12 Maret 2018.

7 Forest Watch Indonesia, 2018, *Silang Sengkarut Pengelolaan Hutan dan Lahan di Indonesia*. http://fwi.or.id/wp-content/uploads/2018/03/Dummy_15Maret2018_Silang_Sengkarut.pdf

METHODOLOGY

URDI chose a case study approach to enable deeper understanding of land-based investments in a particular region. The analysis was conducted in two sites in order to illustrate the dynamics in the development of industrial forests and palm oil plantations, i.e., how these initiatives contribute to the emergence of conflict, and how these conflicts may be linked to the national policy framework, especially those policies related to spatial planning and licensing.

The study was conducted during September 2017 and May 2018 in the two selected study locations - Pulau Padang in the Meranti Islands District, Riau Province, and Block C of the former Peatland Development Project (Block C ex PLG), in Pulang Pisau District, Central Kalimantan. The Pulau Padang case illustrates the dynamics within the HTI industry, in an area with open conflict; while the case of the Block C ex PLG in Pulang Pisau reflects the challenges within the palm oil industry, and how these challenges can lead to future conflict. Both cases are situated in areas that are part of important peatlands ecosystems.

The study is limited to the analysis of spatial planning and land and natural resource conflicts in non-mining investments, and includes extensive review of existing policies and regulations related to spatial planning, especially in areas prone to land and natural resource conflicts.

Land use planning is a long, complex, and interconnected process. Therefore, it was important to limit the period of analysis as part of the study design. The following are time frames used in the study.

- The 1982 Forest Land Use Consensus Agreement (TGHK) policy, the first overarching forestry policy in Indonesia. This policy has precipitated a great deal of confusion over land use in forest areas;
- Law No. 24 of 1992 concerning Spatial Planning, which was the starting point for the evolution of Indonesia's spatial planning policies for regional development that consider issues of environmental sustainability; and
- A shift in national politics leading up to the 1998 Reformation era, which changed Indonesia's political landscape and led to massive decentralization and regional autonomy, accompanied by economic restructuring, that encouraged the drivers of land-based economic growth.

During this assessment, several analyses were carried out, including an analysis of spatial planning policies within the framework of sub-national jurisdiction, a review of the structure and patterns of spatial utilization, an assessment of consistency between land use and the RTRW in the selected case studies, potential triggers of conflict, and the changing stakeholder dynamics within the case study areas.

STUDY FINDINGS

Pulau Padang, Meranti Islands District, Riau

Overview of conflict

There has been open conflict in Pulau Padang between the communities and companies holding HTI concession permits, between individual villages and companies, and also among villages impacted by the concession area. These conflicts stem from competing claims over land boundaries by each of the parties. The company claims their concession boundaries are in accordance with government-issued licenses. Meanwhile, communities and villages whose land is included within the concession area claim that they have long lived on and managed the land and have adhered to maps produced before the concession was issued.

The communities, along with associated community organizations, have rejected the company's claims through demonstrations, deterrence, sabotage, and there have been instances where local villagers have protested by using their own blood for stamps, sewing their mouths shut, and through threats of self-immolation. These actions were organized in Pulau Padang, as well as in Selat Panjang, Pekanbaru, and in Jakarta.

Based on documents reviews and information obtained from field reports, we found that the case in Pulau Padang originated from the promulgation of Minister of Forestry Decree (Kepmenhut) No. SK.327/Menhut-II/2009. This decree granted the HTI concession holders the right to expand their production area from the original 235,140 hectares to 350,167 hectares. Of this area, 41,205 hectares are in Pulau Padang. Based on this decree, the company initiated various activities, including meetings with community representatives, public outreach, delivery of heavy equipment, construction of loading docks, etc.

At the same time, the communities' rejection of company access was supported by the Riau Farmers Union (STR), and other community organizations. The Riau Environmental Forum (Walhi) and the Riau Forest Rescue Network (Jikalahari) then reported the former Minister of Forestry to the national Corruption Eradication Commission for his role in issuing the licenses⁸. However, actions on the ground continued; the community held 64 demonstrations from 26 August 2009 to 8 January 2012⁹.

⁸ <http://www.republika.co.id/berita/breaking-news/lingkungan/09/12/10/94856-walhi-akan-laporkan-ms-kaban-ke-kpk> (10 Desember 2009)

⁹ <https://madealikade.wordpress.com/2012/07/10/kronologis-kasus-pulau-padang-4/>

Inconsistencies in space allocation with land cover conditions

Despite the issuance of licenses by the Ministry of Forestry, the Meranti Islands District continued the process of completing the RTRW. At the time, the RTRWN was approved through the formal regulatory process, namely Government Regulation No. 26 of 2008 and Regulation No. 13 of 2017. Meanwhile, both the Riau Provincial Government and the Meranti Islands District Government continued developing their draft planning documents. Delays in the drafting process were caused by the lack of conformity of allocated space within the RTRWN, both in the proposed Riau RTRWP and Meranti Islands RTRWK. This situation was further complicated by the inconsistencies in allocation with on the ground forest cover conditions in Pulau Padang.

The RTRWN spatial allocation for Pulau Padang includes a protected area of 94.7% of the total area, with the remainder (5.3%) considered conducive for cultivation. This allocation is primarily based on the protection of designated peatlands. However, in the draft of the 2013 Riau RTRWP, the allocation designated 62.4% for limited production forests, 5.4% for conversion

production forests, 4.6% for conservation areas, 6.3% for community smallholdings, and 3.6% for "other designations". Meanwhile, the 2017 Meranti Islands RTRWK draft shows that the allocation in Pulau Padang consists of wetland agricultural areas, limited production forest areas, peat protected areas, nature reserves, mangrove forests, settlements, and other areas.

At the same time, the 2015 land cover map indicated that the remaining forest cover area in Pulau Padang is only 38.5% of the total area (see Figures 1 and 2), and that most of the area had been converted from forest areas to thickets, plantations, agriculture, and settlements. It is therefore apparent that the spatial allocation in Pulau Padang is inappropriate, both in terms of the government's regulatory guidance, as well as in actual land cover conditions. A similar conclusion was reached in attempts to harmonize the land cover map, drafts of the Riau RTRWP, and the Meranti Islands RTRWK. The same discrepancies were seen albeit with different degrees of differences.

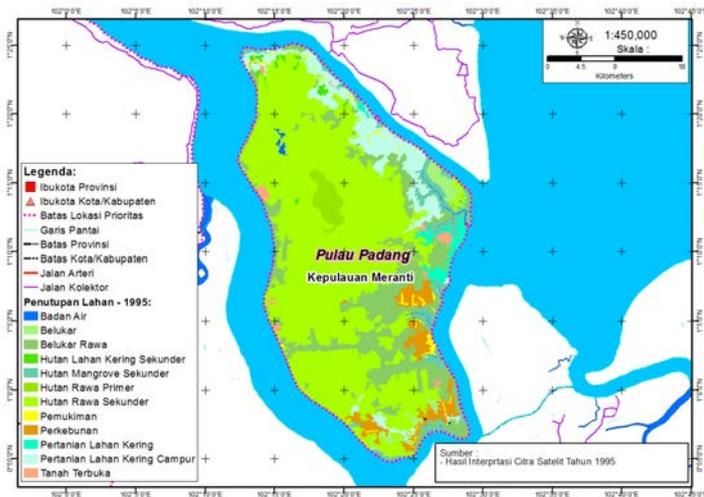


Figure 1. Land cover map, Pulau Padang 1995

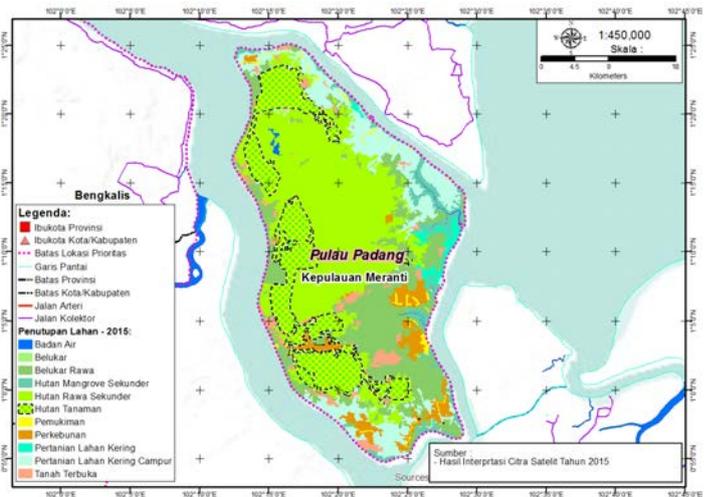


Figure 2. Land cover map, Pulau Padang, 2015

Discrepancies in HTI permitting and land designation

As regards the HTI permit in Pulau Padang, spatial allocation for HTI concessions, namely permanent production forests, was not within the scope of the RTRW. If the map in Appendix SK 327 / Menhut-II / 2009 is overlaid with the map in Appendix VII PP No. 26 of 2008 (concerning the National RTRW), the HTI concessions in Pulau Padang are clearly seen to be located within protected forests and designated cultivation areas. Based on Riau Provincial Regulation No. 10 of 1994 (concerning the Riau RTRWP), the HTI concession area in Pulau Padang is sited on forest utilization areas, plantation areas, and protected areas. However, based on Bengkalis District Regulation No. 19 of 2004 (concerning the Bengkalis RTRWK), the HTI concession area in Pulau Padang is located within protected forests and cultivation areas. The designated HTI concession area in Pulau Padang also contradicts the 1986 Forest Land Use Consensus Agreement (TGHK). Based on the TGHK, the forest land area is designated for nature reserves, limited production forests, and conversion production forests.

Efforts to improve licensing efficiency have been attempted through revisions to SK 327 / Menhut-II / 2009 with SK 180 / Menhut-II / 2013. In this decree, three villages (Mengkirau, Bagan Melibur, and portions of Lukit) were excluded from the HTI concession area, so that the new area totalled approximately 32,000 hectares. Nevertheless, land use allocations for the HTI in Pulau Padang are still inconsistent with the RTRW. Based on 2017 RTRWN (PP No. 13 of 2017 concerning Amendments to PP No. 26 of 2008 of the RTRWN), HTI concessions on Pulau Padang are located completely within the peatlands area.

Inconsistencies in land use within the RTRW create potential conflicts.

Inconsistencies in land use designation not only lead to conflicts between communities and companies, but also conflicts between villages. In its operations, the company cites the Joint Agreement Letter No. 001/PPD-KM/X/2011 concerning HTI Management on Pulau Padang. Based on company data, the concession area that overlaps with community land (as of December 31, 2011) comprised twelve individuals or farmer groups covering a total area of 10,014 hectares. Of this area, conflict over 8,995 hectares had been resolved, and 1,019 hectares were still in the process of resolution¹⁰. However, additional land claimed by the community is not included within the area claimed to be overlapping by the company.

Conflict occurred between the village and the company in Pulau Padang because village administrative boundaries were poorly defined. This is due to the fact that participatory mapping conducted by the company in 2012 was not done properly. The company subsequently initiated operations on lands that were considered outside of the concession area, as revealed when the community checked the boundaries between the villages of Teluk Belitung, Bagan Melibur, and Lukit, and found that forests in Teluk Belitung had already been cut down by the company¹¹. The Belitung Bay village was not initially included within the concession area.

Inter-village boundary conflicts also occurred in Pulau Padang. The conflict began when the Minister of Forestry revised SK 327/Menhut-II/2009 by removing all land within Mengkirau and Bagan Melibur villages and part of Lukit village from the concession area through SK 180/Menhut-II/2013. However, at that time the

10 Mediation Team. 2012. Mediation Team Report on the Resolution of Local Community Claims regarding Forest Timber Concessions (IUPHHK-HTI) in Pulau Padang, Meranti Islands District, Riau Province.

11 Metroterkini online, 18 Oktober 2014, Pemetaan Partisipatif Bermasalah, Perusahaan HTI Babat Hutan Teluk Belitung (Problems with Participatory Mapping, HTI Cuts Down the Forest in Teluk Belitung)

Chrono-spatial analysis: understanding stakeholder dynamics and conflict

map issued by the Ministry of Forestry, used as guidance by the company, differed from the map used as reference by each of the villages. The village of Lukit, for example, adhered to the 1980 map, while Bagan Melibur followed the 2006 map issued by the District Government of Bengkalis¹². While uncertainty remains about these village boundaries, the company continues to clear land within areas claimed by each village¹³. Mengkirau currently has no conflict with the company¹⁴, but Bagan Melibur and Lukit are still in open conflict, both with the company and between the two villages themselves.

Various parties, such as the Meranti Islands District Government and the Peat Restoration Agency (BRG) have tried to facilitate the resolution of village boundaries, but the problem has yet to be formally resolved. This was reportedly due to concerns of several stakeholder groups in the disputed area, for example the perception that the reduced size of the village¹⁵ would reduce company assistance, as well as the presence of groups¹⁶ who were manipulating the situation.

From the conflicts described above, it can be seen that clarity over village administrative boundaries has a significant influence on avoiding and/or resolving conflicts that occur.

Stakeholder involvement in the Pulau Padang conflict has been extremely dynamic. The stakeholders can be divided into three general groups – those in favor of the HTI concessions, those opposed, and those somewhere in between. However, over time changes occurred within these stakeholder groups, as policies evolved and given leadership changes at the regional and national level.

Stakeholders who supported the HTI concessions were generally affiliated with the government, at the local, provincial and national levels. Their involvement primarily concerned the licensing process, as this is their principal authority. Actors within this group include the Minister of Forestry (who issued Decree 327/Menhut-II/2013 and SK 180/Menhut-II/2013), the Governor of Riau, and the Deputy Head of Bengkalis District, who provided recommendations for the company's HTI permits in Pulau Padang.

Meanwhile, stakeholders who consistently oppose the HTI concessions in Pulau Padang generally come from the community organizations, civil society groups (CSOs), and other non-governmental organizations (NGOs), and they are active primarily at the local and provincial levels. Community stakeholders are focused primarily on efforts to protect the area because they see it as the foundation for their lives and livelihoods; representatives from CSOs and NGOs have focused primarily on environmental conservation. The so-called “gray” actors are the politicians at the local and national levels, for example, members of national (DPR) or regional (DPD) parliaments. The gray actors' role is difficult to quantify, but their influence on the conflict may be significant. A striking change in alignments occurred in the STR (Riau Farmers Union).

Changes in stakeholder dynamics in the Pulau Padang conflict are presented in the following figure:

Figure 3. Chrono-spatial diagram of land and resource management conflicts and stakeholder dynamics in Pulau Padang

12 <http://mediacenter.riau.go.id/read/4321/meranti-bentuk-tim-penyelesaian-tapal-batas-d>.

13 Selatpanjangpos.com online, 11 September 2016, Audiensi Konflik dengan Perusahaan HTI, Masyarakat Desa Bagan Melibur Merasa Kecewa (Conflict Meeting with the HTI Company, Bagan Melibur Village is Disappointed).

14 Interview with Village Head of Mengkirau, 7 Desember 2017.

15 Interview with Secretary General of the Peatlands Community Network (JMGR), Riau, Desember 5, 2017.

16 Interview with member of the NGO Hakiki, Februari 7, 2018.

1980s

1986
Ministerial of Forestry Decree 173 year 1986 Riau Province Forest Land Use Agreement (TGHK) [Non-forest Area/APL: 2,07%]

1990s

1994
Riau Province Local Law 10 year 1994 on Province Spatial Plan [APL: 5,82%]

1994
Ministerial of Home Affairs Letter 474 year 1994 on Spatial Plan need to revised along with forest area harmonization

1998
Governor's of Riau Decree 105.1/III/1998, not acknowledge forest area harmonization and keep firm on 1994 province spatial plan

2000-2003

2001
Riau Province Revised Draft [APL: 52,75%]

2003
Ministerial of Forestry Letter 404 Year 2003 on Forest Area must referred to TGHK [APL: 2,07]

2004

- Bengkalis District spatial plan legalized
- MoF issued amendment of 1997 HTI permit
- Governor of Riau recommended HTI expansion

Menhut
Gubernur
Kadishut

2005

- Establishment of Meranti District Formation Agency
- Inauguration of Bengkalis Regent
- Bengkalis Regent recommended HTI expansion

Wagub Bengkalis

2006

- Governor of Riau issued environment permit for industrial forest (HTI) expansion

Gubernur

2007

- Formulation of Riau 2008 - 2028 spatial plan

Bappeda Riau
Kabaplan

2009

- MoF issued HTI expansion permit
- Regent requested reviews on HTI permit
- Peoples and NGO action arised

Kadishut
Walhi
Pj. Bupati Meranti
Jikalahari
Kades di P Padang

Governor of Riau Letter Gubernur Riau 050/Bappeda/56.10 on Proposed of addition of non forest area in Riau about 3.53 million ha

Ministerial of Forestry Decree 410 year 2009 on establishment of joint task force for forestry problem resolution

2008

- Chief of Baplan prepared area work map
- Establishment of Kepulauan Meranti District

Gubernur

2011

- MoF formed a mediation team
- Companies mobilized its heavy machinery
- Peoples action peaked

JMGR
STR
Warga P Padang
Ketua DPR
Komisi A&B DPRD Riau
DPRD Meranti
Menhut

Ministerial of Forestry Decree 7651 year 2011, stipulation on Riau Forest Area [APL: 21%]

2010

- Inauguration of Kep. Meranti Regent
- Companies prepared to operate
- Peoples action increased

Gubernur
Pj. Dishut
Camat
Kades
Anggota DPR RI
Bupati Meranti
Walhi
Warga & Kades

2012

- Bupati rekomendasikan revisi izin HTI
- Company ceased of its operation
- Peoples action remained high

Menhut
Gubernur
Camat
Ketua Apindo
Kadishut Meranti
Anggota DPRD
STR
Rumah Pohon
Warga P Padang

Task Force recommend 2.74 million ha of forest area release of 3.53 million ha previously proposed by Riau Province [APL: 21,01%]

2013

- MoF revised HTI permit
- Company re-operate
- Peoples action waned

Jikalahari
Walhi
Anggota DPR RI
Koperasi JTS
Warga
Menhut
Kadishut Meranti
Forum Kades

2014

- MoF instructed land conflict resolution
- Company re-operate
- People action raised again

Anggota DPRD
DKNI
Dirjen BUK
Warga P Padang
JMGR

Ministerial of Forestry Decree 673 year 2014 on approved task force recommendation on 1.64 million ha forest area release

Ministerial of Forestry Decree 878 year 2014 on Stipulation of Riau Province Forest Area [APL: 37,7%]

2015

- Company planted its product
- Peoples action raised

JMGR
Warga
Rumah Pohon
Laskar Alam
KLHK
Kades
Bupati Meranti

Ombudsman merekomendasikan perubahan SK 673 dan SK 878 untuk mengakomodir permukiman dan fasum

2016

- Company obstruct BRG inspection
- MoEF temporarily stopped company operation
- Peoples action declined

Perusahaan HTI
Kadishut Meranti
Kades
Sekjen KLHK
Ketua BRG
JMGR
Warga

Ministerial of Environment and Forestry Decree 314/MenLHK/SETJEN/PLA.2/4/2016, Forest Area which not categorized as DPCLS Release (around 65 thousand ha)

Ministerial of Environment and Forestry Decree 903/MenLHK/SETJEN/PLA.2/12/2016 Riau Province Forest Area [APL: 40,17%]

2017

- Company sued MoEF
- MoEF rejected company business work plan
- Peoples action declined

MenLHK
Sekjen KLHK
RAPP
Gubernur

Riau Province House of Representatives legalized Riau Spatial Plan [APL: 37,48%] and [Outline: 4,49%]

Ministry of Environment and Forestry denied Riau Province spatial plan due to its inconsistency with Presidential Regulation on Peatland and not yet had Strategic Environment Assessment/SEA Document

2018

- Company submitted a cancellation on the operation ceased off
- Company business work plan accepted by MoEF

RAPP
MenLHK
March 31st
April 17th
May 8th
SEA draft submitted to MoEF
SEA validate by MoHA
Riau Local Law 10 year 2018 on Riau Spatial Plan legalized [APL: 40,17%]

Pro HTI
Againts HTI
In between
Change of actor
Year
Year of national political change

Block C, former Peatland Development Project (Block C ex PLG), Pulang Pisau District, Central Kalimantan

Overview of conflict

There are two main types of conflict in this region: conflicts that resulted from the designation of forest areas; and conflicts between large palm oil plantation companies and villages where the plantation permit has been sited. Conflict over the forest area designation involves plantation companies, district governments and the national government (especially the Ministry of Environment and Forestry, KLHK). Changes to these forest area designations have helped promote investment in the plantation sector, and since 2006, these changes have been approved in production forests by Pulang Pisau District. These pro-investment policies tend to view considerations for environmental sustainability as an impediment to business development. Changes in forest area designation also result in delays in issuing investment permits that contradict spatial planning guidelines.

In terms of conflicts between companies and villages, two primary issues are involved – lack of clarity over administrative boundaries, and the impact of the company's operations on local livelihoods. Community members interviewed for this study, including a number of village officials, reported that they were initially unaware that the company's concession area was included within the village administrative boundaries. Of course, this fact also raises the broader question of the lack of agreement over village boundaries¹⁷. Concerns were also raised

about the impact on natural resources in the area, especially by people whose livelihoods still depend on these resources (e.g., traditional freshwater fisheries and seasonal agriculture). Community members complained about the overall expansion of the palm oil plantations, as well as concerns about the use of chemical fertilizers, i.e., how these chemicals had damaged the water system, threatened wildlife, and also resulted in pest infestations that undermined local economic productivity.

In addition to these ecological impacts, several community members who worked as laborers on the plantations have complained about the decrease in wages due to changes in the company's remuneration system. When the company first began operations, wage calculations were based on a working day wage. According to reports, payment is now based on a targeted number of harvested fresh palm fruit bunches.

In the Block C ex PLG area, open conflict has not yet occurred. Community settlements are concentrated in the riparian and coastal areas, and this is still far from the operational sites of palm oil companies. However, the company's expansion will ultimately impact the community, and if this is not managed properly from the start, conflict may be inevitable.

¹⁷ Interview with Village Head of Cemantan, Village Head of Papuyu III Sei Puduk, and discussions with residents of Sei Hambawang Village (Februari 2018)

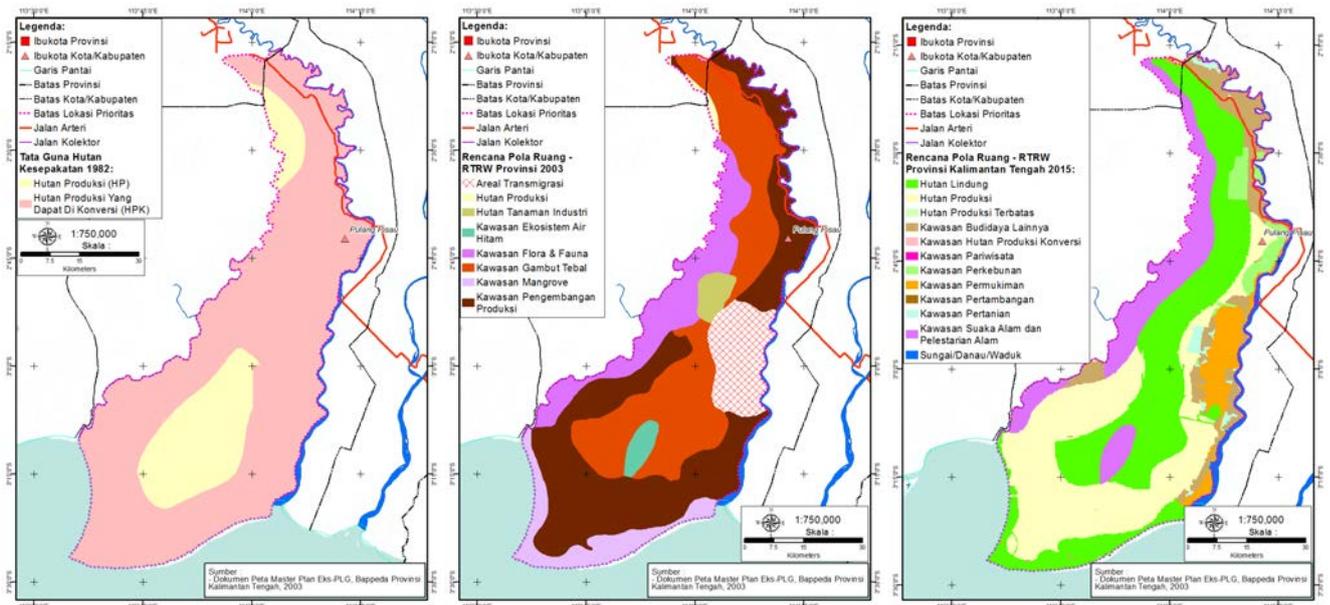


Figure 4. Determination of the Spatial Pattern of the Block C ex PLG site, based on the 1982 TGHK (left), the 2003 RTRWP (center) and the 2015 RTRWP (right).

Overlapping policies in Block C ex PLG Block

Because of its ecological and economic value, management of the Block C ex PLG area is complicated by several overlapping policies, namely the 1982 TGHK policy, 2003 Central Kalimantan RTRWP, 2015 Central Kalimantan RTRWP and the 2017 Pulang Pisau RTRWK draft. Within this complicated policy dynamic, Alternative Use Areas (APL) on peatlands soils constitute yet another aspect of the debate between the District and national governments. Inconsistencies in spatial planning in the Central Kalimantan RTRWP have been a driving factor that have led to land use conflicts in the current Block C ex PLG site.

The 1982 TGHK determined that the former Block C ex PLG site is located within a designated forest zone, consisting of production forest (HP) and conversion forest (HPK). Based on this designation, there is no stipulation of Alternative Use Areas (APL) at this site.

The 2003 Central Kalimantan RTRWP designated the use of APLs for transmigration areas and Production Development Areas (KPP).

However, this stipulation did not receive central government approval and has therefore resulted in ongoing uncertainty over spatial planning within the region.

In 2015, the provincial RTRWP was released, and it tended to strengthen support for the forestry sector by reinforcing the designation of protected areas and cultivation areas. However, the 2015 RTRWP considered the benefits of land use outside spatial designations. Because of continuing delays in approval, the 2015 RTRWP proposed a cultivation area within the forest zone until a new policy was enacted. The 2015 Provincial RTRWP at the Block C ex PLG site included Community Management Spaces, Agricultural and Plantation Areas, Forest Timber Concessions (IUPHHK), Social Facilities (Fasos), and Public Facilities (Fasum).

These inconsistencies in the spatial planning pattern of the provincial RTRWP is suspected to be the driving factor in causing land use conflicts in the current Block C ex PLG site.

Conflicting interests in the preparation of the Pulang Pisau RTRWK

In addition, the Pulang Pisau District RTRW approved by the central government in 2012 was not formally adopted as a Regional Regulation until the end of 2017 because there were still differing views between the District government and the District Representative Council (DPRD) over the designation of APL forest areas. The District government proposed an APL of 17%, including an outline with overlapping area designations, while the District Representative Council sought further clarification of the APL (without an outline) covering 40% of the District¹⁸.

However, on further examination, there are differences in the designation of cultivation areas within the forest zone between the draft District RTRW and the 2015 Central Kalimantan RTRW. The District RTRW recommends plantation development at the site, which had already been cultivated as a large palm oil plantation, while the Provincial RTRW designated the area as a Forest Timber Concession (IUPHHK), which means it would be dedicated to the forestry sector.

Analysis of land use within the RTRW

Palm oil plantations can, in principle, only be permitted within an APL area. However, due to conflicts of interest, this regulation is often ignored. Under the national (RTRWN) and Central Kalimantan provincial-level (RTRWP) regulations, the palm oil plantation concession is deemed inappropriate. However, this designation contradicts the Pulang Pisau RTRWK, in which directives support the development of large palm oil plantations.

There are two concession blocks with seven large private companies (PBS) in the region, including concessions in the south and in the middle. Concessions in the south constitute the largest permits, and they are owned by a group of four companies. The group's concession, in the draft 2017 Pulang Pisau RTRWK, was included in the cultivation area designated within the forestry area for plantations, but this designation contradicted the designated forest

areas in Decree No. 529/Menhut-II/2012, which was later adopted in the 2015 Provincial RTRW which defined the area as production forest.

The analysis also discovered that the group circumvented the licensing process, in that the site permits were issued subsequent to the approval of the Plantation Business Permit (IUP). Based on Ministry of Agriculture Regulation No. 98 of 2013, the Business Permit should have been granted after the companies obtained a site permit. It is also suspected that the companies did not obtain the necessary Environmental Impact Assessment (AMDAL), another necessary procedure to gain approval from the Governor of Central Kalimantan¹⁹.

In Block C, there are two other companies that obtained concessions (in addition to the group of four companies mentioned above), except that these two companies are not operating, either because they have yet to complete the land acquisition process, or because of other undisclosed factors.

Another finding in the online search of the National Land Agency (BPN) maps (as of March 2018) shows that none of the companies in the Block C ex-PLG area have the necessary concession permits. In the case of the middle block, this might have occurred because the two companies may still be in the process of securing their permit, because they are considered within the APL area. However, in the shaded concession block in the large groups, it is possible that the BPN cannot process the certification for these four companies within the larger group because their site is located within a production forest (based on Minister of Forestry Decree No. 529/Menhut II/2012 and the 2015 RTRWP). The declaration of a moratorium for permits on peatlands is another possible factor that precludes BPN from approving the concession permits²⁰.

19 https://www.telapak.org/wp-content/uploads/2013/10/menguji_hukum.pdf

20 <http://kalteng.prokal.co/read/news/33136-bpn-benarkan-7-pbs-di-kapuas-dan-pulang-pisau-tak-kantongi-hgu.html>

18 Interview with Head of Spatial Planning, Public Works, and Spatial Coordination, Pulang Pisau District (December 2017)

Lack of clarity over boundaries leads to potential conflict

In principle, palm oil plantations are not permitted within production forests. Nevertheless, this is a common occurrence in several regions. The government proposed a compromise for this oversight by issuing Government Regulation No. 60 of 2012 on July 6, 2012²¹ – Procedures for Changing Functional Allocation and Forest Areas. This regulation provides opportunities for palm oil companies working within the production forest to swap out replacement land. However, in the Pulang Pisau District case, and throughout Central Kalimantan Province, this cannot be done after the forest area has been designated, based on Minister of Forestry Decree No. 529 of 2012. The appropriation and use of the forest area creates problems because this clause is only allowed for the agricultural sector, and specifically for energy security, while the group of companies in Block C is focused on non energy-related enterprises.

Based on the Provincial RTRW, the group's business activities should be considered illegal. Since the land swap offer was problematic, only two possible choices remained – the opportunity to produce a single crop cycle, meaning a modification of Government Regulation No. 60 of 2012, or the complete cessation of all plantation activities²². Termination of operations that impact cost reimbursement are determined through talks between the government and affected companies.

At the site level, the research team found that group concessions in the south had a significant impact on people's lives. Even though the group did not fulfill its obligations to develop plasma plantations (as required by Agriculture Minister No. 98 of 2013), since they claimed that when they started their business they were still obligated under Ministry of Agriculture Regulation No. 357 of 2002 (which does not require this).

Communities also find themselves in a weak bargaining position with the company due to the uncertainty over village administrative boundaries, including those bordering or affected by company concessions. Several village heads²³ reported that in general there were no problems over inter-community boundaries; however, they still expressed concerns over village boundaries that overlapped with concession plantations. Problems may occur where the village administrative area borders on plantation concessions, while in reality plantation concessions should be included within the village administrative area.

The lack of clarity over village administrative boundaries (which must be resolved by the government) creates inequities in terms of the rights and obligations of the community and the company. Based on the experience of PT. Primacom Union in East Kotawaringin District, clarity over village administrative boundaries is important in protecting the company's business interests²⁴. PT. Primacom Union even facilitated the development of village administrative boundary maps, which were later accommodated by the East Kotawaringin District government. The government clearly appreciates these efforts because they serve to minimize the potential for conflict between the community and the company²⁵.

By the end of 2017, the process of affirming the village administrative boundaries in Pulang Pisau District had only been implemented in a few sub-districts. The process is an initiative of several non-governmental organizations, including the Community Forestry Working Group (Pokker SHK) and the Betang Borneo Foundation (YBB).

21 Discussion with Forest Service, Central Kalimantan Province.

22 Interview with Humala Pontas Pangaribuan, Environmental Services, Central Kalimantan Province, 29 Januari 2018.

23 Interview with village heads of Cemantan and Bahaur Hilir, 31 January 2018; Village Head of Papuyu III Sei Puduk, 1 February 2018; former Village Head and current secretary, Paduran Sebangau, 2 February 2018; discussion with residents of Sei Hambawang village, 3 February 2018.

24 Interview 27 January 2018 with M. Irfan Hafid, Head, Community Partnerships, PT. Uni Primacom.

25 Interview 27 January 2018 with Harry, Government Administration, Kotawaringin Timur District.

Stakeholder dynamics in the conflict in Block C eks PLG

There are a number of stakeholders involved in land and natural resource management conflicts in the Block C ex PLG site. Nevertheless, there has been little change in overall stakeholder dynamics since the initiation of palm oil operations in Block C ex PLG (see Figure 5).

Document review, as well as findings during the field visit suggested that stakeholders were relatively static in their positions, both those who were pro-development of large palm oil plantations (especially those within the southern group concessions), those who opposed the concessions, and stakeholders who hold both positions.

Support for environmental protection has been demonstrated by the central government since the era of President Megawati, who gave de facto orders to terminate PLG activities. President Susilo Bambang Yudhoyono continued this policy by issuing a Presidential Instruction concerning the rehabilitation of the PLG area, and a second Instruction on a new licensing moratorium in Central Kalimantan. The Ministry of Environment and Forestry also demonstrated its support, despite three successive Ministerial changes (M. Prakoso, M. Kaban and Zulkifli Hasan), primarily through the the designation of Forest Areas with Special Purpose (KHDTK), Village Forests, and Production Forests.

The protection of forest areas was further reinforced through the release of Government Regulation Number 57 of 2016, concerning the Protection and Management of Peat Ecosystems (this regulation is actually a refinement of Government Regulation Number 71 of 2014). The newer regulation is a statement of commitment to protect and restore peatlands ecosystems, and prevent peatland fires. Since the Block C area is entirely comprised of peatlands, this regulation

is considered to be the principal policy limiting land use for large-scale land-based investments in the Block C ex PLG area. The community supports these regulations because they view operations of the large palm oil plantations as interfering with the sustainability of their traditional livelihoods; they also believe that palm oil operations have contributed to land and forest fires in Block C.

On the other hand, the companies' interest in developing palm oil PBS has continued to expand. The southern group of companies has planted 80,000 hectares. Pulang Pisau District Head Achmad Amur (term of office 2003-2013) demonstrated his support for palm oil development by approving a Large Plantation Business Permit (IUPB) at the end of 2006. The permit was based on the 2003 Provincial RTRW, even though the central government was already working to rehabilitate the ex-PLG area for forestry. The District Head continued issuing these business permits (IUPB) in 2011 and 2012; however, our research found that the company that secured these permits had yet to begin operations in early 2018.

At the provincial level, there is concern about the conflicting interests between palm oil plantations and the intended functions of production forests. Initially, there was strong support from the Governor (Aswami Gani) and Bappeda as reflected in the 2003 RTRW, where the Block C ex-PLG site was designated as an Alternative Use Area (APL). But that view changed with the change in leadership.

Since Agustin Teras Narang's election as governor in 2005, it was obvious that he was trying to maintain a balance between the central government's interest in rehabilitating the PLG site and regional needs for plantation

development, however, up until the end of Governor Teras Nanang's term he took no action on behalf of the large oil palm companies. Regional Regulation No. 5 of 2015 concerning the Central Kalimantan RTRW still reflects some bias, because even though it follows the Ministry of Environment and Forestry's guidelines for establishing forest zone boundaries, this regional regulation also includes an outline area clause (forest areas to be used for development purposes outside forestry activities). The same approach continued under Sugianto Sabran, who replaced Teras Narang as Governor. Based on several statements to the media, Sugianto indicated that he would clear up the licensing of large-scale palm oil plantations that were problematic; however, through May 2018, no concrete actions had been taken.

Concerns were also noted at the site level, especially by village government officials. All village heads interviewed for this study reported that their villages did not benefit from the large palm oil plantations, both in terms of plasma arrangements, as well as assistance from corporate social and environmental responsibility funding. It is therefore obvious that objections of village heads are more about the uncertain economic benefits to the community, rather than concerns for declining environmental quality in the community.

Changes in stakeholder dynamics in the Pulang Pisau conflict can be seen in the following Figure 5.

1980s

1982
Ministerial of Agriculture Decree 759 year 1982 on Central Kalimantan (Kalteng) Province Forest Land Use Agreement (TGHK) [Non-forest Area/APL: 0,5%]

1990s

1993
Kalteng Province Local Law 5 year 1993 on Province Spatial Plan [APL: 27,4%]

1999
Governor's of Kalteng Decree 008/965/IV/Bapp on Determinations on TGHK harmonization [APL: 33,79%]

1999
Ministry of Forestry not legalized TGHK paduserasi result into Ministry Decree

2000s

2003
Baplan Decree 778/VIII-KP/2000 on KPP and KPPL in principle are non-forest area henceforth no need a stipulation on release of forest area

2003

- Inauguration of Pulang Pisau Regent
- 2003 Kalteng spatial plan being legalized
- Minister of Forestry demanded province spatial plan referred to TGHK

July 10th
Ministerial of Forestry Letter 404 year 2003 on Kalteng Province's Forest Area referred to 1982's TGHK [APL: 0,5%]

September 20th
Kalteng Province Local Law 8 year 2003 on Province Spatial Plan [APL: 32,96%]

2004

- President statement that PLG was failed and need to rehabilitate
- MoF decree on special purpose forest area in C Block

Menhut

Gubernur Kalteng
Bupati

2005

- Inauguration of Kateng Governor

Presiden
Menhut

2006

- Great forest fire in Kalteng Province

Gubernur Kalteng

Ministerial of Forestry Decree 575 year 2006 on Revocation of Baplan Decree No. 778/VIII-KP/2000

2007

- Issuance on Presidential decree on PLG rehabilitation
- Pulang Pisau Regent issued permits for palm oil companies
- Palm oil companies started operating in C Block
- Issuance of ministerial of agriculture decree on plasma smallholding management
- Hambawang village chief allowed palm oil companies to bought people land

Menhut

2008

- MoF formulated PLG masterplan
- MoF established forestry joint task force (timdu)
- Kalteng support by The Netherlands government formulated PLG masterplan

Presiden

Menteri Pertanian

Bappeda Kalteng
Grup Perusahaan Sawit
Kades Hambawang
Bupati

Ministerial of Forestry Decree 314 year 2008 on establishment of joint task force for forestry problem resolution

2009

- Indonesia commitment to reduce emission

Menhut
Gubernur Kalteng

2010

- Establishment of REDD Task force

Presiden

2011

- Kalteng APKASI keep firm on 2003 spatial plan
- Mof Revised TGHK
- Local people sealed palm oil companies related to land compensation
- Pulang Pisau Regent issued more permits for palm oil companies
- Forest village proposal in Pulang Pusat submitted to MoF

Presiden

Mei 31st
Ministerial of Forestry Decree 292 year 2011, Stipulation on Kalteng Province Forest Area [APL: 17,84%]

Kalteng's APKASI Statement 08/APKASI/KW-Kalteng/2011, development of Palm oil plantation referred to Kalteng 2003 spatial plan as long as that policy has not been revoked

2012

- MoF revised TGHK
- MoF established four village forest in C Block
- Report on some violations by palm oil companies
- Pulang Pisau District gained a substance approval on its spatial plan from the State

Menhut

Warda Desa Papuyu
LSM Poker SHK

APKASI
Bupati
Kades Hambawang
Bupati

Ministerial of Forestry Decree 529 year 2012, Stipulation on Kalteng Province Forest Area and Revocation of 1982's TGHK [APL: 17,84%]

2013

- Indonesia commitment to reduce emission

Grup Perusahaan Sawit

Menteri PU

Menhut
Kades Gohong
Ketua LPHD Buntol
LSM Telapak
Walhi Nasional

2014

- Province Environment Agency BLH investigated palm oil group in C Block regarding forest fire allegation

Kepala BLH Kalteng

Grup perusahaan Sawit

2015

- WALHI reported numerous land conflicts in Kalteng
- New province spatial plan
- Great forest fire in Kalteng
- Governor instructed mayors and regents to inspect pam oil companies
- MoF sealed palm oil companies which allegedly involved in forest fire

Grup Perusahaan Sawit

Gubernur Kalteng
Pj. Gubernur Kalteng

Walhi Kalteng

Regional Regulation 5/2015 RTRW Provinsi Kalteng [APL: 17,4%]

2016

- Inauguration of new Kalteng Governor
- Governor instructed palm oil companies to fulfilled their permits
- A palm oil group operated in C Block still not have land cultivation rights (HGU)

BPN Kalteng

Gubernur Kalteng

Grup perusahaan Sawit

2017

- Several local peoles protested related to palm oil plantation expansion and Protes warga terkait plasma
- No follow up on Governor instruction related to palm oil permits
- Hambawang Village Chief questioning bnefits of palm oil industry for local peoples

Grup Perusahaan Sawit

Harian Kompas

Kades dan Warga Kanamit
Kades Hambawang

Proposed revision of Regional Regulation 5/2015 with additional proposal outline area [APL: 42%]

● Pro HTI ● Againts HTI ● In between
● Change of actor ● Year ● Year of national political change

Lessons from the cases

Based on the findings outlined above, these are some of the lessons learned about conflicts related to spatial planning and their implications for land and natural resource management:

- **Protracted development of an RTRW has the potential to sow the seeds of land-related conflicts because it leads to confusion over land use guidelines.** Conflicts arise because broader economic development doesn't stop with the process of drafting the RTRW. This was evident in Pulau Padang, where disagreement over the RTRW between Riau Province and the national government could not be resolved. Meanwhile, demand for land-based development continued, requiring clarity over spatial planning directives. In this case, the old RTRW was used as a guideline for land utilization since recommendations on land use differed from the land allotment outlined in the new RTRW. Similarly, the Block C ex PLG site in Pulau Pisau used previous 2003 RTRWP guidelines to support development of PBS palm oil concessions.
- **Continual changes to the RTRW result in inconsistencies in how regulations are applied to land use, for example regulations related to the granting of HTI licenses.** In the Pulau Padang case, the rules for granting HTI leases before 2013 were used as the basis for recommendations. However, in the new licensing regulations (post 2013), the RTRW can provide basic guidance, but the final decision on granting HTI licenses lies with the Minister of Environment and Forestry. This creates potential conflicts in HTI licenses approved by the Minister with land use directives outlined in the RTRW. This further complicates the situation, since the Minister retains authority to issue HTI permits, despite possible disagreement with regional government recommendations. In the case of Block C ex PLG, the newer provincial level RTRW guidelines affected land use investment activities based on the previous RTRW.
- **Preparation of a top-down RTRW that lacks local level participation can lead to deadlock in the RTRW process. In the case of Block C ex PLG, regional and the central government goals were not in alignment.** The national RTRW policy doesn't automatically guarantee agreement at the local (district) level. Assistance from the Ministry of Land and Spatial Planning to bridge these disputes has been ineffective, resulting in prolonged impasse. This leads to further uncertainty over spatial functions, resulting in extensive land use practices that cannot be reviewed for compliance.

Figure 5. Chrono-spatial analysis of stakeholder dynamics and natural resource management conflicts in Block C ex PLG

- **Enforcement over non-compliance with spatial rules such as those outlined in the RTRW has not yet been effective.**

This fact encourages a variety of inappropriate practices by parties in applying spatial planning guidance, both intentional and unintentional. When these irregularities are discovered, another important question arises: who has the responsibility for enforcement? The difficulty in answering this question is suspected to be a primary reason for potential future conflicts. The Block C ex PLG case showed that following the completion of the Central Kalimantan RTRWP, a number of irregularities were found in large-scale land use investment activities, since these permits were based on the previous RTRW. In this case, large-scale palm oil development was not based on appropriate business use permit (HGU).

- **Ongoing uncertainty over administrative boundaries further complicates the application of spatial planning policies. Inconsistencies in spatial planning have the potential to cause conflicts, both short and long term.**

Problems with overlapping village and concession boundaries incited conflicts between villages in Pulau Padang. In the Block C ex PLG area, the lack of clarity over village administrative boundaries didn't necessarily result in active conflict, but it did lead to disappointment within village governments because of the perceived loss of company benefits to the community.

- **Settlement of village administrative boundaries using participatory approaches is a top priority that must be addressed before concessions are approved.**

Through this process, spatial guidelines can be enforced at the local level. Resolution of village administrative boundaries also indirectly strengthens the village because they are better positioned to bargain effectively with companies when conflict occurs.

Recommendations

The intensity of conflict has tended to increase in Indonesia as a result and impact of accelerated economic development and the massive changes in government decentralization. In addition to ongoing conflicts, it is important to note that the seeds of future conflict have been sown due to irregular licensing procedures, lack of transparency, bias in favor of corporate interests over those of the community, and general confusion related to spatial planning policies.

One important consideration in fully resolving these conflicts is the enhanced ability to understand the source of these disputes, one of which is improved spatial analysis. In every conflict, in addition to causal factors (direct or indirect), we often find other aspects such as differences in national and regional policies, the impact of international agreements, the dynamics of domestic and international trade, etc. In short, land and resource management conflicts that occur at a certain time and place are like the tip of an iceberg, and must be understood within a series of other problems that lie below the surface.

To maintain balance between economic interests and environmental sustainability, spatial regulations must be enforced. Although spatial planning is a top-down process, it can serve to open up space and opportunities to articulate regional development aspirations through the mechanism of community participation. This means that in order to reduce the potential for conflict, both latent conflict and conflict that has already escalated, the spatial planning process must incorporate public consultation and other dispute resolution approaches.

Innovations in the use of existing land maps in the preparation of the RTRW, including accommodating definitive village boundaries, in addition to reducing the potential for boundary conflicts, can also strengthen spatial regulations and strengthen the role of spatial planning as a primary reference for land use. Similarly, it is important to include conflict management as one of the core activities in the process of drafting the RTRW.

Conflicts over policy must also be resolved to ensure more enduring solutions to conflict at the local level. Resolution of conflicts at the local level is often the result of compromise over a particular policy that ultimately cannot be accommodated through alternative policies. This is where public policy mediation – i.e., efforts to resolve conflicts related to inconsistencies or disagreements among jurisdictions – can support policy makers in finding more constructive means for resolving conflict.

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Conflict Resolution Unit (CRU) is the initiative of the Chamber of Commerce and Industry (KADIN) to support efforts in mediation of land and natural resource conflicts in Indonesia. In carrying out its mission, the CRU was incubated through IBCSD, an association of KADIN member business actors to support sustainable development from various sectors. The CRU was established to increase public confidence that mediation is an effective alternative to resolve land and natural resource conflicts in Indonesia. Hence, CRU provides various support in the mediation process to assure best practices in mediation process such as the development of national referral system for mediators of land and natural resource conflicts, capacity building through training as well as capacity building for mediators, business community, non-governmental organizations (NGOs), government agencies and other strategic partners, and provide support to conduct studies related to land conflicts. This initiative is also a commitment of KADIN to encourage sustainable business practices that supported by the UK Climate Change Unit (UKCCU). Information about the CRU can be accessed through <http://conflictresolutionunit.id>.



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The Urban and Regional Development Institute (URDI) is an independent not-for-profit research organization established in 1995. URDI's vision is to promote a sustainable urban dan regional development in social, economy, and environment aspects in Indonesia. This research conducted by URDI with CRU support.

This report in is a translation of the original Bahasa-version report, which aims to disseminate broader information and facilitate discussion for stakeholders regarding the contents of the report.

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