



# Opposing interests in the legalization of non-procedural forest conversion to oil palm in Central Kalimantan, Indonesia

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## ABSTRACT

Demand for forestland for non-forest uses, mostly oil palm, has increased dramatically in the past few years and has become a chief driver of deforestation in Central Kalimantan. In this paper, we aim to shed light on how multiple levels of government create a facilitating environment for oil palm expansion. In our research, we employed three different methods: content analysis of key policy documents, participant observations, and expert interviews. We found that the technical complexities of formal procedures for the conversion of forest to oil palm are relatively easy to bypass. Contradicting laws and regulations have created a situation where the Ministry of Environment and Forestry (MoEF) and local governments have relatively equal legal mandates and authority over land-use and allocation. This is further complicated by the ambiguity of the decentralization policy. Enabled by the spatial planning law and the decentralization laws, local governments have aggressively issued plantation licenses for forest areas without the formal release of the forest from the Ministry of Forestry. The issuance of plantation permits has also been legitimized by other policies within central government, which have made oil palm a national priority.

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## 1. Introduction

Indonesia has experienced very high rates of deforestation over the last few decades with approximately a quarter of the country's forests having completely disappeared by 1990 (FAO, 2010; MoF, 2014). Between 2000 and 2005, the country recorded the highest rate of deforestation and forest degradation with an annual loss of 1.8 million hectares (FAO, 2006). Despite the government's data on the substantial decreases in deforestation over the past few years (see MoF, 2012b), Hansen et al. (2013) suggest that Indonesia recorded a higher deforestation rate of 2 million hectares/year from 2011 to 2012.

Oil palm is frequently identified as a major driver of deforestation in Indonesia as the establishment of plantations is expansive and tends to be uncontrolled (DNPI, 2010; FAO, 2005; Fitzherbert et al., 2008; FWI/GFW, 2001; Hansen et al., 2009; Kaimowitz and Angelsen, 1998; Kanninen et al., 2009; Koh and Wilcove, 2009; Sheil et al., 2009) and mainly driven by increasing global market demands (Lambin and Meyfroidt, 2011; Ramdani and Hino, 2013). Between 1990 and 2010, the total area of oil palm increased from 1.1 million to 7.8 million hectares (BPS, 2011; Sokhannaro, 2011;

Obidzinski et al., 2012; Sheil et al., 2009). These figures correspond to the total deforestation within the same period (FAO, 2010). It is estimated that 3–7 million hectares of new oil palm will be established by 2020 (Gingold, 2010).

In this paper, we aim to shed light on how multiple levels of government in Indonesia have facilitated such rapid expansion of oil palm (Fig. 1). Using Central Kalimantan as a case study, we reveal the ambiguities in the legal processes and mechanisms that facilitate the legalization of non-procedural conversion of forestland to oil palm, taking into consideration a number of pressing problems. Central Kalimantan is the province experiencing the highest rates of deforestation and the highest number of oil palm companies in Indonesia (FWI, 2011; Broich et al., 2011; Ministry of Agriculture, 2014). The choice of Central Kalimantan is also linked to land-based carbon emissions as forest conversion to oil palm in the province contributes significantly to greenhouse gas emissions (Carlson et al., 2013). Oil palm is also under scrutiny because large fires regularly occur in the concessions. Another important concern relates to the conservation of the orangutan. Central Kalimantan provides a habitat for half of the world's remaining wild orangutan (Wich et al., 2008). Plantation development has devastated their habitat, and led to a significant decline in the population.

In our research, we found that the formal procedures for forest conversion to oil palm are relatively easy to bypass. Contradicting laws and regulations have created a situation where the Ministry

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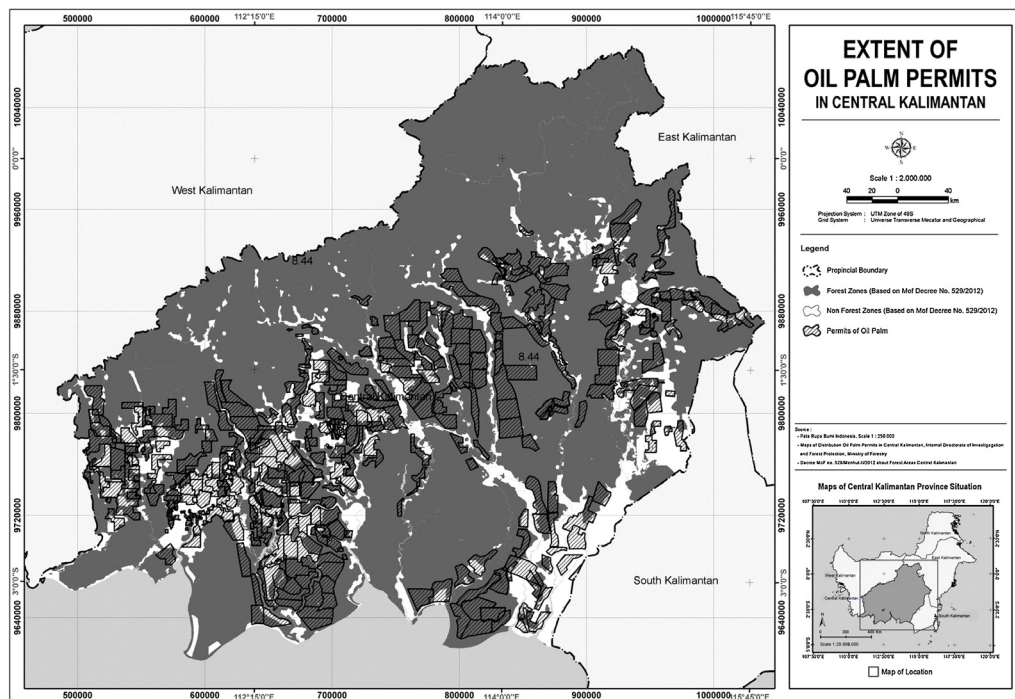


Fig. 1. Extent of oil-palm plantation permits in Central Kalimantan.

of Environment and Forestry (MoEF)<sup>1</sup> and local governments have relatively equal legal mandates and authority over land-use and allocation. Empowered by the decentralization policy, local governments of Central Kalimantan continue to refer to their spatial plans when issuing plantation licenses for forest areas without the formal release of the forest from the MoEF. In contrast, the MoEF continues to refer to the Forest Law, which specifies a formal release of forestland before any plantation establishment. Continued disputes between the different levels of bureaucracies are used as the judgment to legitimize non-procedural plantation operations. The legalization of the non-procedural operations has been achieved through the amendments of forest regulations, particularly with regard to the procedures for forest conversion.

The paper starts with the theoretical underpinning of the competing interests in forest resources of the different actors with different priorities. This section describes bureaucratic institutions across the levels of government that may compete for budgets, political responsibilities, and legal mandates over forestland (Krott, 1990; Peters, 2010; Krott et al., 2014). The results contain two parts. The first focuses on an overview of forest land-use policy and allocation in Indonesia. It specifically focuses on the overlapping institutions and regulations on maintaining forests and supporting oil palm plantations. The second part deals with the pathways used to legalize deforestation. The discussion and conclusion in the last section also cover the policy implications.

## 2. Theoretical underpinning

The policies and goals of forest conservation, use, and management are determined by individual and societal values, socio-economic conditions, and political conditions (Cubbage et al., 2007). Diverse actors at various scales from local to supranational levels have interests in forests and forestry issues (Krott, 2005).

There is usually a conflict of interest and goals in the use and allocation of forest resources. The diverging interests may not be fulfilled at the same time under resource scarcity with control over lucrative forest resources under the constant tug of war between different actors (Hubo and Krott, 2010; Phelps et al., 2010). Regulating the conflict of interest in forests and balancing the different interests and values are the core of forest policy (Krott, 2005). Byron (2006) argues that the core issue of forest policy is who will manage the forests and for what purpose. Forest policy must thus be understood within the context of the actors, their interests, and the means of achieving them (Jenkins, 1978).

In policymaking, a number of bureaucratic institutions, across different levels of government with different priorities, compete for budgets, political responsibilities, and legal mandates (Krott, 1990; Peters, 2010; Krott et al., 2014; Aurenhammer, 2016). They influence the formulation and implementation of policies on forests (Krott et al., 2014; Prabowo et al., 2016; Maryudi, 2016). A public mandate to provide laws and regulations is often used as a strategy to achieve their interests (Krott, 2005). The dynamics of political structures also determine whether a particular actor is successful in influencing the policy formulation. The political structures of a country may change from time to time and in turn lead to changes in policies including those that govern forests (Maryudi et al., 2016; Prabowo et al., 2016). This can be contextualized in the competition between central and local governments regarding decentralization and recentralization (Barr et al., 2006; Sahide et al., 2016a,b). Therefore, policies over forestland are a manifestation of the interests of powerful actors and/or bureaucracies (Krott et al., 2014; Maryudi et al., 2016; Schusser et al., 2015, 2016). Frequently, policies are not necessarily linked to efforts to achieve the sustainability of resources, depending on the country's development priorities (Maini et al., 2003; de Camino, 2005; Sandker et al., 2012). This has added to the complexities of what the priorities must be in terms of forests.

<sup>1</sup> The Ministry of Forestry (MoF) and the Ministry of Environment (MoE) merged in 2014.

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