



CONFLICT

*Between Societies and Companies
In the Context of Ownership*

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ABSTRACT

The research aims to describe the agrarian conflict in Central Borneo and to analyze the agrarian conflict resolution practices in an appropriate way. Agrarian conflict in Central Borneo caused by various factors, First, inequality spatial planning of forestry and overlapping of ownership. Second, the expansion of oil palm plantation is increasing every year, and the government ambition to make oil palm plantation as the main commodity in Central Borneo. Every year there are so many conflicts, but in this research divided into four types, the conflict between community and company, community and community, company and state, and community and state. Conflict over the land and natural resource often occur where there is overlapping resource interest among groups, communities, and state. Therefore, the hypothesis is discussed by reference to find the sustainability way of oil palm plantation regarding the environment, social, and culture aspect. Second, the expansion of oil palm plantation without damaging forest zone, and third, to strengthen the spatial planning of forestry, operational regulation to support and protect land ownership.

Keywords: Agrarian Conflict, Ownership, Conflict Resolution.

INTRODUCTION

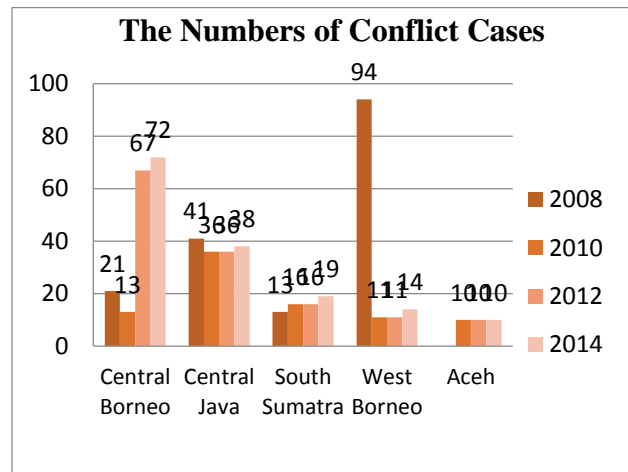
Conflict over the land and natural resources issues are often found among various factors. They may include: members of households, families, clans or ethnic groups, community, governments, and investors or corporations (UNDP, 2012). The agrarian conflict that occurs in current situation, no definite formulation to solve agrarian conflict in Indonesia, although the government announced that the government has found and resolve the conflicts, many conflicts that occur as a result of state political policy (Zweynert, 2015). The conflict over land in Indonesia usually arises between indigenous communities, industries and the state (Ruwiastuti,1997). Land tenure arrangements have undoubtedly influenced the way in which natural resources are controlled by the state and indigenous communities in Indonesia (Deddy, 2006). The term of land tenure means to set the rights which include the right to access, right to use, right to manage, exclusion, and divert, access refers to the right to enter certain areas. Usage or utilization means the right to obtain resources from the forest, (Schlager & Otsrom, 1992). The explanation indicates that research on agrarian and conflict analysis is necessary to

determine the cause of the agrarian conflicts that occurs.

The conflict caused by the states right to control unilaterally and land community control. State land is claimed to caused the protracted conflicts. Massive plantation conflict occurred and the Government's ambition to make palm oil plantation as the leading commodities (HUMA, 2013). The increasing of agrarian conflicts required the agrarian reform, conflicts caused by inequality of ownership, control and management of agrarian resources or inequality of the agrarian structure. Land access is regulated through a system of land ownership. Land tenure is a legal aspect or relations between indigenous people as individuals or groups associated with the land (Galudra, et al., Manual Penilaian Cepat Konflik Pertanahan, 2013).

According to the Center for International Forestry Research (CIFOR) 2015, states that Indonesia needs to have a conflict resolution, in resolving land conflicts between local communities and companies. Therefore, the business development that utilizes the large land plantations has great potential overlap to the residents and forest area. Palm oil plantation which is conducted by some companies in Central Borneo, such as PT SGM (Sawit Graha Manunggal) is part of big scale company of Bumi Borneo Prima (AEP Indonesia-Anglo Eastern Plantations) is the members of RSPO in Central Borneo. With the increasing the numbers of land conversion and land needs by the company will cause of land tenure conflict between community and company.

The conflict cases between communities and companies are increased annually, Agrarian disputes cause the loss of social welfare, property and live hoods. The dispute also interferes the performance of government and industrial efforts, especially in local government.



Source: Database HuMa, 2012 and BPHN 2015

Central Borneo has 72 conflict cases in 2014, it is become the highest numbers of agrarian conflicts during that years. Agrarian conflict that occurred in Sumatra and Borneo is one expansion result of Palm oil industry, one of the main factors of conflict is indigenous land disputes between local people and the industry owners in the local customs area (HUMAWIN, 2013). The rapid expansion of palm oil in Central Borneo can contribute to deforestation, peat degradation, biodiversity damage, burning and slash of forest area. Palm oil became the major contribute in economic growth for regional government income. In 2012, roughly 11 million hectares were planted for palm oil plantation (CIFOR, 2015). Most of the palm

oil was in Sumatra (64%) of palm oil plantation and followed by Borneo with (31%) of palm oil plantation.

The unsustainable expansion of palm oil plantation damaged forest area, wildlife and environment. Most of the palm oil industry had land dispute with land communities. The high numbers of conflict that occurs in Central Borneo is the reason of researchers to choose Central Borneo as a research area in 2015, there are three reasons why the research on agrarian conflicts in this study becomes important which are: *first*, the increasing of agrarian conflict cases in various years. *Second*, Central Borneo is the highest numbers of agrarian conflicts. *Third*, conflict resolution between community and company. Therefore, this research will discuss about how the settlement of conflicts in Central Borneo could be completed in case of conflict resolution between Communities and companies.

THEORITICAL FRAMEWORK

Concept of Land Tenure and Ownership

Land tenure is a right to organize usage patterns or divert resources. In regard to common-pool resources, collective-choice property rights include management, exclusion, and alienation, (Schlager & Ostrom, 1992), they defined as follows:

Management	The right to regulate internal use patterns and transform the resource by making improvements.
Exclusion	The right to determine who will have an access right, and how that right may be transferred.
Alienation	The right to sell or lease either or both of the above collective choice rights.

Sources: Schlager and Ostrom (1992)

According to Shlager & Ostrom (1992), they divide rights as follow: *First*, right of access is the right to enter a particular area. *Second*, right of withdrawal is right to uses of natural resources such as for fishing, harvesting fruit, water, slash, etc. *Third*, right of management is right to regulate the utilization of resources for the purpose in increasing production. *Forth*, rights of exclusion is the rights to refuse a person to gain access in utilize resources and make the rules of assignment to other people, institutions and other groups (Wunder, 2009). *Fifth*, right of alienation is right to sell or lease.

According to Larson (2013) rights is about de jure and de facto concept, de jure is the rules created and protected by the state (for example, proof of ownership which registered, concessions, contracts and regulations on forestry). De facto is the interaction patterns that are defined outside the scope of formal law. This includes customary rights, a set of rules and regulations

of society, and enforced by society, and which may be recognized or not by the state.

Management means the right to regulate their own usage patterns or divert resources. Management is divided into three terms of authority to make decisions, namely, (1) Determine how resources should be protected and used (rule-making). (2) define how to monitor and enforce compliance, and (3) resolve the dispute, (Agarwal & Ostrom (2008). According to Tchikangwa (2001), he divide into: (1) establish/protect the boundary, (2) formulate/implement the rules and regulations, (3) monitoring compliance, (4) resolve the dispute, (5) leading, and (6) estreat/sanction.

1. Private Rights

According to Larson state that private right is land that the proof of ownership held by individuals or companies (Larson, 2013). Private right is hereditary rights, land that is owned and authorized to uses for an indefinite period (Harsono, 2003). Property rights according to article 20 paragraph (1) UUPA is hereditary rights, wholly and the strongest of the land that can be owned by the people.

2. Customary Right

The participation of local communities in the resource management, for example has the autonomy to make local rules, shows towards better outcomes for biodiversity and livelihoods (Ostrom & Nagendra, 2006). According to Harsono (in Santoso, 2012), a customary right is a series of authority and obligation of

indigenous peoples, related to land located within the territory. According to Fitzpatrick in his research about best practice model for the legal recognition of customary tenure, to identify of tenure security allows a typological framework for developing legal responses to customary tenure. State legal intervention in a customary land system should be determined by reference to the nature and causes of any tenure insecurity (Fitzpatrick, 2005).

3. Common Right

Common right is based on agreement and Laws. It is said common property (*medeeigendom*) because there are some owners or a similar object (Angus, 2008). Common right system is contained in the official land including state land or private property (McKean, 2000). According to article 28 of Law No. 5 of 1960 about agrarian issues (UUPA), Common right (HGU) are special rights to use land that is not his own, the land is regulate directly by State for the agriculture, fisheries and livestock.

Based on understanding the definition of land tenure can be concluded that land Tenure refers to the contents are the nature of rights and security of rights which manage the natural resources that refers to the social relations and institutions which is regulating the access and land tenure, with using the opinion of (Schlager & Ostrom, 1992).

Concept of Agrarian conflicts (Societies and companies)

Agrarian conflict as stated by Christodoulou is "Agrarian reform is the offspring of agrarian conflict" (Christodoulou in Wirandi, 2000). Agrarian reform is the agrarian conflict that it come up from the reformation of the ownership or land control and known as the "land reform" which is develop into "agrarian reform" is a response toward the conflict situation on land issues.

According to Herrera & Passano (2006) state that divided into three types of conflicts causes of land ownership, the main of the conflict caused by, *First, The influence of politics*, almost every conflict occurs on land ownership. The potential to become a conflict when there is big changes over land tenure (which are really happening or presumed exits) land tenure. *Second, Legal aspect*, the main problem is that some actors do not know the legal rights, unknowing about the legal framework that governs access to some areas and utilize of natural resources in a manner opposite to each other. The organizations on the legal authority to set the same area can also cause the land tenure conflicts. *Third, Economic factors*, Land is a source of income and be a natural resource for plantation.

In conclusion, conflict may occur among individuals in organization, institutions, community, and society or among nations. It's considered to be endemic to all social relations and could be understood as a conflict about legitimacy and authority in any organization, roles and positions.

RESEARCH METHODS

Qualitative method is the main method in this research which used to carry out and analyze the data. Qualitative research involves the studied use and collection of a variety of empirical materials case study, personal experience, observation and describes the problematic moments, (Denzim, 2000). The research conducted is included the category of library research. Moreover the Data collection technique used by collecting various journal articles, documents, books that related to agrarian conflict over natural resources between community and company. It is useful to examine the ownership over the land, reflects an attempt to secure an in depth understanding of the land tenure phenomenon in question, (Flick, 2002). In this research, the researchers used explanatory qualitative research, focused on analyzes the agrarian conflict in Central Borneo. The problems of this research were related to the conflict between societies and companies in the context of ownership that occur in Central Borneo. In order to describe the issue, this research will utilize the secondary data and analysis the conflict resolution between society and company based on best practice. Data collection is done by describing the data to understand what is happening based on the data that has been presented (Bogdan & Taylor, 2007). The conclusion from the entire data of each variable by comparing the data obtained from the various sources to see the possible variations that occurs, based on findings could be conclude become the conclusions.

This research located in Central Borneo in the case of agrarian conflicts that occurs between community and the company. The reason for choosing this location of Central Borneo is one of the highest expansion areas for palm oil plantation and the numbers of agrarian conflict cases.

RESULT AND ANALYSIS
Agrarian Conflict Analysis in Central Borneo

Indonesia has recently become the biggest producer of palm oil in the world, with over six million hectares of palm oil plantations that can produce over 17 million tons of crude palm oil (CPO) (Pye, 2013). The demand of palm oil in the global market has encouraged the Indonesia government to stimulate the expansion of palm oil plantation, many facilities and incentives have been given to private investor to invest the palm oil sectors. While the policies that protect local communities and environment are lacking (Dewi, 2013). They cover more than seven million hectares and are managed by more than 600 companies and one million small farmers.

Historically, the entering of companies began from Mega Palm Oil Projects and new focus of development plants after the fall of Soeharto era in 1998. The area had been allocated to military controlled logging concessions, reflecting both the importance of the timber industry and security concerns. The first plans to develop the area with palm oil were drawn up under Megawati in West

Borneo for the expansion area. Under Susilo Bambang Yudoyono era, Central Borneo is an expansion area as palm oil corridor. The expansion of plantations occurs in large scale which reached five million hectares per year globally (FAO, 2010).

Master plan acceleration and expansion of Indonesia's economic development (MP3EI) 2011-2025 assert that, the economic corridors designed to produce a specific global commodity. Forestry and mining became the main establishment of the three fundamental problems that is the damage of the environment, the distribution of land tenure and natural resources are lame. The cause of agrarian conflicts, there are some differences of the actors before and after reformation era that involved in agrarian conflict as described below:

	Agrarian Conflict	
	Before Reformation Era	Reformation Era
The actors who involved	Central Government National Cooperation Military Community NGO (1990)	Central Government and local government Military National Cooperation Community NGO International Agency
Pattern	Centralistic, Central government as absolute controller	Spread and central government and local government as facilitators

Sources: Compiled From Various Sources

The entry of large scale companies has been shown since 1967, the first time,

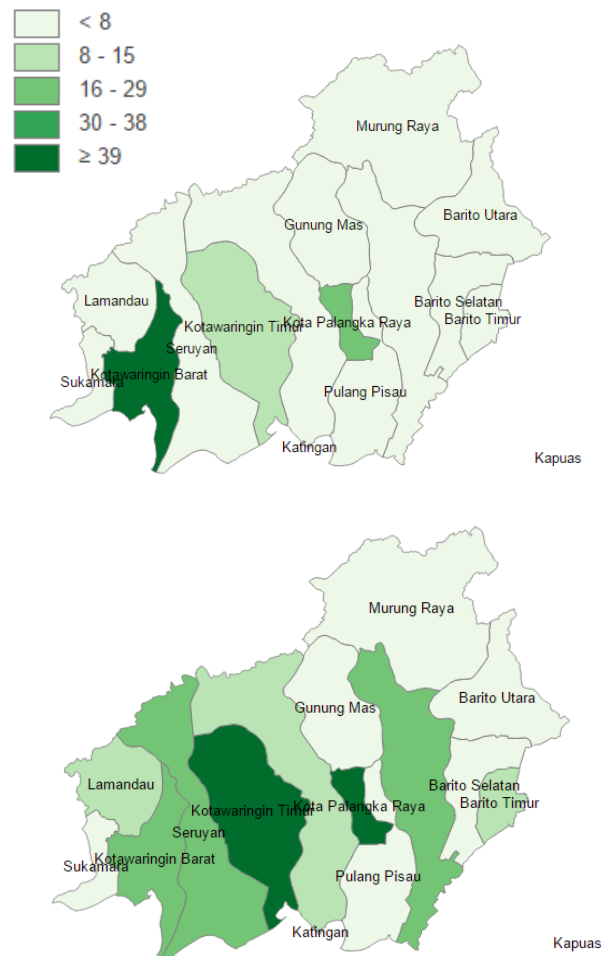
Indonesia invite foreign investors to start exploiting global scale of agrarian resources that exist in Indonesia (Mulyani, 2014). The corporation of palm oil plantation in Central Borneo began in 1992, its extent to increase palm oil plantation area. Based on the establishment of regional regulation No. 3 of 1993 about spatial plan in Central Borneo, The expansion of palm oil plantation even in peat lands area is conduct with large scale company and tends to be uncontrolled by the government. In the social perspective, Central Borneo has turned into a potential agrarian conflict region, such as the conflict with plantation corporations. The consequence of the palm oil expansion is the increasing the agrarian conflict over natural resources.

The widespread expansion of monoculture plantations such as palm oil in Borneo make reduces forest area drastically (Widiyanto within BHUMI, 2012). The development of palm oil plantation sector investment alleged to strengthen the pressure on land needs and the most vulnerable area is the forests. A massive plantation conflict that occurs indirectly triggered by the governments ambition to make palm oil as main commodities in Indonesia especially in Central Borneo.

The changing distribution of companies during last 10 years has increased rapidly. In one hand, the changing shows that the growths of companies are important for economic development in the local government, it could provide job opportunity to the local community and provides the income resource for local government. In the other hand,

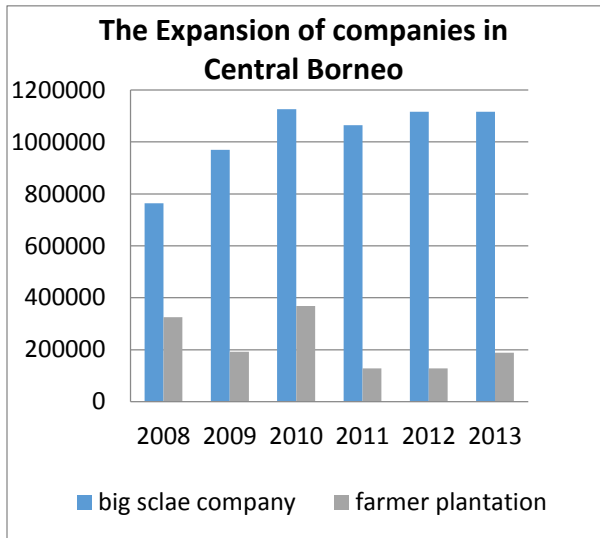
because of the growth of palm oil company is expansive with conduct land grabbing for land needs, it is caused by increased investor in palm oil plantations and the consequences of the increase of palm oil companies are the number of agrarian conflicts.

The distribution of companies in Central Borneo, 2003 to 2013

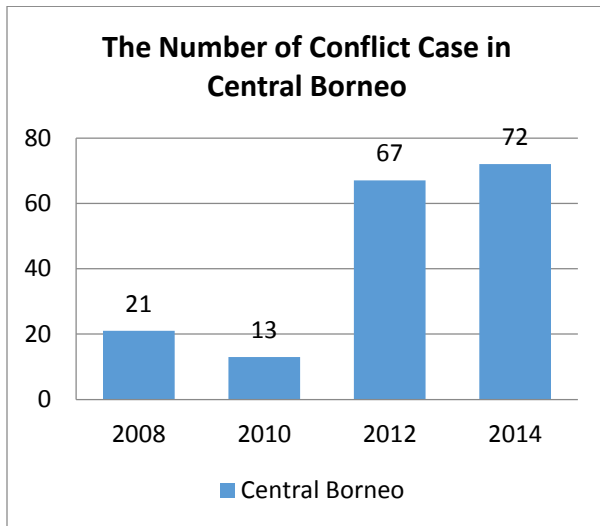


Sources: Badan Pusat Statistik, 2013

The comparison between the number of companies and the number of conflict cases in Central Borneo during certain years.



Sources: Compiled From Various Sources



Source: Database HuMa, 2012

In 2008, the growing number of companies and land expansion followed by the agrarian conflict in Central Borneo has increase until 2009. The agrarian conflict in 2010 was the most conflict Central Borneo,

but the increasing number of land expansion and the highest number of companies in 2010 was not followed by the number of agrarian conflict in Central Borneo. In 2010 the numbers of agrarian conflict has decreased from previous years, its caused by, *first*, in 2010 the President of Susilo Bambang Yudhoyono has appointed the Central Borneo Province to become pilot province of REED+ programs. The aim is to reduce emission from deforestation and forest degradation sectors and land use. *Second*, the Governor of Central Borneo has announced that the province has conducted moratorium policies to reduce deforestation. The moratorium made by the governor to address the issue of overlapping permits. According to WALHI of Central Borneo noted that, even though the moratorium has been issued by the government is still being conducted the land permits for land expansion by cooperation which issued by Regents. Meanwhile, the agrarian conflict in 2011 to 2013 continually increasing, the implementation of REED+ is still questioned, whether then implementation will reduce the conflict or the increasing numbers of conflict.

Each year's there are so many conflicts, but this conflict will divided into several part, *the first*, conflict between community with community, *the second*, community with company, *the third*, company with state, and *forth*, community with state. the conflict between community with community In Central Borneo, several conflicts affecting local communities and related to palm oil plantation have been reported about human right violation and land grabbing, in 2010 to

2014 Central Borneo was the most province of conflicts were found (KPA, 2014), the cause of conflict between community with community caused by the conflict of the customary village boundaries or the conflict over resources.

The cause conflict between community and company, *first*, Low wages and debts for palm oil plantation, The compensations paid by the company to the local communities are often very low and their promises not completely fulfilled, which can trigger further conflicts, *Second*, the majority of oil palm plantations are held by private companies gaining access to the land through the government, Private investors gain use rights to land (HGU: *Hak Guna Usaha* or exploitation and utilization right) through local and central governments that issue plantation permits, in practice these lands are often used and controlled by local people who claim customary land rights that are not fully recognized by the State (Clerc, 2008). *Third*, the past to grant customary lands of private investors without consideration for the local communities, palm oil plantation is established by private companies on customary lands, lands are actually used and controlled by local communities. *Forth*, claims of customary conflict over forest area, the high frequency which involved the companies have conflict of plantation and mining sectors. Perhaps almost all natural resources and agrarian conflict based on overlapping claims.

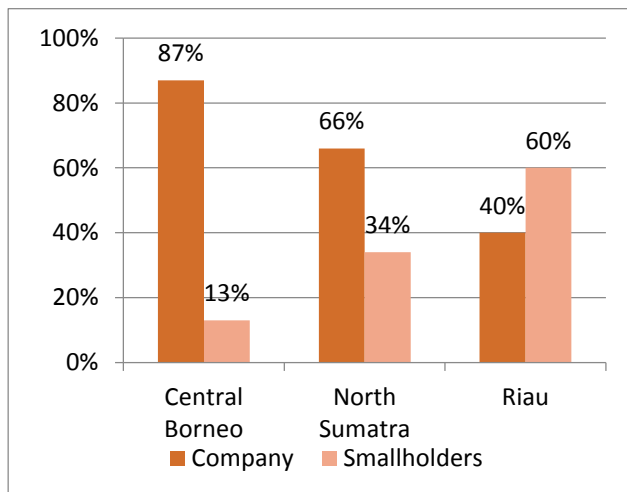
The conflict between companies with state caused by, *first*, less transparency of the local government related to business permits.

Second, less transparency of information and documents required related local government policies in term of land permits, including environmental impact analysis and conflict resolution associated with the palm oil plantations. *Third*, the company ignored the obligations contained in the legislation of the palm oil plantation, the permits requirements which given by the government such as, location permits, plantation permits and land use permits.

The conflict between communities with state caused by, *first*, Plantation area of palm oil for society not appropriate yet with the regulation, the community right of land tenure has not resolved properly in term of ownership. The conflict between communities with state mostly occurs in term of the boundary of forest use planning (Yuliana, etc al., 2004). The right and land use plan mainly related to conservation area such as National Park. *Second*, conflict occurs because of the Government continues to push high economic growth, either by expansion of palm oil plantation, its often claimed over community land or conservation of forest as palm oil commodities. Besides the expansion of palm oil plantation by companies, conflict also occurs over customary lands are not recognized by the state. *Third*, inconsistent governments about the regulation, to improve the natural resources management aspect such as, land tenure, forest spatial plan, forest management and forest use plan. *Forth*, interest factors, where the public has an interest to use and manage the land, while the forestry department has interest to maintain and manage the state forest. *Five*, The

conflicts related to plantations, forestry and mining (KPA, 2013). In the context of forestry, the conflict issues related to the ownership of rights in forest areas, conflicts arise because licenses without considering local conditions, resulting in indigenous people or the local community which losing their rights, generally, have not been formally certified (Mizan, 2013).

Palm oil ownership of Companies and Smallholders as Comparison to others Province 2008 to 2013

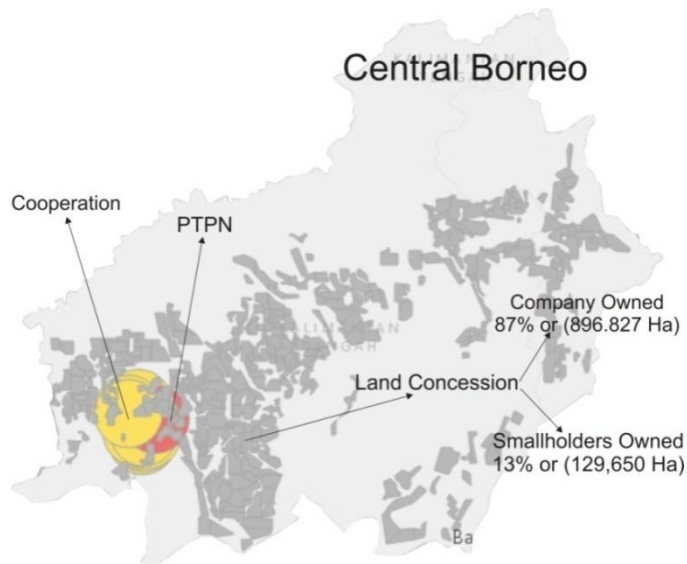


Source: CIFOR, 2015

Lot of peoples are enter in the dynamics of palm oil, whether as investors, workers, smallholders and former landholders (World Growth, 2011). The increasing numbers of smallholders and companies extent to increase palm oil plantation area. There has been booming of plantation in 2010 with dominated by big scale company rather than smallholders in Central Borneo, many of farmers would like to plant of palm oil plantation, but they

need access to the roads, mills, high quality planting materials, capital or credit, and land, its caused lot of people becomes workers in the company rather than individual smallholders in Central Borneo. Based on data shows that the increasing numbers of companies in Central Borneo significantly during 2008 to 2013 with 87% palm oil plantation which owned by company, the smallholders only 13% of palm oil plantation which owned by independent smallholders. As comparison to others region such as North Sumatra and Riau, palm oil plantation in North Sumatra with dominated by big company scale with 66% owned by company and 34% with owned by independent smallholders. Palm oil plantation in Riau Province as comparison to Central Borneo has differences of the increasing number of palm oil plantation with dominated by independent smallholders with 60% rather than owned by company only 40% of palm oil plantation or around 70%-80% of the concession of land managed by smallholders during last ten years in Riau Province. The increasing numbers of company in Central Borneo could not avoid from land conflicts are the most prominent issues raised in Central Borneo. The cause of the increasing numbers of palm oil plantation which dominated by company is the government has commitment to increase economic growth by giving the permits for palm oil plantation in Central Borneo, and the area was under big scale company plantation which run by the government or private cooperation. Central Borneo was the main region of expansion with dominated by company plantation.

MAPPING AGRARIAN CONFLICT BETWEEN COMMUNITY AND COMPANY



Sources: Based on Analysis and WWF (World Watch Forest), 2015

Land concession in Central Borneo are planned for palm oil plantation and the most concession conducted by the big scale companies, social conflict, including land rights and resources conflict is often associated with palm oil plantation expansion. Palm oil expansion is often over customary land and community land which lead to the conflicts. The larger of land expansion is company rather than the smallholders. Smallholders who retain control of their own land also retain control over their lives and livelihoods (Murray li in CIFOR, 2015).

The growing of companies/cooperation roles in all sector in the society show that shifting the role of the state. The involvement in agrarian conflict and natural resources, the

company becomes the most actors in the agrarian conflict. From the description of the parties involved in agrarian conflicts and natural resources above, the company becomes the party most often the actors the conflict.

Conflicts over natural resources and agrarian in general caused by two things, *First*, the inequality of land tenure (overlapping of land tenure), Countries and corporations that have control over the land that is dominant rather than the control of society in rural areas who lives in under poverty line.

CONFLICT RESOLUTION

The conflict resolution mechanism has been established through Governor's Decision No. 188.44/108/2012 concerning a mechanism to prevent, handle and resolve conflicts related to plantation businesses. Land conflicts and causes have been identified (Earth Innovation Institute, 2015). Based on Central Borneo Governor Decree No. 188.44 / 335/2010 about the teams Formation to Prevent, Control, Management and Business Interruption for Plantation in Central Borneo province.

Dispute resolution mechanisms developed by the Regional Government, both the Provincial Government and District Government (in this case is the Kapuas district), (Zakaria, etc al, within Kemitraan Partnership, 2015) dispute settlement mechanisms of agencies, Such as the Department of Plantations, and the Dispute

Settlement Mechanism by regional office of national land agency (BPN).

Governor regulates the indigenous land and community's rights on land and provincial level regulation on sustainable palm oil as follow: *first*, the rights of local communities, especially for customary or traditional land claims. *Second*, Responsibility of the company to comprehend the indigenous land claims and invests in job creation locally, supports for small farmers, and builds diverse local economy.

There are several technical issues currently preventing the recognition of rural land tenure are:

Clear evidence, such as a map, will be required to obtain formal recognition of land. With the competing claims over land, formal evidence is preferred by judges when the contested land claim is filed in the court. The National Land Agency (2012) reported that more than 80 percent of the land claims of rural people in Central Borneo have not been delineated and demarcated. Moreover, the regulations and programs to certify land are only carried out by the National Land Agency and some donors. Since the regulations and programs are aimed to cover nationally. Local people often are not aware of the opportunity which provided by the regulations such as the agrarian Law and Governor Regulation No. 13/2009, for example, local residents in Supang and Tanggiran villages (Kapas District) and Tumbang Koling village (Kotawaringin Timur District) do not realize that they can claim their individual rights.

Developing a map of traditional or customary land tenure, however, its challenging, the boundaries of customary claims between individuals or groups are usually marked by natural features such as a stone, tress, a river or certain plants. As communities are no longer ethnically homogeneous, the natural boundaries are no longer effective. The consultant company that won the bid for executing the national program on land certification does not understand the complexities of land tenure claims in Central Borneo.

The research institutes such as the Centre for International Forestry Research (CIFOR) have used community mapping techniques to document and facilitate local conflict resolution mechanisms. The CIFOR primarily became involved in this initiative because it sought to document local conflict resolution mechanisms and to involve the local community in the regional land-use planning process.

CONCLUSION

The increasing of agrarian conflicts between community and company that occurred in Central Borneo, it's caused by several sectors, forestry conflicts, Plantation conflict and Mining Conflicts, with 87% palm oil plantation owned by company, and smallholders only 13% of palm oil plantation owned by independent smallholders. The agrarian conflict in Central Borneo is caused by inequality of ownership (overlapping of ownership), spatial planning of forestry area and inequality of agrarian resources

management. The agrarian conflict that occurred in Central Borneo is one of expansion result of palm oil plantation.

The expansion of palm oil plantation even in peat lands area is conduct with large scale company and tends to be out of control by the government. There has been booming of plantation in 2010 with dominated by big scale company rather than smallholders in Central Borneo. The implementation of REED+ in Central Borneo has different implication of palm oil plantation particularly forest area and mainly as critical factor in Central Borneo Province.

Furthermore, the government of Central Borneo Province roles in order to held the conflict resolution between community and company, The procedure for land settlement and post conflict resolution are, *first*, Extension of management area between community and company, Accelerate the conflict settlement process and prevent the rise of new conflicts, *Second*, Improved land use practices and legal framework and practices of spatial planning and forest arrangements, *Third*, Improved transparency and regulatory changes, *Forth*, conflict resolution through the courts and mediation and *Five*, Community involvement in the decision making process through Musrenbang and socialization forum.

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