

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. The agrarian conflict in Central Borneo was caused by various factors, Firstly, inequality in spatial planning of forestry and the overlapping of ownership. Second, the expansion of oil palm plantation is increasing every years, and the government has the ambition to make oil palm plantation the main commodity in Central Borneo. Every years there are so many conflicts, but this research is divided into four types, the conflict between community and company, community and community, company and state, and community and state. Conflict over land and natural resources often occurs where there is an overlapping of resource interests among groups, communities, and state. Therefore, a hypothesis is discussed with reference to finding a sustainability method of oil palm plantation with regard for the environment, social, and cultural aspects. Second, the expansion of oil palm plantation, without damage to the forest zone, and third, strengthening the spatial planning of forestry, operational regulation to support and protect land ownership.

Keywords: Agrarian Conflict, Ownership, Conflict Resolution.

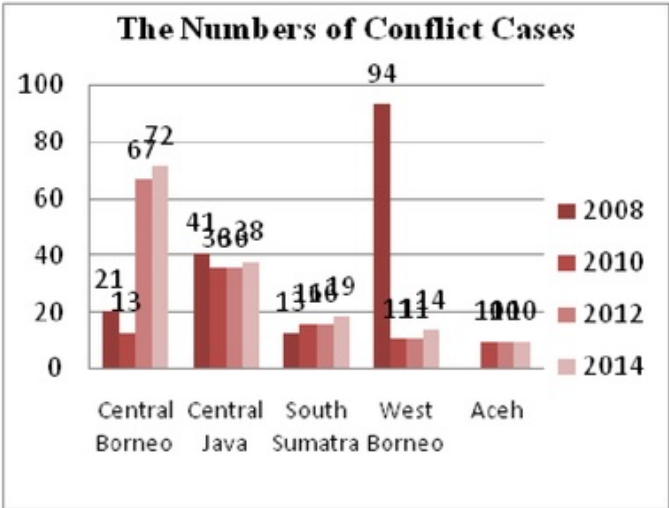
INTRODUCTION

Conflict regarding the land and natural resource issues is 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 is currently occurring has resulted in no definite formulation

in order to solve the agrarian conflict in Indonesia, although the government announced that they had found a way to resolve the conflicts, many conflicts occur as a result of state political policy (Zweynert, 2015). The conflict with regard to 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 refers to a set of 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). This explanation indicates that research on agrarian and conflict analysis is necessary to determine the cause of the agrarian conflicts that occur.

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

Figure 1



Source: Database HuMa, 2012 and BPHN 2015

According to the Center for International Forestry Research (CIFOR) 2015, it states that Indonesia needs to have a conflict resolution for resolving land conflicts between

local communities and companies. Therefore, business development that utilizes large land plantations has great potential to overlap the residents and forest area. The palm oil plantation is conducted by a number of companies in Central Borneo such as PT SGM (*Sawit Graha Manunggal*) which is part of a large scale company; Bumi Borneo Prima (AEP Indonesia-Anglo Eastern Plantations), a member of RSPO in Central Borneo. With the increase in the demand for land conversion, the needs of the company will cause land tenure conflict between community and company.

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

Central Borneo reported 72 conflict cases in 2014; they have become the highest number of agrarian conflicts during the year. The agrarian conflict that occurred in Sumatra and Borneo is one result of the expansion of the 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, 'slash and burn' of the forest area. Palm oil became the major contributor to economic growth and for regional government income. In 2012, roughly 11 million hectares of palm oil were planted (CIFOR, 2015). Most of the palm oil was planted in Sumatra (64%) followed by Borneo with (31%) of plantation.

The unsustainable expansion of palm oil plantation damaged forest area, wildlife, and the environment. Most of the palm oil industry had land disputes with the land communities. The high number of conflicts that occur in Central Borneo is the reason why the researchers chose Central Borneo as a research area in 2015. There are three reasons why the research of agrarian conflicts in this study has become important which are: First, the increase of agrarian conflict cases over the years. Second, Central Borneo has the highest number of agrarian conflicts. Third, search for conflict resolution between the community and the company. Therefore, this research will discuss how to settle conflicts in Central Borneo in the 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 to divert resources. In regard to common-pool resources, collective-choice property rights include management,

exclusion, and alienation, (Schlager & Ostrom, 1992), they are defined as follows:

Table 1

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

According to Larson (2013) rights are about the de jure and de facto concept, de jure is the rules created and protected by the state (for example, proof of ownership which can be registered, concessions, contracts and regulations on forestry). De facto are the interaction patterns that are defined outside the scope of formal law. This includes customary rights, a set of rules and regulations of a society, enforced by the society, which may, or may not be recognized 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), define how to monitor and enforce compliance, and (3) resolve disputes, (Agarwal & Ostrom (2008). According to Tchikangwa (2001), he divided into: (1) establish/protect a boundary, (2) formulate/implement rules and regulations, (3) monitoring of compliance, (4) resolve disputes, (5) leading, and (6) estreat/sanction.

1. Private Rights

According to Larson, private right is land that has the proof of ownership held by individuals or companies (Larson, 2013). Private right is a hereditary right, land that

is owned and authorized to be used for an indefinite period (Harsono, 2003). Property rights, according to article 20 paragraph (1) UUPA is hereditary right, and is the strongest for land that can be owned by the people.

2. Customary Right

The participation of local communities in the resource management, for example, having the autonomy to make local rules, indicates better outcomes for biodiversity and livelihoods (Ostrom & Nagendra, 2006). According to Harsono (in Santoso, 2012), a customary right is a series of authorities and obligations 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 tenure of security allow 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 to be common property (medeeigendom) because there are some owners or a similar objective (Angus, 2008). The common right system is contained in 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 regulated directly by the State for the agriculture, fisheries and livestock.

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

Concept of Agrarian conflicts (Societies and companies)

Agrarian conflict, as stated by Christodoulou, "Agrarian reform is the offspring of agrarian conflict" (Christodoulou in Wirandi, 2000). Agrarian reform is the agrarian conflict that comes about due to the reformation of ownership or land control and is known as "land reform" which is developed into "agrarian reform", and is a response to the conflict situation in land issues.

According to Herrera & Passano (2006), they state that conflicts caused by land ownership, can be divided into three types of main conflict caused by, First, The influence of politics, occurs in almost every case of land ownership. The potential for

conflict when there are big changes of land tenure (which are real or presumed). Second, Legal aspect, the main problem is that some actors do not know their legal rights, they are unknowing of the legal framework that governs access to some areas and the utilization of natural resources in a manner that may be opposite to each other. The organizations of the legal authority that set the same area can also cause land tenure conflicts. Third, Economic factors, Land is a source of income and can be a natural resource for plantation.

In conclusion, conflict may occur among individuals in an organization, institution, 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 was used to carry out and analyze the data. Qualitative research involves the studied use and collection of a variety of empirical materials for case study, personal experience, observation, and describes the problematic moments, (Denzin, 2000).

The research also included literary review. Moreover the Data collection technique used the collection of various journal articles, documents, and books that related to agrarian conflict, over natural resources, between community and company. It is useful to examine ownership over the land, as this 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 analyses of 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 issues, this research will utilize secondary data and analyze 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 presented (Bogdan & Taylor, 2007). The conclusion from the complete data of each variable is obtained by comparing the data, obtained from the various sources, to see the possible variations that occur, based on the findings.

This research took place in Central Borneo, in the case of agrarian conflicts that occur between community and company. The reason for choosing this location in Central Borneo is due to it being one of the highest expansion areas for palm oil plantation and due to 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 for palm oil in the global market has encouraged the Indonesian government to stimulate the expansion of palm oil plantation, many facilities and incentives have been given to private investors to invest in the palm oil sector. 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 arrival of companies began with Mega Palm Oil Projects and a new focus on developing plants after the fall of the Suharto 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 with West Borneo for the expansion area. In the Susilo Bambang Yudoyono era, Central Borneo became an expansion area as a palm oil corridor. The expansion of plantations occurred on a 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, economic corridors should be designed to produce a specific global commodity. Forestry and mining became the main foundation of the three fundamental problems that are the damage to the environment, the distribution of land tenure and natural resources are lame. Regarding the cause of agrarian conflicts, there are some differences to the actors before and after the reformation era that became involved in agrarian conflict as described below:

Table 2

	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 indicated since 1967, initially, Indonesia invited foreign investors to start exploiting on a global scale, the agrarian resources that exist in Indonesia (Mulyani, 2014). The corporation of palm oil plantation in Central Borneo began in 1992; its scope was to increase the palm oil plantation area. Based on the establishment of regional regulation No. 3 of 1993, concerning the spatial plan in Central Borneo, the expansion of palm oil plantation, even in the peat lands area, is conduct by large scale companies 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 increase in agrarian conflict over natural resources.

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

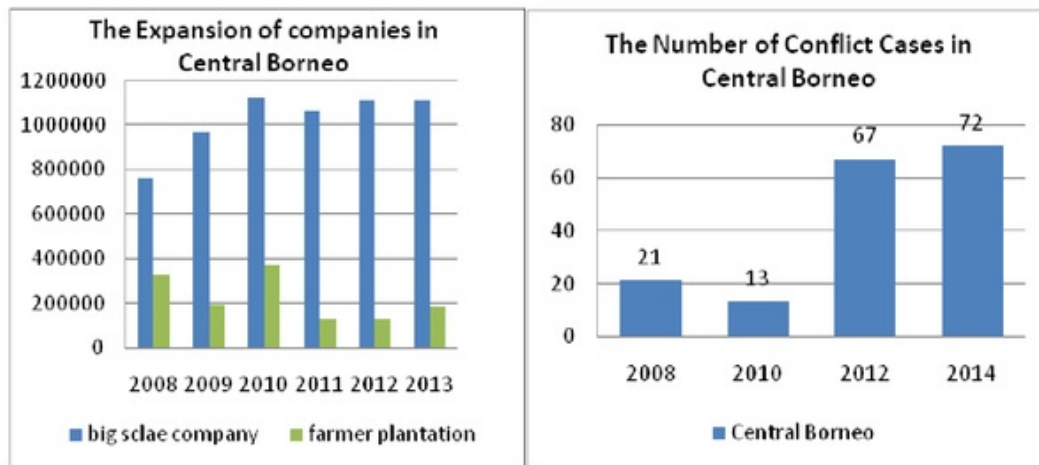
The changing distribution of companies, during last 10 years, has increased rapidly. On the one hand, the changes show that the growth of companies is important for economic development within the local government area. It could provide job opportunities to the local community and provide an income resource for the local government. On the other hand, because the growth of palm oil companies is expansive, with land grabbing conducted for its needs, it has caused increased investment-

Figure 2



in palm oil plantations and consequently, the increase in the number of palm oil companies increases the number of agrarian conflicts.

Figure 3. The distribution of companies in Central Borneo, 2003 to 2013



Sources: Compiled From Various Sources

Source: Database HuMa, 2012

Sources: Badan Pusat Statistik, 2013

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

In 2008, the growing number of companies and land expansion was followed by agrarian conflict in Central Borneo that has increased until 2009. The agrarian conflict in 2010 was the greatest conflict in Central Borneo, but the increasing amount of land expansion and the higher number of companies in 2010 was not followed by an increase of agrarian conflict in Central Borneo. In 2010 the level of agrarian conflict decreased from previous years, this was due to, firstly, in 2010, President Susilo Bambang Yudhoyono appointed the Central Borneo Province to become the pilot province of REED+ programs. The aim was to reduce emissions from deforestation and forest degradation sectors for land use. Second, the Governor of Central Borneo announced that the province had orchestrated moratorium policies to reduce deforestation. The moratorium was made by the governor to address the issues of overlapping permits. According to WALHI of Central Borneo it was noted that, even though the moratorium had been issued by the government, permits for land expansion were still being issued by Regents. Meanwhile, the agrarian conflict during 2011 to 2013 continued to increase, the implementation of REED+ was questioned, as to whether the implementation would reduce the conflict or would it continue to increase.

Each year there are so many conflicts, but this conflict will be divided into several parts, first, internal conflict between community and community, second, community with company, third, company with state, and forth, community with state. Regarding conflict between community and community in Central Borneo, several conflicts affecting local communities and related to palm oil plantation have been reported in relation to human rights violations and land grabbing, during 2010 to 2014 Central Borneo was the province where most conflicts were found (KPA, 2014), the causes of conflict between community and community were over customary village boundaries or resources.

The causes of conflict between community and company, first, Low wages and debts for palm oil plantation, the compensation paid by the company to the local communities are often very low and their promises were not completely fulfilled, which could 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 gained usage rights to the land (HGU: *Hak Guna Usaha* or exploitation and utilization rights) through local and central governments that issued 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, granting the use of customary lands to private investors without consideration for the local communities, palm oil plantation is established by private companies on customary lands, the lands are actually used and controlled by local communities. Forth, conflict of claims over customary for 2nd area, a large number of which involved the companies having conflict concerning plantation and the mining sector. Perhaps almost all the natural resources and agrarian conflict is based on overlapping claims.

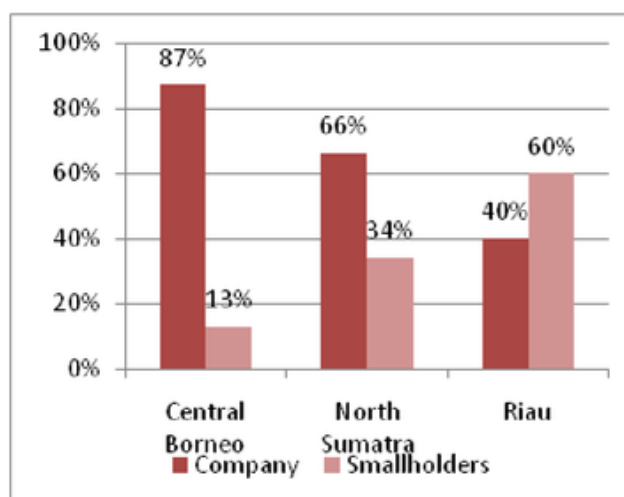
The conflict between companies and the state was caused by, first, less transparency within the local government related to business permits. Second, less transparency of information and documents required relating to local government policies in terms of land permits, including environmental impact 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 permit requirements given by the government such as, location permits, plantation permits, and land use permits.

The conflicts between communities and the state were caused by, first, Plantation area for palm oil not appropriate within the regulations; the community rights of land tenure were not resolved properly in terms of ownership. The conflict between communities and the state mostly occurred in terms of boundary dispute and-

forest use planning (Yuliana, etc al., 2004). The rights and land use plan mainly related to conservation areas, such as National Parks. Second, conflict occurred because the Government continued to push for high economic growth, either by expansion of palm oil plantation, it often claimed community land or conserved forest as palm oil commodities. Besides the expansion of palm oil plantation by companies, conflict also occurred over customary lands, which were not recognized by the state. Third, inconsistency by government regarding regulation to improve natural resources management 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 an interest to maintain and manage the state forest. Five, 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 were issued without considering local conditions, resulting in indigenous people or the local community losing their rights, which generally, have not been formally certified (Mizan, 2013).

Palm oil ownership of Companies and Smallholders as a Comparison to other Provinces 2008 to 2013

Figure 4



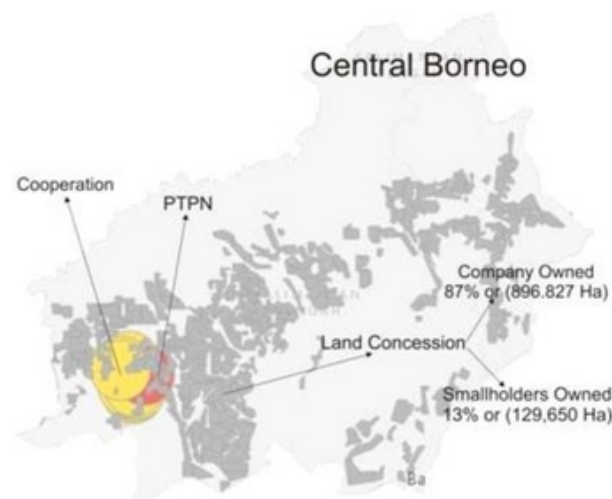
Source: CIFOR, 2015

Lots of people have entered in to the dynamics of palm oil, whether as investors, workers, smallholders and former landholders (World Growth, 2011). The increasing numbers of smallholders and companies increase the palm oil plantation area. There has been booming plantation since 2010, dominated by big scale companies

rather than smallholders in Central Borneo, many of the farmers would like to plant palm oil, but they need access to the roads, mills, high quality planting materials, capital or credit, and land. This has caused a lot of people to become workers for a company rather than being individual smallholders, in Central Borneo. Based on data, it is shown that the number of companies in Central Borneo rise significantly during 2008 to 2013 with 87% of palm oil plantation being owned by companies, only 13% being owned by independent smallholders. In comparison to others region such as North Sumatra and Riau, palm oil plantation in North Sumatra was dominated by big companies with 66% and 34% owned by independent smallholders. Palm oil plantation in Riau Province, compared to Central Borneo is different, with an increasing number of palm oil plantations dominated by independent smallholders at 60%, rather than owned by companies at only 40% of palm oil plantation. Around 70%-80% of the concession land has been managed by smallholders during the last ten years, in Riau Province. The increasing numbers of companies in Central Borneo meant land conflict was unavoidable and has become the most prominent issue raised in Central Borneo. The reason for the increasing numbers of palm oil plantations, which are dominated by companies, is because of the government commitment to increase economic growth by giving permits for palm oil plantation in Central Borneo, the area was under big scale company plantation which was run by the government or in private cooperation. Central Borneo was the main region of expansion that was dominated by company plantation.

MAPPING AGRARIAN CONFLICT BETWEEN COMMUNITY AND COMPANY

Figure 5



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

Land concessions in Central Borneo are planned for palm oil plantation and most concessions are 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 land expansion is due to companies 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 sectors in society indicates the shifting role of the state. By their involvement ²⁾ agrarian conflict and natural resources, the companies become the main actors. From the description of the parties involved in agrarian conflicts and natural resources above, the company becomes the most often seen as an actor in the conflict.

Conflicts over natural resources and agrarian issues in general are caused by two things, Firstly, the inequality of land tenure (overlapping of land tenure). Countries and corporations have dominant control over the land rather than it being under the control of the society in the rural areas, who live under the poverty line.

CONFLICT RESOLUTION

A 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, Manage, and Business Interruption for Plantations in Central Borneo province.

Dispute resolution mechanisms developed by the Regional Government, both the Provincial Government and District Government (in this case the Kapuas district), (Zakaria, etc al, within Partnership, 2015) dispute settlement mechanisms of agencies, Such as the Department of Plantations, and the Dispute Settlement Mechanism by the regional office of the national land agency (BPN).

The Governor regulates the indigenous land and the community's rights to land with provincial level regulation on sustainable palm oil as follows: 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 investment in job creation locally, support for small farmers, and the building of a diverse local economy.

There are several technical issues currently preventing the recognition of rural land tenure which 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 at national coverage, local people often are not aware of the opportunity which is provided by the regulations, such as the agrarian Law and Governor Regulation No. 13/2009, for example, local residents in Supang and Tanggiran villages (Kapuas District) and Tumbang Koling village (Kotawaringin Timur District) did not realize that they can claim their individual rights.

Developing a map of traditional or customary land tenure, however, it is 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 increase in agrarian conflicts between community and company that have occurred in Central Borneo, are caused by several sectors, forestry conflicts, plantation conflict and mining conflicts 87% of palm oil plantation is owned by companies and only 13% is owned by independent smallholders. The agrarian conflict in Central Borneo is caused by inequality of ownership (overlapping of ownership), spatial planning of forestry areas and inequality of agrarian resources management. The agrarian conflict that occurred in Central Borneo is one of expansion as a result of plantation.

The expansion of plantation, even in peat land areas, involves large scale companies and tends to be beyond the control of the government. There has been a boom in plantation from 2010, dominated by big scale companies rather than the

smallholders in Central Borneo. The implementation of REED+ in Central Borneo has a different implication for plantation, particularly forest area, and mainly, as a critical factor, in Central Borneo Province.

Furthermore, the government of Central Borneo Province has a role in order to foster conflict resolution between community and company. The procedure for land settlement and post conflict resolution are, firstly, Extension of the management area between community and company, Acceleration of the conflict settlement process and prevention of the rise of new conflicts, Second, Improved land use practices and legal framework, 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 "Musrembang" and social forum.

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