

The governance arrangements of sustainable oil palm initiatives in Indonesia

Multilevel interactions between public and private actors

Cecilia Luttrell, Heru Komarudin, Mike Zrust, Pablo Pacheco, Godwin Limberg, Fitri Nurfatriani, Lukas R. Wibowo, Ismatul Hakim and Romain Pirard

Key messages

- Different types of interactions are emerging involving public and private (non-state) actors across sustainability initiatives in the palm oil sector in Indonesia.
- Such initiatives include the development of government standards for sustainable palm oil, legislation related to the setting aside of conservation areas, a 'wave' of provincial and district Green Growth programs, a focus on jurisdictional approaches, and efforts around smallholder registration. These have been accompanied by the emergence of a number of political 'champions' in the form of provincial and district leaders.
- Some initiatives can help to implement immediate specific sustainability objectives by filling implementation gaps, by bearing some operational costs and by speeding up regulatory change.
- To bring about the transformation and to move beyond a proliferation of pilot schemes, interactions would need to survive political cycles and align with on-going national processes of reform around natural resource policy.
- Those initiatives intended as innovative pilots or to kick start a process in unclear legal contexts may benefit from acting quickly outside of more formal state systems. However, there are clear benefits in integrating initiatives into existing executive systems to help weather and uncertain electoral cycles.
- Some actions by non-state actors act to strengthen the capacity of public authority and accountability, whereas others can weaken or undermine these public systems.

Introduction

The palm oil sector in Indonesia has seen the adoption of zero deforestation commitments by some large companies in the form of various pledges around No Deforestation, No Peat and No Exploitation (NDPE). At the same time, at the national and subnational levels, new governance arrangements are emerging for sustainability initiatives involving government, the private sector and other non-state actors. Our review (Luttrell et al 2018), which was carried out in 2016–2017 explored the interactions between public and private sectors in a selection of these sustainability initiatives in three provinces and four districts: Kotawaringan Barat, Suruyan in Central Kalimantan, Ketapang in West Kalimantan and Musi

Banyuasin in South Sumatra (see Table 1). We interviewed 154 respondents: 79 government, 54 NGO, 17 private-sector and 3 donor respondents at the national and subnational levels. The key question was the ways in which private standards and actors are pushing sustainability reforms and the ways in which related initiatives are likely to bring some degree of transformation in the sector.

There are a number of discourses around sustainability of palm oil in Indonesia. These include hopes that the sector will support the expansion of palm oil by taking care of environmental protection while simultaneously contributing to improve infrastructure, economic growth and poverty reduction. At the same time there are

Table 1. A range of initiatives reviewed

Policy stage	Initiative reviewed
Policy formulation and agenda setting:	Jurisdictional approaches (Seruyan; Musi Banyuasin [MuBa]); Landscape approaches (Kelola Sendang in South Sumatra; IDH ^a in West Kalimantan); Green Growth strategies (South Sumatra; West Kalimantan)
Rule setting and standards (voluntary and mandatory):	Mandatory standards (ISPO) being developed in reaction to voluntary standards (e.g. RSPO) and private sector/civil society actions; government regulations that strengthen and implement standards: regulations on sustainability (Central Kalimantan; South Sumatra); and for HCV (Seruyan; Ketapang)
Implementation, compliance and enforcement of regulations and standards:	Registration of smallholders (INOBU ^b) and work by Kelola Sendang on traceability and supply chain management; IP4T land registration (Inventarisasi Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah); KPK's Koordinasi dan Supervisi (KORSUP) process
Incentives or the compensation of costs to encourage adherence to standards:	Oil Palm Plantation Fund (BPDP or CPO Fund); traceability systems for smallholder integration and access to markets through certification, smallholder financing; fiscal incentives for local government
Oversight, transparency and monitoring:	Multistakeholder processes (Sekber process, West Kalimantan; MuBa SATGAS process); and multistakeholder forums (associated with the ISPO process and Forum Kelapa Sawit Berkelanjutan Indonesia [FoKSBI])

a The Sustainable Trade Initiative

b Institut Penelitian Inovasi Bumi

concerns over the dependence of the rural economy on a single commodity, and about food security, the high concentration of land in a few companies and associated land conflicts and environmental impacts. Significant governance challenges have been identified. There is little coordination between sectoral agencies and levels of government, which has resulted in a significant area of overlapping permits. Palm oil expansion has been related to the patronage connections between officials and the business sector (McCarthy 2011, Li 2017). This, in turn, has led to the development of plantations without social and environmental safeguards. The ongoing debate around the relevance of Indonesia's oligarchs (Mietzner 2012) is pertinent here, as this legacy is said to persist heavily in the business sector (Gellert 2015), which has led to the continued influence of vested interests in maintaining business-as-usual (Wakker 2006).

The range of hybrid interactions in sustainability initiatives

These sustainability initiatives have created new forms of governance relationships, and most notably a shift in the types of functions that were once the sole domain of the state. Some initiatives are independent and formulated outside of the state, while others interact with, and support or undermine state actions. At each jurisdictional level, a range of agendas and several initiatives are aligned with each other. This situation is captured in the notion of 'hybrid governance,' which has emerged to explain new forms of governance involving interactions of different constellations of NGOs and private sector actors with the state. The new sustainability initiatives are shifting the boundary between

those actions considered to be within the state's remit and those for which it is acceptable for non-state actors to be responsible (Bartley 2007). The notion developed on the one hand out of a dissatisfaction with state regulatory control and the suggestion that hybrid institutions bring new opportunities for policy and service delivery to achieve goals that the public or private sectors would struggle to achieve alone (Agrawal and Lemos 2007). On the other hand, there are concerns that private actors entering into roles that have traditionally been those of the public sector may act to serve certain interests in a nondemocratic manner (Biermann and Pattberg 2008).

Our interviews reflected this dichotomy. Some actors outside the government expressed the view that service delivery/implementation can be carried out more effectively and efficiently by non-state actors. On the other hand, concerns were raised about legitimacy and that the private actors may be stepping outside of their authority into areas of state function and thus undermining state capacity and accountability. Lambin et al.'s (2014) typology of interactions captures the range of optimism and pessimism over the outcome of hybrid governance through proposing categories of interactions as to whether they are "complementary" to, providing "substitution" for or are "antagonistic" to each other.

In terms of **complementarity**, we see examples where private actions are filling implementation gaps (stakeholder registration), where learning is occurring between the public and the private realms (around High Conservation Value [HCV]) and where state regulations are reinforcing private standards (such as ISPO). In terms of the latter, we

can point to the role that ISPO is playing at the national level as well as the various subnational regulations regarding conservation set-asides for palm oil. These provide an example of the state designing legislation in response to non-state actions and strengthening regulations for the adoption of voluntary standards – both of which encourage private standards to converge. Complementarity is also seen in the example of government participating in multistakeholder processes and collaborating with non-state actors over sustainability issues such as seen in the design of HCV policies and the development of ‘landscape management’ programs by various companies in Indonesia.

In **substitution**, the state takes over a function previously fulfilled by a private actor or vice versa. This is encapsulated in the process around the development of the regulation for Kawasan Ecosystem Essential (KEE), where private-sector standards are being adopted into law (here, the definition of conservation areas matches HCV’s six categories) and in the development of ISPO, which is intended to replace RSPO. Conversely, in the implementation of district-level regulations such as Seruyan’s district-level regulation on HCV set-asides, non-state actors are deciding not only the location of HCV areas but also the definition of what is HCV. Initiatives involving smallholder mapping and wider jurisdictional approaches have also raised questions about where decisions are made, what the responsibilities of actors involved are and the level of state formality required.

On the other hand, we see a number of **antagonistic** interactions across the initiatives where different instruments prescribe conflicting management practices or incentives, or where the state refuses to endorse standards. Examples include the case of the Indonesian Government’s and private-sector bodies’ refusal to endorse the RSPO (Hospes 2014). We also see some vocal resistance by parts of government to various companies’ sustainability initiatives, with the accusation that they are defaulting on sustainability standards elsewhere or, as in the case of Indonesia Palm Oil Pledge (IPOP), that sustainability standards are a way for companies to establish a cartel that pushes ‘noncompliant’ competitors out of the sector. At the monitoring stage, the state is resisting NGO attempts to access certain data to enable independent monitoring (Jong 2018) and company attempts to take over decisions on land zoning. There are concerns about the way in which private initiatives rely on oversight by non-state actors and do not engage public-sector oversight mechanisms such as state audits. Antagonism can also be seen where weak governance and corruption prevent the full implementation of private standards. For example, Law No. 39/2014 on plantations has been much criticized for undermining principles of sustainability in favor of large company interests (Jong and Jacobson 2017).

Features encouraging “complementarity” in hybrid initiatives

By examining the initiatives, we can identify a number of common features concerning the design of sustainability initiatives and the interaction between the private and public sectors.

State function is needed to facilitate the implementation of private standards

The authority of the state in implementation remains strong and plays a fundamental role in providing and enforcing regulations, to managing implementation and to providing oversight. A focus on jurisdictional approaches and on state initiatives such as ISPO and KEE (the recognition of a new conservation area status) has brought attention to the role of the state and to the potential complementary functions of non-state initiatives. All initiatives reviewed rely on the presence of state capacity and processes to operate, or are vulnerable to being blocked by its absence. One of the greatest barriers faced by the implementation of private standards is lack of integration into government systems and/or deficient regulations and enforcement. Until recently, there has been little corporate interest in co-regulation or integration with government systems. For example, in the early days of their development, few international processes around private standards development (HCV, HCS¹, RSPO) engaged significantly with the Indonesian Government. This has arguably led to confusion and some push-back (see the collapse of IPOP and the government’s rejection of RSPO) (Hospes 2014).

The shifting roles of non-state actors

Across the initiatives, NGOs and civil society actors have adopted two distinctive, and sometimes, overlapping, roles. On the one hand, there are groups that play an advocacy role campaigning and maintaining pressure on the sector. On the other hand, some intermediary facilitators work closely with government and/or companies to build capacity and push certain ideas. At the subnational level some alliances are developing between the private sector, local governments and political leaders (governors and bupati). Similarly, there is a wide variation of NGO–company relationships, of confrontation followed by collaboration, critical advocacy, collaboration to develop and monitor standards, and those providing services or consultancy inputs.

A reliance on non-state actors in an oversight role requires capacity building

Multistakeholder processes have become an important part of hybrid governance, and in particular through their role in generating credibility as a result of introducing a perception of independence. Indeed, many of the initiatives rely on local NGOs

¹ High Carbon Stock

that can monitor commitments and maintain pressure on the sustainability of the supply chain. However, this capacity varies, and in some regions, is limited. In West Kalimantan, NGOs have successfully used the RSPO complaints systems to hold various RSPO members to account. In South Sumatra, the capacity of NGOs to engage with the RSPO complaints system is more limited. In Central Kalimantan, NGOs experience with the RSPO complaints mechanism was that it was slow and ineffectual.

Advocacy NGOs had some success in pushing zero deforestation objectives at the international level. However, they were less successful in tackling governance and enforcement barriers at the national level and in getting companies to voluntarily and consistently implement standards. As there have traditionally been few formal ways for NGOs and other non-state actors to work with the executive, interaction has tended to take place through informal or personal means. Recently some line ministries have opened to a wider range of academic and civil society input. This trend is also seen at the provincial level with the creation of various multistakeholder forums and attempts to coordinate NGOs.

Non-state actors substituting for state function

Few, if any, of the initiatives reviewed involve direct relationships between the companies and government. Most rely on intermediaries in the form of NGOs and research organizations to facilitate the relationship between companies and government, and to play capacity-building roles. Thus, the role of non-state actors cannot be simply reduced to the pressure they exert on companies; they also actively design emerging institutions. These organizations are positioning themselves in a middle ground between international standards and the state, for example, some proactively sought to work with, and assist, governors' advisors who had already been engaging with jurisdictional approaches. Reliance on intermediaries does bring challenges due to the risk that initiatives driven by intermediaries collapse after their involvement ends and because of the practicalities of scaling out. In addition, as donors or international NGOs/foundations fund many of the initiatives, some local government stakeholders perceive them to be based on outsider agendas. This, in turn, creates challenges for ownership. The introduction of a new form of intermediary non-state actor has added complexity to the picture: many of these intermediaries are profit-making organizations playing more of a service-provision role and are not responding to demands for accountability or with a constituency base.

Many initiatives work predominantly through advisory teams associated with governors or regents. In West Kalimantan and South Sumatra, these special advisors play an important role in influencing the governors and enabling them to

engage internationally around issues of sustainability. These 'champions' benefit from international exposure, which enhances their reputation and differentiates them from other politicians. This brings crucial political support for the initiatives and can bring rapid action. However, it does raise the challenge of how to avoid political manipulation and how to survive short electoral cycles when key individuals change position.

A lack of direct engagement with the sector agencies does risk a lack of integration into overall government systems. It also raises technical issues of low capacity as well as the risk of reduced ownership. Some experience suggests that initiative proponents who have worked together with government through formal processes tend to have more chance of success than those who prepare the 'product' and then pass it to government for implementation.

Complementarity between the national and subnational levels

New alliances are developing between provincial governments and companies, and between the Ministry of Forestry (MoEF) and advocacy NGOs, all of which are relevant to the national–subnational dynamics. Indeed, there is some evidence of antagonism and unease from the center about the regions gaining too much power around the land use debate. At the same time, some companies that have announced plans to implement their commitments have been accused by the MoEF of challenged by government for operating outside their authority over land classification. Others view these dynamics as part of the wider power play between the national and the subnational levels and concerns of the center about maintaining power over the regions.

The challenge of replication: The need for incentives

The development of *pilot* initiatives such as those occurring around jurisdictional approaches is important as a proof of concept. Furthermore, it signals to the national level and the market that local government is motivated around sustainability objectives. However, there has been some criticism that only the 'easy' sites are being chosen to enable 'NGO showcasing' rather than focusing on the challenges of more complex scenarios and the question of transferability.

Incentives are a key part of creating interest and maintaining momentum behind initiatives, particularly for jurisdictional approaches. Those promoting jurisdictional approaches are in danger of raising expectations without full communication of the hurdles and the potential costs involved. Lack of capacity at the local government level is noted as a significant challenge. A key issue is the amount

of capacity and financial input needed by both the state and companies. For example, despite the identification and protection of HCVs being a requirement of RSPO and therefore linked to the incentive of market access through RSPO compliance, the question of who will pay for HCV set-asides is voiced as a common concern.

Conclusions

Some of the emerging sustainability initiatives are helping to implement immediate and specific sustainability objectives; they fill implementation gaps, bear some operational costs and speed up regulatory change. However, movement of such changes through the policy process and implementation take time. This delay is combined with reluctance from some elements of the private sector and slow action from some parts of government. So, it is yet unclear how much selected individuals and companies acquiring 'sustainability champion' status produces a trickledown effect that permeates change throughout the system. Thus, there is a key question as to whether these are transformative actions or *ad hoc* responses to particular market pressures. There are suggestions that they are creating showcase examples around specific interventions that might work at one scale but do not necessarily shift overall political transactions.

Our analysis stresses the importance of designing sustainably initiatives with reference to the wider political economy of the sector and the agendas involved, to avoid the initiatives themselves perpetuating the status quo. Lambin et al. (2018) point out that zero-deforestation initiatives by individual companies may fail to target the forms of deforestation that are most difficult to address, particularly those associated with illegality or poor forest governance. Concerns have been raised, for example, over the way i) that ISPO risks becoming a tick box exercise that legitimizes poor process by not addressing underlying problems in permit allocation and FPIC²; ii) that the Oil Palm Plantation Fund has predominantly benefitted a handful of major players in the sector; iii) that pressure for solving the legality issues may encourage a 'quick fix' through the formalization of land tenure; iv) that the setting aside of HCV areas alone does not help address more fundamental failings in the land classification and spatial planning processes; or v) that smallholders' registration and mapping do not lead to the triggering of a state response but rather lead to an increased expectation that the private sector will perform this role.

To bring about the transformation, interactions would need to weather political cycles and trigger more and higher-level cumulative changes. A focus on specific sustainability

issues and market-based standards can act to divert efforts from more fundamental reform processes across the landscape of the sector. It is yet unclear whether the new public-private initiatives we see emerging are engaging around on-going nationally embedded processes for reform. Such processes include debates around agrarian reform, addressing state revenue loss, license review and social forestry. Aligning sustainability initiatives with these agendas is crucial to avoid undermining them.

Recommendations

- Mixing private and public actors and institutions in the design of sustainability initiatives needs attention to processes of legitimacy. This includes ensuring clarity over the boundaries between the state and non-state actors in terms of their functions and mandate and a grounding of this in a constitutional or legal basis.
- Sustainability initiatives need to engage in more problematic governance contexts rather than remaining as showcase examples.
- Integrating initiatives into executive systems can help weather short and uncertain electoral cycles, particularly for those with long time scales or that require action across multiple jurisdictions.
- Non-state actors may act more effectively in some cases by strengthening the capacity of public authority and accountability; in other cases, their actions can weaken or undermine such public systems.
- Initiatives based on the commitment of individual champions that are not embedded in wider bureaucratic systems may face sustainability challenges.
- Non-state actors can play distinct roles, – from intermediaries implementing the initiatives to independent oversight; these roles require different degrees of legitimacy due to their different mandates.
- Non-state actors and institutions are likely to require capacity building in order to effectively assist in carrying out state functions. Not to address capacity needs can significantly compromise the effectiveness and legitimacy of the initiatives.

References

- Agrawal A and Lemos MC. 2007. A greener revolution in the making? Environmental governance in the 21st century. *Environment: Science and Policy for Sustainable Development* 49(5):36–45.
- Bartley T. 2007. Institutional emergence in an era of globalization: The rise of transnational private regulation of labor and environmental conditions. *American journal of sociology* 113(2):297–351.
- Biermann F and Pattberg P. 2008. Global environmental governance: Taking stock, moving forward. *Annual Review of Environment and Resources* 33:277–94.

- Gellert PK. 2015. The quest for legal certainty and the reorganization of power: Struggles over forest law, permits, and rights in Indonesia. *The Journal of Asian Studies* 74(3):639–66.
- Hospes O. 2014. Marking the success or end of global multi-stakeholder governance? The rise of national sustainability standards in Indonesia and Brazil for palm oil and soy. *Agriculture and Human Values* 31(3):425–37.
- Jong HN. 2018. *Public access to Indonesian plantation data still mired in bureaucracy*. Mongabay, 8 March 2018. <https://news.mongabay.com/2018/03/public-access-to-indonesian-plantation-data-still-mired-in-bureaucracy/>
- Jong HN and Jacobson P. 2017. *Mounting outcry over new Indonesian palm oil bill as legislators press on*. Mongabay, 21 July 2017. <https://news.mongabay.com/2017/07/mounting-outcry-over-indonesian-palm-oil-bill-as-legislators-press-on/>
- Lambin EF, Gibbs HK, Heilmayr R, Carlson KM, Fleck LC, Garrett RD, de Waroux YLP, McDermott CL, McLaughlin D, Newton P, et al. 2018. The role of supply-chain initiatives in reducing deforestation. *Nature Climate Change* 8:109–16.
- Lambin EF, Meyfroidt P, Rueda X, Blackman A, Börner J, Cerutti PO, Dietsch T, Jungmann L, Lamarque P, Lister J, et al. 2014. Effectiveness and synergies of policy instruments for land use governance in tropical regions. *Global Environmental Change* 28:129–40.
- Li TM. 2017. After the land grab: Infrastructural violence and the “Mafia System” in Indonesia’s oil palm plantation zones. *Geoforum*. <https://www.sciencedirect.com/science/article/pii/S0016718517303019?via%3Dihub>
- Luttrell C, Komarudin H, Zrust M, Pacheco P, Limberg G, Nurfatriani F, Wibowo LR, Hakim I. and Pirard R 2018. *Implementing sustainability commitments for palm oil in Indonesia: Governance arrangements of sustainability initiatives involving public and private actors*. Working Paper 241. Bogor, Indonesia: CIFOR.
- McCarthy JF. 2011. The limits of legality: Governance, extra-legality and resource control in Indonesia. In van Klinken G and Aspinnall E, eds. *State and Illegality in Indonesia*. Leiden: KITLV Press.
- Mietzner M. 2012. *Review: Power politics*. Inside Indonesia, 14 October 2012. <http://www.insideindonesia.org/review-power-politics>
- Wakker E. 2006. *The Kalimantan border oil palm mega-project*. Aidenvironment. Commissioned by Friends of the Earth Netherlands and the Swedish Society for Nature Conservation (SSNC). https://friendsoftheearth.uk/sites/default/files/downloads/palm_oil_mega_project.pdf (last accessed 30th May 2018)

Acknowledgments

This work was funded by the United States Agency for International Development (USAID) through the Project Governing Oil Palm Landscapes for Sustainability (GOLS). This work is part of the CGIAR Research Program on Forests, Trees and Agroforestry (CRP-FTA). This research is also supported by CGIAR Fund Donors. For a list of fund donors, please see: www.cgiar.org/about-us/our-funders/. We would like to thank the Director of the Centre for Research and Development on Social, Economics, Policy and Climate Change, FOERDIA, the Ministry of Environment and Forestry and Ristek for facilitating our work. We are grateful to the wide range of respondents who kindly agreed to be interviewed, to discuss and to share data.



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