Oil Palm and Social Forestry Policies in Indonesia:Legal Literature Review

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ABSTRACT

The government issued a policy discourse on investment ease and cut all "obstacles" in conducting business activities, including in the oil palm sector. Unfortunately this oil palm expansion policy contributed to the reduction in the area of Indonesia's forest cover. In addition, the implementation of sustainable oil palm certification does not run optimally and has implications for human rights violations, and social conflicts around plantations between communities and plantation companies.This cannot be denied because oil palm is a company-based manufacturing business. This is inversely proportional to forest sustainability policies with social forestry schemes based on surrounding communities in their implementation. This paper is an empirical normative comparative study between oil palm policies and forest sustainability policies in social forestry to identify the most appropriate policies to improve the community's economy.

Keywords

Policy; Sustainable Palm Oil; Social Forestry; Community Economy

Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020

Introduction

Amid the global economic slowdown and the probability of a crisis in 2020 that continues to increase, the Indonesian government continues to strive to increase economic growth(Kacaribu et.al., 2020)The Indonesia efforts to keep its economic growth is issuing various policies to facilitate investment and cut down all obstacles in conducting business activities.Plantation is one area of business activities that does not escape from this policy, particularly oil palm which is one of the Indonesia's main export commodity (DPR, 2019).

The increasing demand for oil palm as raw material for the most efficient vegetable oilcontributes to the increasing expansion of oil palm plantations in Indonesia within a few years past.According to The Ministry of Indonesian Agriculture(Pertanian, 2019), The area ofoil palm plantations Indonesia is around 16.381.959 Ha and it is Indonesia's leading export commodity that supports the national economy with export value in 2019 reaching 14.7 billion US dollars or 9.49% of Indonesia's total non-oil and gas exports in 2019 which reached 154.9 billion US dollars(Perdagangan, 2020).

At the same time, an increase in the area of oil palm plantations contributes directly or indirectly to deforestation in Indonesia (Maskun et.al., 2020). In one study conducted by the International Union for Conservation of Nature (IUCN) showing that oil palm expansion is in the tropical rain forests on the island of Borneo, even on the island of Sumatra, is developed in the Tripa swamp forest which is one of the areas in the Leuser protected ecosystem(Meijaard, et al., 2017).This Leuser is also a habitat for orangutans, so exploitation of their habitat will have implications for the acceleration of extinction for these species. The practice of oil palm plantations carried out by companies also often neglect human rights and harm the surrounding community.This even happens to one of the companies that has been certified as sustainable with Roundtable Sustainable Palm Oil (RSPO) standard(Network, 2016).

In addition to oil palm plantations, social forestry is one of the government policies that aims to improve the community's economy. This policy aims to improve the welfare of surrounding communities by providing legal access to manage the surrounding forests. So that this policy does not merely function to improve the economic aspects of the community, but also serves to guarantee sustainable forest management(Murti, 2018).The government began to open up in aspects of forest management which was initially based on state control, shifting to community-based management. This policy has a positive impact to reduce deforestation that occurs and reduce land conflicts between communities and government in the forest area, which directly has an impact on improving the welfare of the community(Nurfatriani & Alviya, 2019).

This article is a comparative study of oil palm and social forestry policies in Indonesiafrom an economic law perspective. The economic approach in this paper is more directed to the welfare of the surrounding community. This paper consists of two main sections, the first of which is reviewed in connection with government policies in the field of oil palm and social forestry. Furthermore, the second part will be analysed in relation to better policies in improving the welfare of the surrounding community which at the same time can guarantee sustainable forests.

Material And Methods

The research is normative legal research involving law and policy as an object of the study. The collected data is qualified as primary, secondary, and tertiary data such as some sources as books, documents, and relevant regulation and laws whose has a strong connection to comparative between Indonesia palm oil policy and Indonesia social forestry policy. To validate them, all the data are synchronized one to another to guarantee that they do not

conflict amongst them. The data then analyzed qualitatively. In this methodology, the researcher keeps close contact with research problems to understand the issue comprehensively.

Results And Discussion

Analysis of indonesia oil palm policy

Oil palm is one of the most prestigious commodities in Indonesia. According to data from the Directorate General of Plantations (Ditjenbun) Ministry of Agriculture of the Republic of Indonesia (2019),the total area of oil palm plantations in Indonesia until 2019 reached 14. 677. 560 ha spread across 26 provinces with a total production of 51,443,315 Tons including the production of Crude Palm Oil (CPO) and Palm Kernel Oil. While other data according to the Decree of the Ministry of Agriculture (2019) shows an increase in the area of oil palm plantations reaching 16,381,959 hectares, spread in 26 provinces in Indonesia.This occurs after reconciliation of adjustments to the cover map of oil palm initiated by the Coordinating Ministry for Economic Affairs with various related institutions(Perkebunan, 2019).

The development of Indonesia's oil palm industry has attracted the attention of the world community, especially vegetable oil producers. Indonesia has become the world's largest producer of oil palm since 2006. In 2016, Indonesia's CPO production share has reached 53.4% of total world CPO. In the global vegetable oil market, oil palm has also been successful compared to other types of vegetable oil since 2004 where CPO production reached 33.6 million tons. In 2016, CPO production share reached 40% of the total world's main vegetable(USDA, 2016).

Normative Impact of the Indonesia Palm Oil Policy

There has not been an integrated governance design for the plantation and oil palm industry in Indonesia - integrated supply chain management – until now, which meets the principles of sustainable development(KPK, 2016). Normatively, the main instrument in regulating oil palm business governance, as one of the plantation commodities, refers to the Law of the Republic of Indonesia Number 39 of 2014 concerning Plantations (Plantation Law). The Law is expected to eliminate the various polemics of growing development of oil palm and to ensure that capital-intensive ofoil palm management carried out by companies can guarantee fair industrial relations between the company and the workers. Another main concern of the Law is to control the massive land conversion aspect that has triggered deforestation in order to ensure sustainable management of palm oil.

This Law in practice then must be derivatized in various legal instruments ranging from Presidential Regulation, Ministerial Regulation, and Presidential Instruction. All of the derivative of the Law is aimed to encourage sustainability of palm oil. Several regulations were made to guarantee the implementation of sustainable oil palm plantations, such as the Indonesian Sustainable Oil palm (ISPO)instrument in 2015, Moratorium on oil palm in 2018, and the national sustainable oil palm action plan in 2019.

Empirical Impact of the Indonesia Palm Oil Policy

The rapid development and expansion of oil palm plantations and industry in Indonesia still leave a number of complicated multi-dimensional problems, especially on social and environmental issues. The development of oil palm plantations in Indonesia is perceived as unsustainable. The expansion of oil palm plantations is considered to be the main driver of deforestation and forest destruction in Indonesia(Purba & Sipayung, 2017).Forest and land fires (KARHUTLA) as a result of expansion are one of the environmental issues that are often in the public spotlight. According to World Bank Group, in 2015 around 2.6 Million Hectares of land and forests were burned between June and October, causing losses of around Rp 221 Trillion (US $ 16.1 Billion)(Glauber, et al., 2016). Although not all fires aim to clear land for palm oil, in reality oil palm - an important and growing sector in the country - is a major driver of land conversion.The issue of forest and land fires is closely related to the issue of deforestation. In the period 2001 to 2016, the expansion of the area of oil palm plantations contributed to deforestation of up to 23 percent(Prastiwi, 2019).

The expansion of oil palm plantations also raises social problems, including the existence of indigenous people (territories). According to Madani (2019), 211 territories or as much as 313 hectares of indigenous community areas overlapped with the area of Cultivation Rights (HGU) of oil palm plantations in 2015-2018(Prastiwi, 2019).Another social problem often arising is the occurrence of agrarian conflicts. According to, The Agrarian Reform Consortium (KPA) noted that 659 agrarian conflicts occurred in 2017(Sutari, 2017). Oil palm palm have become a commodity that dominates the causes of conflict with the main problems of managing plantations that are oppressing the community.

In addition, the implementation of the ISPO instrument is considered not effective enough in ensuring sustainable oil palm management. In the ISPO certification system were recorded a number of key problems related to: (1) the ISPO Certificate Body; and (2) Principles, Criteria and Indicators ISPO. The major problems of the ISPO Certificate Body is authority throughout the ISPO certification process disproportionately concentrated in ISPO Commission that is vulnerability to create conflicts of interest. The certification body has no independence in issuing ISPO certification because there is still a recognition intervention from the ISPO Commission. Overlapping of authority also occurs between the ISPO Commission and the National Accreditation Committee (KAN) related to the function of the accreditation task force, as well as other institutional issues (Nanggara, et.al., 2017).

Economic Impact of the Indonesia Palm Oil Policy

In Indonesia's macroeconomic economy, the oil palm industry has a strategic role, including the largest foreign exchange earner, the locomotive of the national economy, energy sovereignty, the driving force of the people's economic sector, and employment. Indonesian oil palm plantations are developing fast and reflecting the revolution of oil palm plantations(Purba & Sipayung, 2017).In 2017,

the Indonesian oil palm industry set a new record as a contributor to foreign exchange by contributing foreign exchange of US $ 23 billion or around 320 trillion Rupiah(KPK, 2016).The new record of the oil palm industry has increasingly established itself as the largest foreign exchange earner for the Indonesian economy. Despite the nominal decline in the following years - Rp. 265 trillion in 2018 according to BPS data - the country's foreign exchange is predicted to continue to rely on the oil palm industry for quite a long time. According to the(KPK, 2016), the contribution of oil palm from upstream to downstream reaches 6-7% of the national income or Gross Domestic Product (GDP) of Indonesia.According to data from the Association of Indonesian Oil palm Entrepreneurs (2019), The export volume of Indonesian oil palm products in 2019 was 35.7 million tons while the export value was estimated at 19 billion US Dollars. Until 2020 , Indonesia is still ranked first as a world exporter of palm oil, followed by Malaysia in the second place.

State-owned companies play a very modest role in the Indonesian palm oil sector as they own relatively few plantations, but big private companies such as, the Wilmar Group and Sinar Mas Group) are dominant, producing slightly over half of total Indonesian palm oil output. Smallholder farmers account for around 40 percent of total production. Most of these smallholder farmers are highly vulnerable to global downswings in palm oil prices as they cannot enjoy the cash reserves (or bank loans) that the big planters have at their disposal (Investment, 2017).

Apart from its high economic value, oil palm is one of the commodities that is vulnerable to fluctuations in selling prices on the world market. The tight competition in the era of globalization requires competitive production quality. Unfortunately this has hindered the lack of infrastructure which causes the risk of damage to production and transport costs are high. The Indonesian oil palm industry also faces challenges to the issue of sustainable development related to land use change, CO2 emissions, and global warming and the marginalization of local communities because oil palm development requires large investments(Azahari, 2016).Another challenge isa negative environmental issues in the plantation sector, quality and quality standard requirements, the impact of El Nino on production and forest / garden fires and sustainable management of gardens, certification and traceability.

Analysis of Indonesia's Social Forestry Policy

In the 2015-2019 Medium Term Development Plan (RPJMN), the Government set a target of allocating social forestry in Indonesia of 12.7 million hectares in 2019.As it is known that the achievement of social forestry scheme were 1,324,419.21 ha of Village Forests, 637,735.82 ha of Community Forests, 338,105.68 ha of Community Plantation Forests, 292,416.79 ha of Forestry Partnerships, and 28,286.34 ha of Customary Forests (Pambudi, 2020).

It can be concluded then that the RPJMN target as stated by the Government was reached 4,048,376.81 ha or only 31.88 percent of the initial 2015-2019 RPJMN target. The RPJMN is included in the forest governance program, which is a priority sub-agenda in the aspect of conserving natural resources, environment and disaster management. This is included in the nine priority agendas or better known as Nawacita, namely in terms of Achieving Economic Independence by Mobilizing Strategic Sectors of the Domestic Economy.

Forests, as one of the natural resources, have great potential to be managed in realizing the welfare of the community while maintaining its sustainability. Community-based forest management in some areas has been proven to improve the welfare of surrounding communities and reduce deforestation(Santika, Struebig, & Budiharta, 2019). The government has realized the importance of this by changing the paradigm of forest management that was once based on state based centered or forestry development that is controlled by the government and only based on wood towards the paradigm of community based forest management, or community based forest management (Murti, 2018).Therefore, the changing paradigm of forest management in the context of social forestry can be discussed in some aspects, as following:

Normative Aspect of Indonesia's Social Forestry Policy

Social Forestry is a system of sustainable forest management implemented in state forest areas or customary forests implemented by local communities or customary law communities as the main actors. This program is a mandate of Act No. 41 of 1999 on Forestry Article 3 letter (d) which is related to the purpose of the implementation of forestry which one of them is improving the ability to develop capacities and empowerment of communities in a participatory, equitable, and environmentally-friendly so as to create the resilience of social and economic and its resistance to resistance due to external changes. Social forestry itself aims to improve community welfare, environmental balance and social cultural dynamics in the form of Village Forests, Community Forests, Community Plantation Forests, Community Forests, Customary Forests and Forestry Partnerships.

The existence of social forestry is one of the policies to realize economic equality in order to realize social justice for all communities. The form of justice can be fulfilled by reducing social inequalities and providing legal access to land so that people can manage optimally without having to fear being imprisoned as a forest destroyer. Article 33 paragraph 3 of The 1945 Constitution of the Republic of Indonesia Constitution has given the state authority to control all natural resources in Indonesia and be used / managed for the greatest prosperity of the people.To ensure the implementation of social forestry, the Minister of Forestry and the Environment issued Minister of Environment and Forestry Regulation No. 83 of 2016 concerning Social Forestry.This step is an effort to simplify regulations to facilitate the granting of legalization access to the public with various schemes offered,fefore the year 2016, each social forestry scheme was regulated in their respective regulations (Hardiyanto, et.al,. 2018). In managing social forestry, article 3 paragraph 3 of the Minister of Environment and Forestry Regulation No. 83 of 2016 states five principles must be considered, namely: (1) justice; (2) sustainability; (3) legal certainty; (4) participatory; and (5) accountable.

In addition to realizing the implementation of this program, the government specifically established a special Directorate General (Dirjen) at the Ministry of Environment and Forestry (KLHK) in charge of social forestry and environmental partnerships (PSKL). One of the tasks and functions of the Director General specifically is to realize increased water security with the aim of increasing community involvement in the recovery of watershed area of 12.7 million ha through the development of Community Plantation Forests (HTR), Community Forests (HKm), Village Forests (HD), small-scale ecotourism development, and non-timber forest products. The target of the Director General to reach cumulative fulfilment of community-managed forests can be seen in Table 1 below:

Table 1 Targets Fulfil access to social forestry

No	Year	Cumulative Target
1.	2016	5,080,000 ha
2.	2017	7,620,000 ha
3.	2018	10,160,000 ha
4.	2019	12,700,000 ha

In addition, there were 25,863 or 36.7% of the total number of villages, 70,429 in and around the forest area within the village administrative area(Wiratno, 2017). If the government can decentralize the understanding of social forestry to the village, it will maximize the potential of villages in the forest area, by ensuring the management remains sustainable and improves the welfare of the community. The Government also has an Indicative Map of Social Forestry Allocation (PIAPS) which serves as an indication of the allocation of forest areas that can be submitted by the community for social forestry, currently the PIAPS has been revised three times.

Empirical Aspect of Indonesia's Social Forestry Policy

The implementation of social forestry programs throughout 2015-2019 was considered to be less than optimal. Of the total 12.7 ha of forest area targeted to be managed into social forestry, the Government is only able to meet an area of 3,592,632.64 ha. In total, total social forestry realized from 2007-2019 was 4,048,376.81 ha managed by 818,457 heads of family, in the form of 6,411 Decree units with different schemes(PSKL, 2019).Social forestry itself is considered not to be a policy that can be easily resolved in the short term, but rather this instrument is a long-term policy that requires more effort with a strong foundation, planned and in accordance with procedures(Dewi, 2018). However, at least this is betterthan forest management with previous schemes which often ignored the rights of surrounding communities.

There are various factors that cause the low realization of social forestry policies in Indonesia. The high target is not matched by an increase in the ability to meet the realization of 2.5 million ha per year.The ability of the Ministry of Environment and Forestry alone is considered only able to fulfill the realization of 200-300 thousand ha annually in 2016(Zakaria, et al., 2018). In addition, the lengthy licensing mechanism also becomes an obstacle in realizing the targeted area. The existence of special regulations related to social forestry itself was only ratified in 2016, and even then the substance of this regulation is still considered to have not given maximum authority to the regions to be able to realize the targets set. In the context licensing, it can only be granted to regions that have determined the allocation of social forestry in the regional medium term development plan (RPJMD) to maximize the realization of social forestry.Maximizing the local government component to be able to grant social forestry licenses to become a regular policy is basically mandated in Act No. 23 of 2014 concerning Regional Government.

The existence of an Indicative Map and Social Forestry Area (PIAPS) also needs to be evaluated. In its determination, it requires proper field verification to adjust the areas that have been set up in the PIAPS with the conditions and tenure status in the field. Because of the fact there are some areas of social forestry proposed as village's forest as one of the Social Forestry scheme conflicted with settlement areas, agriculture area, and even land ownership (Suharti, et.al., 2017).So of course this is an obstacle to achieving the target of social forestry itself.

Economic Aspect of Indonesia's Social Forestry Policy

Sustainable forest management through several schemes contained in social forestry is proven to be able to provide a variety of economic values both directly and indirectly to the community. In some areas of Kalimantan, it is proven that social forestry with a village forest scheme has proven to be able to reduce the rate of deforestation and simultaneously be able to reduce poverty levels in the area (Santika, et.al., 2019).

Some economic benefits in social forestry can be classified as direct benefits, namely the variety of forest products that can be obtained, or indirectly with the environmental services provided. With a total area of the implementation of social forestry until 2019, it reached 4,048,376.81 ha managed by 818,457 heads of family, in the form of 6,411 Decree Units with different schemes(PSKL, 2019).One of the most successful social forestry schemes is in the Yogyakarta region, the Kalibiru Community Forest (HKM) in Kulonprogo Regency. In this area, the community has succeeded in utilizing environmental services that are able to attract tourists to reach 267 million income / month to improve the welfare of its members(Nurfatriani & Alviya, 2019)

Economically, the existence of social forestry has become a new location for the community's economy. The granting of social forestry permits in Java averaged around 1.2 hectares and outside Java averaged around 3 hectares. This program further increases farmers' confidence so that they are more enthusiastic in carrying out productive activities based on land. In addition, social forestry is also able to grow the domestic economy and open broad employment opportunities. The existence of Hkm on Mount Rinjani has increased the economic status of forest communities from around the basic equilibrium level which is equivalent to the poverty line to a higher and more prosperous level.

Comparative Analysis between Indonesia Palm Oil Policy and Indonesia's Social Forestry Policy

The management of the world's natural resources has experienced growth and leading to sustainable management practices. Every exploitative management has been realized in its progress, leaving various problems that threaten human life. So from its development then gave birth to the concept of sustainable development. Previously, the relationship between and its environment was understood by the triple bottom line approach (Jompa, et al., 2019).This approach clashes dichotomically between human interests and environmental interests. The implication is to meet human needs, the environment must be sacrificed. This is evident in the policies adopted in developing oil palm expansion.

Economically, oil palm plays a significant role in supporting the economy of the country and companies. Meanwhile, in its development, oil palm management left considerable environmental damage, unequal industrial relations with workers, and tenure conflicts with communities around plantations that generally lacked access to surrounding land. So related to this, the government should evaluate and begin to stop the expansion of oil palm plantations that are destroying forests. It would be nice if the government currently prioritizes policies to improve the existing oil palm governance and focus on increasing the yield of oil palm production, which until now has not been maximized.

The Government commitment in sustainable development should consider changing approaches to people and the environment. It is appropriate that we use the nested logic approach in understanding human relations and the environment. This approach is used so that each country is able to fulfill the commitments specified in the Sustainable Development Goals (SDGs). This approach lays out the relationship between social, economic, and environmental which are interconnected in slices, but still have different nature. This approach shows that the economy and society are part of the environment. Therefore, socio-economic growth must grow within the limits of environmental capacity(Jompa, et al., 2019).

The social forestry policy, which aims to improve the welfare of the community while maintaining the preservation of the forest, is one of the policies implemented based on the nested logic approach . Economic growth and dynamics of community life remain in line with the carrying capacity of the environment to minimize environmental damage and ensure the sustainability of human life and the environment. It is appropriate that this policy is no longer merely a political promise of the government, but can be with persistent efforts to make it happen in society.

Conclusion

The government is responsible for realizing the constitutional mandate to manage the entire natural resource wealth in Indonesia and be used as much as possible for the prosperity of the people. Although oil palm production results provide economic value for the government, but the government must take account of the impact of environmental degradation and social inequalities that would potentially occur if the expansion of oil palm plantations continue to be made without consideration of environmental aspects and the social and cultural conditions. On the other hand the government policy to provide legal access to forest management to the community through various schemes in social forestry is a policy that needs to be fully supported, because it is in line with sustainable approaches so that economic growth and socio-cultural dynamics remain in line with the environment in the region.

Acknowledment

The authors wish to acknowledge and thank all research members and UPM Pertanika journal team that help in publishing this article

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