

Forest Politics in Indonesia

Drivers of Deforestation and Dispossession



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Cover Image: A skidder stands idle in PT Roda Mas Timber Kalimantan's logging concession, Mahakam Ulu, East Kalimantan, Indonesia. Credit: Angus MacInnes, FPP

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Summary

This report discusses the political dynamics shaping natural resource management in Indonesia. Synthesizing a wide range of studies on the competitive struggle over control of land, timber and other natural resources in Indonesia's forest zones, the report provides an accessible guide to the practices and incentives generated by Indonesia's 'forest politics', and offers broad guidelines on how to design interventions that better engage with how the sector really operates. The report shows that informal clientelistic exchange relations between political, bureaucratic and economic actors – involving exchanges of favours of mutual benefit – are a pervasive feature of governance in Indonesia, and explains how they undermine natural resource and forest governance.

It has often been observed that initiatives to strengthen governance and foster sustainable development in Indonesia's forestry sector have limited long-term effects. The limited impact of such reforms stem, we argue in this report, not just from features of Indonesia's land tenure system or technical failures, but also from a core problem: the nature of Indonesia's political economy. Initiatives in the forest sector that aim to improve natural resource governance and foster sustainable development rely on actors – bureaucrats, politicians and businesses – who face strong incentives to act in ways that run counter to such aims. Reform initiatives tend to focus on producing legal and policy changes in a context where many powerful actors have individual and collective interests in resisting implementation of laws and policies which, as a result, are often only tangentially relevant to how lands and forest resources are actually allocated and exploited. Instead, what happens on the ground is dictated by deeply embedded practices and relationships that occur outside of and often in defiance of the law. Most forest-related reform programmes proceed from a legal-bureaucratic mindset that assumes that for every problem there is a legal fix, and are either blind to the incentive structures that guide action on the ground, or proceed with the hopeful assumption that their lofty goals will convince local partners to mend their ways. This approach generally leads to disappointments.

The pressing challenges facing Indonesia's forest sector – deforestation, fires, human rights violations, social conflict, biodiversity loss, climate change – call for a different approach. The incentives generated by key features of Indonesia's political economy, such as the collusive nature of business-politics interactions, have long been noted by scholars and other observers of Indonesia's forest politics, but they have rarely been integrated into cohesive analysis or taken seriously by policy-makers and donors as a foundation for policy interventions. The challenge of fostering sustainable development requires facing up to the fact that officials and other stakeholders face strong pressures to circumvent policies and engage in under-the-table deals that undermine implementation of laws and regulations. It requires grappling with the daunting task of working toward systemic reform.

With that objective in mind, this report offers a guide to understand and address the actual, on-the-ground nature of natural resource management in Indonesia. In a number of short chapters, this report offers the following:

- The report discusses the historical roots of Indonesia's natural resource management, showing that Indonesia's pattern of historical development has so far largely inhibited the emergence of social forces with an interest in and capacity to strengthen the rule of law and curtail clientelism. The result is that Indonesia entered its democratic era in 1998 with a highly collusive pattern of interactions between the worlds of business and politics already firmly entrenched, and with personalised and clientelistic relationships infusing both state and society.
- The report discusses the nature of electoral politics that emerged after Indonesia democratized in 1998. Indonesia's electoral system has become dominated by electoral clientelism – the exchange of targeted material benefits for political support. In its Indonesian version, clientelistic electoral competition has taken on a highly individuated and personalised form – with the main actors in political competition being individual candidates rather than political parties, and those candidates in turn building personal campaign teams or hijacking existing social, religious, bureaucratic and other networks and organisations for electoral purposes. The high costs this system imposes on politicians generate close ties between political and economic elites, which in turn drive elite capture of policy-making and enforcement, complicating the governance of Indonesia's natural resources.
- The report provides a brief overview of relevant policies and legal provisions shaping natural resource management in Indonesia, with a specific focus on access to land. This overview emphasizes the long-term impact of colonial history, which still bedevils land tenure in contemporary Indonesia. At the same time the Indonesian state does have various regulations in place – such a licensing procedures, requirements for companies to obtain community consent, and mechanisms for profit-sharing – that could, in theory, safeguard natural resources, prevent deforestation and protect the interests of rural communities.
- Yet in practice there is a large gap between these state regulations and reality. Our analysis of the nature of electoral politics shows why laws and regulations often do not have their intended impact. The collusive business-politics relationships that arise because of the costly nature of election campaigns undermine the capacity of the Indonesian state to implement its policies and regulations. Sometimes, these rules are implemented faithfully, but often collusive relations between political and business actors end up undermining them. We discuss two mechanisms through which this gap between policies-on-paper and policies-in-reality arises: manipulation of policy making ('backdooring of the law') and an on-the-ground circumvention of regulations through collusive exchanges between business actors and local state authorities.

- The report discusses how this circumvention of state regulation proceeds. State regulations are often rendered ineffective by informal collusion among corporate actors, political elites, and state officials. Corporate actors across Indonesia use various kinds of inducements – ranging from paying bribes to funding election campaigns to putting retired military or police generals on corporate advisory and governance boards – in order to obtain privileges and regulatory favours from state authorities. Though these exchanges occur at all levels, they are particularly common at the level of regional governments. Furthermore, there are many indications that local company representatives (such as plantation managers) actively pursue these collusive relationships in order to protect their businesses from the constant dangers of legal uncertainty and community protests. In this way, informal machinations allow corporate actors to both use and avoid the law: companies benefit from the way in which laws and regulations legitimise dispossession; they also frequently avoid the more onerous constraints and obligations that arise from the same laws and regulations.
- We employ this analysis to explain why initiatives of multilateral and bilateral aid agencies as well as charitable trusts and foundations to strengthen Indonesia's natural resource management have often failed. We examine three recent examples of how Indonesia's political economy undermines such initiatives : ISPO's palm oil certification programme, Kalimantan's Forest Carbon Partnership, and efforts to curb illegal logging. A common obstacle confronted by all three initiatives was the impact of informal, clientelistic exchange relations between bureaucrats, political actors, and implementing agencies. These cases illustrate how the clientelistic dynamics discussed in this report undermine efforts to improve natural resource management. We conclude that an understanding of, and engagement with, such dynamics is important to achieve some degree of success.

Based on these findings the report proposes that efforts to strengthen natural resource governance need to engage more consciously and actively with the informal, clientelistic dynamics of the sort outlined in our report. The challenge of strengthening natural resource management in Indonesia is a massive collective action problem: while the actors might personally wish to abide by strict regulation and procedures, they are embedded in relationships that make it difficult to do so. To address this collective action problem, it is important to pay close attention to the incentive structure generated by such dynamics, with a particular focus on identifying elements of this incentive structure that could be rectified, tipped, or at least influenced by outside interventions. Taking this approach might mean paying attention to factors that, at first glance, seem unrelated to natural resource management, such as campaign finance and vote buying. In short, we are calling for an 'informality-sensitive approach' to natural resource management. Such an approach has three main elements:

- **Reforming incentive structures.** When confronting a collective action problem of the sort described in this report, the logic of our analysis suggests it is necessary to look for solutions that will tip the balance of incentives in ways which make it easier for actors to coordinate around new forms of political behaviour. The key challenge, in other words, is not (only) to come up with new policies that directly address the deforestation and dispossession crises, but to seek ways to incentivise an adherence to policy. Doing so requires recognising the incentive structures described in our report, and employing this analysis to identify opportunities for incrementally changing them. Such a strategy involves, put simply, adopting measures that lower the costs of adhering to natural resource policies and increasing the costs of ignoring or circumventing such policies. We discuss three examples of such reforms: a reform of corporate auditing, electoral system reform, and a curtailment of vote buying.
- **Improving monitoring.** More extensive monitoring of corporate practices – by the Indonesian government, by NGOs but also by consumer companies with commitments to sustainability – is urgently needed. The corporate violations discussed in this report are more likely to be discouraged and at least partially prevented if they are more frequently exposed to the Indonesian public.
- **Strengthening countervailing forces.** More rule-bound governance is most likely to arise in a relatively pluralistic civic space in which a multiplicity of interest groups and social organisations advocate to advance their members' interests and preferences through the policy process. A civil society landscape that consists largely of groups that view politicians as potential patrons will never be capable of mounting a sustained challenge to clientelistic patterns of governance. A strengthening of civil society is urgently needed, and would involve strengthening existing social justice organisations, building a public constituency for human rights and environmental protection, expanding the provision of legal aid, and defending freedom of expression.

This threefold informality-sensitive approach offers no guarantee of success. It can be a lengthy and uncertain process for polities to make the transition from clientelistic and personalistic rule to a more programmatic and rule-bound system – that transition is far from complete in even the world's most consolidated democracies. The logic of clientelism, by which political and economic actors are linked through informal relationships of mutual benefit, is very difficult to break once such a system is in place. At the same time, recognising the enormity of the challenge ahead is better than simply ignoring it. The clientelistic politics and associated collusive relations between the worlds of business and of politics that drive deforestation and dispossession should not be treated as a mere part of the background that can be ignored or wished away. Rather, awareness of these dynamics should drive initiatives in this sector. Clear-sightedly recognising the sources of the problem is at least a starting point for designing efforts that might make progress toward better management of Indonesia's natural resources.

Introduction: Forest Politics in Indonesia⁵

It has often been observed that initiatives to strengthen governance and foster sustainable development in Indonesia's forestry sector have limited long-term effects. When, for example, foreign governments attempted to support Indonesia in implementing schemes like REDD (Reducing Emissions from Deforestation and Degradation) to stem deforestation, numerous observers found on-the-ground implementation was lacking.⁶ When the government of Norway provided extensive funds to support a moratorium on deforestation, the moratorium was regularly evaded and deforestation continued.⁷ Since 2007, Indonesia has required palm oil companies to adopt profit-sharing schemes for communities affected by plantations, but researchers have found that companies often avoid implementing these schemes.⁸ The palm oil industry itself has also adopted measures intended to boost respect for human rights and minimise environmental damage,⁹ but researchers regularly find that participating companies violate such industry standards.¹⁰ The Indonesian government has put in place regulations that forbid environmentally destructive business activities in forest areas, but violations of these regulations are very common.¹¹

The limited impact of such reforms stem, we argue in this report, not just from features of Indonesia's land tenure system, but also from a core problem: the nature of Indonesia's political economy. Initiatives in the forest sector that aim to improve natural resource governance and foster sustainable development rely on actors – bureaucrats, politicians and businesses – who face strong incentives to act in ways that run counter to such aims. Reform initiatives tend to focus on producing legal and policy changes in a context where many powerful actors have individual and collective interests in resisting implementation of laws and policies which, as a result, are often only tangentially relevant to how lands and forest resources are actually allocated and exploited. Instead, what happens on the ground is dictated by deeply embedded practices and relationships that occur outside of and often in defiance of the law. Most forest-related reform programmes proceed from a legal-bureaucratic mindset that assumes that for every problem there is a legal fix, and are either blind to the incentive structures that guide action on the ground, or proceed with the hopeful assumption that their lofty goals will convince local partners to mend their ways. This approach generally leads to disappointment.

The pressing challenges facing Indonesia's forest sector – deforestation, fires, social conflict, biodiversity loss, climate change – call for a different approach. The incentives generated by key features of Indonesia's political economy, such as the collusive nature of business-politics interactions, have long been noted by scholars and other observers

5 The authors thank Patrick Anderson, Sidney Jones, Nancy Peluso and Anthony Reid for their helpful feedback, and Maxine McArthur of the Australian National University for her copy editing. All errors and infelicities remain the responsibility of the authors.

6 Maxton-Lee 2020, Casse et al. 2021, Luttrell et al. 2014, Hein and Faust 2014.

7 See Groom et al. 2022.

8 See Gecko Project 2022.

9 Such as the 'principles and criteria' adopted the Roundtable for Sustainable Palm Oil (RSPO), a multi-stakeholder forum of the palm oil industry.

10 See for example Colchester and Chao 2013, Greenpeace 2010.

11 See for example Greenpeace 2021.

of Indonesia's forest politics, but they have rarely been integrated into cohesive analysis or taken seriously by policy-makers and donors as a foundation for policy interventions.¹² The challenge of fostering sustainable development requires facing up to the fact that officials and other stakeholders face strong pressures to circumvent policies and engage in under-the-table deals that undermine implementation of laws and regulations. It requires grappling with the daunting task of working toward systemic reform.

That is the objective of this report. We seek to explain the 'political ecology' of Indonesia's forest zones, by which we mean to show how the exercise of power in Indonesia profoundly influences choices made in the allocation of the country's forest resources.¹³ We aim not only to provide an accessible guide to the practices and incentives generated by Indonesia's 'forest politics', by which we refer to the actual, on-the-ground strategies that political and economic elites employ when engaged in competitive struggle over control of land, timber and other natural resources in Indonesia's forest zones; we also offer broad guidelines on how to design interventions that better engage with how the sector really operates – while acknowledging that the deeply embedded nature of the practices and incentives driving deforestation mean they are not amendable to easy or quick fixes.

In particular, in this report we show that informal, clientelistic exchange relations are a pervasive feature of governance in Indonesia, and explain how they undermine natural resource and forest governance. Historians, anthropologists and political scientists have pointed out that a longstanding feature of many Southeast Asian societies is the pervasiveness of patron-client relationships, which can be defined as exchange relationships between persons of unequal socio-economic status, in which higher-status individuals (the patrons) use their influence and resources to protect or provide benefits to persons of lower status (the clients), who reciprocate by offering support and personal services.¹⁴ In the age of democracy, patron-client relations have adapted to the new realities of electoral politics and in many countries they structure the paths to power of politicians, who lubricate their electioneering with 'electoral clientelism', characterised by the exchange of targeted material benefits (in the form of vote buying, pork barrelling, patronage jobs, and distribution of other gifts and favours) for political support (which includes not only votes, but also campaigning and other more active forms of support).¹⁵

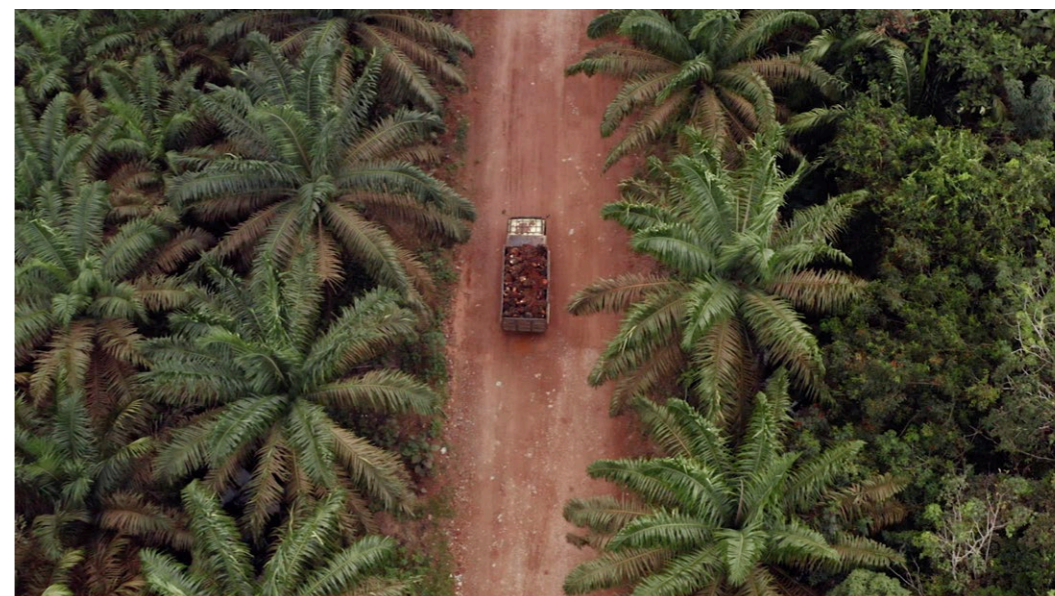
In Indonesia, patron-client relations are not only evident in the political arena but reach down deeply into the social fabric of both urban and rural society. This pervasiveness of clientelism has deep historical roots, but it is also a product of the political systems that have emerged in the post-colonial period, with leaders of both authoritarian and democratic regimes cultivating clientelism as a strategy to retain power. In this report, we show how the logic of clientelistic politics pervades forest politics, determining access to investment, permits, concessions, land titles and other benefits, undermining laws and regulations, and generating unequal access to natural resources. By analysing forest

12 Other studies that touch on the role of informality in the political economy of Indonesia's forest politics are Van der Muur 2018, Luttrell et al. 2014, Barr and Sayer 2012.

13 For longer discussions of political ecology, see for example: Utting 1993, Keil et al. 1998, Low and Gleeson 1998, Paulson and Gezon 2005. As Santos-Granero explains, 'By definition, every political economy is organized around the resource that is perceived to be the scarcest and most indispensable for its functioning – for instance land in a feudal economy or capital in a capitalist economy... All political economies entail competition and strife, to the extent that they are linked to the possession of what is considered to be the scarcest resource in each particular historical instance.' Santos-Granero 2009: 206–207.

14 Scott 1972: 66. On clientelism more generally, see for example, Kitchelt and Wilkinson 2007. On contemporary electoral clientelism in Southeast Asia, see Aspinall and Berenschot 2019, Aspinall et al. 2022, Weiss 2020.

15 See, for example, Hicken 2011, Stokes et al. 2013.



A palm oil truck travels through a First Resources palm oil concession in North Kalimantan. Credit: Jamie Wolfeld

politics in the context of these structural roots, we aim to show that these practices cannot be easily wished away or resolved, but instead require a conscious, long-term engagement.

This report is intended as a starting point and a tool for an engagement with forest politics and has the goal of fostering more effective efforts to strengthen natural resource governance. We do so on the basis of a synthesis reading of a large body of research on Indonesian forest politics over the last 20 years or so. In this way, we also try to provide an accessible overview of the main findings of this literature. This report also draws on research that two of this report's authors (Aspinall and Berenschot) have conducted on local elections and governance in Indonesia,¹⁶ and on lessons that the two others (Colchester and MacInnes) have drawn from their long-standing work fostering resolution of community-company conflicts in the country.

The report is divided into two parts. Part one explores three main drivers of forest politics: historical legacies (chapter 2), the clientelistic character of Indonesian politics (chapter 3) and the complex legal framework pertaining to land (chapter 4). In part two, we discuss the nature of Indonesia's contemporary forest politics, with an examination of how and why governmental policies and licencing regimes have limited on-the-ground impact (chapter 5) and of how collusive business-politics relationships frustrate the struggles of rural Indonesians for land rights (chapter 6). We end in chapter 7 with concrete proposals on how to more directly engage with the challenges posed by the nature of Indonesia's forest politics, calling for interventions that recognise the incentive structures that govern the sector, and seeking interventions that might tilt incentives of dominant actors toward reform or empower groups that might counter them.

16 See Aspinall and Berenschot 2019.



Acacia trees are loaded from the Asia Pulp & Paper's concession in North Kalimantan to be shipped to Sumatra for processing. Credit: Ding Hibau

Deforestation rates in Indonesia

The rate of deforestation in Indonesia remains contentious due both to the high social and environmental costs associated with deforestation and because the levels of forest loss being reported by government and non-government agencies differ vastly.

According to the NGO, Global Forest Watch, between 2001 and 2020, Indonesia destroyed 28 million hectares of forest, losing 17 percent of its forest cover and creating 19 billion tonnes of CO₂ emissions.¹⁷ The Indonesian government claims the rate of loss is less than half that amount. Recent discrepancies in reporting are even more extreme. In March 2021, the Ministry of Environment and Forestry (MoEF) reported that deforestation in 2020 was at its lowest level since it had started monitoring in 1990. The 115,000 hectares it said were lost in 2020 were only one-tenth of the rate of deforestation the government recorded for 2014. The MoEF claimed this was largely due to the government ban on the clearance of primary forests and the moratorium since 2018 on new licences for oil palm plantations. Other factors also contributed, including that 2020 was the wettest year in decades, continuing low prices for palm oil, and reduced economic activity affecting plantation expansion and logging.¹⁸

Significantly, the government deforestation figure only includes unintended deforestation; it does not include forest conversion based on government permits and licences. Forest Watch Indonesia assessed that tree cover loss in 2020 was 962,000 ha.¹⁹ It acknowledged this figure was part of a five-year trend of reducing deforestation, but Forest Watch's figure was still eight times higher than the Government's.

17 Global Forest Watch, n.d.

18 Mongabay 2021a.

19 See Global Forest Watch, n.d., Kuepper and Warmerdam 2021: 51.

In recent decades, main direct causes of forest loss have been expansion of oil palm, agricultural crops and mining. Between 2000 and 2019, oil palm plantations doubled in size to 16 million hectares.²⁰ During that period, oil palm expansion caused the loss of three million hectares of old-growth forests, one-third of all old growth deforestation. Industrial palm plantations were associated with three times as much forest conversion as smallholder plantings and this expansion and associated forest loss closely correlated with palm oil prices.²¹ In recent years, deforestation caused by nickel mining has grown to 13,000 ha per year, including in protected forests.²² According to a report by the NGO Auriga, Nickel is now causing almost as much deforestation as oil palm: in 2021, 13,400 ha, versus 13,600 ha caused by oil palm.²³

Recent government actions are likely to increase the rate of deforestation. In 2020, the government issued an Omnibus law that, despite ongoing restrictions on deforestation, allows forests to be converted for roads and plantations when these are deemed in the national interest. Various environmental and social safeguards were also removed by the law.²⁴

A 2021 report by WALHI, Friends of the Earth Indonesia, found that when roads are connected to plantations the scale of deforestation increases drastically. While roads usually lead to a band of forest clearance of up to 100 metres on either side, the footprint expands tenfold when they are connected to industrial plantations.²⁵

Indonesia's greenhouse gas (GHG) emissions from deforestation and draining peat swamps are larger than all its other industrial and domestic emissions combined.²⁶ Addressing this problem led to a decade-long cooperation with the government of Norway to reduce emissions from deforestation.²⁷ In September 2021, however, Indonesia withdrew from the agreement,²⁸ and it only renewed this collaboration in 2022 after insisting that planned implementation be framed by national regulations not international standards.²⁹ Indonesia still intends to honour its 2015 Paris commitment to cut GHG emissions by 29–41 percent by 2030, compared to a 'business as usual' emissions scenario.³⁰ The bulk of these cuts will need to be in reducing deforestation.

20 Gaveau et al. 2021.

21 Ibid.

22 Auriga and Walhi 2022.

23 Auriga forthcoming.

24 See for example: Ivalerina et al, 2020, Sembiring et al. 2020.

25 Walhi 2021: 23.

26 UNFCCC 2021.

27 Letter of Intent 2010.

28 Reuters 2021.

29 Mongabay 2022a; see also Jakarta Post 2022.

30 MoEF Decree Number 168/Menlhk/PKTLPLA.1/2/2022, 2022.

Part one: Drivers of Forest Politics

Historical Roots

Historians and political economists have often argued that a politics based on personal exchange relations and informality is the ‘natural state’ of political systems.³¹ As Douglas North and his collaborators contend, the political history of each country typically passes through phases where access to power and privilege depend mainly on exchanges of favours taking place within elite networks. They describe this state of affairs as follows:

*In natural states, relationships are personal ... Natural state elites sit at the top of, but are also embedded in, patron-client networks that extend down into the rest of society. The patrons' privileged position within the dominant coalition enables them to protect their clients [and] distribute rewards and levy punishments among their clients ... Everything is personal [as] personal relationships and rent-creation provide the incentive systems that contain violence and allow cooperation in a natural state.*³²

During much of their history the polities that ruled territory within what is today Indonesia had most of these characteristics.



Relief history of Sultanate Kraton Yogyakarta ©Shutterstock

A key observation in this literature, of particular relevance for this report, is that it is only over the last two to three hundred years that countries have started to move away – to different degrees, through different pathways, and at different rates – from personalised and clientelistic polities towards political systems organised by more impersonal institutions that operate on the basis of laws and regulations.³³ This shift towards what North and his co-authors call an ‘open access state’ is thus a recent historical development; it has also occurred most extensively (but certainly not exclusively) in Western Europe and North America. This shift has been complex, and is still not fully understood, but it was contingent on several fortuitous circumstances, including the growth of independent

31 See North et al. 2008.

32 Ibid., 35 and 36.

33 See Fukuyama 2011 for a sweeping historical analysis of this process.

economic elites³⁴ and a middle class which collaborated over long periods to promote measures that disciplined powerholders, supported rule-bound governance, and contained patron-client politics.³⁵ In the United States, for example, clientelistic machine politics gradually died out only after the implementation of a range of policies aimed at curtailing the discretionary control of politicians over the allocation of government jobs.³⁶

Such analyses of the decline of clientelistic politics matter for the purpose of this report because they allow us to emphasise that, while there are some pressures for regularisation in Indonesia, the country has until now not experienced the full set of fortuitous circumstances, nor have extensive efforts been undertaken to curtail clientelistic politics. Indonesia’s colonial pattern of state formation cemented the importance of patron-client networks in its polity and economy, while post-colonial trends have curtailed the growth of societal pressures for limiting clientelistic politics. In short, Indonesia’s pattern of historical development has so far inhibited the emergence of social forces with an interest in and capacity to strengthen the rule of law and curtail clientelism. Let us briefly review Indonesia’s political history to make this point.

The large polities that emerged in Southeast Asia well before 500 CE, based on wet rice cultivation, various forms of bondage and slavery as well as trade,³⁷ were not bounded territories but spheres of influence that expanded or contracted depending on the power and influence of their rulers. The early lowland kingdoms have been described as ‘mandalas’, made up – like the Buddhist paintings of that name – by concentric rings of influence connected to the centre through several layers of patron-client and tributary relations, which might blur into neighbouring mandalas at their peripheries.³⁸ Although the lowland kingdoms’ power extended only tenuously into the uplands and was long resisted,³⁹ uplanders’ trading relations with the lowland kingdoms were often conceived in tributary or patron-client terms. The uplanders and forest dwellers’ leaders would bring tribute to the courts to be rewarded with favours and recognition of their authority, a show of deference that was more symbolic than military or bureaucratic.⁴⁰

In these kingdoms power and patronage were closely related. In the absence of a bureaucratic state that could administer justice and provide services and security, webs of personal connections and patronage were among the main means people had to attain wealth or status, or to insure themselves against violence and misfortune.⁴¹ The precolonial polities were thus – like virtually all premodern states – patrimonial in nature, meaning that these were systems in which no meaningful distinction was drawn between the personal power and interests of the rulers, and of their office.

The colonial regime of the Dutch largely ended up reinforcing rather than undermining patron-client patterns. When the Dutch, alongside other western colonial powers bludgeoned their way into the trading networks that crisscrossed the archipelago, they

34 For a fascinating study that details the role (and motivation) of economic elites in fostering a shift away from clientelism in the US and UK, see Kuo 2018.

35 A key study that details how Western Europe moved away from clientelistic politics is Piattoni 2001. For analyses that reach similar conclusions about the importance of independent economic elites and middle classes, see Stokes et al. 2013 and Weitz-Shapiro 2014.

36 An important study that details the decades-long struggle to contain patronage jobs in the US is Grindle 2012.

37 Reid 1983, 1988; Scott 2009, Cotterell 2014.

38 Wolters 1999; see also Charney and Wellen 2018.

39 Scott 2009.

40 Drakard 1990, Andaya 1993, Sutherland 2021.

41 For an insightful discussion of dependency see Ferguson 2013.

used existing patrimonial structures to ease their way.⁴² Not only was the expanding Dutch mercantile economy itself strongly underpinned by familial hierarchies,⁴³ but the Dutch, in the form of the East India Company (VOC) were initially concerned largely to take control of the spice trade and so instituted an enduring pattern of light-touch administration – indirect rule – which recognised and ruled through customary authorities and customary law, thus reinforcing patron-client-based political systems.⁴⁴ Given that the VOC’s primary purpose was profit, it was “common and acceptable” for VOC officials to be “[t]rading on their own account and keeping a share of the profit.”⁴⁵ Later, as the VOC declined and the Dutch State took the leading role in the colonial project, the focus of the colonial economy shifted from control of trade, especially spices, to control of land for plantations and cash crops. In this context, the Dutch extended their policy of indirect rule, shoring up the authority of local rulers in many parts of the archipelago. This system remained founded on the fusion of private and public interests, given that “Indigenous regents, in return for their support, were given land and seigniorial rights: local peasants had to dedicate a considerable amount of their time to work on princely lands without being paid.”⁴⁶ In some areas, the system exaggerated the authority of coastal sultans over inland areas in order to allow the Dutch to negotiate leases for exclusive use of extensive areas of forest and farms, sparking rebellions and resentments from indigenous peoples; some of the resulting tensions endure to this day.⁴⁷

As the Dutch colonial state became more entrenched it also exerted control over other resources and granted them as concessions to suitably collaborative clients. Such resources included tin mines, bird nesting sites in caves, teak plantations and spice monopolies – which native princes had previously been able to lease or grant to their own clients.⁴⁸ A notable example was the Dutch administration of revenue-farming of opium monopolies. Under this concession system, inherited from Javanese rulers, the Dutch farmed out exclusive rights to produce and trade in opium to client enterprises, which allowed clients to massively increase their profits by illegal opium imports, adulterating the product and sub-contracting sales to a myriad of peddlers and dens. Revenue from opium farming was a major contributor to the colonial state’s treasury, so vital that, even when the ethics of the system were questioned in the Dutch parliament, it was long considered impossible to dispense with it. Opium farming was finally abolished only in the 1930s.⁴⁹

Over the course of the nineteenth and twentieth centuries, under the influence of, first, the French revolution and, later, various liberal reform efforts in the metropole, the colonial state itself increasingly disapproved of use of official positions for private gain, even as the fusion of the personal and the official remained embedded in the system of indirect rule.⁵⁰ Though the twentieth century saw a great expansion of modern bureaucratic governance in the colony, including efforts to build up a salaried ‘native’ bureaucracy, in the 1930s colonial fears of nationalism led to a restoration of some *adat* (customary) chiefs, such as the Balinese *raja*.⁵¹

42 Hall 1996, Crowley 2016.

43 Adams 2005.

44 Lev 2000.

45 Kroeze 2021: 177.

46 Kroeze 2021: 181.

47 Pelzer 1978, Reid 1979.

48 Sellato 2001, Magenda 2010.

49 Rush 1990.

50 Kroeze 2021.

51 Benda 1965.



Deforestation and dispossession follows the roads. Credit: Mighty Earth

In the 1940s, Indonesians successfully fought for and won control of the Netherlands Indies. The destructiveness of the period of Japanese occupation (1942–45) and the revolution (1945–49) greatly weakened the legitimacy and effectiveness of the modern legal-bureaucratic structures which the Dutch had left behind. It also generated massive scarcity, placing a premium on personal and informal connections over formal rules and procedures. Patron-client systems were more meaningful in practice than formal legal ones for most people, in part because patron-client networks could provide better security and welfare protections than could the newly emergent state.

In this context, informal connections and exchange-relations became important in shaping access to opportunities at the apex of society and economy. During the early stages of the revolutionary war, when the Indonesian army generated much of its own revenue from smuggling and other forms of private enterprise, patron-client relations among military officers, civilian politicians and businesspeople became entrenched.⁵² The nationalisation of Dutch-owned plantations and other enterprises in the 1950s and 1960s, and their takeover by the military, gave the officer corps an even greater foothold in the economy. The military have remained deeply enmeshed in the economy ever since,⁵³ especially in sectors foregrounding a ‘security’ element, notably in the forest frontier sectors of logging, mining and agribusiness.⁵⁴ This situation continues despite efforts at reform over the last two decades.

52 Crouch 1978.

53 Simpson 2008.

54 Chidley 2002.

In the first post-independence decades, Indonesia's private economic elites were mostly Chinese businesspeople, who had little political leverage due to widespread demonisation and discrimination.⁵⁵ This particular weakness of Indonesia's entrepreneurial class contributed to the dominance of the state over economic life. State officials (both civilian and military) became important wielders of economic power, either directly – as managers of the newly nationalised enterprises – or indirectly, as the actors who could issue necessary import licences and permits, or who could turn a blind eye to, or organise, the scams that allowed businesses to get around the rules. The result was the development of intimate connections between private business players and state officials, allowing corruption to flourish.⁵⁶

Social unrest and an attempted left-wing military putsch in 1965, countered with suspicious rapidity by General Suharto, then head of the army's strategic reserve, triggered the suppression of the left in 1965–66, including through army-directed massacres of between half and one million communists and fellow travellers across the archipelago.⁵⁷ Out-manoeuvred, President Sukarno was removed from power to Bogor, while soon-to-be President Suharto brought in economic reforms and new laws that welcomed western capital but also retained a major economic role for the army and other state actors.⁵⁸ With society shocked into obedience by the terrible blood-letting, General Suharto's authoritarian mode of top-down government prevailed, with this regime change winning enthusiastic support of Western governments.

An authoritarian form of clientelism then became firmly entrenched during the 32 years of Suharto's 'New Order' military-based regime (1966–98). Suharto retained political support by awarding his subordinates – military officers and civilian bureaucrats – with opportunities to profit from the offices to which he appointed them. They did so in myriad ways, typically by levying fees or extracting other benefits (e.g. a share in a business) in exchange for the 'services' they provided (which could be issuing a critical licence, or simply agreeing not to disrupt a business activity), or by providing favoured treatment to friends, relatives, and allies. A system of systematically collusive relations between political and business actors developed, in which officials awarded licences, monopolies, concessions and other benefits to favoured businesspeople – many of whom were family members and other cronies of officeholders. An increasingly wealthy but politically dependent crony business class came into being.⁵⁹ Money poured into slush funds controlled by Suharto and his allies.⁶⁰ The military became even more intensively engaged in economic activity, both extra-legally (e.g. by extracting payments from companies to which they provided 'security') but also through a range of foundations, military businesses, and state-owned enterprises.⁶¹

The power structure so created was pyramidal in structure, with Suharto's subordinates in charge of the largest fiefdoms, awarding lower-level positions to their own subordinates, from whom they extracted fees and kickbacks in exchange. The system thus reproduced itself to the lowest level of the state, such that even low-level officeholders – e.g. officials

55 Reid 2000.

56 Robison 1986.

57 Roosa 2006, Kammen and McGregor 2008, Robinson 2018, Melvin 2018.

58 May 1978, Elson 2001.

59 See Robison 1986 and Kunio 1988.

60 Dick and Mulholland 2010.

61 See for example Crouch 1979.

in charge of issuing drivers' licences, identity cards or other papers to ordinary citizens – had opportunities to derive extra-legal income to supplement their formal salaries, typically by levying illegal fees. The economist Ross McLeod has thus compared the New Order state to a franchise system, with political office akin to 'franchises' which officials would 'purchase' from Suharto for the purposes of making a profit.⁶²

Critically for present purposes, Indonesia's expanding natural resource industries were at the heart of this system of crony capitalism: chief beneficiaries of the logging boom of the 1970s included numerous businesses that were close to Suharto and other senior officials, as well as various military-linked foundations and companies.⁶³ This system was replicated from top to bottom, with even low-level local government and military officials building networks of favoured business partners and backers. It was this system that generated a great wave of forest degradation and conversion from the 1970s, with the government in Jakarta handing out timber licences to favoured business conglomerates, military enterprises and other crony interests, often working with foreign logging companies.⁶⁴ Eventually, the venality of this regime became so intolerable to common Indonesians that the financial crisis of 1997–98 triggered widespread civil unrest – crystallised around opposition to KKN (*Korupsi, Kolusi, Nepotisme*). These protests brought an end to Suharto's rule.⁶⁵

The upshot of this history is that Indonesia entered its democratic era in 1998 with a highly collusive pattern of interactions between the worlds of business and politics already firmly entrenched, and with personalised and clientelistic relationships infusing both state and society. While Indonesian civil society, highly mobilised during the transition away from Suharto's rule, made great progress in securing formal political reform and establishing the constitutional and legal scaffolding of a new democratic order, it barely had time to confront the deeply entrenched legacies of clientelism and a state-dependent economic elite before certain features of the new political system began to reinforce the clientelistic logic. In short, the conditions that helped other countries to move away from clientelistic politics over the *longue durée* – independent economic elites and a sizeable, politically assertive and engaged middle class – while not altogether absent, have been relatively weak throughout much of Indonesia's history. This meant that, as we discuss next, the advent of democracy could change the character of clientelistic politics but not eliminate it.

62 McLeod 2011.

63 Dauvergne 1997, 2001; Chidley 2002.

64 Barr 1998, Ross 2001.

65 Aspinall 2005, Schwarz 2000.



Activists from the Indonesian Forum for the Environment (Walhi) protest the omnibus bill on job creation in front of the House of Representatives compound in Jakarta. JP/Wendra Ajistyatama, *The Jakarta Post*

The Endurance of Clientelism

Many Indonesians hoped and expected that the downfall of Suharto's New Order government in 1998–99, and subsequent transition to the so-called 'reform era' (era reformasi) would enable the elimination of 'corruption, collusion and nepotism' – the main targets of the 1998–99 reformasi movement. In the immediate aftermath of 1998–99, Indonesians and outside observers tended to view corruption and associated practices as vestiges of the past – as legacies of the New Order period that would gradually be eliminated as Indonesia modernised and reformed.

Despite these high hopes, after more than two decades, it has become obvious that corrupt practices remain deeply entrenched in virtually all aspects of the political system and state administration. While there is much greater public discussion of, and condemnation of, such practices, and many instances of even spectacular enforcement of the law, it is far from clear that attempts to root out corrupt practices have made decisive progress (see box 'The rise and fall of KPK').⁶⁶ It has likewise become obvious that the sources of these practices are embedded in the very logic and functioning of Indonesia's post-Suharto democratic political system.

In the post-Suharto period, clientelism has adapted to the democratic political framework. As explained by a significant body of scholarly work,⁶⁷ Indonesia's electoral system has become dominated by electoral clientelism (see definition above). In its Indonesian version, clientelistic electoral competition has taken on a highly individuated and personalised form – with the main actors in political competition being individual candidates rather than political parties, and those candidates in turn building personal campaign teams or hijacking existing social, religious, bureaucratic and other networks and organisations for

⁶⁶ See, for example, Aspinall and van Klinken 2011.

⁶⁷ Allen 2015, Aspinall and Berenschot 2019, Aspinall and Sukmajati 2016, Aspinall et al. 2017, Berenschot 2018, Muhtadi 2019.

electoral purposes. The high costs this system imposes on politicians generate close ties between political and economic elites, which in turn drive elite capture of policy-making and enforcement, complicating the governance of Indonesia's natural resources.

This form of politics has emerged in conjunction with, rather than in spite of, Indonesia's democratic system. From the early post-Suharto *reformasi* period, the vigour and competitiveness of Indonesia's elections have been widely praised, even as other aspects of Indonesia's democracy, such as its ability to hold state officials accused of human rights abuses to account, were obviously problematic. Even in recent years, as scholars have identified a process of democratic decline or deconsolidation as being underway in Indonesia, a broad consensus remains that electoral competition remains relatively robust.⁶⁸

Beneath the surface, however, it was clear that Indonesia's electoral politics were generating new forms of elite capture. A series of case studies written during the first decade or so of the *reformasi* period showed how – in virtually every region of the country – local elective office was frequently being captured by former officials, retired military officers, and politically connected businesspeople, who had been part of the New Order era governing elite, and whose sources of wealth and influence derived from the distinctive intertwining of political and economic power that had characterised that system.⁶⁹ A combination of democratisation and decentralisation reforms had provided much greater political authority, and much greater access to state resources, to regionally based actors who had been located part way down the old New Order pyramid. At the regional level, these individuals often won posts as governor, *bupati* (head of a rural district) or mayor (head of an urban municipality) by bribing the members of the Regional People's Representative Council (*Dewan Perwakilan Rakyat Daerah*, DPRD) who elected them.⁷⁰ Within most of Indonesia's political parties, too, such individuals were becoming dominant, leveraging their wealth and existing political networks in order to capture party leadership positions at the national and local level.⁷¹ At the national level, meanwhile, Indonesia was developing a form of "collusive democracy", in which parties competed for legislative seats in the national People's Representative Council (*Dewan Perwakilan Rakyat*, DPR) through elections, but came together to form outsized "rainbow coalitions" in government, in which they shared access to the patronage resources offered by control of the various government ministries and other state agencies.⁷²

Partly in response to these trends, reformers advocated a series of changes to Indonesia's electoral architecture, intending them to enhance so-called vertical accountability – making it easier for voters to have a direct say over which individuals were elected to government office. These reforms included the introduction of direct presidential elections in 2004 and of *pilkada* – direct elections of regional government heads – in 2005.⁷³ Later, through a combination of legal reform and court challenges, the country adopted a system of open-list proportional representation in its legislative elections at both the local and national level. In this system, multiple DPR/DPRD members are elected in each electoral district, with voters able to choose between voting for a party or voting for one of the individual candidates running for that party on a candidate list. Crucially, it is the candidate with the highest number of individual votes from a party that wins a seat allocation who

⁶⁸ On Indonesia's recent democratic decline see Power and Warburton 2020.

⁶⁹ See Robison and Hadiz 2004, Hadiz 2010.

⁷⁰ Aspinall and Fealy 2003 and Schulte Nordholt and van Klinken 2007 contain accounts of local politics in this period.

⁷¹ See for example Hadiz 2004, Mietzner 2013, Tomsa 2008.

⁷² Slater 2004.

⁷³ On *pilkada*, see Erb and Sulistiyanto 2009.

ends up winning the seat – effectively meaning that most candidates view their own party mates as their major competitors. In political science parlance, the cumulative result of these changes was a strongly candidate-centred electoral system, characterised by four distinctive features:

1. Weakness of parties and of programmatic competition. Though enthusiastically embraced by voters, the reforms mentioned above had the consequence of entrenching the role that powerful individuals play in politics, and undermining the coherence of political parties. In legislative elections, because candidates from the same party effectively compete against each other, to win elections they not only compete to control the same party machine – or go outside it to set up their own campaign teams – they also have few incentives to promote their party’s platform, because doing so would not differentiate them from their main rivals. Regional government head elections, meanwhile, tend to become contests between popular and well-resourced individuals with often only tenuous party links. One result is that programmatic competition is weak in the Indonesian electoral system. This form of competition – in which political parties offering differing policy platforms are evaluated by voters in terms of their own policy preferences – is a mainstay of democratic accountability in many countries, but is only weakly visible in Indonesia. Indonesian elections feature little policy debate, and parties differ little in terms of their economic or development policies (to the extent that parties are differentiated, it is over the role they believe Islam should play in public life⁷⁴). There is thus relatively little space for debate on issues such as deforestation or land rights in the formal political sphere, and groups advocating policy change on such issues have few opportunities to put these topics on the legislative agenda.

2. Vote buying and pork barrelling. Because candidates can rarely win by highlighting a party label or platform, they must instead promote a personal brand. One way to build a personal brand is through electoral clientelism, i.e. by offering voters and other supporters material rewards in exchange for their support. This dynamic is operative in Indonesia, where numerous studies have tracked the increase of vote buying (i.e. distribution of cash to individual voters) and other forms of clientelistic exchange as elections became increasingly candidate-centred.⁷⁵ Studies have described how candidates organise large teams of vote brokers to deliver cash payments or other gifts to voters in the days leading to elections. The sums involved can be vast: one sting operation by Indonesia’s Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*, KPK) in 2019 seized 84 boxes holding 400,000 envelopes containing a total of 8 billion rupiah [US\$ 552,000] being used in the vote-buying operation of DPR incumbent Bowo Sidik.⁷⁶ In a recent study, Burhanuddin Muhtadi estimated that 25–33 percent of voters, or between 47 million and 62 million individuals, were offered individual cash payments or gifts in the 2014 legislative elections.⁷⁷ In fact, individual gifts of this sort of are just one element of clientelistic exchange. Equally important are ‘club goods’, or pork barrel politics, in which politicians offer collective gifts to communities or associations in exchange for their votes – repairs to a village road or renovations to a house of worship, musical equipment to a community choir or loudspeakers to a religious study group, for example. Such gifts are a ubiquitous part of the Indonesian political landscape.⁷⁸

74 Fossati et al. 2020.

75 See especially Muhtadi 2019.

76 Rachman 2019.

77 Muhtadi 2019: 77.

78 Aspinnall and Berenschot 2019: 126–147.

3. Ticket selling. Just as relations between candidates and voters have become monetised, so too have relations between parties and candidates. Though the electoral system has become increasingly candidate-centred, certain electoral rules still position parties as important gatekeepers: only party-nominated candidates can stand in legislative elections and, although independent candidates are possible in *pilkada*, it is easier for candidates to seek nomination from one or more parties holding seats in the local legislature. Very often, instead of putting forward their own cadres, parties will support locally influential and wealthy individuals for these posts, especially in regional head elections. It is also extremely common for parties to charge payments for these nominations; over the last decade or so anecdotal evidence suggests that ‘prices’ in *pilkada* tend to hover around 1 billion rupiah (US\$ 71,000) per seat in the local DPRD (one way of determining the minimum size of a coalition is as a set proportion of the local DPRD seats).⁷⁹ One recent study suggests the size of nominating party coalitions is largely consistent with what could be expected if parties were prioritising immediate pay-offs – i.e. fees – over the longer term benefits that might come from supporting a winning candidate (i.e. coalition sizes tend to cluster around the legislated minimums, rather than there being a pattern of large coalitions forming around strong candidates).⁸⁰

4. Instrumentalisation of social and political networks. Given that most candidates cannot rely on political parties to organise their election campaigns, they are forced to turn to other organisations and networks to do so. One ubiquitous response is for candidates to build personalised campaign teams (often called success teams, or *tim sukses*), which can consist of many thousands of individuals, whose job it is to promote the candidate and, often, deliver cash or other gifts to voters. Another is for candidates to reach out to, and instrumentalise, all manner of social networks – religious organisations, sports clubs, community groups, gangster networks etc. – for campaign purposes, drawing in leaders and members of these associations, and securing their loyalty with club goods and personal gifts. This dynamic injects a strong element of clientelism into Indonesian civil society, limiting the capacity of civil society groups to play an independent watchdog role or advocate an alternative to clientelistic politics. Especially in relatively remote and underdeveloped areas where the bureaucracy is the most important source of middle-class employment and a major factor in the economy, candidates view the bureaucracy as the most important political network. Incumbent regional heads or their allies thus often use the bureaucracy as a de facto political machine, mobilising civil servants and other low-level officials, such as village heads, behind their campaigns and rewarding the most effective with promotions and plum postings. The bureaucracy thus typically becomes deeply politicised, but in a highly personalised and clientelistic manner, rather than according to any sort of ideological logic.

79 Hendrawan, Berenschot and Aspinnall 2021.

80 Ibid.

Consequences of clientelistic electoral dynamics for Indonesia's natural resource sector

Among the most important consequences of this form of electoral competition is that it greatly increases the costs that must be borne by individual candidates. Most serious candidates in most locations need to invest huge sums in order to purchase their nominations from parties, pay for vote buying, club goods and other patronage strategies, fund their campaign teams, and buy the support of influential community leaders, social networks and local officials. The costs can be massive. Surveyed journalists and other local observers estimated in 2014 that winning candidates for district elections spend on average 28 billion rupiah (about US\$ 2.5 million) on their campaigns, while winning candidates for gubernatorial elections spend an estimated 166 billion rupiah (US\$ 15 million).⁸¹ These amounts have undoubtedly increased since then. Given the largely individuated nature of election campaigns, it is typically the individual candidates who need to raise these sums; they have limited options to turn to their parties for support, with parties anyway provided miniscule public subsidies.⁸²

The high cost of electioneering has three major consequences for the character of governance in general, and governance in the natural resource sector in particular:

First, this system advantages political candidates who are themselves already personally wealthy and well-connected. Accordingly, there is a large literature on the influence of so-called 'oligarchs' in Indonesia's post-Suharto political system, especially individuals from families who were products of the old New Order collusive economic-political elite.⁸³ In many parts of Indonesia, and at the national level, many of these elites have direct interests in timber, plantations, mining and other industries that drive deforestation. In Central Kalimantan, for example, business tycoon Abdul Rasyid funded the successful gubernatorial election of his nephew Sugianto Sabran, while in South Kalimantan mining tycoon Haji Isam funded the election campaign of his uncle Sahbirin Noor, the current governor of South Kalimantan. In both cases, these efforts to ensure the election of family members is at least in part a business strategy to smoothe access to economic opportunities. As an investigative report from the Gecko Project showed, once in power local politicians hand out plantation and mining concessions to family members and other associates.⁸⁴ At the national level, too, many important politicians – such as the head of the NasDem Party, Surya Paloh, Defence Minister Prabowo Subianto, Coordinating Minister for Maritime Affairs and Investment Luhut Pandjaitan – themselves have major interests in mines, plantations, and other natural resource industries. It is noteworthy that it is particularly business players from rent-intensive sectors of natural resources who are drawn to politics (thus, it is relatively rare to encounter Indonesian businesspeople who made their fortunes in, say, retail running as politicians). Such businesspeople-turned-politicians have incentives to use public office to further their business interests given that governments at all levels control the licences under which natural resource industries operate, and are in charge of enforcing the rules that regulate the sector. We can regard this form of oligarchic dominance as representing a form of *direct capture* of public office by actors with interests in natural resource sectors. In this way, Indonesia's high-cost electoral system has sustained the intertwining of business and political interests that was so characteristic of the authoritarian New Order period.

81 See Aspinall and Berenschot 2019: 210.

82 Mietzner 2007.

83 See for example Hadiz and Robison 2004, Winters 2011 and Ford and Pepinsky 2014.

84 See Gecko Project 2017.

Second, and more importantly, the costs imposed on all politicians means that those who do not themselves have oligarchic backgrounds and thus lack the private resources to fund their own campaigns typically need to rely on support from wealthy donors.⁸⁵ This dynamic might be thought of as giving rise to a system of *indirect capture* of public office by natural resource interests, which occurs when an elected official is not personally engaged in business in the natural resource sector, but is bound by ties of debt and obligation to actors who are. Such obligations can be incurred in advance, when a resource tycoon donates resources (almost invariably bypassing the official reporting requirements) to help fund a candidate's election campaign. There are numerous reports in the literature to suggest that such donations are commonplace: Warburton, for example, found that one mining company in Sulawesi prior to the 2014 legislative election donated to the top 140 candidates running for the provincial DPRD, expecting that every winning candidate would come from that pool such that "The company would then have established a financial bond with each and every member of the local parliament in the incoming provincial DPRD."⁸⁶ If elected, the beneficiary politician repays these debts by providing their sponsor(s) with favourable access to licences and permits, helping them resolve conflicts with landowners or workers, and/or turning a blind eye to violations of environmental and other regulations. Once elected, moreover, politicians need to build up their war chest for the next election. They thus have an added incentive to provide such benefits in exchange for bribes, and to develop their own economic resources. As a result, it can in practice be difficult to distinguish between direct and indirect forms of state capture, given that politicians who lack natural resource interests on being elected are often able to leverage their positions to become important business players themselves – especially in forest regions when it is rare to encounter an elected official who does not have at least some forestry, plantation or mining holdings.

Third, this high-cost system drives broader and more diffuse processes of *institutional decay*, affecting diverse areas of the state apparatus, and normalising corrupt practices among officials and citizens alike. For example, it promotes monetisation of bureaucratic appointments and promotions, with cash-hungry regional government heads frequently charging fees for what are formally routine or merit-based decisions, in turn saddling civil servants with debts which they repay through corruption and levying of illegal fees on citizens.⁸⁷ This culture of corruption can seep into other institutions as well: for example, it is striking that a series of bribery scandals that badly damaged the reputation of the once highly respected Constitutional Court, leading to the arrest and conviction of Chief Justice Akil Mochtar, all involved adjudication over disputed local election returns.⁸⁸ Finally, the system erodes public trust in the political system: citizens see that politicians are corruptly using public office and consequently lose faith in their own ability to effect change through elections, which they come to see as an opportunity to extract a few personal benefits for themselves. Such attitudes, by generating further demand for clientelistic benefits, end up entrenching clientelistic practices.

The picture sketched above is just a summary of what is a complex and nuanced picture on the ground. Previous research has shown that there is much variation in clientelistic politics across the country. Urban areas with more diverse economies and larger middle classes tend to be less clientelistic, while, tellingly, areas dependent on natural resource

85 Mietzner 2011.

86 Warburton 2016: 349.

87 Blunt, Turner, and Lindroth 2012, Kristiansen and Ramli 2006.

88 See for example Movanita 2014.

industries and/or government budgets are especially clientelistic.⁸⁹ This finding is also in keeping with wider political economy studies which suggest that economies that are dependent on natural resource extraction tend to have weaker state institutions, because they are especially vulnerable to elite capture and institutional decay.⁹⁰

This overview has pointed to elements of both continuity and change in the political context that facilitate deforestation and social exclusion in Indonesia. The legacies of clientelism, and of the fusion of political and economic power that were central to the New Order system of power would have been difficult to overcome even in the most propitious of circumstances in post-Suharto Indonesia. The country has instead developed a form of electoral competition that entrenches rent-seeking and elite capture. These features are best viewed not as the product of personal venality on the part of individual politicians – though there is plenty of that – but of a system that incentivises and rewards venal behaviour. Politicians who seek to escape the patterns of clientelism and exchange summarised above, with few exceptions, tend to lack the resources to compete effectively for power, and are either winnowed out of the system or adapt to its prevailing logic. Overall, this system provides a context that has few avenues to politically check the drivers of deforestation and social exclusion in Indonesia, and plenty of incentives to perpetuate them.



Roda Mas Group's company camp in Mahakam Ulu. The group is entrenched in ongoing tenurial conflicts with various Dayak Bahau communities. Credit: Angus MacInnes, FPP

89 Allen 2015, Aspinall and Berenschot 2019, 228–248; Berenschot 2018.

90 See for example Ross 1999, 2001.

Land and Forest Tenures

Having emphasised the roots of deforestation in clientelism and informal politics, it is also important to stress one important source of deforestation in formal law: the legacy of colonial history, which still bedevils land tenure in contemporary Indonesia. Indonesia's laws and regulations curtail the land rights of rural Indonesians in ways that can be traced back to the practices and regulations of the colonial state. In particular, the weak recognition of land rights of rural Indonesians is rooted in a 150-year-old concept introduced by Dutch colonial administration, known as the *Domein Verklaring*. In its 1870 agrarian law, the colonial rulers declared that "all land not held under proven ownership, shall be deemed the domain of the state." Dutch administrators used this 'domain declaration' to claim ownership of most of the land in Java (as well as, later, beyond Java) to provide European plantation and mining companies with cheap access to land.⁹¹



Palm oil monocrops replace inhabited forests. Credit: Mighty Earth

The introduction of this new system was itself part of a much larger shift occurring during the course of the nineteenth century. In contrast both to pre-colonial rulers,⁹² and even to earlier endeavours by the Dutch to gain access to forest land,⁹³ from the mid- to late nineteenth century the colonial state engaged in 'territorial control' in the sense that it aimed to regulate access of the population to land and natural resources by drawing boundaries and attempting to control access to natural resources within these boundaries. This attempt to formalise and map land boundaries enabled the colonial state not only to

91 von Benda-Beckmann and von Benda-Beckmann 2013: 61–99.

92 Vandergeest and Peluso 1995.

93 Earlier, for example, the United East India Company (*Vereenigde Oost-Indische Compagnie*) had gained access to timber (particularly teak) and to forest labour by negotiating with Javanese kings and other nobles. Such negotiations often involved gift-giving or a kind of "token of friendship" to the Javanese sovereigns and their officials (Peluso 1992: 37). For example, in 1651, when the first Dutch trade office was established in Japara to handle the trade in teak and sugar, Governor-General Carel Reiniersz sent a letter to the *susuhunan* (sultan) of Mataram explaining the appointment of a resident there. Accompanying the letter were gifts consisting of expensive treasures from Europe, Persia, and other parts of the Orient: lace, cloth, rose water, musk balls, Spanish wine, a diamond ring, black amber, aloeswood, and other luxuries. The *susuhunan's* officials in the Japara region did not allow export of wood until they also received gifts; the governor-general 'solved' this issue by sending them an elephant (Peluso 1992: 37).

strengthen its control over land and natural resources,⁹⁴ it also enabled it to hand out land leases to companies for rubber, tobacco, tea or coffee plantations, logging operations or mining – often to the dismay of local communities who lost control of their lands.⁹⁵ As the colonial state formalised its control over forest land in order to facilitate the economic exploitation of its territories, it created conditions that still generate land conflicts in contemporary Indonesia.

After independence in 1945, the Indonesian state largely maintained this colonial heritage. The 1945 Constitution and Basic Agrarian Law of 1960 acknowledge the rights of citizens and communities over land and natural resources.⁹⁶ However, by entrusting the state with a “state right of control” over land (*hak menguasai negara*), the constitution gives the Indonesian state control over land and effectively limits individual and community land ownership. This principle was further elaborated in the Forestry Law that Suharto’s then recently established authoritarian regime adopted in 1967. This law designated 143 million hectares – almost 75 percent of Indonesia’s territory – as forest area (*kawasan hutan*), and the government treated this land as a state asset that could not be privately owned.⁹⁷ Despite attempts at reform down the years, these stipulations live on: the government still designates about 63 percent of Indonesia as “forest area.”⁹⁸

Much of this land is not actually forest, and exists merely as an administrative category to maintain the control of the state (and its ruling elites) over land, making it easy for the government to grant licences for logging, plantations, mines and other purposes. Even though the Ministry of Environment and Forestry (MoEF) recognises that some 32,000 administrative villages lie within or overlap forests, following the Dutch administrative practice the great majority of forests are treated as State Forest Areas and the Ministry of Environment and Forestry retains formal control over these areas. The result is that the many citizens working and living in these “political forests”⁹⁹ cannot obtain legal title to their land, and, instead, are often forced to rely on customary property rights systems (referred to as *adat* in Indonesian law).¹⁰⁰ Yet land claims based on customary law carry little weight in court. As a result, communities affected by land conflicts generally lack formal evidence they can use to defend their positions legally.¹⁰¹

Since the 1990s, the MoEF has developed a suite of forest tenure options to accommodate the reality that forests are not in fact empty of inhabitants. These tenures are treated as leaseholds in State Forest Areas and include Community Forests (HKM), Village Forests (HD), People’s Forests (HR) and People’s Planted Forest (HTR).¹⁰² A unique form of forest tenure which provides actual ownership rights, customary forests (HA), is theoretically available to ‘customary law communities’ (a term sometimes rendered in English as ‘indigenous peoples’); however, they have to first prove to the satisfaction of local legislatures that they still exist as such, which then needs to be formalised by a local

94 Vandergeest and Peluso 1995: 388.

95 McCarthy 2005.

96 Fitzpatrick 1997.

97 Dhialulhaq and Berenschot 2020.

98 This is the number that Siti Nurbaya, Indonesia’s Minister for Environment and Forestry, quotes on her website (see Nurbaya 2018). Other publications tend to put this figure at 70 percent (see Butt and Lindsey 2018).

99 Peluso and Vandergeest 2001, Vandergeest and Peluso 2015.

100 See for example von Benda-Beckmann 2002.

101 Bedner 2007, 2016; McCarthy 2005.

102 Simarmata et al. 2021.

government regulation.¹⁰³ The national organisation AMAN (Aliansi Masyarakat Adat Nusantara, Indigenous Peoples’ Alliance of the Archipelago), estimates that some 50-70 million people live in such customary communities across the archipelago, with customary territories extending over some 40 million hectares of forests. However, in the ten years since the tenure mechanism of HA was established, only some 148,488 ha of customary forests have been formally recognised by MoEF¹⁰⁴ (less than 0.4% of such territories).¹⁰⁵

This curtailed recognition of individual and communal land ownership has enabled the Indonesian state to implement a “concession system”¹⁰⁶ under which the corporate acquisition of land for establishing a logging operation or plantation does not require the purchase of the land but rather the obtaining of state concessions and permits from national ministries and local governments. Companies never become owners of this land but rather obtain land leases for, in most cases, 30 years. This concession system is lucrative not only for companies but also for the politicians and bureaucrats awarding these concessions, which helps explain why, despite various attempts, the outsized control of the Indonesian state over land has never been significantly curtailed. Once a concession permit is obtained, companies have a legal basis for excluding communities previously living or working on the land it covers. In court, such concessions generally trump the (customary) evidence of land use and ownership held by communities. Weak legal standing prevents communities from holding on to their land and also significantly weakens their bargaining position when trying to obtain adequate compensation for the loss of those lands.¹⁰⁷

Yet despite this curtailment of land rights, various laws and regulations do provide a range of measures intended to protect the interests of rural Indonesians against incoming companies. Three such provisions are particularly important since they frequently become a bone of contention in conflicts between rural communities and companies.

A first important set of policies concerns licensing *procedures*. The establishment of logging operations, plantations and mines is guided by complex procedures requiring companies to meet a range of conditions, including some aimed at mitigating environmental and social impacts (see box).

103 Safitri 2010.

104 MoEF 2022.

105 AMAN 2022.

106 cf. Hein and Faust 2014.

107 See Dhialulhaq, McCarthy & Yasmi 2018.



Indigenous Toba Batak harvesting incense resin from agroforests under threat from pulpwood plantations.
Credit: Auriga Nusantara

Licensing procedures for forestry and plantations

Commercial enterprises seeking forestry concessions for logging, timber plantations, ecosystem restoration or REDD+ projects must acquire the required permits through the Ministry of Environment and Forestry. During the early 2000s, as part of the post-Suharto decentralisation process, authority to issue smaller forestry concessions was devolved to districts, leading to an explosion of poorly regulated logging operations. Since then authority to issue licences has been progressively tightened so that only the MoEF and provincial authorities can issue licences. In 2021, this power was further centralised so the power to issues forest utilisation permits is now vested in the Minister of Environment and Forestry.

Once furnished with a forestry concession, complex documents must then be produced by forestry companies to develop their concessions, including: forest inventories, to show that operators have properly appraised the resources they are being leased; business development plans (RKU), to show they have the necessary capital and management capacity to thrive as a business; and annual harvesting plans (RKT), to ensure that rates of timber extraction are consistent with Annual Allowable Cut calculations. All these must be submitted to and approved by MoEF officials before harvesting is allowed. The logic of these regulations is to allow only environmentally sound and profitable forest development.

However, the political effect of these laws and regulations is to create a close interdependency between MoEF officials and forestry companies, which in the context of patron-client traditions provides ample scope for rent-seeking and capture of the regulatory apparatus by the industry.



Indigenous Toba Batak harvesting incense resin from agroforests under threat from pulpwood plantations.
Credit: Auriga Nusantara

For the development of agricultural plantations, the Plantations Act (revised in 2014) sets out – together with a raft of subsidiary regulations – procedures for acquiring leaseholds on state lands. Among the key steps required are: obtaining an initial permit from the district government to develop the area (Izin Prinsip), followed by a three-year location permit (Izin Lokasi), also from the district government, during which time the developer has to start land acquisition from local land users, confirm financing for the scheme, and carry out a social and environmental impact assessment. Technically, the crucial Business Use Permit (Hak Guna Usaha – HGU), can only be issued on non-forest state land (APL) that is unencumbered by other rights. The HGU is obtained from the National Land Bureau (Badan Pertanahan Nasional) and is legally required before planting can start. To get this permit, the company has to demonstrate to BPN that it has already obtained a plantation business permit (Ijin Usaha Perkebunan) from the Plantation Department, has confirmation of the adequacy of its EIA (environmental impact assessment, Amdal) from the Ministry of Environment and Forestry and can furnish written proof of land acquisition from prior users. The HGU is initially valid for 30 years and can be extended twice but it can be voided if the business fails to develop the land. Moreover, if any of the proposed plantation area has tree cover then the company also needs a permit for forest clearance and, if the land was actually classed as forest, then it has to show it has obtained a Forest Area Release (*Pelepasan Kawasan Hutan*), reclassing the land as APL. Both of these permits have to be obtained from the Ministry of Environment and Forestry.

The justification for this thicket of regulations is to ensure just treatment of prior users, prohibit land speculation, limit deforestation and mitigate social and environmental harms. But the regulations also have the effect of setting up multiple opportunities for rent-seeking, on the one hand, and bribery and collusion, on the other.

A second set of provisions supposed to provide safeguards concerns the *consent* of affected communities that oil palm and other companies are supposed to obtain when obtaining licences. Before establishing a plantation, permit-holders need to fully inform communities of their plans and, subsequently, obtain – without employing coercion in any form – a written statement that expresses the agreement of community members holding land (both with and without formal land titles) inside the concession to the release of their lands. Companies are also obliged to compensate communities for loss of access to land. This requirement to obtain community consent is partially consistent with international human rights treaties, which require indigenous peoples’ “Free, Prior and Informed Consent” to any measures which may affect their rights,¹⁰⁸ and with industry standards such as the “Principles and Criteria” of the Roundtable for Sustainable Palm Oil (RSPO), and derives from several national laws.¹⁰⁹

A third key provision shaping access to Indonesian forests is that Indonesian law requires palm oil companies to implement joint-venture schemes for affected communities. These schemes are often called ‘inti-plasma [core-plasma] schemes’, referring to the fact that part of (the profit from) the plantation is reserved for communities (the ‘plasma’) next to the larger share that goes to the company (the ‘core’).¹¹⁰ Since 2007, all companies incorporating community land into their plantations are required to provide some (at least 20 percent) of the resulting plantation (or the profits of this land) to the community. This promise of ‘plasma’ and its associated profits often serves as a lure to tempt communities to give up their land. Yet even on paper this deal is rather unattractive: communities not only agree to low levels of compensation for losing 80 percent of their land to the company, they also have to pay for all the costs of planting and maintaining the oil palms – costs which are in theory deducted from the profits from the remaining 20 percent. In recent schemes, villagers also do not receive ownership but rather the profit of their allocated share of the plantation, administered through local cooperatives. In practice, these inti-plasma schemes are thus often even less lucrative than provided for by the formal rules, as companies often renege on promises to provide plasma while profit-sharing often lacks transparency or is fraudulent, making inti-plasma schemes a major driver of conflicts between communities and companies.

In sum, while Indonesian law curtails the land rights of citizens, it also offers various protections of the interests of communities. Yet, as we explore next, the complex and contradictory nature of the legal framework enables corporate actors to create various backdoors through which they can circumvent their legal obligations.

108 Such as The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on Biological Diversity.

109 Such as the 1999 Forestry Law and the 2014 Plantation Law (No.39/2014).

110 Over the years the names and character of these joint venture schemes have changed, see Potter 2016, McCarthy 2010.

Part two: Forest Politics in Practice

Evading Permits and Policies

Our analysis of the nature of electoral politics shows why laws and regulations often do not have their intended impact, and why there is a large gap between state regulations and reality. As already noted, Indonesia has a range of policies and regulations that aim to regulate land use and protect the environment. Sometimes, these rules are implemented faithfully, but often collusive relations between political and business actors end up undermining them. This gap between policies-on-paper and policies-in-reality arises by two different ways: manipulation of policy making and undermining of implementation. We discuss both mechanisms in turn.

Backdooring the law

Indonesia’s legal framework related to land and plantations is a complex amalgam consisting not only of a number of paramount laws – such as the 1960 Basic Agrarian Law, the 2007 Law on Spatial Planning and the 2014 Plantation Law – but also an elaborate set of additional laws, presidential instructions, ministerial regulations and implementation guidelines.¹¹¹ This complex patchwork has generated a rich hunting ground for a practice which we call the ‘backdooring’ of laws: lobbying by influential actors – such as the palm oil industry – for the adoption of specific clauses in lower-level regulations or implementation guidelines (*peraturan pelaksana*) to undermine or weaken obligations imposed by existing laws. The political and practical benefit of this backdooring of laws lies partly in its stealth: instead of cancelling existing laws and thereby formally revoking established rights, strategic manipulation of lower-level regulations can serve the same aim while remaining largely below the radar of the media and advocates, thus, avoiding public outcry.

An even greater benefit of this ‘backdooring’ for natural resource companies is that it relieves them of much of the burden of complying with onerous regulatory requirements while maintaining the appearance of legitimacy afforded by regulation. In the light of the considerable national and international scrutiny of Indonesia’s natural resource management, it is vital for companies involved in natural resource extraction to show that they have acquired the land they need according to stringent laws and procedures. The absence of such a legal framework would severely undermine the legitimacy of land acquisition in the eyes of both domestic and international observers. It is thus an attractive strategy to support the general legal framework, including its environmental protections, while promoting the adoption of lower-level regulations that undermine it. This backdooring allows companies to have their cake and eat it too. Because of the oligarchic nature of Indonesia’s democracy and the prominence of economic elites in politics, business interests can succeed relatively easily in such ‘backdooring’ of state regulation. The box provides four recent illustrations of how lower-level or new regulations undermine the environmental protections offered by earlier legislation.

111 Of relevance for establishment of oil palm plantations are, for example Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency No. 5 of 2015 concerning Location Permits as well as Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN No. 7/ 2017 concerning Regulations and Procedures for Granting of Business Permit (HGU).

Examples of ‘backdooring’ to avoid protections of the environment and citizen rights

- *Solutions for companies lacking forest release permits.* Companies are required to obtain a ‘forest release permit’ before establishing a plantation in a forest area. However, a 2021 investigative report¹¹² found that 3.2 million hectares, a Belgium-sized area, of oil palm plantations (or 19 percent of all plantations) are illegally planted inside forest areas. At least 600 companies – nearly a third of all palm oil companies in Indonesia – have such illegal plantations. Since so many companies operate without the correct permit, successive governments have adopted regulations that allow companies to get away with this violation. For example, in 2012 the government issued a regulation (PP No. 60/2012) which allows for the “purification” (*pemutihan*) of plantations inside forests areas. In doing so, the 2012 regulation ‘backdoors’ both the 1999 Forestry Law (No. 41/1999) and the 2007 Law on Spatial Planning, which disallow the issuance of plantation permits in forest areas; the 2012 regulation allows companies with plantations inside forest areas to retrospectively apply for forest release permits. In 2015, President Jokowi issued a presidential regulation that provided another backdoor by allowing companies lacking a forest release permit to continue operations until the end of their crop cycle (which could be as long as 35 years). Similar backdooring occurred through the new 2020 Omnibus Law on Job Creation (UU Cipta Kerja). Articles 110 A and B allow companies with plantations inside the forest estate to continue operations (and, in most cases, to apply for a forest release permit) after paying an administrative fine.¹¹³ As legislators voting for this legislation only seemed to have realised what they had done afterwards,¹¹⁴ this clause basically voids any meaningful deterrent to companies wishing to establish plantations inside the forest estate. The effect of this new legislation became clear recently: in September 2022 the Indonesian government pardoned 75 companies that had illegal plantations inside forest areas, in exchange for them paying (in total) 223 billion rupiah (or US\$15 million) in fines. The Ministry of the Environment and Forestry also announced that it had identified 616 companies operating illegally inside forest areas, and signaled that many of these companies would be able to benefit from this amnesty scheme.¹¹⁵
- *The complicated recognition of customary land rights.* Indonesian communities and NGOs have engaged in a longstanding struggle to push the Indonesian state to recognise customary land rights to address the weak legal standing of land claims of rural Indonesians. In 2013 a leading NGO, AMAN, which represents many customary communities, booked a major victory in this regard when the Constitutional Court ruled in AMAN’s favour that Indonesian law allows recognition of *adat* land rights in forests. The implementing ministerial regulations for this ruling were issued in 2015, 2019 and 2020.¹¹⁶ They undermined the substance of the ruling. The regulations stipulate such onerous and complex requirements for communities and their land rights to be recognised, that very few areas have received formal recognition. AMAN

112 See Greenpeace 2021.

113 The specific requirements vary depending on the character of the land; for example, plantations inside protected forested are allowed to continue their operations for one planting cycle (15 years). See Greenpeace 2021.

114 See Mongabay 2021b.

115 See Mongabay 2022b.

116 Regulations of the Minister of Environment and Forestry: Permen 32/2015 on Forests Subject to Rights (*hutan hak*); Permen 21/2019 on Adat Forest and Forests Subject to Rights (*hutan adat dan hutan hak*); and the latest Permen 17/2020 on Adat Forest and Forests Subject to Rights.

estimates there are some 40 million hectares of customary forests in Indonesia,¹¹⁷ and has so far assisted communities to apply for registration of about 13 million hectares as *adat* forest. As of November 2022, however, the state had recognised only 148,488 hectares.¹¹⁸ A particularly onerous requirement is that *adat* forest land can only be recognised after the local government issues a regulation which officially recognises an *adat* community. As local governments are loath to cede control over land, such regulations are difficult to obtain.¹¹⁹ Such stipulations enable the Indonesian state to have it both ways: it can claim it recognises customary land rights, while largely avoiding ceding control over land.¹²⁰

- *Profit-sharing obligations.* Indonesian law requires oil palm companies to implement joint-venture schemes with affected communities, generally in the form of ‘inti-plasma schemes’, which refers to the part of (the profit from) the plantation that is reserved for communities (*plasma*) next to larger company core estate (*inti*, or ‘core’).¹²¹ Yet this provision was effectively ‘backdoored’ in 2013, when the Ministry of Agriculture issued a ministerial regulation that stipulated that this 20 percent of *plasma*-land could also come from *outside* the concession area.¹²² As freely available, sizable plots of land suitable for oil palm plantations are difficult to find, the practical effect of this clause, buried in a ministerial edict, was to free many palm oil companies from their obligation to provide communities with the promised *plasma*-plantation – without actually saying so. It meant that, when confronted by demands by communities to realise the promised profit-sharing, companies can simply refer to this clause and ask communities to find land outside their concession area. As such land can rarely be found, communities often end up not receiving the *plasma* plantation promised them.
- *Environmental impact assessment (AMDAL).* Companies engaging in natural resource extraction or agribusiness need to obtain an approved environmental impact assessment (EIA). Until recently, a modicum of independence in the panels evaluating these EIAs gave companies an incentive to try to avoid harming the environment. The recently (2020) adopted Omnibus Law contains clauses that effectively backdoor this environmental regulation. Not only did this new law restrict the EIA obligation to “high risk” activities (to be determined by the government) but it also cancelled the need for an outside evaluation of the EIA reports drawn up by a company.¹²³ This change effectively removes a meaningful check on these environmental assessments while also removing the previous right of communities to object to the EIA document.

117 Mongabay 2013.

118 MoEF 2022. See for example: Badan Registrasi Wilayah Adat 2022, CNN Indonesia 2021, Nurbaya 2020.

119 Suara Papua 2019.

120 cf. Li 2000, van der Muur 2018, Bedner and Arizona 2019.

121 Over the years the names and character of these joint venture schemes changed, see Potter 2016, McCarthy 2010.

122 Peraturan Menteri Pertanian no. 98/2013, article 15.

123 Previously, the environmental impact was assessed by a commission consisting of representatives of the government, a team of experts, representatives of potentially affected communities, and environmental organisations. The 2019 Omnibus Law abolished this commission and replaced it with the Environmental Feasibility assessment team (*Tim Uji Kelayakan*) formed by the Central Government and consists of only representatives of the central government, local governments, and certified experts, without involving local community and environmental NGO representatives.



Forests are cleared as land is prepared for oil palm plantations, Central Kalimantan 2018.
Credit: Auriga Nusantara

The complex layering of overlapping and contradictory laws and regulations produces a situation where relatively strong legal provisions gradually lose their teeth, with new regulations being stacked on top of older ones such that “laws recognizing the people’s right to land coexist with laws justifying eviction”.¹²⁴ Whether this layering of legal provisions¹²⁵ is a deliberate strategy is hard to say conclusively; it is certainly convenient for political and economic elites, who use backdoor practices to generate a lucrative state of confusion. The coexistence of different, sometimes conflicting regulations provides bureaucrats, judges and regulators with considerable discretion, allowing them to selectively impose rules and punishments in ways dictated by expediency and opportunities for rent seeking.

Lackadaisical implementation of licencing procedures

Despite the presence of backdoors and other inadequacies, policies and laws concerning licences and business permits still provide some protection of the environment and the interests of rural Indonesians. Yet the actual implementation of licencing procedures is also seriously undermined by the informal, collusive relationships between business actors and the state that – as we describe above – stem at least in part from the logic of electoral politics. These connections enable companies to circumvent procedures and to continue their operations despite licence violations that often span decades.

Several studies have found that such licence violations are widespread. The government audit board (*Badan Pemeriksa Keuangan*) found that millions of hectares of palm oil plantations across Indonesia do not have the required business use licence, HGU, which means they operate illegally, facilitating tax avoidance.¹²⁶ According to a study of Forest Watch Indonesia on palm oil plantations, no less than 68 percent (14.8 million ha) of plantations are operating without the required HGU licence, while 36 percent of HGU licences (over 4 million ha) were granted without companies having first acquired the required IUP licence.¹²⁷ Companies face strong incentives to avoid applying for a HGU

124 Hall et al. 2011:12; see also Erbaugh and Nurrochmat 2019.

125 Bedner 2016.

126 See for example Tirto 2019 and Bisnis Indonesia 2015.

127 FWI 2019.

licence, as this as this imposes taxation liabilities. Some companies do not even bother to obtain either an IUP or a HGU licence: as Lund observed, “companies often operated outside the law [...] as if they had the right and all the necessary papers [...] by letting the inappropriate document – the location permit – masquerade as the actual lease”.¹²⁸ Perhaps out of embarrassment with this state of affairs, the Ministry of Agrarian Affairs and Spatial Planning has (despite considerable public pressure) decided to keep all information regarding HGU licences secret – with the argument that this secrecy is needed to protect the palm oil industry.¹²⁹

Various other licence violations are similarly common. In a recent report, Greenpeace studied the locations of palm oil plantations to find that 3 million hectares of palm oil plantations (19 percent of the total) are located on land officially designated as ‘forest estate’: i.e. land on which, officially, palm oil plantations are not allowed because companies lack the required ‘forest release permit’.¹³⁰ Furthermore, even plantations that had obtained such a permit had often done so only *after* the plantation became operational – though backdooring has made this practice less problematic (see box).¹³¹ Conversely, in other cases, forest release permits are granted for areas where conversion to plantations is actually disallowed, such as protected forest or deep peatland.¹³² Another type of licence violation occurs when companies disregard concession boundaries, engaging in activities outside of the stipulated area – which often means they are trespassing on community land or encroaching on protected forests. It is important to emphasise that all these types of licence violations – operating without required permits, operating in protected areas, disrespecting concession boundaries – often persist for decades without intervention by local state authorities, apart from, presumably, receiving bribes to ignore them.¹³³

There is considerable evidence that this lackadaisical implementation of licencing is at least partly due to the collusive relationships between palm oil entrepreneurs and powerholders that we described above. In 2017, The Gecko Project revealed, for example, how the district head of Seruyan (Central Kalimantan), Darwan Ali, used his discretionary power over licencing procedures to award licences to 18 newly minted companies set up by his family members and friends.¹³⁴ In 2014, a sting operation by Indonesia’s anti-corruption agency KPK exposed how palm oil entrepreneurs had been funding the election campaign of Hambit Bintih, another district head in Central Kalimantan, in exchange for plantation permits.¹³⁵ A 2016 KPK investigation found that licencing processes were regularly marred by nepotism as well as bribe-taking, such as cases involving Amran Batalipu, the district head of Buol District, Central Sulawesi,¹³⁶ and the governor of Riau, Annas Maamun.¹³⁷ Another case was that of Suwarna Abdul Fatah, the former governor of East Kalimantan, who was arrested and charged for receiving bribes for providing recommendations for the clearing of forest for the development of palm oil plantations.¹³⁸

Plantation licences are regularly granted to newly established companies which lack expertise in running a plantation but which have close connections to power-holders: very often local governments award permits to shell companies owned by family members or

128 Lund 2020: 115.

129 Republika 2019.

130 Greenpeace 2021.

131 Eyes on the Forest 2016.

132 Meijaard et al. 2018, FWI 2019.

133 Colchester et al. 2006a, 2006b.

134 Gecko Project 2017.

135 Environmental Investigation Agency 2014, Aspinall and Berenschot 2019: 207-210.

136 Mongabay 2012.

137 KPK 2016.

138 MacInnes 2022.

associates of elected politicians, who exploit their closeness to powerholders to obtain such licences only to subsequently sell the now valuable shell company to an actual palm oil company. In that light, it is no surprise that researchers have found that deforestation related to palm oil plantations accelerates significantly in the year before elections,¹³⁹ when politicians need to expand their campaign budgets.

Studies of Indonesia's timber industry provide a similar picture. For example, Jacqui Baker studied in admirable detail how the district head of Pelalawan (Riau) used his discretionary powers to hand out logging licences to companies owned by his brother, wife, daughter and even household help, as well as (family members of) senior bureaucrats. Because of their strong political backing, these companies subsequently felt emboldened to engage in considerable logging outside their concession areas.¹⁴⁰ As with plantation companies, some of these (shell) companies were subsequently sold on to bigger conglomerates (in this case the pulpwood company PT RAPP, part of the APRIL group), which could in this manner obtain logging licences without having to themselves engage in the bribery or other illicit behaviour which might otherwise be required to obtain them. As Baker's study illustrates, such fraudulent licencing processes do not stem from a few corrupt individuals. Rather, this kind of corruption is 'networked', as it requires the active collaboration or quiet acquiescence of a wide range of individuals, from politicians and senior bureaucrats in the district government, to company managers, police officials and civil servants in Jakarta. These findings correspond to earlier studies on the logging industry.¹⁴¹

Such circumvention of licencing procedures needs to be interpreted in light of the clientelistic political context discussed above: politicians have strong incentives to use their control over licences as a means to finance their expensive election campaigns. As indigenous rights activist Abdon Nababan found in 2018 when attempting to run as governor in North Sumatra, not engaging in such deals is an obstacle to launching a political career: when parties asked him for large fees to back his candidacy, a consortium of local business actors offered to contribute an astonishing US\$ 21 million in exchange for exclusive access to government contracts and permits – a deal which Nababan turned down.¹⁴² Two previous North Sumatran governors were convicted on corruption charges, suggesting many politicians in the province are not so scrupulous.

The rise and decline of the KPK

The central motif of the 1998 protests that brought an end to Suharto's New Order regime was condemnation of KKN: *Korupsi, Kolusi, dan Nepotisme*. In the years that followed, the anti-corruption ethos became a central theme of politics at the national level, with politicians of all stripes indicating that they wanted to purge Indonesia of corruption and other abuses of power once and for all.

Given these circumstances, how is it that corruption, rent-seeking and similar abuses of office persisted so strongly in post-Suharto Indonesia? Scholars have suggested that overcoming corruption is so difficult because doing so poses classic collective action challenges: once corrupt behaviour become established as a norm within an institution or wider system, it can become very difficult for an individual to opt out. Every individual, no matter their personal view, not only receives rewards from participating, they can

139 Cisneros et al. 2021.

140 Baker 2020: 11–13.

141 McCarthy 2004.

142 Earthsight 2018.

face strong negative sanctions if they try to exit – e.g. failure to advance professionally, social marginalisation, or worse.¹⁴³ Adding to this, in the Indonesian case, the clientelistic electoral system has provided strong additional incentives for corrupt behaviour in other state agencies, as described elsewhere in this report.

In this context, the story of Indonesia's main anti-corruption agency the KPK, *Komisi Pemberantasan Korupsi*, or Corruption Eradication Commission is important and revealing. Established in 2003, for more than a decade the KPK became arguably the most successful – and popular – product of the *reformasi* period. Invested with extraordinary powers, it arrested and tried a large number of senior officials, including a dozen ministers, a couple of dozen judges, and scores of regional government heads. Its sting operations and dramatic arrests – often captured on live TV – cast a revealing light on the sordid inner workings of corruption at the highest level, delighting and horrifying ordinary Indonesians in equal measure.

Part of the reason for the KPK's success was that it was set up in a way that deliberately tried to isolate it from the norms of corrupt behaviour that so pervaded other state agencies. KPK staff were paid salaries that were higher than normal, and they were governed by strong and enforceable ethical codes. The body was provided with extraordinary powers, such as to tap phones without obtaining a court order. Once the KPK initiated a formal investigation it was required to proceed to prosecution – to avoid the common practice whereby corrupt police and prosecutors used investigations to extort payments from targets. Initially, too, all cases brought by the KPK were tried in specialist anti-corruption courts that were established with the goal of bypassing the so-called *mafia peradilan* – judicial mafia – that dominated the mainstream court system.¹⁴⁴ For several years, the agency had a 100 percent conviction rate for cases it brought to trial.¹⁴⁵

Not surprisingly, from early on the organisation was subject to harsh attack from individuals in the institutions that were its rivals and targets. The Indonesian Police – presumably prompted by KPK investigations of senior police officers – on two occasions initiated major counter-strikes against the organisation, including by arresting KPK commissioners. Over time, DPR members also became outspoken critics of the agency. These attacks began during the Susilo Bambang Yudhoyono presidency (2004–14), but President Yudhoyono was influenced by the public support for the KPK to protect it from major attack. President Joko Widodo (2014–) has had fewer qualms, and over the last few years the defences set up around the KPK have come under sustained assault. A new law passed in 2019 stripped the agency of key powers.¹⁴⁶ The government appointed a police officer, who had accusations of improper conduct hanging over him, as the new KPK head.¹⁴⁷ The number of corruption investigations run by the organisation fell by more than half between 2018 and 2020.¹⁴⁸ Other investigations were blocked internally, or details of them leaked out so that targets were alerted.¹⁴⁹ Finally, in early 2021, authorities used a test on citizenship to purge the organisation of 57 of its staff – including many of its investigators who had been at the forefront of its work. Former KPK leader Busyro Muqoddas told the media that such actions had “paralysed the KPK to perfection”, ruefully noting that the organisation's neutralisation was a “success story” of President Jokowi.¹⁵⁰

143 Persson, Rothstein, and Teorell 2013.

144 Butt and Lindsey 2011.

145 Butt 2011: 381.

146 Butt 2019.

147 On such accusations, see for example, Tempo 2021.

148 Databoks 2021.

149 Tempo 2021.

150 Detik.com 2019.

Realities in the Forest Zones

In this section we discuss recent research that explores the discrepancy between the aims of state and corporate policies and realities on the ground by documenting the relative rightlessness of forest communities and the undermining of the legal protections they formally enjoy. We show how state regulations are often rendered ineffective by informal collusion among corporate actors, political elites, and state officials. Informal machinations allow corporate actors to both use and avoid the law: companies benefit from the way in which laws and regulations legitimate dispossession; they also frequently avoid the more onerous constraints and obligations that arise from the same laws and regulations.



Toba Pulp Lestari signboards warn residents not to burn forests. Credit: Auriga Nusantara

Collusive ties between company management and local state authorities

Corporate actors across Indonesia use various kinds of inducements – ranging from paying bribes to funding election campaigns to putting retired military or police generals on corporate advisory and governance boards – in order to obtain privileges and regulatory favours from state authorities. Though these exchanges occur at all levels, they are particularly common at the level of regional governments. Furthermore, there are many indications that local company representatives (such as plantation managers) actively pursue these collusive relationships in order to safeguard and advance their businesses in the context of the constant dangers posed by legal uncertainty and community protests.¹⁵¹

This cultivation of good relationships with local authorities can take the form of distribution of bribes. According to a recent study,¹⁵² such bribes can take a regularised form, with companies distributing monthly ‘fees’ to a range of officials, from village and sub-district heads to police officials and the district head. In this study, a former *humas* (*hubungan masyarakat* or community liaison officer) working for a palm oil company described how he distributed such fees:

As *humas* my most important task was to give *uang jatah* (‘gratuity’) for the *kapolsek* [head of police], *koramil* [local military command], village heads and *camat* [sub-district head]. A monthly incentive. We gave the village heads 500 thousand rupiah [US\$ 40] per month, the head of the local police and the sub-district head got 1 million [US\$ 80]. This is outside the [financial] aid we give when there is a meeting. Then we also help for their participation, or we pay for plane tickets or hotel when this meeting is elsewhere. This is just to [make the activity] succeed, so that there is no obstacle for the expansion [of the plantation]. And when there is *Idul Fitri* or Christmas we also make a donation to them. Also, to departments of plantation and forestry – they get about 3 million (US\$240) per month. And the *bupati* (district head) gets even more, he gets 10 million (US\$800).¹⁵³

Needless to say, such practices are secretive and rarely documented. One occasion when details came to light occurred in October 2018, when Indonesia’s anti-corruption commission KPK caught three executives from Golden Agri Resources (GAR) offering bribes to four members of Central Kalimantan’s provincial parliament (DPRD). These politicians had been investigating community grievances regarding pollution, land grabbing and licence violations involving several GAR plantations. In exchange for a bribe of 240 million rupiah (US\$17,000) they promised to cancel a scheduled hearing and drop the issue. In the end both the GAR executives and the politicians were given two to five year jail sentences.¹⁵⁴

The eagerness of officials and politicians to accept such bribes should not be attributed exclusively to greed – though, of course, acquisition of private wealth for its own sake is often an important motive – but must also be interpreted in the light of the nature of Indonesia’s clientelistic politics. As we have seen, an individual’s career often depends on their capacity to accumulate capital to (in the case of politicians) finance their next election campaign or (in the case of bureaucrats) pay the bribes needed to secure their next promotion.

These exchanges unfold in a context where members of officials’ peer groups often value norms of reciprocity and interpersonal obligations more strongly than the obligations stemming from state laws and procedures. Consequently bureaucrats face the dilemma of having to strike a balance between, in the words of anthropologist Silvia Tidey (who wrote about the politics of contracting in Eastern Indonesia), “the ethical” (interpersonal obligations) and “the right thing” (the obligations imposed by formal rules).¹⁵⁵ Given incentives to finance one’s career and the normalisation of bribe-taking, it becomes difficult for both politicians and bureaucrats to turn down monetary gifts that come from companies.

Furthermore, some of these monetary gifts do not take the form of bribes but are rather more or less regularised and public contributions that companies make to state institutions. For example, it is a longstanding feature of Indonesia’s security sector that police (and military) units are often expected to cover some of their operational costs through contributions from local entrepreneurs.¹⁵⁶ In this context, it is common for local representatives of natural resource companies to give financial contributions to local police

153 Berenschot et al. n.d.: 21.

154 See Tipikor Court (Indonesian Court for Corruption Crimes) Decision, Case Number 4/Pid.Sus-TPK/2019/PN.JKT.PST. as well as Forest Peoples Program 2020.

155 Tidey 2016.

156 Baker 2013, 2015.

151 See Gellert and Andiko 2015, McCarthy 2004, Aspinall and van Klinken 2011.

152 Berenschot et al. n.d.

and/or military units who, in exchange, provide security, particularly at tense moments such as during community protests or land clearing. This practice is sometimes openly acknowledged by police officials.¹⁵⁷ The result of such close ties is that, as a representative from a palm oil company admits, local police units derive considerable financial gain from collaborating with palm oil companies:

After *reformasi* [...] the police and soldiers have become smart in making proposals [to companies]. So that every time there is a conflict, the company has to spend billions of rupiah. Because the proposal includes: starting from operational costs, money for meals (*lauk pauk*), pocket money for their families, for the police chief (Kapolres), everything is included and it can reach over a billion [US\$65,000]. So when there is a conflict, when the company asks for security support [from the police], they will give [a budget] proposal. And it makes it more costly.¹⁵⁸

Such collusive ties are by no means universal: just as there are politicians and state officials who forego such gifts, some companies do not provide them. But the available evidence from up-close ethnographic and interview-based studies suggest that these practices are common enough to constitute a severe obstacle to the rule of law and effective natural resource management. Flows of both personal fees and institutional contributions result in highly collusive ties between natural resources companies and local authorities, undermining the capacity of local authorities to effectively implement formal rules and policies and weakening many legal protections of both the environment and citizen rights.¹⁵⁹ We turn now to three examples where this dynamic plays out: informed consent and profit-sharing rules, violence and intimidation targeted at community leaders, and efforts to resolve conflicts between rural communities and companies.

Inadequate informed consent and a lack of profit-sharing

Indonesia's countryside is dotted with a massive number of land conflicts between rural communities and companies. Indonesia's national land agency has estimated that there are around 8,000 land conflicts throughout the country;¹⁶⁰ in 2020 alone 138 new conflicts were recorded.¹⁶¹ Rural Indonesians feel they are losing large tracts of their land to incoming companies, often with limited or no monetary compensation. Their grievances often stem from the ways in which companies evade their obligation to obtain community consent before starting operations on community land. This obligation – referred to in international law as Free, Prior and Informed Consent (FPIC) – has been incorporated in various forms (and levels of stringency) in both Indonesian laws and industry standards. Another obligation concerns profit-sharing: as we mentioned earlier, Indonesian law requires that companies incorporating community land into their plantation provide some (at least 20 percent) of the resulting plantation land (or the profits produced from this land) to the community. Over the last ten years a considerable body of research has documented that companies regularly fail to fulfil these two obligations and that this

157 See, for example, Berenschot et al. n.d.: 14. In 2017, the Indonesian Palm Oil Entrepreneurs Association (GAPKI) and Indonesian National Police signed a formal agreement and Memorandum of Understanding (MoU) to improve security in plantations across Indonesia. See Gapki 2017.

158 Berenschot et al. n.d.: 22.

159 See for example Ravikumar et al. 2018.

160 Indonesia's government has been reluctant to publish figures about land conflicts, but in 2012 Indonesia's national land agency BPN gave a presentation at the RSPO Roundtable meeting stating that there were 8,000 documented land conflicts, of which half were in the palm oil sector (see Colchester and Chao 2013). See also SciDev 2015.

161 KPA 2020.

failure is a major driver of conflict.¹⁶² Companies' capacity to circumvent such obligations is directly related to their cultivation of informal ties with state officials.

While there are also instances where FPIC is implemented well, studies have documented that natural resource companies regularly circumvent the challenge of obtaining consent from villagers by co-opting village heads. They target these village heads with gifts, trips to Jakarta and monthly allowances in order to obtain their consent. The most common problem – and frequent source of conflict – is that companies (and authorities) conveniently take the signature of a village head or customary leader to signify the consent of the whole community. Reports abound of village heads providing companies with consent to use village land without even consulting village residents.¹⁶³ Some village heads and other individuals associated with a plantation company go as far as falsifying SKTs (testimonials of land ownership) to gain control over plots of land coveted by the company. It is not surprising that village heads are often among those who become noticeably richer after the arrival of a palm oil company. By providing payments to them, palm oil companies succeed in making community leaders complicit in the dispossession of their community members.

When the signature of a community leader is insufficient – for example in cases where individuals hold formal land titles – companies sometimes employ local residents to persuade their neighbours. These villagers are invited to become *humas* 'community liaison', in exchange for a small salary (around 2.5 million rupiah per month). In the early stage of establishing a plantation the task of these *humas* is to convince community members to allow their land to be absorbed into the plantation. The *humas* may get a fee (e.g. 1–3 million rupiah per hectare) for land they manage to 'free up'. While such *humas* often use friendly visits and persuasion, many stories suggest that they often resort to deception. Signatures of meeting attendance are later used as 'proof' that the villagers had consented to provide their land to the company. In some cases, companies employ either *humas* and/or local security officials to engage in outright intimidation and coercion. A relatively mild form involves company officials inviting police or army officials to accompany their socialisation or land-clearing activities. The presence of such authorities serves to convey a not-so-subtle threat that refusal to cooperate could lead to trouble. In some cases, intimidation takes the more menacing form of hired thugs going from door to door to threaten villagers. For example, in the case of PT Susantri Permai (Central Kalimantan), villagers reported that during the period of company land acquisition they were frightened by nightly visits of unidentified thugs wearing black masks; they believed these thugs were working for the company. In the case of PT KHS (Central Kalimantan) the company promised 1.3 million rupiah (about US\$ 100) to local thugs for each hectare of land they made available to the company. Thus incentivised, thugs continued to harass villagers until they agreed to release their land.¹⁶⁴

Such complicity of community leaders and state officials complicates the resolution of land-related conflicts, as residents' grievances come to centre on not just their loss of control over land, but also on duplicity on the part of their community leaders, fraudulent behaviour by local bureaucrats, and intimidation by village thugs and security officials. Collusion among community leaders, local authorities and palm oil companies can thus create messy and confusing situations that are difficult to clear up even for well-meaning palm oil companies.

162 See for example Colchester and Chao 2013, Afrizal and Anderson 2016, Sirait 2009, IPAC 2016, Acciaoli and Dewi 2016.

163 See for example Sirait 2009.

164 For more examples see Colchester and Chao 2013, IPAC 2016, Sirait 2009, Berenschot et al. n.d.

Implementation of profit-sharing schemes is similarly messy. In an important study, the Gecko Project found that palm oil companies were withholding 103,000 hectares of 'plasma land' from communities in Central Kalimantan. Based on moderate assessments of the potential value of the palm oil that could be harvested from this land, the authors concluded that companies were depriving rural inhabitants of Central Kalimantan US\$90 million of income annually. Extrapolating from these findings, the report projects that the total income being denied to rural Indonesians because of non-provision of plasma amounted to about US\$330 million per year.¹⁶⁵ Often, companies simply renege on their promise to provide plasma land. In other cases, companies share some profits of the plasma land, but the profits are so low, and shared in such a non-transparent manner, that villagers feel cheated. Oil palm plantations become profitable once trees start to bear fruit (about 4–5 years after planting) and the costs of building roads, preparing land, purchasing and planting the oil palm seedlings and providing fertiliser, pesticides and other inputs are deducted from these profits. Many conflicts between companies and rural communities erupt because villagers are disappointed with the money they receive after five years of waiting, with payments being as low as Rp. 100,000 (US\$ 6) per hectare per month. In relatively better cases (e.g. in the case of PT ANI in West Kalimantan), villagers reported that on average each household receives less than Rp. 500,000 (US\$ 35) per month – still much less than the 2 to 3 million Rupiah (US\$ 130 – 200) per hectare that a plantation could yield in fruit sales.

Such problems are exacerbated by lack of monitoring and evaluation by local authorities on implementation of these partnership arrangements. While Indonesia has legislation requiring companies to engage in such schemes, there is very little monitoring, let alone punitive action to ensure that companies comply, and local authorities have been very reluctant to take action to ensure enforcement. Again, it is likely that close connections between companies and authorities discourage authorities from taking action. The result is that these *inti-plasma* schemes often end up serving mainly as an instrument for companies to convince villagers to give up their land, while contributing relatively little to villagers' welfare once implemented.

In short, while on paper both Indonesian legislation as well as industry standards require companies to respect the land rights of affected communities, in practice collusion between companies, community leaders and local authorities undermines community control over their land and prevents them from obtaining adequate compensation when they lose it.

Repressed community protests

Given the haphazard and sometimes fraudulent and coercive processes companies use to obtain consent, it is not surprising that, when they move in and take control of land, the result is often conflict, in the form of demonstrations, arrests, court cases, parliamentary hearings and, occasionally, violence.

When this happens, collusive relationships between companies and local authorities often again come into play, curtailing communities' rights to protest. Companies often ask (and pay for) the local police force (sometimes together with hired security, *preman*, i.e. local

¹⁶⁵ See Gecko Project 2022.

thugs and/or military) to repress community protests. While many proceed peacefully, not infrequently protests are broken up by security actors. Such incidents lead to arrests, incarceration, injuries, and, sometimes, deaths.

A recent study explores the incidence of such violent suppression of protest. As part of their documentation of the trajectories of 150 conflicts between palm oil companies and rural companies,¹⁶⁶ a group of researchers counted both the number of arrests as well as instances of violence against communities that occurred between 2010 and 2020. This study documented at least 30 demonstrations or blockades that were met with a violent reaction by either the police, mobile police brigade (Brimob), army or *preman*. It further documents an additional 39 violent incidents involving police, army, company security or thugs. These incidents led to 16 deaths and 195 injuries on the part of villagers. In addition, protesting villagers are regularly arrested and jailed for minor offences.¹⁶⁷ The same study found that palm oil conflicts often (in 63 cases or 42 percent) led to the arrest and imprisonment of community leaders. In total 745 people were arrested over the course of the studied 150 conflicts.¹⁶⁸ Very often, arrests occur when frustrated villagers, lacking recourse to legal remedies or other forms of resolution, engage in violent confrontations or damage company property.¹⁶⁹



Workers march through central Jakarta protesting unfair contract labour practices. Civil society remains strong in Indonesia despite shrinking political space. Credit: Marcus Colchester, FPP.

¹⁶⁶ Berenschot et al. 2022. There is a massive and well-established literature on rural land conflict in Indonesia, see for example Acciaoli and Dewi 2016, Afrizal 2007, Colchester and Chao, 2013, Colchester et al. 2006a, 2006b, Lucas and Warren 2013, Lund 2020, Potter 2009, Van der Muur 2018.

¹⁶⁷ For this purpose an old colonial law prohibiting "disturbing the operation of plantations" (incorporated in the 2014 plantation law) is still sometimes used, even though the provision was revoked by the Constitutional Court in 2011 and 2016. See Tempo 2011.

¹⁶⁸ Berenschot et al. 2022.

¹⁶⁹ For another study documenting this violence, see Li 2018.

Compromised conflict resolution efforts

Collusive relationships between companies and authorities also undermine the effectiveness of conflict resolution mechanisms. When communities feel they are losing their land to plantation, mining and real estate companies without receiving adequate compensation, they often appeal to local authorities to help resolve their conflicts. Here again informal connections among politicians, state officials and business actors pose an obstacle, as they mean powerholders typically take the side of companies. While politicians and officials regularly express concern in response to the grievances of rural communities, in practice they often refuse to take action, even in cases of relatively well-documented grievances or blatant corporate violations.

This bias on the part of local authorities is problematic because communities rarely take their grievances to court. Due to a combination of high court costs, complex procedures, a lack of judicial independence,¹⁷⁰ and the courts' reluctance to recognise community rights,¹⁷¹ communities are reluctant to engage in litigation. Given that judicial corruption is widespread, villagers also harbour deep-seated suspicions about the likelihood that bribes from companies will influence the outcome of any cases they might bring.¹⁷²

As a consequence of this distrust of the legal system, the above-mentioned study of 150 land conflicts found that communities quite commonly (in 73 percent or 110 cases) ask local authorities to mediate in their conflicts with companies.¹⁷³ Yet a recent study evaluating the effectiveness of state-led mediation finds that most such mediation attempts (86 percent) fail to produce an effective agreement.¹⁷⁴ Of the 155 mediation attempts documented in the study, only 22 were successful. The study concludes that while a lack of training and procedures for mediation is partly to blame, the failure of state authorities to mediate effectively is mostly attributable to the way in which informal state-business relations undermine their impartiality.

One typical example is the case of PT ANI vs. Sajingan Kecil community in Sambas District (West Kalimantan) in 2006, involving grievances over community land that PT ANI incorporated in a plantation without consent. After a protest at the company's local office failed to yield any result, village representatives protested in front of the district parliament (DPRD), while sending a letter to parliamentarians asking for their help. The DPRD facilitated three meetings between company and community representatives. As the case involved a permit violation (the company expanded its plantation beyond its permit area), the DPRD members asked the district head (*bupati*) to address this transgression. However, the *bupati* refused to take action. As a former DPRD member explained, his inaction was likely due to his personal relationship with the management of PT ANI:

I think this has been an open secret. I'm sure you've heard this so many times too. This is what happens not only in Sambas but also in other places too, that there is collaboration between companies and the government – in this case not institutionally, but at an individual level within the government, whether it is the *bupati*, the head of the department (*kepala dinas*), and so on. This [collaboration] is what makes the government deliberately provide “facilities” or excessive freedom to [palm oil] companies.¹⁷⁵

170 Nicholson 2011.

171 Bedner and Arizona 2018.

172 Kouwagam 2020.

173 Berenschot 2022: 45.

174 Dhialulhaq n.d.

175 Cited in Dhialulhaq forthcoming.

Local actors often attribute this collaboration to politicians' need for campaign financing. But villagers also accuse officials of organising mediation sessions merely to solicit bribes from companies:

When the DPRD mediated the case [involving PT. GAL in Central Kalimantan], they only investigated but they did not really do anything. My suspicion was that this was an ATM for them [i.e. that the case was used to demand bribes from the company]. They kept asking us for documents, but when we gave these documents they said, “oh we lost the documents and we can no longer work on this case”. They just got involved to get known [i.e for publicity]. They gave nice speeches emphasizing that we should do our best to gather documents, and then they were gone.¹⁷⁶

In sum, the shared conclusion of these studies is that the conflict resolution mechanisms most readily available to rural communities – the courts and mediation by local authorities – are generally ineffective in addressing community grievances.

The picture that arises from the various studies and investigative reports on the realities of forest frontiers is one where natural resource companies frequently operate as forces above, or beyond, the law, while efforts of rural Indonesians to make companies adhere to the law are often met with violence and repression. Local government officials, police, and other authority figures, for their part are often financially dependent on companies, so take their part rather than upholding state regulations. In *Plantation Life*, a recent book on everyday life in and around palm oil plantations, anthropologists Tania Li and Pujo Semedi conclude that the presence of palm oil companies in rural Indonesia has taken the form of “corporate occupation”.¹⁷⁷ Pervasive tensions and considerable lawlessness have degraded the quality of citizenship of ordinary rural Indonesians to such an extent that everyday life on forest frontiers is marked by an uneasy and tense stand-off between them and natural resources and plantation companies.



Toba Pulp Lestari's pulp and paper mill in North Sumatra has taken over 180,000 hectares of Toba Batak lands. Credit: Auriga Nusantara

176 See Berenschot et al. 2022: 45.

177 Li and Semedi 2022. See also Colchester and Chao 2013 and Afrizal 2007 who have made similar arguments.

Why donor programmes fail

This study has arisen from a concern that policy-makers, aid agencies and donors, when supporting sustainable development and anti-deforestation programmes in Indonesia, often fail to address the challenges posed by the character of Indonesia's political economy. International concern about the state of Indonesia's forests has long led multilateral and bilateral aid agencies as well as charitable trusts and foundations to invest in projects designed to curb deforestation, improve forest management, enhance land use planning, and benefit the rural poor. Yet the systemic governance problems in the forest sector have not been addressed, deforestation rates remain disturbingly high (even if coming down), corporate plantation development has largely harmed rather than uplifted the rural poor¹⁷⁸ and land conflicts have proliferated. Donors have struggled to deal with the political realities that this study exposes – even though these realities have long been noted by academics, NGOs and even aid agency personnel. We examine three recent examples of how the character of Indonesia's political economy undermines policies and programmes aiming to improve natural resource management in Indonesia: ISPO's palm oil certification programme, Kalimantan's Forest Carbon Partnership, and efforts to curb illegal logging.

Ensuring the legality of palm oil

Facing growing international criticism for the social and environmental impacts of palm oil production, the government of Indonesia established the Indonesian Sustainable Palm Oil (ISPO) certification standard in March 2011.¹⁷⁹ The ISPO standards are less ambitious than the standards of the Roundtable for Sustainable Palm Oil (RSPO), and critics have argued that they reflect a conscious effort by the Indonesian state to enable the country's palm oil sector to bypass more stringent sustainability standards to access global markets.¹⁸⁰ Yet, at least on paper, these standards represent an important effort to ensure the legality of Indonesia's palm oil industry. The ISPO, for example, requires palm oil companies to obtain both a business use permit (*Hak Guna Usaha* or HGU) and a plantation permit (*Izin Usaha Perkebunan* or IUP) to operate legally within the framework of Indonesian national law. This includes the requirement that companies must secure land title prior to the commencement of their operations, which for a plantation company can only come in the form of an HGU. Recent measures mandate ISPO certification for all palm oil producers by 2025 (including 2.67 million smallholders)¹⁸¹ as a condition of them operating legally in Indonesia.¹⁸² As of June 2021, more than 750 ISPO certificates have been issued, the vast majority (735) to private corporations and state-owned plantation company PT Perkebunan Nusantara (PTPN). Whilst only 0.19 percent of smallholders have been certified, almost half of Indonesia's palm oil plantations have achieved ISPO certification (735 of 1,500 plantation companies).¹⁸³

178 Santika et al. 2019. Smallholder oil palm cultivation has been shown to have more positive welfare effects, see: Mehraban et al. 2021.

179 MoEF and ITTO 2012.

180 Choiruzzad et al. 2021, Environmental Investigation Agency 2020.

181 Pramudya et al. 2022.

182 Presidential Regulation No.44/2020 & Regulation of Minister of Agriculture No.38/2020.

183 The Jakarta Post 2021.



A family of Indigenous Marind in Merauke, whose forests have been taken over for logging by PT Papua Agro Lestari. Credit: Mighty Earth

In practice, however, the fact that ISPO certification focuses so heavily on licencing procedures makes the scheme very vulnerable to the irregularities and violations of the licencing regime already discussed in this report. Greenpeace has estimated that over a quarter of the 735 companies reported to be ISPO-certified have plantings in the forest estate, amounting to some 252,202 hectares, a clear violation of Indonesian national law.¹⁸⁴ ISPO standards prohibit plantations inside protected forest areas; despite this, 14 ISPO-certified palm oil concessions operate within protected forest, with an additional 24 partially overlapping conservation areas.¹⁸⁵ Around two-thirds of all plantations are operating without the required HGU (business use permit) because frequently plantation companies begin their operations immediately after acquiring a plantation permit (IUP) from the regional government, even if they have not obtained a formal forest release permit from the Environment and Forestry Ministry and an HGU from the National Land Agency, as required under national law.¹⁸⁶ Even when a plantation company has obtained the necessary legal permits this does not guarantee that it has fulfilled the necessary legal requirements as 36 percent of all HGU licences are granted without following proper procedures.¹⁸⁷

Instead of preventing and ending such violations, the Indonesian government has on three occasions (in 2013, 2015, and 2020) given palm oil companies amnesties for these violations in return for paying a fine. In other words, the ISPO certification standard has proven to be rather ineffective as a means to strengthen the legality of Indonesia's palm oil sector. Even so, it continues to enjoy the support of the United National Development Programme (UNDP) through funds from the Global Environment Facility and the provision of technical assistance.¹⁸⁸

184 Greenpeace 2021: 23.

185 Ibid: 25.

186 Mongabay 2022b.

187 FWI 2019.

188 UNDP 2016.

The ineffectiveness of ISPO certification, hinging as it does on licencing, can largely be understood in the light of the clientelistic political dynamics highlighted throughout this report. As we have documented, collusive relationships between companies and local authorities prevent the Indonesian state from engaging in a stringent implementation of its licencing procedures. These collusive relationships, in turn, have been engendered, or at least exacerbated, by the high costs of Indonesian elections, which make palm oil companies attractive sources of campaign contributions, prompting politicians to repay their largesse by facilitating licencing and overlooking violations. As we have seen, these exchanges have from time to time been exposed by high-profile corruption cases, such as those of regional government officials Amran Batalipu, Hambit Bintih, and Suwarna Abdul Fatah. But whereas such officials have occasionally been convicted for these offenses, it is striking the palm oil firms involved in these corruption scandals tend to survive relatively unscathed, in some cases avoiding punishment altogether.¹⁸⁹

Recent attempts to revoke permits operating without the necessary administrative and legally required paperwork¹⁹⁰ do not address these underlying collusive relationships. In October 2021 the Indonesian government's moratorium on issuing new palm oil licences expired, and companies can now apply for new licences. Until systemic problems of clientelism – which have been driving forward palm oil expansion – are addressed, the ISPO certification standard is unlikely to have significant impact on the ground, and licence violations will continue.

The Kalimantan Forest and Climate Partnership

In 2007, the Australian and Indonesian governments announced the Kalimantan Forests and Climate Partnership (KFCP), a plan to rehabilitate degraded peatlands in Central Kalimantan with US\$85 million in funding from Australia. The KFCP aimed to protect 70,000 hectares of peat forests, re-flood 200,000 hectares of drained peatland, and plant 100 million trees. It forecast that the KFCP's 30-year impact would be a reduction in greenhouse gases of 700 million tonnes. The KFCP site, located in the Kapuas district of Central Kalimantan, was part of a failed Suharto-era project to create a million hectares for wet rice farming by clearing and draining peatlands. Planned in an area unsuitable for rice cultivation, the Mega Rice Project produced almost no rice but cleared and drained hundreds of thousands of hectares of peat forests, releasing tens of millions of tonnes of CO₂ each year.

Between 2007 and 2012, the KFCP burned through US\$35 million while failing to protect any peat forests or re-flood drained peatland.¹⁹¹ It managed to plant only 50,000 of the projected 100 million trees, many of which subsequently died.¹⁹² Although the KFCP signed agreements with seven villages in the project site, these mainly concerned project activities such as wages for tree planting and did little on land tenure security, which was a central concern of the affected communities.¹⁹³

189 Gecko Project 2018.

190 Mongabay 2022c.

191 Olbrei and Howes 2012.

192 WRM 2012.

193 Forest Peoples Programme 2011.

In the prior decade, the Indonesian Ministry of Forestry had issued permits over community lands on the site of the future KFCP for industrial logging, conversion to oil palm concessions and for forest conservation, all without respecting the rights of the local Dayak communities. Given that history, and with the Ministry of Forestry as one of its partners, the KFCP was always going to find it difficult to gain the trust of affected communities or persuade the Ministry of Forestry to work closely with the communities. The KFCP did help three of the seven villages to obtain Village Forests (*Hutan Desa*), a permit that allows communities to use and manage designated areas of forests, but each permit was for less than 1,000 hectares and covered degraded forests. The communities requested assistance to stop large-scale oil palm plantations taking over their lands, but the KFCP was unable to help.¹⁹⁴

Affected communities identified a number of problems with how the KFCP sought to engage with them, including lack of information on its objectives and plans, and on proposed benefits for communities. Further community concerns included that the KFCP did not learn from the villagers who knew which tree species would grow well in the rehabilitation site, leading to failures in the replanting efforts. Community members noted the lack of commitment from KFCP to recognise and respect the customary rights in land.¹⁹⁵

While many of the extensive critiques of the KFCP that have been produced focus on problems of programme design and failings in areas such as community consultation,¹⁹⁶ it is hard to escape the conclusion that underlying political economy challenges of the type discussed in this report were what really scuppered the project. Certainly, Central Kalimantan is the site of many of the most intensive patterns of collusion between plantation companies and local politicians documented in the literature on the topic, alongside widespread licensing violations and conflict between companies and communities.¹⁹⁷ Moreover, in an example of the 'backdooring' of regulations discussed above, national-level regulations governing the Ex-Mega Rice Project (EMRP) area were undermined by various spatial plans and other regulations that allowed for conversion to production forest and other uses.¹⁹⁸ Since the termination of the project, oil palm plantations have taken over extensive community lands in the former project site.¹⁹⁹

As a top-down partnership, divorced from the reality of how land use planning takes place in Indonesia through patron-client networks, and as a result of the limitations of its partnership with the national government, and its weak efforts to secure community rights, the KFCP failed to create a model for peat land restoration. A key lesson from the KFCP is that if the international community wants to work with local communities to make a lasting impact, it is essential that their engagement be built upon recognition of community rights, and commitment to transparency in the face of the collusive forms of forest politics we discuss in this report. Both elements were absent in the KFCP pilot project.

194 See REDD Monitor 2012.

195 Forest Peoples Programme 2011.

196 See for example Miles 2021, Olbrei and Howes 2012.

197 Many examples from the province have already been covered in this report; see also Olbrei and Howes 2012: 33.

198 Olbrei and Howes 2012: 32–33.

199 Miles 2021: 515.

Efforts to curb illegal logging

In the early 2000s, international concern about tropical deforestation began to focus on the problem of illegal logging, leading to various national and international initiatives to curb it. A particularly important example is the Indonesia-European Union (EU) Voluntary Partnership Agreement (VPA) on Forest Law Enforcement Governance and Trade (FLEGT). This was signed in 2013 and ratified through presidential regulation in 2014.²⁰⁰ A fundamental component of the VPA is the Timber Legality Verification System (*Sistem Verifikasi Legalitas Kayu – SVLK*),²⁰¹ a licensing system aimed at ensuring that timber exports from Indonesia to the EU are legally produced. The SVLK system aims to track the chain of custody of timber products and ensure that timber is harvested in compliance with Indonesian law.²⁰²



Timber from cleared forests in the palm oil concession of PT Papua Alam Lestari.
Credit: Mighty Earth

The implementation of this SVLK system has been disappointing. NGOs have reported that certain provincial governments have refused to cooperate in sharing data to support independent monitoring, while some district governments actively help local enterprises to circumvent legal procedures and obtain SVLK certificates.²⁰³ In Riau, for example, SVLK certified 12 concessions directly linked to six government officials who had been sentenced to jail or detained for corrupt practices.²⁰⁴ Various instances have been documented of companies obtaining SVLK certification while trading in illegal timber.²⁰⁵ Investigators have found that the SVLK system has certified companies that have active

200 Presidential Regulation No. 21 of 2014.

201 European Court of Auditors 2015.

202 Since its inception, the credibility and legitimacy of SVLK as a legality standard has been challenged by NGOs, especially regarding its inadequacy to safeguard against violations of communities' rights. See for example: Auriga 2014 and Environmental Investigation Agency 2021.

203 Stone and Cashore 2012.

204 Auriga 2014.

205 Environmental Investigation Agency 2021.

land conflicts with indigenous communities and are accused of violating indigenous land rights,²⁰⁶ while others note that timber companies were sometimes re-certified within days of losing their certification as a result of evidence of illegally sourced timber.²⁰⁷ In other cases, observers failed to detect illegally sourced timber mixed in with legally sourced timber exports.²⁰⁸ As the SVLK system is regularly bypassed and circumvented, its effectiveness against illegal logging is limited.

Once again, the weaknesses of the SVLK system stem largely from the nature of forest politics, as described in this report. Various studies have shown that the underlying problems sustaining illegal logging result from the political economy of natural resource governance. The core problem stems from collusive relationships between state officials and timber companies, cemented by rent-seeking and bribery. By collaborating to circumvent licencing systems like SVLK, these actors can obtain lucrative incomes.²⁰⁹

Clientelistic dynamics are not confined to the way in which licences are obtained. These dynamics are sustained throughout the verification chain. A key feature of the SVLK system is that it aims to verify the provenance of timber at every point along the supply chain, using third parties accredited by BRIK (*Badan Revitalisasi Industri Kayu*, Institute for the Revitalization of the Timber Industry) or LEI (*Lembaga Ekolabel Indonesia*, Indonesian Ecolabel Institute) to issue the v-legal ("verified legal") licences. Audits are typically carried out by accredited third-party independent organisations, often referred to as certification or verification bodies, to verify that certificate holders comply with environmental, social, and legal standards.²¹⁰ These third-party audits are designed to detect noncompliance with the standard, and to ensure that producer companies resolve these nonconformities.

Relationships between companies and certification bodies are fraught. In many cases, certificate holders directly pay the certification bodies which audit their operations. This relationship drives a pattern of collusion between auditors and company, as auditors face incentives to produce positive audits to ensure companies will keep hiring them. Certification bodies have enormous discretion in the interpretation of standards, and the audit process lacks transparency – making it easy for auditors to satisfy their client certificate holders by 'accommodating' contentious issues. And while auditors face incentives to maintain relations with the certificate holder, they have few incentives to find fault. Each company applying to the SVLK, for example, can choose its own certification body, so the latter compete among themselves to gain clients. Some certification bodies consider cheap audits as a way of gaining access to more lucrative consulting contracts.²¹¹ As a result, an auditor's performance may also be compromised by the certification body's desire to attract and retain business clients. In short, the certification scheme has embedded within it numerous relationships of self-interest and potential collusion, providing little space for auditor independence. In such an environment, auditors face considerable pressure to relax standards and ensure that they do not report major nonconformities.

206 Colchester 2020.

207 Environmental Investigation Agency 2021.

208 Ibid.

209 Fay et al. 2000. See also Colchester et al. 2006b, Tacconi 2007, Tidey 2021.

210 Stone and Cashore 2012.

211 Whitmore 2021.



*Harvested pulpwood being prepared for transport to a paper mill in West Kalimantan.
Credit: Auriga Nusantara*

Consider for example how companies can succeed in getting new SVLK certificates within a few days of their initial certificate being revoked.²¹² To do so, managers re-register the company with a different certification body, which is possible under the SVLK system if that body fails to check the records of the company. Alternatively, it is possible to create a new company and apply for a SVLK certificate for that new entity. PT Puji Sempurna Raharja, for example, which operates in Berau (East Kalimantan) was able to obtain SVLK certification within 90 days of being judged not to have met the standard's requirements as it was able to 'shop' for an auditor willing to provide better audit scores without the company having to change its actual performance.²¹³ In some cases, auditors are known to have been bribed to pass off illegally sourced timber as legitimate.²¹⁴ The credibility of all certification and legality schemes depends on the rigour and independence of the auditing mechanisms which assess companies' compliance with their standards. To restore this credibility, a new arrangement is necessary to break the clientelist links between certification bodies and the companies that they audit.

²¹² Environmental Investigation Agency 2021.

²¹³ Auriga 2014.

²¹⁴ JPIK 2014.

Despite these well-researched findings, internationally supported Forest Law Enforcement, Governance and Trade efforts have tended to focus on the simple enforcement of forestry laws, without effectively addressing the wider problems underlying forestry mismanagement. The European Commission's current plans to create due diligence requirements aimed at curbing the trade in deforestation-related products look set to repeat the same mistake,²¹⁵ while the UK and Norway also signed MoUs with Indonesia to support a new version of SVLK. Yet the implication of these experiences with SVLK is that efforts to curb illegal logging by focusing simply on enforcing existing forestry laws are bound to fail if they are not accompanied by efforts to address the collusive exchange relationships that pervade the sector.²¹⁶

The lack of success of each of these three initiatives in the forest sector – efforts to ensure the legality of palm oil plantations, a reforestation programme, and a programme to curb illegal logging – is due to a range of different factors. Yet, as we aimed to highlight in this very brief overview, a common obstacle confronted by all three initiatives was the impact of informal, clientelistic exchange relations among bureaucrats, political actors, and implementing agencies. These examples help illustrate how clientelistic dynamics undermine efforts to improve natural resource management, and how, consequently, an understanding of, and engagement with, such dynamics is important to achieve some degree of success. In the next, concluding chapter we discuss what this engagement might look like.



*Pulpwood from Acacia plantations being transported to a paper mill in West Kalimantan.
Credit: Auriga Nusantara*

²¹⁵ Perram 2022.

²¹⁶ Colchester et al. 2006a, 2006b, Tacconi 2007.

Conclusion: How to Deal with Forest Politics

This report shows that the drivers of deforestation and dispossession operating in Indonesia's forest zones are deeply entrenched in the country's history, its political economy, and in the clientelistic patterns that infuse the country's political system. An unavoidable implication is that policy makers and donors should not assume that deforestation and other problems in natural resource management can be solved merely by adopting new laws and policies that directly address these problems. Legal reform could be beneficial in various ways – we have mentioned, in particular, weaknesses in land tenure and the ways in which legal protections are 'backdoored' by lower-level regulations – but the reasons for weak implementation of laws also need to be addressed. Otherwise, policy reforms which directly address deforestation and dispossession – for example, by imposing new prohibitions and tougher penalties on rule violators – will fail again and again. The key actors are well equipped to bypass, work around, and otherwise evade formal rules and institutions – indeed, doing so is their *modus vivendi*.

We are proposing, in other words, that efforts to strengthen natural resource governance needs to engage more consciously and actively with the informal, clientelistic dynamics of the sort outlined in our report. This involves paying close attention to the incentive structures generated by such dynamics, with a particular focus on identifying elements that could be rectified, tipped, or at least influenced by outside interventions. Not only should reform begin with an understanding of these incentive structures, but interventions should also be analysed and evaluated in terms of their impact on them. Taking this approach might mean paying attention to factors that, at first glance, seem unrelated to natural resource management, such as campaign finance and vote buying.

In short, we are calling for an 'informality-sensitive approach' to natural resource management. Such an approach should aim at achieving three key goals: reforming incentive structures, improving monitoring, and strengthening countervailing forces. We briefly discuss each goal below.

Before we elaborate on this approach, it is important to acknowledge that addressing deep causes is not easy. It will not be possible to identify easy wins and quick fixes. As we have already highlighted, societies often take generations to make the transition from personalistic to rule-bound polities, and the process is not well understood by scholars.²¹⁷ Moreover, the logic of clientelism, by which political and economic actors are linked through informal relationships of mutual benefit, is very difficult to break once such a system is in place.

In Indonesia, clientelism has become a comprehensive and self-sustaining mode of social and political organisation. Most actors learn that they must comply with the logic of the system if they are to prosper, or even to survive. Take, for example, a typical Indonesian politician running for office in one of Indonesia's forest provinces. Such a politician might find it personally unappealing to distribute cash to voters and pay for doing so by accepting gifts from palm oil companies. But when she sees her main rivals doing the same, and when she finds that her voters expect cash, she might reasonably conclude that she

217 See for example Mungiu-Pippidi 2015, Kuo 2018.



Cleared lands being prepared for Toba Pulp Lestari's Eucalyptus plantations. Credit: Auriga Nusantara

has to comply – or give up hopes of winning office. By the same token, a voter may know full well that accepting cash gifts from a politician will likely result in that politician acting corruptly, but will still do so if she believes that most politicians are corrupt and that her neighbours are going to accept cash anyway. The incorruptible civil servant working in a regional forestry department office might quickly find herself ostracised by colleagues, fail to earn promotion, and end up banished to a remote office. The palm oil company official who wants to extend the company's operations without paying off local officials might likewise quickly find that the company's operations suffer – and find themselves out of a job. The police officer who wants to investigate those involved in such corrupt exchanges, might damage their own career prospects. And so on.

While it can be easy for analysts located outside a clientelistic system – such as the authors of this report – to identify the destructive environmental and social effects of such a system (as we have done here), or to attribute those effects to the moral turpitude, personal greed, or other individual failings of the key actors (as is often the temptation), blaming individual actors ignores the coherence of the system as a whole. In each of the examples just given, the individual might prefer to comply with principles of good governance, but recognises that doing so would not only be personally costly, but would have little or no effect on the sustainability of the system and its deleterious effects.

Recognising such challenges, a recent wave of scholarship on clientelism, corruption and allied phenomena has concluded that such systems are difficult to overcome because they present tough collective action problems: actors within them, even when they can see that the system is harmful, can still find it extremely difficult to coordinate their actions to exit the system because the individual incentives to comply are so strong. A key conclusion of this report is that the challenge of strengthening natural resource management in Indonesia is a massive collective action problem: while the actors might personally wish to abide by strict regulation and procedures, they are embedded in relationships that make it difficult to do so.²¹⁸

218 There is a growing literature analysing corruption and related governance challenges as collective action problems. See for example Mungiu-Pippidi 2015, Booth and Cammack 2013, and Persson et al. 2013.

Natural resource governance needs to address this collective action problem in a more conscious and more strategic manner. Technical interventions – such as those aimed at training civil servants, boosting capacities or even promoting policy or legal reform – can be helpful, but they are ultimately bound to fail if they are not accompanied by efforts to address the incentive structure shaping how reforms are actually implemented. Reform-minded politicians and civil servants in Indonesia are already engaged in some such efforts – such as attempts at bureaucratic reform,²¹⁹ streamlining of tender procedures,²²⁰ or long-running efforts to strengthen supervision and oversight. While the logic of clientelism is strong, in Indonesia there are certainly also many forces pushing in the direction of a rule-bound system. Such forces are located not only outside the system, among civil society actors, for example, but also include politicians and government officials at every level of Indonesia's system of government. There have been numerous areas of progress in governance reform in Indonesia over the last two decades, as well as the entrenched problems identified in this report.²²¹

Deriving inspiration from such initiatives, and learning from experiences in dealing with clientelistic dynamics elsewhere, we propose that an 'informality-sensitive approach' to natural resource management needs to involve the three elements mentioned above. Let us here present a brief sketch of what each might entail.

Addressing Incentive Structures

When confronting a collective action problem of the sort described in this report, the logic of our analysis suggests it is also necessary to look for solutions that will tip the balance of incentives in ways which make it easier for actors to coordinate around new forms of political behaviour. The key challenge, in other words, is not (only) to come up with new policies that directly address the deforestation and dispossession crises, but to seek ways to incentivise an adherence to policy. Doing so requires recognising the incentive structures described in our report, and employing this analysis to identify opportunities for incrementally changing them. Such a strategy involves, put simply, adopting measures that lower the costs of adhering to natural resource policies and increasing the costs of ignoring or circumventing such policies. Though the scale of the challenge is daunting, three examples of possible pathways are offered here for illustrative purposes:

Electoral system reform. We have discussed in this report how the high costs associated with election campaigns in Indonesia incentivise politicians to engage in deals with business actors that undermine natural resource management. An important implication is that efforts to reduce campaigns costs are needed. At present, several characteristics of Indonesia's electoral system burden candidates with immense expenses by encouraging clientelistic practices. One example is the use of the open-list Proportional Representation

219 See Berenschot 2018b.

220 Sacks et al. 2014.

221 For example, over the last decade, progressive elements within the national government have used an interministerial approach to start to expose, eliminate and prevent corruption in natural resources management. The National Movement in Natural Resources Governance (Gerakan Nasional Penyelamatan Sumber Daya Alam-GNPSDA) is led by the KPK and has generated changes to the institutional and regulatory framework for licensing natural resources, improved legal enforcement, and had some successes in increasing transparency and accountability in bureaucratic culture. The effort started in 2013 when the KPK coordinated a review of licences for natural resources exploitation, drawing on expertise across 12 ministries. This led to the signing of the GNPSDA Declaration by these ministries and several state agencies in 2014–15. The review led to thousands of permits in the plantation, forestry, and mining sectors being revoked due to a failure to follow the licencing process or indications of corrupt practices. While we should not exaggerate the impact so far, GNPSDA has been an important initiative, and one that demonstrates an appetite for change.

system in legislative elections. This feature of Indonesia's electoral system encourages candidates to compete as individuals, making vote-buying and other clientelistic strategies much more attractive. Moving Indonesia toward a more party-focused form of electoral competition, such as that which obtains under closed-list Proportional Representation, would not suddenly remove clientelism from the system, but it would provide an incentive for more programmatic competition, and potentially reduce the costs of elections – at least for individual politicians – and concomitantly reduce their incentives to engage in individualised forms of corruption, including collusion with natural resource companies. Some might object that political elites would never agree to reforming a system that brought them to power. However, individual politicians also suffer greatly from the stress and financial burdens that the high campaign costs impose on them. Though most parties oppose reform presently, there are signs that some leading politicians, at least, are open to a comprehensive review of Indonesia's electoral system and its consequences.²²²

Curtailing Vote Buying. Another example concerns the currently limited capacities of Indonesia's election bodies to monitor and punish vote-buying practices. Vote buying is both illegal and rampant, in part because the election supervisory body Bawaslu lacks the means to effectively monitor this practice (though also because election bodies are themselves at least partly implicated in the clientelistic politics that pervade the system). Current regulations make it difficult to convict perpetrators of vote buying and, consequently, such convictions are very rare.²²³ The result is that vote buying is largely a tolerated practice which carries few risks for perpetrators. More effective monitoring, combined with more stringent rules, could disincentivise vote buying and curb campaign costs, which might, in turn, help reduce incentives for collusion between politicians and business actors.

Reform audits. As we highlighted in the previous chapter, audits conducted by timber certification bodies occur through a regulatory context that makes them acutely vulnerable to the informal dynamics we discussed in this report. Currently most timber companies hire (and pay) their own auditing agency, which generates obvious conflicts of interest and incentives for auditors to gloss over irregularities and provide positive reports. Reform measures could break this interdependence between companies and auditors. An alternative to the current system would be to have an independent organisation assign audits to certification bodies. Payments for such audits should not come directly from the company being audited, but rather by an escrow fund managing auditing fees from various companies.

These are just three examples of how reform measures might begin to address the incentive structures that we discussed in this report. We emphasise that this is not a comprehensive overview of different ways in which these incentive structures might be tackled – bureaucratic reform and licencing procedures are two other examples of areas that seem ripe for reform. Our aim here is merely to highlight the importance of engaging more consciously and more directly with these incentive structures.

222 For a recent example, see the comments of the secretary general of PDIP, Hastu Kristiyanto about the need to reduce campaign costs. See Universitas Gadjah Mada 2022.

223 See, for example, Diamantina and Tyesta 2022.



Oil palm fruit bunches being transported to the mills for processing into palm oil, one of Indonesia's major exports. Credit: Auriga Nusantara

More transparency and better monitoring

One peculiar feature of the clientelistic and informal politics we have discussed in this report – as in so many other sectors of Indonesian political and economic life, and in other countries where such practices prevail – is that they flourish largely in a clandestine, or at least semi-clandestine world, with deals struck and arrangements made largely behind closed doors and through personal contacts. This happens precisely because the deals agreed upon so often violate formal rules and regulations – to say nothing of public expectations of fairness. The consequence, as we have discussed, is that there is considerable evidence that palm oil and natural resource companies regularly get away with a range of violations – from ignoring concession boundaries to violating environmental regulations to taking over community lands while failing to implement profit-sharing schemes, thereby withholding millions of dollars in income from rural Indonesians.

Public exposure of such practices is a critical condition of their eventual elimination – enabling open discussion, tilting public opinion and strengthening the hands of reformers. More extensive monitoring of corporate practices – by the Indonesian government, by NGOs but also by consumer companies with commitments to sustainability – is urgently needed. The corporate violations discussed in this report are more likely to be discouraged and at least partially prevented if they are more frequently exposed to an Indonesian public audience. A good yet rare example is the recent report by the Gecko Project and Mongabay on the failure of many palm oil companies to implement profit-sharing (plasma) schemes.²²⁴ Another example concerns the by now considerable evidence that many companies obtain community land without acquiring the required consent from communities.²²⁵ While both practices have tended to go unpunished, they have also to a large extent been un(or under)reported in the public sphere. Their public exposure at least opens the possibility of shifts in public opinion and increasing pressure on government and law enforcement agencies to act upon the evidence – especially if it happens in conjunction with the strengthening of critical and watchdog groups outside the state.

224 See Gecko Project 2022.

225 See for example Colchester and Chao 2013.

Strengthening Countervailing Forces

It is also important to address the broader social landscape in which political competition takes place. A programmatic form of politics is most likely to arise in a relatively pluralistic civic space in which a multiplicity of interest groups and social organisations advocate to advance their members' interests and preferences through the policy process – indeed, it is precisely in regions exhibiting such characteristics in Indonesia where we see most progress in the direction of governance reform. Though civil society is comparatively dense in Indonesia,²²⁶ much of it consists of grassroots community-level organisations – religious bodies, farmers' cooperatives, women's maternal health groups and the like – which approach politicians and other state officials as patronage-seekers, rather than as watchdogs and policy advocates. During the first decade of Indonesia's democratisation after 1998, international donors placed considerable emphasis on supporting interest-based organisations and NGOs, including groups that advocate on issues such as environmental protection, farmers' and landholders' rights, anticorruption, and human rights. As Indonesian democracy consolidated, a shift took place among donors, with many directing support away from civil society programmes toward government capacity-building.²²⁷ Donors, alongside the Indonesian government, need to revisit this emphasis and do what they can to support a vibrant, policy-oriented civil society. A civil society landscape that consists largely of groups that view politicians as potential patrons will never be capable of mounting a sustained challenge to clientelistic patterns of governance. Such a strengthening of countervailing forces would involve the following steps:

Building a public constituency for human rights and environmental protection. One of the chief challenges facing forest communities over recent decades has been the absence of a large or powerful social coalition supporting rural justice and environmental protection. While communities directly affected by land dispossession and deforestation have often protested bitterly, they are typically socially marginal and remote from the mainstream of Indonesian public life, despite efforts by NGOs to amplify their voices. The Indonesian public has tended to focus on core economic issues and, to a lesser extent, issues of democracy and anti-corruption at the national level. As Indonesia's middle class expands and becomes more economically secure, there are growing possibilities for public awareness-raising campaigns that push respect for human rights, forest preservation, protection of endangered species, prevention of climate change and other environmental issues further up the list of public priorities. Such campaigns have long been pioneered by environmentalist groups in Indonesia, and have already played a role in shifting public opinion in favour of social justice and environmental protection. If done in conjunction with a shift toward a more programmatically oriented electoral system, such a shift could help tip enough politicians' incentives toward more seriously investing in enforcement mechanisms to deliver genuine human rights and environmental gains.

226 Lussier and Fish 2012.

227 Aspinall 2010.

Legal aid. An important element of civil society support would involve strengthening the capacities of Indonesian NGOs to provide legal aid to communities. Provision of legal aid can affect the incentive structures we discuss in this report, especially when it includes funding for public outreach and generates media coverage, because it can strengthen the capacity of Indonesian citizens to demand stricter implementation of laws and regulations. One reason that powerholders and natural resource companies often get away with regulatory violations is that the capacity of ordinary Indonesians to expose and end such violations is limited. Affected Indonesians are, to a large part, not aware of existing regulations, nor of the legal means and public campaigns that could be employed to end their abuse. While Indonesia has a tradition of legal aid, including a strong focus on public interest advocacy and cause lawyering, at present legal aid organisations' capacity to meet the massive need remains limited.²²⁸ A more robust infrastructure of legal aid and associated advocacy organisations could generate pressures for better and more rule-bound governance.²²⁹

Defending freedom of expression. As has been widely recognised in the country literature,²³⁰ Indonesian democracy has been eroding steadily over the last decade, with a marked diminution of the civic space available for critics of the government. This democratic decline is relevant to the politics of deforestation and dispossession, given that activists on environmental and land issues have been one target of increased government repression. In consultations conducted in preparation for this report, environment and land rights activists frequently expressed their concern that the relatively limited democratic space they now retain may soon narrow further, if not disappear. While democratic governance is not in itself a remedy to the drivers of deforestation and dispossession – as we have explained in this report, those drivers have adapted to a clientelistic form of democracy in post-Suharto Indonesia – it is our contention that democracy is at least a necessary condition for those drivers to be addressed. Not only is democratic space essential for throwing light on, and challenging, elite capture in the natural resource sector, but it also enables the kind of interest-based policy advocacy that may strengthen natural resource governance at Indonesia's forest frontier.

This threefold informality-sensitive approach – addressing incentive structures, improving monitoring and strengthening countervailing forces – offers no guarantee of success. A critical reader might note that many of the interventions we propose will themselves be confronted by collective action problems and other challenges similar to those we have foregrounded in this report. Such objections reinforce the point that it can be a lengthy and uncertain process for politics to make the transition from clientelistic and personalistic rule to a more programmatic and rule-bound system – that transition is far from complete in even the world's most consolidated democracies. At the same time, as we hope to have pointed out in this report, recognising the enormity of the challenge ahead is better than simply ignoring it. With this report we have aimed to make the point that the clientelistic politics and associated collusive relations between the worlds of business and of politics that drive deforestation and dispossession should not be treated as a mere part of the background that can be ignored or wished away. Rather, awareness of these dynamics should drive initiatives in this sector. Clear-sightedly recognising the sources of the problem is at least a starting point for designing efforts that might make progress toward better management of Indonesia's natural resources.

228 See Berenschot et al. 2022, Mann 2022.

229 See Goodwin and Maru 2017.

230 Power and Warburton 2020.

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