



The fragmented land use administration in Indonesia – Analysing bureaucratic responsibilities influencing tropical rainforest transformation systems



Muhammad Alif K. Sahide^{a,b,*}, Lukas Giessen^{a,*}

^a Chair of Forest and Nature Conservation Policy, University of Göttingen, Germany

^b Laboratory on Forest Policy and Entrepreneurship, University of Hasanuddin, Indonesia

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ABSTRACT

Tropical forests in Indonesia are subject to major transformation processes from native forests to other land uses, including rubber agroforestry as well as rubber and oil palm plantation systems. Using content analysis of policy documents, this paper aims at (i) analysing the formal administrative responsibilities related to the four rainforest transformation systems and (ii) based on the informal motives of the competing bureaucracies involved generating hypotheses on their future course of action and related research. We find that based on the legal and political land use application, Indonesian tropical rainforests may fall into six categories of land use. They may be situated in both, within the forest area and land outside of the forest area in so-called title forests, even though there is a tough political debate about forest area category's jurisdiction confirmation. The Ministry of Forestry, the National Land Agency, and regional governments are identified as the core bureaucracies responsible in both forest area and title forest. The Ministry of Agriculture only has responsibilities in title forests. A number of secondary bureaucracies also steering forest transformation are identified. Formal responsibilities of these bureaucracies are highly complex and fragmented regarding the tasks of forest regulation, forest administration, forest management, forest protection, issuing forest management rights, issuing land rights, regulating and administering timber product, issuing licence, and regulating the commodity. Indonesian tropical rainforest is found to potentially transform into other land uses through seven ways: (i) releasing certain area from forest area, (ii) using forest area for non-forestry purposes (e.g. palm oil plantation), (iii) maximising production forests for logging, (iv) developing community forest schemes in forest area, (v) developing plantation and agroforestry in title forest (vi) taking advantage from waste land, and (vii) steering back to native forest. The intersection of responsibilities in steering rainforest transformation has created contestation between the bureaucracies involved. We conclude that the main conflict of interests runs between the core bureaucracies in this transformation, i.e. the Ministry of Forestry, the National Land Agency, and regional governments. The authors conclude with hypotheses on future actions of such bureaucracies in light of national and international influences on rainforest transformation systems. The central hypothesis contends that both core and secondary bureaucracies have conflicting interests over all four types of tropical rainforest transformation due to the areas of overlapping responsibility.

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Introduction

Tropical rainforest systems in Indonesia (Steffan-Dewenter et al., 2007), also called native forest are being transformed to other land uses at a high rate (Partohardjono et al., 2005). According to

current forest ecology and land use research, these transformations typically follow four recursive patterns, including (i) native rainforest (Walter & Torquebiau, 1997), (ii) jungle rubber (Beukema and van Noordwijk, 2004; Wibawa et al., 2006; Michon and de Foresta, 1995), (iii) rubber plantation (Wibawa et al., 2006; Feintrenie et al., 2010; Michon and de Foresta, 1995), and (iv) oil palm plantation (Wicke et al., 2011; Comte et al., 2013). Each transformation model has its own legal and administrative implications. The legal and political responsibilities of a number of relevant public bureaucracies administering such land use changes are important political factors that can hinder or facilitate the transformation of

* Corresponding author at: Busgenweg 3, 37077 Goettingen, Germany.

Tel.: +49 5513913391; fax: +49 551 39 33415.

E-mail addresses: msahide@gwdg.de, alif.mksr@gmail.com (M.A.K. Sahide), lgiesse@gwdg.de (L. Giessen).

rainforests. Hence, it is important to know which state bureaucracy actually is responsible for each rainforest transformation system, including the prior as well as the subsequent type of land use.

Indonesia divides its land into two categories, Forest Area and land outside Forest Area under the legal jurisdiction of the state, but this land systems has raised diverse interpretations (Nurrochmat et al., 2014a,b; Bakker & Moniaga, 2010; Fay & Sirait, 2005). This multiple interpretation is exaggerated and constructed also by such de facto land access activities beyond the formal regulations (Galudra et al., 2013) as well as the challenging the perception of “natural” forest in Southeast Asia (Hunt and Rabett, 2013). Furthermore, the formal responsibilities of different bureaucracies for administering different types of land use have implications on tropical forest transformations. The Ministry of Forestry (MoFor) and National Land Agency (NLA) play indispensable roles in issuing forest land rights (Fay & Sirait, 2005), and thus enabling the legal transformation of Indonesian rainforest systems.

In addition to these two core bureaucracies (MoFor and NLA), it is important to identify other core and secondary administrations along with their formal tasks and responsibilities regarding the four rainforest transformation systems. Hence, this paper aims at (i) analysing the formal administrative responsibilities related to the four rainforest transformation systems and (ii) based on the informal motives of the bureaucracies involved generating hypotheses on their future course of action and related research. Hence, this article addresses the following research questions: which state bureaucracies are legally responsible for legally defined as well as *de facto* forest lands and lands covered by rubber and palm oil plantations.

Methodology

Theoretical underpinnings

Forest tenure and land use administration

Literature on forest and land use administration find many tenure cases on rural and indigenous communities whom have been affected by state policies or the intrusion of outsiders (Larson et al., 2010) as well as state-authorized forest concessions (Anaya & Grossman, 2002). Indonesian state forest categorisation including tenure systems (as well as tree tenure) was originated in the Dutch colonial era and is still strictly enforced (Peluso, 1992; Peluso & Vandergeest, 2001). Furthermore, mapping by government land-use planners focuses on the land itself and efforts of counter-mapping by non-governmental actors to struggle with the nationalistic thrust of Indonesian policy which is emphasised by the homogenising aspect (Peluso, 1995).

On the contemporary forest tenure in developing countries like Indonesia, it involves contestation between the state and civil society (Fitzpatrick, 2006; Wollenberg et al., 2006). The state clearly claims ownership over most forest area (Sunderlin et al., 2009) as the consequence of the post-colonial era which is failed to recover forest dwellers rights (Peluso, 1995; Movuh and Mbolu, 2012). However, Indonesia has successfully developed regional decentralisation including on forestry sector and found that local social forces expanded more influence and performed to limit the local government (Anderson, 2000; Nurrochmat, 2005; Wollenberg et al., 2006).

Bureaucratic politics explaining land use administration

Weber's theory on bureaucracy defines bureaucracy as a system of organising action with six main characteristics: (i) rules are the basis for action (laws, regulations, etc.) in either public or private life, (ii) offices for the management of rules are hierarchically organised and supervised, (iii) knowledge of action is

contained in records, not in individuals, (iv) specialised training and expert knowledge is required to perform offices, (v) official business is the main activity of individuals holding office, and (vi) management of the offices is governed by learnable rules.

‘Bureaucracy steering’ is the actor-centred analysis of identifying who is charged with both formal responsibilities (such as legal procedures and specific tasks) and ‘informal mission’, or interest. In this paper the argumentation is founded on bureaucratic political theory, which states that bureaucracies have distinct formal tasks for delivering public services (in this case concerning the forest land use administration and management), which are their outputs (Niskanen, 1971); as well as informal tasks, like competition for jurisdiction over land with other bureaucracies, for resources, political domains (e.g. REDD+, forest moratorium, illegal logging), and influence (Allison, 1971; Niskanen, 1971; Stern, 1998; Krott, 1990; Hubo & Krott, 2010; Peters, 2010). Consequently, bureaucracies have two main goals; they strive for problem-oriented delivery of public service as publicly stated in their mandates, and they pursue the organisational interests of survival and expansion (similar Giessen et al., 2014; Giessen, 2011). On the simple organisational interest category, bureaucracies can be divided into two orientation based on their basic interest. First, production oriented bureaucracies and the second is conservation oriented bureaucracies (Hirsch & Warren, 1998). This is in line with the argument that in cases where both interests cannot be pursued simultaneously, organisational interests are given higher priority (Niskanen, 1971; Krott, 1990; Peters, 2010).

Political influence manifests in the ability to formulate or implement policies adherent to one's own interests. Influence is exerted by the use of information and power (Simon, 1981; Krott, 1990, 2005). Power is the ability to shape a programme according to one's own interests even against resistance from other actors. At the core of this concept lies Weber's definition of power as the “probability that one actor within a social relationship will be in a position to carry out one's own will despite resistance” (1922, 152). In this paper, we will focus on the coercive element of power only, by looking at the formal responsibilities, based on which a specific bureaucracy can grant permissions (e.g. release land from forest area) or prohibit things.

Methods

Friedrichs's content analysis of formal policy documents (1990) is applied. This content analysis is based on our expert experiences through two steps. The first, we select the most relevant and the most current policy document including national constitution, laws, constitutional court decisions, government regulations, presidential regulation, presidential decree, ministerial regulation, ministerial decree, and Memoranda of Understanding. The second, we analyse the documents by filtering out all statement relevant for our research question that explain clear formal tasks and responsibilities. This analysis is applied to both Basic Agrarian Law (BAL) and Forestry Law (FL), and additionally to all laws and regulatory documents related to the dual system of forest land administration. These legal documents are taken from official government websites or other trusted sites. In addition, founding documents of institutions, programmatic documents, and other archival sources that articulate the formal responsibilities of the core and secondary bureaucracies are cited. In Part 3.4, jurisprudential options and bureaucratic responsibilities are explored on the legal probabilities of the tropical rainforest land use transformation process. In Part 4, hypotheses are presented on the informal goals of bureaucracies administering land uses and transformation by using bureaucratic politics theory.

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