

The Oil Palm Governance Policy in Indonesia

Subjects: Law

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Indonesian palm oil encountered social-agrarian and environmental issues and has been subject to heavy criticism from the international community for years. The Indonesian government answered the very sharp international opinion by implementing standard certification to ensure the achievement of oil palm sustainability. This is especially applied for the small scale plantation at the upstream of the entire palm oil supply chain. Indonesian Sustainable Palm Oil (ISPO) certification has been applied as an instrument of guaranteeing sustainability principles for all business units with a particular attention on smallholders. The system is targeted to address land legality issues, business licensing, plant seedling certification, environmental management, as well as strengthening farmer organizations at the local level. The implementation of ISPO faced challenges and barriers that makes certification is not easy to achieved on the ground.

Keywords: governance ; ISPO ; certification ; sustainability policy ; smallholders

1. Introduction

The green consciousness of international food consumers has led a growing awareness on the implementation of sustainable principles on their consumption ^{[1][2]}. This green value stimulates food-exporting countries to strongly comply with sustainable policy on ^[3] and governance of the commodities they trade with importing countries. In the case of palm oil production, Indonesia responded ^[4] by formulating sustainable palm oil governance instrument, the so-called Indonesian Sustainable Palm Oil (ISPO). ISPO fulfills sustainable development principles requirement for palm oil production. ISPO certification is implemented under legal basis of the Presidential Regulation of the Republic of Indonesia Number 44 of 2020.

The ISPO was designed with the intention of addressing socio-agrarian and ecological related problems attached to the palm oil of Indonesia. So far, Indonesian palm oil has suffered from negative images especially relating with the issues of ecological landscape changes, deforestation, ^{[5][6]} biodiversity loss, agrarian conflicts between large scale companies and the local communities ^{[7][8]}. Basically, social and environmental problems of oil palm plantation in Indonesia have been very serious issues to address ^{[9][10][11]}. Since its first implementation, ISPO has encountered several complexities, particularly with regard to the operationalization of certification, organization of authorities, and management ^[12].

The ultimate goals of ISPO are product credibility and wide acceptance in the international markets ^[13]. However, ISPO has not been easy to carry through due to a number of structural constraints to face especially at the locality ^[14]. Overlapping territory of oil palm plantation with forest areas triggered deforestation issues, agrarian conflict, and sharpening social tensions in the locality. In most cases, smallholders had not officially registered their land for plantations as well as business license. They usually used uncertified seedlings which interwove with the problem of poor environmental management system ^[15]. Poor financial capacity of the smallholders were also a serious issue ^[16]. Ineffective farmers' organization was also a great challenge ^[17].

ISPO provided several benefits and risks in the implementation. ISPO would be valuable for consumers to guarantee food safety. on the other hand, ISPO would be effective for producers to raise the market credibility and acceptance. However, ISPO also runs the risk of being financially costly especially for small scale plantation growers ^[18]. For the local and regional authorities, ISPO requires supporting regulations and policies as well as facilitates for the process extension, training and technical assistance, which would be very costly ^[19].

The operationalization of ISPO certification process faced multi-level obstacles and constraints ^[20]. Glasbergen put forward that ISPO faced the problem of the interpretation on the meaning of sustainable palm oil certification across governance levels. In addition, decentralization policy in Indonesia also generated multiple interpretations among authorities of different government levels ^[21].

Indonesian government bureaucracy generally has five administration levels, i.e., central government, provincial government, district level, subdistricts, and village government [22]. In this regard, subnational governments is used to refer to the regional governments at the provincial and district levels. Both government levels are relatively independent and have the authority flexibility to govern their own territory. Village and local governments are usually used interchangeably. Local government usually provides public services directly to serve smallholders at the locality. The formulation of regulations and operationalization of sustainable palm oil certification stops at the central government level. The implementation cannot continue to reach the lowest level of local government due to various structural hindrances.

The performance of oil palm governance at the local and regional levels remains very poor despite the dynamics of the policy making and implementing processes at the central government [23]. Miscoordination across the scale of governance is obvious [24]. Local governments remain very weak to support oil palm governance implementation [25]. At the smallholder level, the situation has stayed unfavorable to oil palm governance implementation. Smallholders usually face lack of human capital, limited technical, physical and financial capacity causing them to have only little opportunity to meet the sustainable palm oil governance requirements [26]. The study conceptualized the so-called low-functioning governance phenomenon where most of supporting systems of oil palm governance had not work properly on the ground.

2. The Multilevel Oil Palm Governance System in Indonesia

2.1. The Weak Support on ISPO Policy

The study used the concept “the hollowing out governance” to refer the situation when the control and authority of the government are weakening at the time they are scaled up, down, or sideways through the relocation of power and authority [27]. The hollowed-out ISPO policy occurred in the forms of poor regulation and policies, financial shortage, and limited capacity of the supporting systems leading to the disfunction of governance system on the ground [28]. It could be overcome by strengthening the organization, coordination, and directing all involving authority institutions [29]. It could also be overcome by giving more spaces to all regional and local levels of government to construct their own supportive regulations to on oil palm governance issues. In order to guarantee inclusiveness, a multi-stakeholder approach in ISPO policy formulation is applied [13].

2.2. ISPO Policy as Driving Force

The ISPO certification policy has been responded to with various reactions and actions at sub-national government levels. In East Kalimantan Provincial Government, ISPO has been responded by the issuance of the Regional Regulation number 7 of 2018 on “sustainable plantation development”. Along line with regional regulation, a sustainable oil palm forum in the region has also been established. This was an example of how positive support for the ISPO policy came from provincial government level. However, the ISPO policy has been seen as a burden and source of frustration for several district governments of East Kalimantan Province due to various problems of lacking resources, absence of supporting equipment, low human resources capacity, as well as shortage of financial support. In most of that regions, the ISPO policy implementations were seriously constrained. Nearly half a million smallholder plantations had not been registered by STDB license. Lack of representative offices for oil palm administration that resulted in problems of miscoordination among government authorities, as well as funding misallocations have also been seen as a very serious challenge.

However, a relatively good implementation of ISPO certification policy occurred in Jambi Province. The local government, the large-scale companies, and the farmers' associations had been working together to fulfill ISPO certification despite some structural obstacles. The involvement of stakeholders in the RSPO certification processes has been a beneficial experience for those dealing with ISPO certification process.

The experience revealed from Jambi and East Kalimantan showed that not all sub-national government levels responded similarly to ISPO certification as governance processes. On one hand, ISPO certification has been regarded as burden, pressure, and source of frustration for those relevant to oil palm at sub-national government. But, on the other hand, ISPO has been seen as opportunity to increase market penetration. The inclusive regional government that facilitates communicative and participation across different authorities as well as governing bodies would be more successful to achieve ISPO certification rather than that of exclusive one.

2.3. The Effect of ISPO Policy

There was a diverse response to the ISPO policy implementation from sub-national governments. There were responsive regions forcing themselves to issue regional regulations supporting to the ISPO policy. On the other hand, there were also regions that were weak and less responsive. The implementation of the ISPO policy has brought about diverse

territorialization effects, i.e., responsive regions and less responsive regions to the ISPO certification policy. The Jambi Provincial Government was an example of supportive regional government to the ISPO policy.

The statement above reflected the ongoing ISPO certification process: (1) ISPO creates dynamic effect in the territories where governance system is implemented; (2) ISPO immediately creates formation of certified and uncertified farmers' groups responding to the ISPO policy where the change runs very dynamically.

From the study, it was found oil palm farming households that were warmly welcomed the introduction of ISPO certification policy. In the other cases, it was also found some oil palm farming households who had yet been struggling with illegal claims of land, seeds, business permits, and others that seemed to react unhappily. The last type of oil palm farming households are regarded as less ready to implement ISPO as oil palm governance instrument in the regions.

It is obvious that the implementation of ISPO has not only led to the complexity and dynamics of certification implementation processes at the sub-national levels. However, the ISPO implementation also pushed regional governments to create initiatives to support the ISPO certification. Otherwise, there will again be an empty space of action and disconnection of governance, making ISPO less implementable at the regional government levels.

2.4. Imbalance of Multi-Level Authorities

The implementation of ISPO policy has created the phenomenon of a decoupling relationship between the policy and practice in the oil palm governance operation. There was a vertical disconnection between the national and sub-national policies as the policy-making authorities at those levels were not able to politically communicate and coordinate to each other. This is especially the case when the regional level did not produce any regulation the necessary to support the implementation of the national ISPO policy. On the contrary, the central government was often to pay less attention to what happened at the local or regional government level and let the regional and local governments to act without any assistance from central government.

Horizontal disconnection between authorities occurred when many plantation offices of the district governments were unable to operate their function due to the vacuum of supporting power as well as the absence of sufficient resources to support the ISPO policy. There was a very serious problem of ineffectiveness of coordination, steering of the institutional orchestration between administrative units, relating to plantations, land and spatial planning, agrarian administration, forestry administration, and environmental management at the district government level. all of these weaknesses brought about counter productive effect to the ISPO policy implementation in the region.

2.5. The Theory of Low-Functioning Governance

The decoupling of policies and practices in the ISPO policy took place due to persistent structural challenges. The problems were were very hard to overcome. There were big gaps in ideas creation, technical capabilities, as well as in management and financial capacity and the absence of good orchestration among involving institution and organization either in the central or in the regional governments. There existed conflicts of actors and regulations in the ISPO implementation as well ^[30] that made the oil palm governance system not to work very well. The achievement of palm oil sustainability, credibility and market acceptance becomes less possible.

In seeking the answer as to why palm oil sustainability was so difficult to realize in Indonesia, the study proposed a concept of low-functioning governance. The concept may be explained a situation of governance when the rules and regulations were in a vacuum or collision. This could happen primarily at the regional and local level of governance system. In the absence of regulations or in the crashing of existing regulations and policy practices, the institutional power did not work effectively to support governance operation of sustainable certification processes. All the governance processes that involved the organizations, institutions, authorities, and actors ^[31] of all the sub-national governing bodies were not mutually enforcing and were not in compliance with the central government's direction.

Hence, low-functioning governance is conceptualized as "the inability of a governance arrangement to work consistency in a concise way of achieving policy-objectives and goals at a certain level of government authority, organizations and institutions' power". Even with a great help from external forces, the possibility of the system to function very properly remained less. The low-functioning governance did not mean that the government's ability to steer, direct, or shape governance completely failed to work ^[32]. Low-functioning governance might be described with the following characteristics:

- There was serious absence of co-ordination and mutual support, mutual understanding, and mutual communication that brought about the institutional or functional disconnection among those related to the palm oil certification

processes.

- There were poor supporting resource at each level of the policy-making processes and arenas along the hierarchy of the palm oil government administration in supporting oil palm sustainability certification processes.
- There was a widespread misinterpretation of the idea of sustainability and palm oil certification due to poor communication and interaction among the stakeholders in the policy-making of oil palm certification processes.
- There were very little knowledge on why the oil palm plantations should follow the legality standards and sustainability procedures so strictly among the involved stakeholders.

With low functioning governance the palm oil sectors of sub-national levels of government responded ISPO certification process very slowly. The readiness of government institutions and organizations as governing bodies to regulate the ISPO certification was consequently constrained as well.

In addition, external assistance needs to be incorporated, especially to support the four important aspects of oil palm governance, i.e., the actors of authorities involved in the policy-making processes, the institutions that provide a better basis for policy implementation, the organizations that orchestrate the actors and resources, and the resources that support the system (see **Figure 1**). These four aspects are used for the shake of the implementation of the ISPO certification at the local and regional levels. Without that help, the oil palm governance could not optimally work on the ground.

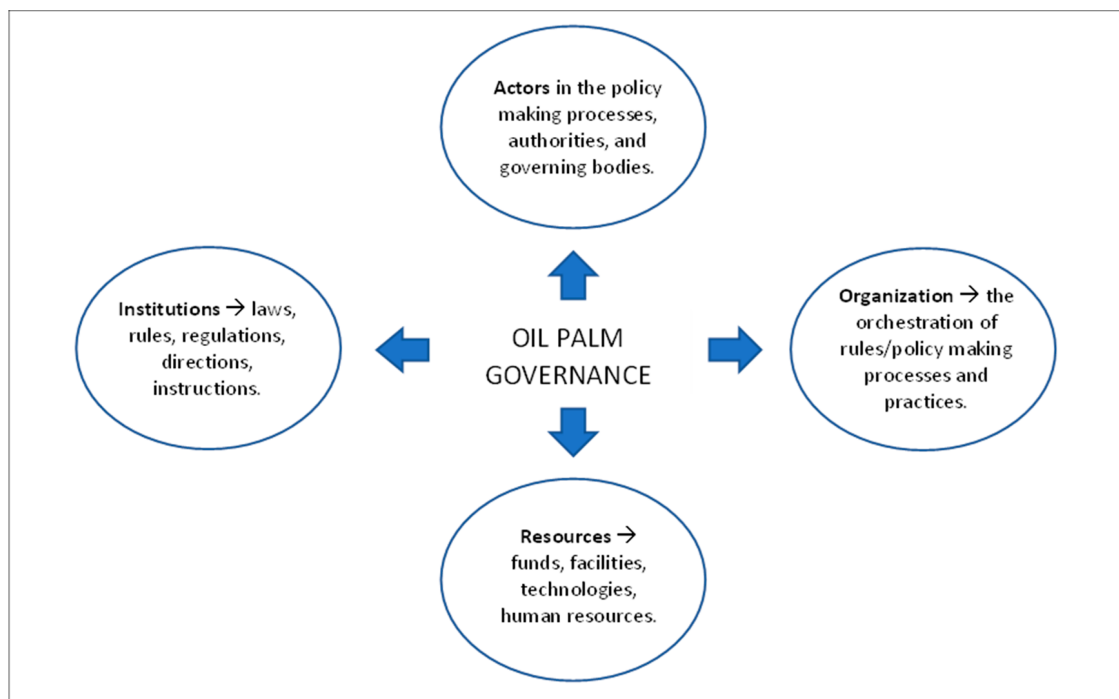


Figure 1. The four areas of oil palm governance system in Indonesia.

Finally, the central government needs to understand the processes whereby the general rules, directions, instructions, or guidelines should be well communicated, shaped, and tailored to fit into regional/local contexts. The central government has to understand that regulations are to be implemented within local practices, so the policy connection between central and sub national governments are absolutely necessary. Otherwise the decoupling between policy and practice will recurrently happen. The pattern of governance processes of implementation needs to be directed towards more dispersed rather than concentrated, where the local and regional policy-making authorities are able to participate more intensively. [33]. This is the governance transformation that needs to be made, if the Indonesian palm oil needs to achieve credibility and acceptance in the foreign market such as in European Union region.

2.6. The Way Forward

The central government, which is pressured by external requests, in this case from green consumption, must understand that the real fundamental condition of the institutional administration for governance processes at the local/regional or sub-national level is not as sufficiently strong as expected. Strengthening the local and regional governance capacity is a must.

The central government needs to arrange well the relationship between the ISPO certification processes and the efforts to handle some issues of land conflicts; legality of the land; legality of plantation permits; the legality of oil palm seedlings;

and the other legal aspects associated with oil palm sustainability.

Strengthening the capacity of the agencies, organizations, and all institutions in the entire constellation of oil palm governance must be emphasized in the efforts to overcome not only the crisis in the aspect of ecosystem (ecosystem crisis) that threatens sustainability but also the crisis of the institutional capacity (institutional crisis). The strengthening action should be addressed by the various institutional government constraints at every scale of the problem ^[34] and at the shortages of support in the implementation of the ISPO certification. Low-functioning governance was a big hindrance to achieving oil palm sustainability. With this understanding, the world needs to understand that the homework is not only about implementing the ISPO certification but about getting the governance system moving effectively from local and sub national levels of governments.

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