



Community-investor business models: Lessons from the oil palm sector in East Malaysia

Fadzilah Majid Cooke, Sumei Toh and Justine Vaz



UMS
UNIVERSITI MALAYSIA SABAH



Community-investor business models: Lessons from the oil palm sector in East Malaysia

Fadzilah Majid Cooke, Sumei Toh and Justine Vaz

Community-investor business models: Lessons from the oil palm sector in East Malaysia

First published by the International Institute for Environment and Development (UK) in 2011

Copyright © International Fund for Agricultural Development (IFAD)

All rights reserved

ISBN: 978-1-84369-841-8

ISSN: 2225-739X

For copies of this publication, please contact IIED:
International Institute for Environment and Development
80-86 Gray's Inn Road
London WC1X 8NH
United Kingdom
Email: newbooks@iied.org
www.iied.org/pubs
IIED order no.: 12570IIED

A catalogue record for this book is available from the British Library.

Citation: Majid Cooke, F., Toh, S. and Vaz, J. (2011) *Community-investor business models: Lessons from the oil palm sector in East Malaysia*. IIED/IFAD/FAO/Universiti Malaysia Sabah, London/Rome/Kota Kinabalu.

Cover photo: A worker collects loose fruit at an oil palm plantation in Malaysia

© Puah Sze Ning (www.szening.com)

Cartography: C. D'Alton

Design: Smith+Bell (www.smithplusbell.com)

Printing: Park Communications (www.parkcom.co.uk). Printed with vegetable oil based inks on Chorus Lux, an FSC certified paper bleached using a chlorine free process.

The opinions expressed in this publication are those of the authors and do not necessarily represent those of the International Fund for Agricultural Development (IFAD), the International Institute for Environment and Development (IIED), the Food and Agriculture Organization (FAO), or the Universiti Malaysia Sabah (UMS). The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of IFAD concerning the legal status of any country, territory, city or area or its authorities, or concerning the delimitation of its frontiers or boundaries. The designations 'developed' and 'developing' countries are intended for statistical convenience and do not necessarily express a judgment about the stage reached by a particular country or area in the development process. The inclusion of business experiences in this publication does not constitute an endorsement of those experiences by the publishers and/or by the other institutions involved.

This publication or any part thereof may be reproduced without prior permission from IFAD, provided that the publication or extract therefrom reproduced is attributed to IFAD and IIED and the title of this publication is stated in any publication and that a copy thereof is sent to IFAD, IIED, FAO and UMS.

Contents

Acknowledgements	ii
About the authors.....	iii
Acronyms	iv
Executive summary.....	1
1. Introduction	7
2. Malaysian Borneo: land, people and development	11
2.1 Ethnic diversity and customary lands	11
2.2 Harvesting the benefits of the 'golden crop'.....	13
2.3 Customary land as the next resource frontier	14
2.4 Land legislation and legal pluralism	17
3. Oil palm joint ventures in Sarawak	20
3.1 The SALCRA model.....	20
3.2 The New Concept model	27
3.3 Sarawak: summary and assessment	32
4. Partnership models in Sabah.....	34
4.1 Case study 1: SLDB joint venture in Dalit, Keningau District	36
4.2 Case study 2: the Agropolitan Project at Lalampas, Tongod District	43
4.3 Sabah: summary and recommendations	47
5. Options for smallholders: a matter of choice.....	48
5.1 Case study: Keresas Smallholder Group Scheme in Sarawak.....	50
5.2 Boosting productivity through support for smallholders	54
6. Discussion and recommendations.....	57
6.1 Towards evidence-based policy	58
6.2 A more holistic approach to land development	58
6.3 Ripe for change: strategies for supporting smallholders	59
6.4 Clarifying land tenure.....	61
6.5 Bracing for competition and leading through best practice.....	62
7. Conclusion	64
References.....	66

Acknowledgements

The report was commissioned by IIED with funding from IFAD. FAO contributed funding to the publication of the report. The study builds on years of accumulated research conducted in Sarawak by Robert Cramb of the University of Queensland, Dimbab Ngidang of Universiti Malaysia Sarawak, and Fadzilah Majid Cooke of Universiti Malaysia Sabah. Additional field research to update previous studies and compile new data was carried out by Sumei Toh in Sarawak. Fadzilah Majid Cooke and Sumei Toh conducted field studies and stakeholder interviews to document new strategies to access customary lands as resource frontiers in Sabah. Justine Vaz conducted online research and a review of the literature, and helped draft the final report.

The authors wish to express their appreciation to all the villagers in Sarawak and Sabah that participated in this study, as well as companies, non-governmental organisations and organisations that provided useful input to supplement interviews and information gathered from the public domain. These include the Sabah Land Development Board, the Institute of Development Studies (Sabah), the District Office of Tongod, the Malaysian Palm Oil Board and Keresa Plantations and Mill.

We also gratefully acknowledge Lorenzo Cotula of IIED and Marcus Colchester of the Forest Peoples' Programme for providing useful input and comments on earlier drafts of the report. Although many people have provided input into this study, the authors take full responsibility for the final outcome.

About the authors

Fadzilah Majid Cooke is Associate Professor in Environmental Sociology at the School of Social Sciences, Universiti Malaysia Sabah in Kota Kinabalu. She has worked in the area of agricultural and forestry politics and development as well as in environmental change and customary land for close to 15 years since being awarded a doctorate in 1996 by Griffith University, Australia. She has published two books, made contributions to Malaysian as well as international academic journals and books published in Asia, Europe, Australia and New Zealand. She is currently leading the Sabah team for the Malaysian Human Rights Commission's (SUHAKAM) national inquiry into indigenous rights to customary lands.

Sumei Toh is an independent researcher and consultant with a background in development studies. She specialises in the social aspects of natural resource management, conducting research, assessments and audits related to the oil palm and forestry sectors, particularly with the use of global standards of responsible natural resource management such as the Roundtable on Sustainable Palm Oil (RSPO). She received an MSc in Environment and Development from the University of East Anglia, UK in 2004.

Justine Vaz has extensive experience as a conservation practitioner and environmental consultant in Sabah. She has a longstanding interest in indigenous communities, land use change, and resource management. She holds an Honours Degree in Geographical and Environmental Studies from the University of Adelaide, South Australia where she is also a PhD Candidate. Justine is presently the editor of a book for the Asian Public Intellectuals which features dynamic community-ecological interactions in five countries in the Asia Pacific region.

Acronyms

ADC	Area Development Committee
BPK	Boustead Pelita Kanowit
CPO	Crude Palm Oil
CT	Communal Title
DLS	Sabah Department of Land and Survey
FAO	Food and Agriculture Organization of the United Nations
FELCRA	Federal Land Consolidation and Rehabilitation Authority
FELDA	Federal Land Development Authority
FFB	Fresh Fruit Bunch
FPIC	Free, Prior and Informed Consent
GLC	Government-Linked Company
HCV	High Conservation Values
ICS	Internal Control System
IDS	Institute for Development Studies (Sabah)
IFAD	International Fund for Agricultural Development
IIED	International Institute for Environment and Development
JV	Joint Venture
JVC	Joint Venture Company
KPM	Keresa Plantations and Mill
KSGS	Keresa Smallholder Group Scheme
LCDA	Land Custody and Development Authority
MARDI	Malaysian Agricultural Research and Development Institute
MESEJ	Mini Estet Sejahtera (Happy Mini-estates)
MLDS	Ministry of Land Development Sarawak
MPOB	Malaysian Palm Oil Board
MRDS	Ministry of Rural Development Sarawak
MYR	Malaysian Ringgit
NCR	Native Customary Rights
NEAC	National Economic Advisory Council
NEM	New Economic Model for Malaysia
NGO	Non-Governmental Organisation
NT	Native Title
OER	Oil Extraction Rate
POPSI	Palm Oil Producer Support Initiative
R&D	Research and Development
RSPO	Roundtable on Sustainable Palm Oil
SALCRA	Sarawak Land Consolidation and Rehabilitation Authority
SDC	Sabah Development Corridor
SEDIA	Sabah Economic Development and Investment Authority
SLC	Sarawak Land Code
SLDA	Sarawak Land Development Authority
SLDB	Sabah Land Development Board
SLO	Sabah Land Ordinance
USD	United States Dollar
VOP	Voluntary Oil Palm

Executive summary

Topic, focus and rationale

This report discusses the socio-economic performance of some of the business models that have been used to expand oil palm cultivation in customarily held land in Sabah and Sarawak, in Eastern Malaysia. The focus is on models involving partnerships between customary landowners, state agencies and/or private companies. The aim is to contribute to ongoing policy debates both in Malaysia and internationally.

In Malaysia, an appraisal of models based on partnerships is timely, as the promotion of these models continues to command a considerable share of state and federal resources and development funds. In addition, Malaysia is internationally regarded as a leader in the oil palm sector and a model for economic development through agricultural expansion. With numerous other countries now entering the oil palm industry in search of similar success, the way in which the Malaysian oil palm sector manages its operations has far-reaching global implications as its practices are being emulated in other countries.

Internationally, an analysis of Malaysia's partnership-based models can provide insights into ongoing global debates about agricultural investment. Recent years have witnessed a renewed interest in investment in agriculture, linked to concerns about longer-term food and energy security and expectations of increasing returns from agriculture. Vigorous public debates about 'land grabbing' have sparked interest in alternative models of investment that include local communities. With several years of experience with developing and implementing models based on partnerships with customary landowners, Malaysia has much learning to contribute on the way these models work on the ground.

The report discusses a range of partnership models between government agencies and/or private companies, on the one hand, and customary landowners, on the other. This includes:

- state-led schemes involving partnerships between a statutory body (the Sarawak Land Consolidation and Rehabilitation Authority, SALCRA, in Sarawak; and the Sabah Land Development Board, SLDB, in Sabah), on the one hand, and customary landowners, on the other;
- the so-called 'New Concept' model in Sarawak, which involves a three-way joint venture between a private company, a government agency and customary landowners; and
- an independent outgrower scheme jointly established by an existing plantation in Sarawak.

In order to contextualise the analysis of these models, the report also discusses the structural characteristics of Malaysia's socio-political system, oil palm sector and land tenure system.

In Sabah and Sarawak, customary landowners are keen to see some of their lands become commercially profitable. This is evidenced by the different ways they have adapted to the rapidly emerging oil palm economy around them and their openness to state-promoted and other approaches to oil palm development. There is also widespread interest in alternatives to the dominant strategies that are supported by the state – this includes becoming independent oil palm smallholders, forming independent joint ventures or entering into private agreements to rent land to private plantation companies. There is compelling evidence that the quality of social and economic benefits of participation in the oil palm sector is closely correlated to the way in which native communities are incorporated into the programme.

Comparing two models in Sarawak

In SALCRA schemes, customary landowner participants provide their land for one cycle of oil palm of 25 years, while SALCRA provides financial and technical resources. Landowner participants are not considered shareholders and commercial equity is not a feature of the scheme. They are assured titles to their land under SALCRA development. The capital cost of setting up a plantation and support infrastructure is funded by concessional federal loans, which the participants are to progressively repay through the sale of oil palm fruit. The participants receive annual net proceeds after deduction of loan payments and operational costs.

Unlike the SALCRA scheme, in the New Concept model customary landowners become shareholders in a joint venture company. The equity in the joint venture is based on the area of land given over to the scheme, rather than a financial contribution. In this arrangement, the private investor retains 60% equity share, customary landowners retain 30% (although this share is held in trust by a government agency, the Land Consolidation and Development Authority – LCDA) and LCDA provides 10% paid-up capital for a 10% equity share in the venture. Joint venture companies are supposed to manage the plantations as commercial entities over 60 years (two oil palm cycles) usually in blocks of 5,000 hectares and above. Customary landowners should receive profit-based dividends from the plantation.

Detailed comparative economic modelling of the SALCRA and New Concept approaches by Cramb and Ferraro (2010) suggest that the SALCRA model was superior on both efficiency and equity grounds. The recent moves within SALCRA to provide more clarity of financial management and establish stronger communications channels with participants are also promising. However, the scheme has been beset with low yields compared to commercial plantations, hence providing low net proceeds to participants. In this sense, participation in SALCRA schemes could be considered beneficial if it is part of several household livelihood strategies and it does not occupy all available land. Also, as proceeds are only paid twice a year, it is

difficult to rely on the scheme alone for daily household expenses – participants need to have other sources of income. There are also reports of unresolved land conflicts involving SALCRA.

On the other hand, many joint ventures established as part of the New Concept scheme have become embroiled in conflicts with native shareholders over the lack of, or disappointing, dividend payments. Law suits have been filed against government agencies and some of the companies involved in these schemes. Some major investors have opted to pull out of these schemes. While some benefits have been documented, for instance in terms of infrastructure development, shortcomings of the model include the following:

- Free, prior and informed consent (FPIC) principles do not generally feature in the inception phase. The lack of economic and infrastructure development in rural Sarawak makes it difficult for community members to refuse the project, despite concerns over the fairness of the deal. There seems to be inadequate emphasis on ensuring that prospective participants fully understand the legal and procedural complexities of the joint ventures. In business decisions, local landowners are represented by a government-owned company, which holds in trust the landowners' shares.
- Disappointing profits have resulted in no or low dividends being paid to customary landowners. This triggered local contestation, which resulted in a policy of paying 'advance dividends'. For landowners that have relinquished all or most of their land to the scheme, lack of dividends can have direct adverse implications on livelihoods and food security.
- The standard structure and terms of the joint venture are largely fixed, and there is little provision for negotiation and consultation to better accommodate the needs of customary landowners and to be involved in decision-making. Recent changes to the structure have included a provision for a community representative to be represented on the board of the joint venture company as a non-voting member.
- The contractual arrangements do not establish mechanisms to address grievances or provide safeguards for customary landowners, should the venture not live up to expectations. The non-disclosure of annual financial reports to native shareholders and the lack of evaluation process seem striking gaps in procedures.

Partnership models in Sabah

In Sabah, oil palm expansion in the form of large scale estates has been facilitated by the private sector (especially oil palm plantation companies) and statutory bodies such as the Sabah Land Development Board (SLDB). SLDB has embarked on a range of joint venture arrangements with customary landowners, including several with smallholder cooperatives. Different types of profit-sharing mechanisms are used in the two case studies covered by this report, in Dalit and Tongod. In Dalit, the venture is for a 1,718-hectare plantation covering both customary and State land.

It involves a 60:40 profit-sharing model with community participants, who get 60% of the net proceeds. There are 299 participants from the five villages, usually representing whole households. In Tongod, the project examined involves the development of an oil palm plantation on lands claimed under customary rights. It covers 16 villages and 1,022 individuals. This partnership involves a 70:30 division in shareholding between SLDB (70%) and the community participants (30%). The increase from 60 to 70% arose from the need for SLDB to bear more of the establishment costs since federal government funding for infrastructure did not eventuate. An important persuading factor for customary landowners to participate in both schemes was the prospect of getting a land title at the end of the projects.

The two joint venture experiences emerged at different times, spanning a period of 13 years beginning the late 1990s, but are influenced by dominant concerns among planners and political elites about poverty among smallholders who are mostly rural and indigenous. Oil palm has been cast as the saviour crop for alleviating poverty and for solving problems of backlog in land administration, and more recently for safeguarding titled customary lands from being sold. These would seem unrealistically high expectations for any crop. The reality is that the oil palm sector is dominated by the interests of large-scale plantations concerned with profit making through the use of relatively cheap foreign labour. These companies enjoy state support because of their potential for generating revenue, compared to smallholders who are self-supporting producers.

The study has documented some of the benefits provided by the SLDB schemes, but also some of the concerns and frustrations expressed by local people at the two study sites. At Dalit the distribution of regular periodic proceeds by SLDB is perceived by many participants to be a clear bonus. For both Dalit and Tongod, the social discontent originates in the wish for greater respect for territory, and for more transparency and voice. In Dalit, discontent also arose from differences among villages in their capacity to negotiate with SLDB for garnering benefits from the estate project, from the perceived lack of transparency in how proceeds are calculated, and from the low wages for manual labour. Because the formal mechanism for channelling local concerns to management is minimal, there seems to be a dissonance in the appraisal of the current situation between SLDB, who regard the venture at Dalit as a model of success, and some of the community participants.

There is an opportunity to achieve a more comprehensive community development model with the 16 villages now being targeted at Tongod. The key question that needs to be raised is how community participation can be strengthened beyond the creation of manual jobs and the provision of 'rent'. Not asking this question means that the burden of change is likely to be unequally shared among the parties involved, with local communities shouldering most of the effects of change. The change that has been paved by the onset of estate oil palm agriculture is a partial or complete separation of smallholders from their land, with land being externally managed on their behalf.

SLDB seems primarily orientated towards addressing the logistical and technical aspects of estate management. At the commencement of the project in the 1990s, SLDB arguably had little capacity to deal with the complicated social issues arising from plantation expansion. Perhaps there is scope now for allocating sufficient resources to these aspects of plantation management and clarifying the process of allocating Native Title at the end of the lease period so that it takes into account local people's concerns about territory. SLDB has the potential to build on its plantation experience in Dalit by investing in better understanding the concerns of the community so that it can engage with its local partners throughout Sabah more productively now and in future.

An alternative is possible

In the early days of the development of Malaysia's oil palm sector, plantations over 5,000 hectares were seen as necessary to ensure the economic viability of the construction of large capacity processing facilities. Today, the existence of mills throughout Sabah and Sarawak provides smallholders with opportunities to sell their produce to existing mills. The final case study examined by the report is an experience involving a collaboration between a Sarawak plantation established in the early 1980s and the smallholder farmers of Rumah Majang, a longhouse located close to the plantation.

The smallholder scheme was established very recently, so conclusions can only be tentative at this stage. Both the plantation and its mill are certified by the Roundtable on Sustainable Palm Oil (RSPO), and the intention is to support the smallholder group to achieve RSPO certification as well. The company provides seedlings, training, a credit facility and the opportunity to purchase agricultural inputs at discounted prices in order to boost their annual yield per hectare. The smallholders are not contractually obliged to sell to the mill, although most do; they are paid monthly for fresh fruit bunches sold to the company's mill. Even with low initial yields, smallholders have still been able to generate high margins (averaging USD 1,280 per ha/year) due to their low operating costs. Given this significant income generation opportunity, the scheme has been expanding. In addition to income, the farmers we interviewed valued greatly their having control over agricultural production on their land. Important factors that made these early successes possible include the fact that the company is owned by a local business person belonging to the same ethnic group as the smallholders involved in the scheme. This has helped nurture open communication and trust. Another factor is the entrepreneur's genuine commitment to working with local farmers.

Some final remarks

Beyond the direct socio-economic outcomes of the different models, more diffuse and longer-term impacts would also need to be assessed. For example, other studies suggest that the consolidation of native land for large-scale plantation

development and the conversion of customary land into individual titled land have tended to increase the value of land and, therefore, land contestation amongst local groups. In addition, the change of subsistence livelihood to commercial agriculture has impacts upon the role of women as the custodians of the traditional agrarian economy. The issuance of land titles and thus proceeds of oil palm development to usually male household heads increases the degree of dependence of women on male household heads. More fundamentally, large-scale development models impact on the everyday lives of native communities as they make the transition from a mostly agrarian economy to being 'labourers and shareholders without decision-making powers' (Hew, 2011).

Research from Indonesia suggests that 'individuals who find themselves incorporated into oil palm under unfavourable conditions (adverse incorporation) will not only remain poor but may even face deeper poverty'; much depends 'on the terms under which local communities engage with the oil palm industry' (McCarthy, 2010). This telling reminder that mere incorporation into the oil palm economy alone does not automatically translate into improvements to rural livelihoods is of great relevance to Malaysia. Unfortunately, the terms of some of the joint venture schemes reviewed in this study seem 'unfavourable' to local native landowners.

The smallholder extension model examined in the report provides an alternative model that aims to improve engagement with local landowners right from the beginning, by using the RSPO framework as a guideline for social, economic and environmental best practices. In contrast to the other partnership models explored here, customary landowners retain control over their land, while gaining valuable business and technical knowledge of managing their own oil palm smallholdings. Yet other models, such as independent joint ventures between informed customary landowners and companies, are also options to be explored, especially in regions where there are not yet many palm oil mills to facilitate a market for smallholders' crop.

If oil palm expansion is to achieve the desired developmental impact on rural communities in Sabah and Sarawak, objectives of efficiency need to be matched by equity and participation. Importantly, statutory bodies and agencies involved in overseeing rural development need to expand their criteria and indicators of success beyond the achievement of expanded land area, length of roads built or increases in production and exports. For these claims to be meaningful, it is necessary to obtain finer indications of advancement at community level. These analyses should also capture indicators of economic and social mobility through increased income and accumulation of capital, and access to education, training and employment or business opportunities for local participants. Other indicators of success would be environmental quality, the health and well-being of local communities, and the strength of community-based organisations and their capacity to engage effectively as partners in government schemes and future managers of agricultural properties after their lease agreements terminate. And there is a need for government and industry leaders to pursue approaches that empower smallholders to participate more effectively in the oil palm industry.

1. Introduction

The global surge in demand for palm oil, primarily from commercial food and oleochemical industries, has dramatically increased the profitability of oil palm as a plantation crop. An increased demand for 'clean energy' from the global North has also fostered demand for biofuels from oil palm supplied by countries of the global South (Borras *et al.*, 2010). The rapid pace of these changes has raised questions about the long-term social and economic impacts on rural communities in supplier countries. Reviewing the socio-economic performance of the different business models that have emerged in Malaysia, presently the world's largest exporter of palm oil, is an important step toward addressing these questions. In turn, an understanding of the structural characteristics of Malaysia's political system (Dauvergne, 1997), the development of crony capitalism (White, 2004) and the effects of both on domestic production relations (Majid Cooke, 1999; Jomo *et al.*, 2004), is essential for contextualising the development of these business models.

This report discusses the socio-economic performance of some of the business models that have been used to expand oil palm cultivation in customarily held land in Sabah and Sarawak, in Eastern Malaysia. The focus is on models involving partnerships between customary landowners, state agencies and/or private companies. Following Vermeulen and Cotula (2010), different models are assessed in light of the following aspects:

- **Ownership** – i.e., property rights over equity shares and key project assets such as land and processing facilities.
- **Voice** – how key decisions are made, how native partners are represented on decision-making bodies, how information is shared and what processes are in place for addressing grievances.
- **Risk** – how risk is managed and shared.
- **Reward** – how economic costs and benefits are shared.

In Malaysia, an appraisal of models based on partnerships is timely, as the promotion of these models continues to command a considerable share of state and federal resources and development funds. In addition, Malaysia is internationally regarded as a leader in the oil palm sector and a model for economic development through agricultural expansion. With numerous other countries now entering the oil palm industry in search of similar success, the way in which the Malaysian oil palm sector manages its operations has far-reaching global implications as its practices are being emulated in other countries (Koh *et al.*, 2009).

Internationally, an analysis of Malaysia's partnership-based models can provide insights into ongoing debates about agricultural investment. Recent years have witnessed a renewed interest in investment in agriculture, linked to concerns about



Photo: © Tonywu76 | Dreamstime.com

Cooking oil on store shelves. High demand for palm oil has made it one of the most attractive crops to plant for export.

longer-term food and energy security and expectations of increasing returns from agriculture. Vigorous public debates about 'land grabbing' – the media characterisation of large-scale farmland acquisitions in lower- and middle-income countries – have sparked interest in alternative models of investment that include local communities. With several years of experience with developing and implementing models based on partnerships with customary landowners, Malaysia has much learning to contribute on the way these models work on the ground.

The report builds on years of accumulated research conducted by the lead author and by others in Sarawak,¹ and on additional field research to update and expand these earlier studies in Sarawak and to undertake similar research in Sabah. The field visits to oil palm plantations in Sabah and Sarawak took place in late 2010 and early 2011. The visits involved interviews with informants from companies and industry associations, from government agencies, from non-governmental organisations (NGOs) and community advocates, customary landowners who also form the bulk of the oil palm smallholders. The report also draws on data from the literature and media reports. The focus is on two joint venture (JV) models in Sarawak: the model developed by the Sarawak Land Consolidation and Rehabilitation Authority

1. We are grateful to Robert Cramb and Dimbab Ngidang for their generosity in sharing their research findings of published and yet to be published data. Unpublished research by Fadzilah Majid Cooke was also useful for this report.

(SALCRA) and the more recent 'New Concept' model, and on two experiences of collaborative models in Sabah, both involving the Sabah Land Development Board (SLDB). The experience of a smallholder-driven scheme in Sarawak is also discussed.

It is important to acknowledge the limitations of this study. Access to detailed financial information from joint venture companies (JVCs) and public authorities is very limited. As a result, there is insufficient data to compare costs, productivity and efficiency in the different models. In this regard, the report relies on information in the public domain, on the comprehensive agricultural economic research undertaken by Cramb and Ferraro (2010), and on the interviews undertaken during the fieldwork – but the analysis is inevitably preliminary and incomplete.

Important limitations of scope must also be acknowledged. Oil palm expansion in Malaysia is a topic that has ignited fierce debates both internationally and locally. As Sabah and Sarawak are renowned for their biodiversity and culturally rich landscapes (Brookfield *et al.*, 2002), oil palm agriculture has been characterised by some as the 'greatest immediate threat to biodiversity in Southeast Asia' (Wilcove and Koh, 2010). The unprecedented scale of transformation from shifting agriculture to commercial monocultures is also regarded to have caused a decline in agrodiversity and the environmental and social resilience afforded to native communities by their traditional agricultural systems (Rerkasem *et al.*, 2009). The replacement of forest with monocultures is regarded as a leading cause of habitat and species loss (Wilcove and Koh, 2010; Tanner and Kirk, 2008), while the resulting disenfranchisement of native peoples from traditional lands and life has spurred advocacy work concerning customary rights as well as discussions on how best to defend these rights (Padoch and Peluso, 1996; Li, 2010).

Undoubtedly, seeking an appropriate balance between conservation, highly profitable land use change and social justice concerns is a development issue which warrants serious consideration. The focus of this study however is on evaluating agricultural partnership models. Space constraints do not allow for a detailed exploration of environmental and right-based issues related to the use of customary land. Nevertheless these issues do inform our analysis and general approach, and reference is made to the extensive scholarly literature and online coverage of these topics.²

More generally, while there is a political dimension to the dominant development paradigms in use, this study aims to assess partnership models based on their ability to deliver satisfactory economic returns on investment while leading to improved

2. For examples of scholarly writings, see Hong (1987), Bian (2007), Bulan (2006, 2007), Bulan and Locklear (2008), Ngidang (1999), Majid Cooke (2002, 2003, 2006), McCarthy and Cramb (2009), Li (2010) and Colchester (2004) available at www.danadeclaration.org/pdf/fpic_ips_may04_eng_dft.pdf (accessed on 26 November 2011). In addition, www.sarawakreport.org, www.dayaknation.com and www.sarawakheadhunter.blogspot.com are examples of the many blogsites which decry the loss of customary land in Sarawak in particular (accessed on 6 July 2011).

livelihoods and well-being for customary landowners. This is after all the premise on which they are being encouraged to participate in such ventures. In so doing, this review builds a case for stronger evidence-based policy making and for native communities to be better supported in determining their own priorities and strategies in developing native customary land.

The next section contextualises East Malaysia's experience through providing background information on history, socio-political aspects and relevant policy and legislation. Section 3 discusses experience from Sarawak, and section 4 focuses on Sabah. Section 5 explores a smallholder-driven model, while section 6 draws conclusions based on the analysis of these different models, and elaborates some recommendations for more effective and equitable engagement with native smallholders.

2. Malaysian Borneo: land, people and development

2.1 Ethnic diversity and customary lands

Sabah and Sarawak are both influenced by their unique colonial past, diverse ethnic groups, their respective physical and political landscapes, and policies and enactments that differ from those of Peninsula Malaysia. All these factors have a bearing on the current focus on agriculture as a vehicle for development. The majority of those affected by oil palm expansion in Sabah and Sarawak are indigenous peoples. Most affected among them are those whose economies are land based, especially the Kadazan Dusun, Murut and Orang Sungai groups of Sabah and the Iban, Bidayuh, the Orang Ulu groups and Melanau in Sarawak. There are numerous smaller ethnic groups categorised in official records as 'Other indigenous'. Sabah has more than 30 ethnic and sub-ethnic indigenous groups, making up close to 60% of the state's population; in Sarawak there are 38 sub-ethnic groups that make up around 50% of the state's population. In both states, these communities form the majority of the rural population.

Most indigenous communities in Sabah and Sarawak are closely associated with their ancestral territories (Appell, 1989, 1997; Ngidang, 2003; Sather, 1990). Generally, rights or ownership to land are conferred to the pioneers that first cleared land for cultivation. There are customary laws which include the right to cultivate land, rights to the produce of the jungle, hunting and fishing rights, rights to use the land for burial and ceremonial purposes, and rights of inheritance and transfer. Ngidang (2005) emphasises that among Iban groups *adat* (or customary laws) stipulates rights of ownership, not merely use rights.

Within this territory they have often developed sophisticated resource management systems which are adapted to the vagaries of the different landscapes.³ Typically, such systems involve rice cultivation (largely hill rice) and a mix of other subsistence crops. In Sarawak, for native longhouse communities, swidden or shifting cultivation requires a reserve of land and forests aside from cultivated land to ensure a sufficient rotational fallow system. Customary law, or *adat*, helps govern individual and group access to land and resources. It is these traditional land use systems that form the basis of what is now commonly referred to as native customary land. *Adat* defines the native person's socio-cultural environment where a longhouse territory is located and separates it from its neighbouring longhouse communities. It also dictates social practices, which are closely associated with farming activities, resource use and livelihood strategies.

3. Doolittle, 2001; Colchester *et al.*, 2007; Cramb, 2007; Majid Cooke and Vaz, 2011.

The cultivated landscape consists of ancestral lands that have been planted with food crops and hill rice, and forested fallow land or *temuda*, interspersed with fruit trees. Native communities have also demonstrated an interest in cash crops; rubber, pepper,⁴ cocoa and coffee have historically become incorporated into individual smallholdings. The investment in commercial crops by longhouse communities in Sarawak happened largely unseen and unassisted in the period before and after the Second World War and demonstrates the versatility of native communities in responding to economically attractive land use options (Cramb, 2009; Ichikawa, 2007).

There are also uncultivated cultural landscapes, comprising 'islands' of primary forest called *pulau galau*, reserved for hunting and gathering and for timber for building materials, and sacred sites. The Iban regard their territorial domain or *pemakai menoa* to include areas of *temuda* and *pulau galau* (Ngidang, 2003; Ichikawa, 2007; Cramb, 2009).

Legally, however, the Sarawak Land Code (SLC) 1958 limits the recognition of native customary lands or 'native customary rights' (NCR) to a strict legal definition, where 'land in which native customary rights, whether communal or otherwise, have lawfully been created prior to the 1st day of January 1958 and still subsist as such'. NCR in this statutory sense is 'created' when land is planted with at least 50 fruit trees per hectare, or land has been continuously occupied or built upon for three years; there are several other conditions. However, these claims are only applicable if the NCR land was created prior to 1 January 1958. No new NCR can be created after this cut-off date except with a permit from the Superintendent of the Lands and Surveys under section 10 of the SLC.

Further, the Sarawak state's definition of NCR claim is only restricted to the cultivated areas or *temuda* – which must have been cultivated or farmed before 1958. Most natives perceive their customary lands to encompass more than their *temuda* to include the *pemakai menua* and *pulau galau*. Similar kinds of legal restrictions are found in the Sabah Land Ordinance (SLO) 1930.

The third perspective to native customary rights is one based on common law. This refers to case law developed by judges through the decisions of courts of the Commonwealth rather than through legislative statutes. This gives significant weight to precedential cases, which future decisions must follow. In Malaysia as a whole, the precedent includes landmark decisions that have reaffirmed the recognition of native rights that arise out of native laws and customs (Bulan and Locklear, 2008). A key landmark case, *Nor anak Nyawai & Ors v. Borneo Pulp Plantation Sdn Bhd & Ors [2001] 2 CLJ 769* has set a precedent by recognising *temuda*, *pemakai menua* and *pulau galau* as forms of native customary rights over land, and not just in the strict sense of the Sarawak Land Code 1958. These differing interpretations of what

4. Pepper remains an important smallholder crop in Sarawak; it is estimated to support the livelihood of 67,000 rural dwellers. According to the Sarawak Agricultural Department, in 2009 the state exported 22,000 tonnes (valued at MYR 156 million or USD 52 million), making Malaysia the fifth largest pepper exporter in the world.

constitutes native customary rights in Sabah and Sarawak is a powerful point of contention between native communities and the state land offices and the state laws continue to be challenged in court.

Consequently in this report we refer to NCR lands as lands claimed under customary rights that are visible to the state as acknowledged by statutes (especially via Title), as well as lands managed by indigenous communities using a complexity of rules under *adat* law that may be invisible to the State but which govern access and ownership to land in the reality of community lives. By extension, indigenous peoples whose lands are titled and/or not titled but recognised as having legitimate access or ownership according to *adat* are referred to as customary landowners (not NCR landowners as is the common practice in both Sabah and Sarawak).

2.2 Harvesting the benefits of the 'golden crop'

Oil palm (*Elaeis guineensis*) is hailed as the highest yielding oil crop per hectare (Basiron, 2007; Teoh, 2010); it is reportedly ten times more productive than soybean and a perennial tree crop with a productive life of 25 to 30 years. In Malaysia, since oil palm began to be widely planted in the 1960s, the crop has become the mainstay of the national economy and a major engine of growth, earning its reputation as the 'golden crop'. Palm oil is currently Malaysia's third largest export and a significant foreign income earner. Global exports in 2010 totalled MYR 59.8 billion (USD 19.6 billion).⁵ These achievements have also cemented Malaysia's reputation as a world agribusiness leader, and many other developing countries now seek to emulate the 'Malaysian Miracle' (Stiglitz, 2007) by developing oil palm plantations.

Historically, oil palm expansion has also been credited with bringing development to impoverished rural communities, particularly in Peninsular Malaysia. In the 1970s, the crop was considered central to the opening up of new lands for the resettlement of the rural landless through the Federal Land Development Authority (FELDA). The incidence of poverty among participants in the FELDA schemes reportedly fell from 30.3% in 1970 to almost negligible levels in the 1990s (Simeh and Ahmad, 2001).⁶

Since the 1990s, the East Malaysian states of Sabah and Sarawak have become the focus of plantation expansion. Sarawak is the largest state in Malaysia, while Sabah is a close second. Together they have a total land area of just over 198,069km². According to the 2010 census, Sarawak's population was 2.5 million while Sabah's population was 3.2 million. These states have the lowest population densities in Malaysia: 19 inhabitants/km² for Sarawak, and 42 inhabitants/km² for Sabah.⁷ More than half of their population is rural. They also reportedly have the highest incidence of poverty among the 13 states at 19.7% in Sabah and 5.3% in Sarawak, compared to 3.8% for

5. At the time of writing, the exchange rate was approximately MYR 3.0 to USD 1.0.

6. However, FELDA has not been free of controversy. Groups of FELDA scheme participants have filed lawsuits against FELDA for under-grading and underpayment of FFB. Reported in Malaysiakini <http://www.malaysiakini.com/news/167187> (accessed on 17 June 2011).

7. 2010 Malaysian Population and Housing Census.

Malaysia as a whole.⁸ Poverty alleviation therefore continues to feature prominently in the rationale for continued oil palm expansion (Majid Cooke *et al.*, 2006).

Presently, Sabah has the largest area under oil palm in the country at 1.4 million hectares. Sarawak is viewed as the next frontier for expansion – in 2010, the total area under oil palm in Sarawak grew by 9.5%, compared to just 3.5% in Sabah and 1.4% in the Peninsula. Oil palm features prominently in the development agenda for the two states – the Sarawak government has stated its aim to boost its current area of 0.9 million hectares to 2 million hectares of oil palm by 2020 (Malaysian Palm Oil Board, 2011), while Sabah is positioning itself as a centre of excellence and trade for agricultural products by 2025 as contained within the Sabah Development Corridor Blueprint (IDS, 2007). Sabah has set a target to multiply the contribution of agriculture to the Gross Domestic Product (GDP) by four times to MYR 17 billion (USD 5.7 billion) and palm oil has been singled out as the main driver of this growth.

Table 1. Area under oil palm, Sabah and Sarawak, 1990-2010

Region	1990 (ha)	1995 (ha)	2000 (ha)	2005 (ha)	2009 (ha)	2010 (ha)	Increase in area
Sabah	276,171	518,133	1,000,777	1,209,368	1,361,598	1,409,676	410%
Sarawak	54,795	118,783	330,387	543,398	839,478	919,148	1577%
Total Malaysia	2,029,464	2,540,087	3,376,664	4,051,374	4,691,160	4,850,000	139%

Source: Malaysia Palm Oil Board (2009) Annual Report available at http://econ.mpob.gov.my/economy/annual/stat2009/Area1_2.pdf (accessed on 25 August 2011) and Choo (2011).

2.3 Customary land as the next resource frontier

Under Malaysia's federal system, land is a state matter. Each of its 13 states is governed by its own state government. Land development projects (logging, oil palm and other cash crops such as rubber) form the basis of state wealth, which is generally cultivated through strategic alliances of political and economic interests that have endured through the post-independence period. For state governments, land development projects have historically been the main source of public revenue, as royalties from natural gas go to the federal government (Majid Cooke, 2006).

From the 1960s in Sabah and the 1970s in Sarawak, logging provided both states with the bulk of their revenue and a support base for political parties in power through licences and contracts. By the 1990s, Sabah and Sarawak became among

8. As of December 2009 and listed in the 10th Malaysia Plan 2010. The measures used for calculating poverty are disputed as they often result in the underestimating of the scale of the prevalence of poverty in Sabah and Sarawak.

the world's largest exporters of tropical timber. Today, large-scale development of oil palm and associated industries has replaced logging as the dominant development driver in both Sabah and Sarawak. Both are the only states in Malaysia to derive revenue directly from the oil palm industry: a 7.5% sales tax is imposed on crude palm oil (CPO) in Sabah and in Sarawak it ranges from 2.5% to 5% depending on the market price of CPO.⁹ Several federal and state government agencies and statutory bodies have been at the forefront of oil palm development, and have introduced various partnership models devised to develop oil palm on native customary lands.

While there are a number of different models in use, all have the stated objectives of improving the economic status of native participants and developing profitable businesses on lands considered to be 'idle'. This is seen in the mission statement of the Sarawak Ministry of Land Development which is 'to expedite the development of Native Customary Rights (NCR) land and other idle land into economically productive assets for optimal and sustained benefits to landowners and the State through plantation development and commercial oriented programmes.'¹⁰ This follows the State's statutory definition of NCR but it is clear that the aforementioned 'idle lands' could very well mean those areas claimed by natives as customary land that lies beyond cultivated areas or *temuda*. These areas have not been officially recognised as NCR land despite the existence of the body of common law that supports this recognition.

Presently, as a result of almost two decades of oil palm expansion beginning in the 1990s (see Table 1), most State Land in Sabah and Sarawak that is suitable for agriculture has already been converted to oil palm plantations by large companies. The Sarawak Ministry of Land Development website states that there is a land bank of 530,000 hectares of NCR land which stands to be developed for commercial agriculture; its immediate goal is to develop 'at least 120,000 ha of New NCR land areas between 2010-2015 out of the targeted area of 240,000 ha by the year 2020.'¹¹

In Sabah, since oil palm already occupies 90% of land planted with industrial crops (IDS, 2007), any future expansion will either use up the remaining 10% of areas under crops, or expand into lands not under industrial crops such as those claimed under customary rights that are largely used for subsistence agriculture by indigenous communities. Much of the land claimed under customary rights is not yet titled. Some areas are left to fallow under the rotation system of shifting cultivation. According to the SLO of 1930, such lands are considered to be State Land that is 'idle' or unproductive. In 2010, the Sabah Department of Land and Survey (DLS)

9. Reported in The Star, StarBiz, 11 Jan 2010, 'Planters Seek Review of Tax, Cess and Levy'. This Sales Tax is in addition to the Cess paid to the federal Malaysian Palm Oil Board (MPOB) for R&D, Regulation and Promotion of MYR 11.00 per tonne of CPO (USD 3.50).

10. http://www.mlds.sarawak.gov.my/modules/web/page.php?id=47&menu_id=0&sub_id=103 (accessed on 15 March 2011).

11. http://www.mlds.sarawak.gov.my/modules/web/page.php?id=71&menu_id=0&sub_id=135 (accessed on 5 June 2011).

reported that 350,000 hectares of idle land have been identified and would be put into productive use through JV agricultural development schemes.¹² According to the Sabah Chief Minister, the primary intention behind this development thrust is to help local people 'develop the land for agriculture and reap lucrative income to boost their social and economic standards.'¹³ As with Sarawak, oil palm expansion in Sabah is promoted as the main means of bringing development and opportunities to rural communities (IDS, 2007).

Much has changed since the mid-1970s, when the SALCRA schemes were first introduced in Sarawak and the SLDB was established in Sabah – both in the social and physical landscape. Changes have also occurred in institutions, policies and programmes. In Sarawak, for example, a more recent version of the joint venture schemes was introduced in the 1990s and is known as *Konsep Baru* (New Concept). This programme is managed by Sarawak's LCDA. But despite important changes such as the inclusion of private investors and the establishment of a JVC, the basic model is little changed from the older SALCRA model in which oil palm development is 'done' for native customary landowners by companies on a large scale.

Some commentators have argued that top-down approaches to land development relegate local people to the role of 'wage earners rather than land owners', with no role in management and decision-making (Abraham, 2011, writing on Peninsular Malaysia rather than Sabah or Sarawak). For some years now there has been mounting discontent among customary landowners involved in state-sponsored JVs in Sabah and Sarawak (Ngidang, 2003; Cramb and Ferraro, 2010). There are currently more than 200 active cases filed with the lower courts against the Sarawak government and various companies for the alleged appropriation of ancestral land and breach of trust.¹⁴ In Sarawak, the rejection of the JV approach by some native communities has slowed the uptake of new projects on native customary land (Cramb and Sujang, 2011).

Smallholder cultivation of cash crops has long been an integral part of native farming systems in Sabah and Sarawak (Hew, 2011). Responding to incentives to encourage participation in commercial agriculture and leveraging off the infrastructure already developed by larger companies and government investment, many smallholders have seized opportunities to establish their own plantations and small businesses. Consequently, this has resulted in an increasingly important smallholder sector. In Sabah, questions have been raised as to whether the various JV models present the best option in the current setting where independent oil palm smallholders are managing their own agricultural investments. This seems to present a more robust model for poverty alleviation and capacity building (Majid Cooke *et al.*, 2006). In locations where oil palm mills are in place, smallholders are already

12. Discussed in the 2010 PEMANDU Labs. PEMANDU stands for 'Performance Management & Delivery Unit' and is a strategic division within the Prime Minister's Department responsible for charting the national economic development programme.

13. Reported in the Daily Express, 10 April 2011, 'NCR Intact, says CM'.

14. 'Sarawak tribes get OK from court to fight land claims' *Malaysiakini*, March 2011.

motivated to grow oil palm, and only need supplementary assistance in the form of information and training to ensure the quality of fresh fruit bunches (FFBs), keep abreast of current market prices to ensure that they get a fair deal from oil palm mills, and access to quality seedlings and agricultural inputs such as fertiliser and pesticides (Majid Cooke *et al.*, 2006).

In her studies of rural communities in Indonesia, Li (2007) has emphasised the importance of engaging local people as active agents in their own story. People are generally highly responsive to opportunities to improve their livelihoods and to expand their choices. No matter their education levels, they possess the ability to adapt to changing times, incentives and stimuli (Vermeulen and Goad, 2006). And yet, as Li observes, programmes for improvement in contemporary development agendas so frequently contain an element of 'permanent deferral' where '(p)lanned development is premised upon the improvability of the "target group" but also posits a boundary that clearly separates those who need to be developed from those who will do the developing' (Li, 2007: 15). In the case of Sabah and Sarawak, it is increasingly important to be more cognisant of the emerging generation of native landowners that seek to play an active role in developing their land. Consequently, any consideration of agricultural business models needs to view local people as major drivers of change. This has implications for the applicability of older business models.

2.4 Land legislation and legal pluralism

Native claims to customary lands in Sabah and Sarawak are based on complex traditional laws (*adat*), many of which are not formally recorded but are nevertheless applied and held in the collective memory of local communities. The advent of colonial rule in Borneo was to have a profound and lasting impact on issues of land and customary rights. In Sarawak, the self-proclaimed 'White Rajahs' established the Kingdom of Sarawak in 1842 with territory ceded from the Sultanate of Brunei; they ruled until 1946 (Runciman, 1960). Between 1882 and 1946, Sabah (which was known as North Borneo) was a British protectorate under the North Borneo Chartered Company. In the post World War II period, the British continued to govern the two Bornean states until they became part of the Federation of Malaysia in 1963.

The SLO of 1930 and the SLC of 1958 which emerged during the period of British rule were early attempts at codifying aspects of *adat* or customary law, but were not entirely successful at capturing its complexity (Ngidang, 2005; Doolittle, 2001). As the main objective of such statute laws was to make local communities transparent to government, they were static. The Codes that are still used in the post-independence period were devised to facilitate the *territorialisation* of resources (to use an expression proposed by Peluso and Vandergeest, 2001). According to Peluso and Vandergeest (2001), the territorialisation of Southeast Asian forests involved transferring control from a decentralised system of community management to one of a centralised state control through various means like legislation and the use of mapping and other technologies. In this context, the SLC and SLO were

oriented towards 'improving upon' the seemingly disorderly and haphazard practice of shifting cultivation, which is the dominant form of agriculture practiced by indigenous groups in Malaysian Borneo. The intention of the legislator was to lay the foundation for commercial agricultural development, thereby co-opting native peoples into modern agriculture (Doolittle, 2001).

However, to a limited extent these land laws were also conceived to ensure that native communities would not be disenfranchised as other ethnic groups began to assert their interest in agriculture (Majid Cooke, 2003). In Sabah, section 15 of the SLO recognises individual and household rights to Native Titles (NTs) and the rights of communities to apply for shared reserves through Communal Title (CT) (section 76) and for Native Reserves (section 78). In Sarawak, the SLC contains similar provisions to protect customary claims (section 5(2)), but official interpretations of the Code in the present day tend to be ambivalent about recognising 'ownership' of lands under customary claim (Majid Cooke, 2002).

Implementation of the SLO and SLC tells a common story, one of lengthy, bureaucratic and non-transparent procedures as well as a narrow interpretation of customary law. Specifically, in Sabah, insecurity of tenure is a primary problem because of several factors. First, the land titling process in Sabah is complex and can take many years, in some instances more than 20 years (Majid Cooke *et al.*, 2006). Second, fallow lands and secondary forest being largely untitled, are widely interpreted as 'idle land' and subject to potential land use conversion at the discretion of the State. Third, an administrative interpretation of customary rights confers rights only upon lands that have been titled, and not on lands upon which customary rights have been established under *adat* as has been recognised by the Court systems of Sabah, Sarawak and Peninsula Malaysia.¹⁵ Fourth, persons that are considered to be indigenous are permitted to apply for land anywhere in Sabah (such applications are not associated with specific territories). Consequently, overlapping claims are a common occurrence and this situation is commonly faulted for the delays in the issuance of title.

This combination of factors leads to a situation where each year, the DLS reportedly receives 30,000 land applications, out of which only 12,000 are processed.¹⁶ By 2009, there was a reported backlog of 285,000 cases.¹⁷

15. The non-acknowledgment of pre-existing (proprietary) rights has its root cause in a particular interpretation of the SLO. This interpretation views the establishment of customary rights only on proof of occupation or improvement and, furthermore, does not award proprietary rights to the occupier. As an extension of this view all lands unless otherwise titled are State Land. A second line of interpretation and one that is held by some Courts in Malaysia and elsewhere (especially Australia and Canada) is that natives have pre-existing rights regardless of the existence of any document of title. Such decisions are based on common law and are to be found in several Court cases including for Sarawak *Nor anak Nyawai & Ors v. Borneo Pulp Plantation Sdn Bhd & Ors* [2001] 2 CLJ 769, and *Madeli bin Salleh (suing as Administrator of the Estate of the deceased, Salleh bin Kilong) v. Superintendent of Land & Surveys Miri Division, and Government of Sarawak* [2005] 5 MLJ, 305, 311, for Sabah *Rambilin binti Ambit v. the Assistant Collector for Land Revenues, Pitas, No. K 25-02-2002 (High Court of Sabah Sarawak, Kota Kinabalu, July 9, 2007)*, and for Peninsular Malaysia *Sagong Bin Tasi v. Kerajaan Negeri Selangor and Ors* [2002] 2 MLJ 591 as well as *Adong bin Kuwau v. Kerajaan Negeri Johor* [1997] 1 MLJ 412.

16. Daily Express, 6 Aug 2010: p.1.

17. Briefing notes from the State Secretary of Sabah on Communal Title at Lalampas, Tongod District, undated.

Similarly, in Sarawak, in instances of overlapping claims from state and market interests, native claimants are asked to prove that they occupied their lands prior to 1958. From the mid-1970s, a series of amendments were passed that further weaken the provisions of the SLC concerning NCR lands as well as lands that are managed according to *adat* law. In 1974, section 5(3) and (4) granted power to the Minister to extinguish native customary rights after six weeks' notice by publication in the government Gazette or brought to the notice of the persons affected. A new amendment in 1988, section 33(1)(a), imposes a fine if 'land improvements' are not implemented within a three year period, which effectively disregards lands managed under the rotation system of swidden agriculture.

A 1996 amendment places the burden of proving the existence of customary rights on the native claimant; all land would be considered State Land unless proof is shown that customary rights have been established. With the deletion of section 5(f) in 2000, the Land Code no longer recognises 'other lawful means' – i.e., the forms of occupation that are acceptable to the community according to native *adat* laws for the creation of customary rights. And finally, a Land Surveyors Ordinance introduced in 2002 permits only licensed surveyors 'to make, authorise or sign any cadastral map'. In effect this move renders all community-mapping initiatives unlawful. In combination, these changes have had the effect of curtailing the ability of native communities to develop their land by themselves, and privileging land development projects by private companies.¹⁸

The Sarawak government has also been known to issue Provisional Leases to companies for customary lands which have been claimed by native people. Officially, Provisional Leases may be applied to land that has yet to be properly surveyed, or State Land. After the Provisional Lease has been secured, the leaseholder has the right to develop the land but is responsible for conducting a survey to determine existing claims of occupation or cultivation on the land. Any claims may be dealt with either by compensation or by excluding the claimed patch from the area to be developed. In practice, however, the issuance of the Provisional Lease is assumed to give the company a clear title to commence land clearing to develop all the land within the perimeter of the lease (Bian, 2007). This has resulted in cases where native landowners with customary claims on an area under the Provisional Lease only find out about the impending development when bulldozers arrive to clear the land. This has led to conflicts, blockades, violence, and legal suits filed by native landowners (Colchester *et al.*, 2007).

In summary, although the land laws for Sabah and Sarawak contain certain provisions governing the rights of native people to customary lands and communal resources, they were also colonial acts of transformation meant to facilitate the transfer of control over natural resources to a centralised state. With so many obstacles placed before native communities seeking to obtain secure tenure to their customary lands, the pressure on them is acute, and the only avenue to successfully do so seems to narrow to participating in government sponsored land development JV schemes that come bundled with the assurance of title.

18. Pers. comm., Dimbab Ngidang, January 2011.

3. Oil palm joint ventures in Sarawak

The lead agencies for the development of oil palm in Sarawak are the Ministry of Land Development (MLDS) and the Ministry of Rural Development (MRDS). The Ministry of Planning and Resource Management, which is headed by the Chief Minister, is responsible for land administration. Two state-owned statutory bodies currently drive oil palm development on NCR land – these are the Sarawak Land Consolidation and Rehabilitation Authority (SALCRA) and the Land Custody and Development Authority (LCDA). SALCRA is the state-led rural development scheme that pioneered oil palm development in a two-way partnership between a state agency and native participants. The LCDA's New Concept (*Konsep Baru*) NCR land development uses a joint venture approach involving native landowners, state agencies and private sector investors. Presently, the combined area under joint ventures and independent oil palm smallholders is small. In Sarawak, it is estimated at just 14% of the total 920,000ha reported to be under oil palm (Cramb, 2009).

3.1 The SALCRA model

SALCRA is a state statutory land development body established in 1976 as an affirmative action programme to address poverty in rural areas. It was the first form of collaboration with local NCR owners in Sarawak to manage and develop their land. It is also known as the Managed Smallholder approach.¹⁹ SALCRA has the legal authority to declare Development Areas, which gives it the right to develop and manage oil palm plantations on NCR land on behalf of native participants.

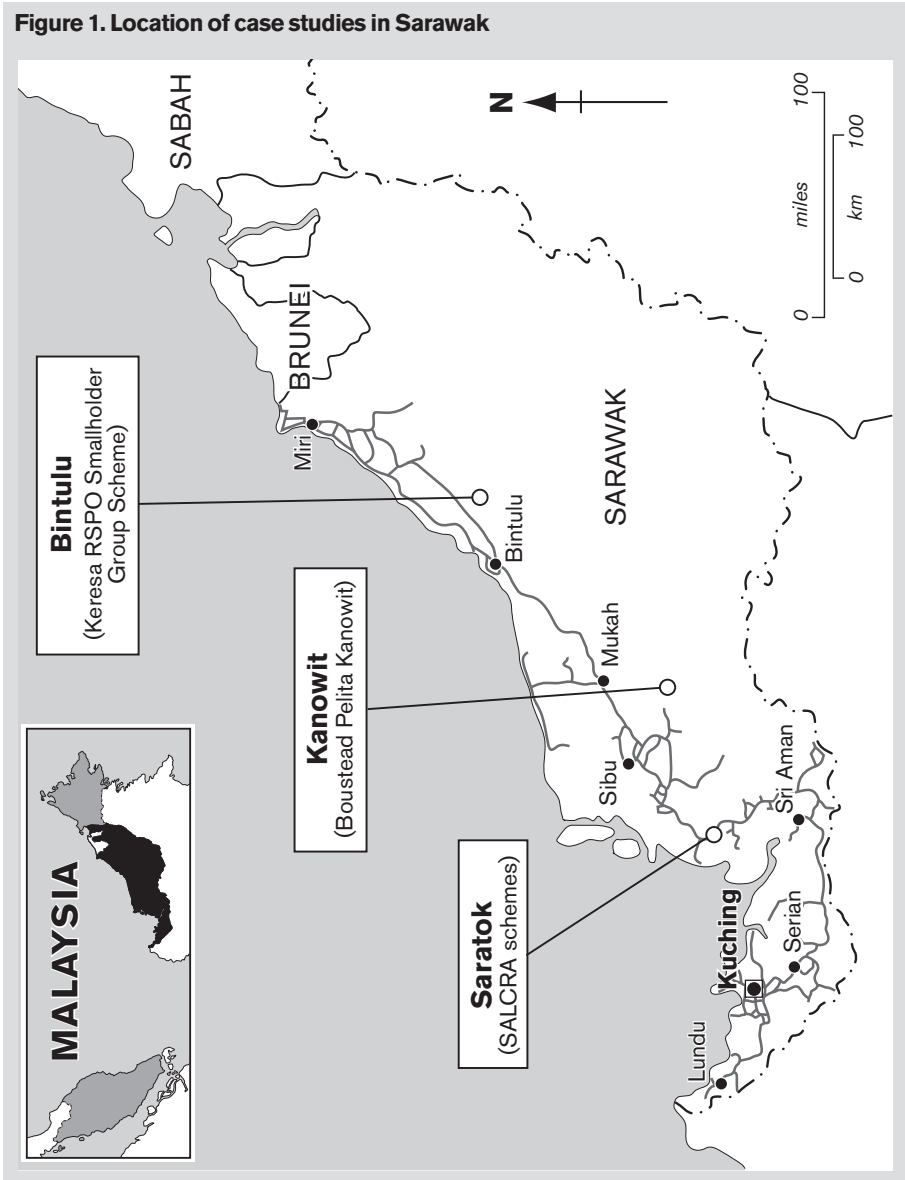
Presently, SALCRA manages a total of 48,644 hectares in four regions of southern Sarawak. It operates 18 oil palm estates under the Managed Smallholder approach, and four palm oil mills. Over 40,000ha of the planted area feature mature crops. In 2009, SALCRA schemes reportedly had 21,578 scheme participants.²⁰ Based on these figures, the mean area of oil palm land per SALCRA participant is 2.25ha. This however masks the variability on the ground as each participant decides how much land is given to SALCRA for oil palm development. It is also not uncommon to find the 'ownership' of SALCRA lots change hands between extended family members or external parties. As SALCRA's purpose is to consolidate land for development, complex native land tenure systems are converted into individual titled land, changing the way in which land is viewed and managed by native communities.

Typically, Fresh Fruit Bunches (FFBs) are supplied from these estates to SALCRA's own or subsidiary mills. Crude Palm Oil (CPO) from these mills becomes the main

19. Reported in Borneo Post, 29 November 2010 'Salcra might pay highest dividend', available from <http://www.theborneopost.com/?p=74436>

20. Corporate Information provided by SALCRA, June 2009.

Figure 1. Location of case studies in Sarawak



feedstock for ASSAR Refinery Services, a palm oil refinery and kernel crushing plant. SALCRA has a 20% equity participation in ASSAR Refinery Services.

Ownership

In SALCRA schemes, NCR landowner participants provide their land for one cycle of oil palm of 25 years, while SALCRA provides financial and technical resources. This venture is signified by a letter of consent between two parties, SALCRA and the native landowner participants. They are not considered shareholders as the venture is not a business partnership and commercial equity is not a feature of the scheme. Once the oil palm is productive and the estate unit is able to make a return from the initial development and operational costs, scheme participants receive annual net proceeds from SALCRA. Net proceeds are based on the sale of the FFBS after the cost of production. The capital cost of setting up a plantation and support infrastructure is funded by concessional federal loans, which the participants are to progressively repay through the sale of oil palm fruit. Under the last five-year Malaysia Plan (2006-2010), SALCRA received grants totalling MYR 21 million (USD 5.72 million, at the 2006 exchange rate) disbursed by the Federal government mainly for the construction of road infrastructure. SALCRA also procured loans of up to MYR 82 million (USD 22.36 million) from financial institutions. Over 2011-2012, a further 6,750ha is slated for new planting. Typically, a seven-year grace period with no interest charged on repayment is given, so the loan repayment schedule is from Years 7 to 24 with a nominal interest charged at 4% per annum on the outstanding balance (Cramb and Ferraro, 2010).



Photo: © Shariff Che' Lah | Dreamstime.com

A new road through an oil palm estate in Malaysia.

Risk and reward

Participation in the scheme comes with an assurance that the participant's NCR land involved in the scheme will be issued with a land grant pursuant to section 18(1) of the SLC 1958. Once the plantations are established, participants expect to receive annual proceeds based on the performance of the estate in which their land is located. This is calculated by deducting the maintenance and operational costs, loan repayments and retention funds for replanting purposes from the net proceeds of the scheme.

SALCRA schemes were originally intended to create plantation employment for rural communities, and build the capacity of scheme participants to manage the estates. However, most schemes are still administered directly by SALCRA (Colchester *et al.*, 2007). SALCRA employs 3,579 estate workers, 54% of whom are migrant workers. Some participants regard this arrangement as liberating, allowing them to pursue other agricultural pursuits or employment elsewhere from which they can obtain higher returns (Banerjee and Bojsen, 2005). SALCRA is not funded by the proceeds of the plantations. However, profits are reported from its mills and other operations. SALCRA and its group of companies reported total revenues of MYR 473.99 million (USD 153.62 million) and a group profit before tax of MYR 119.71 million (USD 38.8 million) as at 31 August 2010.²¹

Based on public announcements of SALCRA's annual yield production taken from news reports and taking into account its total area under production, it is estimated that the average annual FFB yield per hectare for SALCRA managed estates ranged from 10.64 tonnes/ha in 2006 to a high of 12.03 tonnes/ha in 2010.²² Except for 2008 where no data was publicly available, the average yield trend for SALCRA has been increasing since 2007. In the past four years, SALCRA's returns have been estimated to account for 33-53% of SALCRA's plantation profits after accounting for operational costs which have been estimated using Cramb and Ferraro's valuations. This suggests that the remaining percentage of annual profits is channelled to loan repayment and retained for the replanting fund. The total payout to participants for 2010, MYR 74 million (USD 24 million), has been the largest disbursement to date. This is equivalent to an overall average payment of MYR 1,527 (USD 485) per hectare/year.²³ For the average participant with an estimated 2.25ha of land under SALCRA management, this amounts to MYR 3,433 (USD 1,113) a year, or MYR 286 (USD 93) a month.

21. Also reported in Borneo Post, 29 November 2010 'Salcra might pay highest dividend'.

22. It was reported in a business daily in January 2010 that SALCRA's plantations produced an overall average yield of 14.7 tonnes/ha in 2009, while the estimate for 2010 is 14.9 tonnes/ha (<http://biz.thestar.com.my/news/story.asp?file=/2010/12/1/business/7528609&sec=business>, accessed on 26 April 2011) and Cramb and Ferraro (2010: 12) also state that SALCRA schemes average 15 tonnes/ha in estates 'that have reached a yield plateau'. Our calculations, based on reported annual yields divided by SALCRA's total area managed under oil palm, suggest a lower average yield, at 12.03 tonnes/ha as it includes newer estates that are yet to reach their yield plateau.

23. Averages, although useful to a limited extent, mask the complexity of issues that lead to variability in yields. Net proceeds vary in different locations based on variables such as age of planting, soil and terrain suitability, management regime and other factors.

Table 2. Estimates of production and profit from SALCRA plantations, 2007-2010

Year	Average FFB price (national average from MPOB)	Total FFB yield (metric tonne)	Estimated gross profit from FFB	Total proceeds	Proceeds paid out as % of gross profit
2007	MYR 505 (USD 147)	511,082 ^a	MYR 258 million (USD 75.1 million)	MYR 40.3 million ^a (USD 11.7 million)	16%
2008	MYR 610 (USD 183)	Undisclosed	-	MYR 52 million ^b (USD 15.6 million)	-
2009	MYR 465 (USD 132)	568,000 ^c	MYR 264 million (USD 74.9 million)	MYR 37 million ^b (USD 10.5 million)	14%
2010	MYR 605 (USD 196)	585,000 ^c	354 million (USD 114.73 million)	MYR 74.3 million ^c (USD 24.1 million)	21%

Sources: estimates are based on publicly available information as follows:

a) Bernama news report on 10 January 2008 (<http://www.palmoilprices.net/news/salcra-to-pay-out-rm403-million-in-dividends-to-16000-land-owners>);

b) Sarawak Tribune report on 23 May 2010 (<http://tribune.my/prime/107-salcra-to-pay-out-targeted-rm50m-in-dividends.html>);

c) Sarawak Tribune report on 30 November 2010 (<http://tribune.my/prime/4784-record-salcra-dividends.html>).

Table 3. Estimates of average yield and dividend from SALCRA, 2007-2010

Year	Total proceeds paid out to participants	Average proceeds paid per ha, assuming 48,000ha planted	Average annual proceeds per participant
2007	MYR 40.3 million (USD 11.7 million)	MYR 840 (USD 244.50)	MYR 1,868 (USD 543.72)
2008	MYR 52 million (USD 15.6 million)	MYR 1,083 (USD 325.15)	MYR 2,410 (USD 723.55)
2009	MYR 37 million (USD 10.5 million)	MYR 771 (USD 218.75)	MYR 1,714 (USD 486.31)
2010	MYR 74.3 million (USD 24.1 million)	MYR 1,548 (USD 439.80)	MYR 3,443 (USD 1,115.90)

Source: as Table 2 above.

Payments of proceeds for the previous year are credited directly into the bank account of participants either in one or two tranches. No statements of annual production and/or finances are sent to participants currently, although a system is reportedly being put in place for this. SALCRA payments are based on production from the specific section of the estate where a participant’s land is located. Hence, the proceeds vary significantly depending on the management, site and soil suitability, and the age of planting. Some of this variation is lost in averaged figures.

As may be seen from Table 3, for 2009, SALCRA's average annual payment to participants was estimated to be MYR 771/ha (USD 218.74/ha). While we were unable to obtain a comprehensive sample of proceeds for analysis, two examples from SALCRA participants in different schemes highlight the variability of annual proceeds. Both these participants have off-farm employment and do not work on their schemes.

Participant A has an area of 2.27ha under SALCRA in Saratok region, which he acquired through buying a relative's land in 1998. The phase was planted in 1992, making 2009 the 17th year of planting. The 2009 proceeds received were MYR 1,137 (USD 332.5) paid in two tranches (January and July 2010). Hence, the average proceeds in his scheme was MYR 500/ha (USD 141.86/ha).

Participant B, whose scheme is in its 22nd year, has approximately 10ha under SALCRA, also in Saratok. In 2010, he received approximately MYR 25,000 (USD 7,093) in two tranches from SALCRA as proceeds for 2009. The average proceeds in his scheme were MYR 2,500/ha (USD 709.3/ha)²⁴ – about five times higher than Participant A. This illustrates the wide range in proceeds disbursed. The differences may be explained historically by SALCRA's original aim to develop land for the rural poor – which includes areas that are sometimes less than ideal for oil palm, e.g. often remote, fragmented areas with poor soils – instead of a profit motive (Cramb, 1992 in: Cramb and Ferraro, 2010). Inadequate management of the estates also affected the performance in many schemes (*ibid.*).

When schemes underperform, it introduces a significant element of risk to the participants as they are required to pay back development loans to SALCRA. Low yields lead to prolonged repayment periods, and low annual proceeds. For example, in one scheme in Jagoi, Bau it has been reported that native participants owe SALCRA up to MYR 5 million (around USD 1.5 million) in development loans although the scheme is already 20 years old.²⁵

Voice

SALCRA is not required to make its annual production and financial performance figures available to participants. Announcements of annual payments only state the total proceeds to be paid out for the year. This remains a point of contention amongst some participants who perceive their proceeds to be very low taking into consideration the potential profits achievable as the rise in CPO prices is publicly known. Consequently, SALCRA has been criticised for alleged financial mismanagement in alternative media highlighting the experience of some scheme participants. SALCRA has not yet taken the step of releasing information to refute these criticisms. However, the organisation is said to be revising its financial reporting processes.²⁶

24. Based on interviews with SALCRA participants in December 2010.

25. According to an article on an independent media site: <http://www.freemalaysiatoday.com/2011/10/12/salcra-leads-natives-into-bankruptcy/> (accessed 1 December 2011).

26. Pers. comm., Cramb, February 2011.

Evaluation

SALCRA's model seems fairly straightforward as it involves only NCR landowners and SALCRA. However, there has been dissatisfaction over land and proceeds.²⁷ Risks to local participants may seem smaller than in the New Concept schemes as the land asset of NCR landowners is secure even if the estate underperforms. However, in SALCRA schemes low proceeds may leave participants in debt even after the first oil palm cycle as the proceeds may be insufficient to cover the initial development and planting costs. Currently, participation in SALCRA schemes could be considered beneficial if it is part of several household livelihood strategies and it does not occupy all available land. Local participants fared best if they had the opportunity to pursue traditional farming for subsistence and the planting of other commercial crops such as pepper and rubber, in addition to developing their own oil palm smallholdings. Engaging in distress sales of parcels of remaining NCR land (including plots under SALCRA) to meet basic needs or to raise capital for other ventures has been one way of coping with vulnerability.²⁸ These internal land sales could have the unwanted effect of increasing the gap between those who have access to off-farm employment and other sources of income and those without.²⁹ With the proceeds being paid only twice a year, it cannot be relied on for daily household expenses and participants need to have other sources of income.

Unfortunately the lack of access to data on SALCRA's plantations, participants and proceeds limits an in-depth review to analyse the impact of SALCRA on native land and livelihood in general. This would be a revealing exercise as studies have shown that the consolidation of native land for large scale plantation development has increased the value of land as customary land is transformed into individual titled land, which has increased the contestation of land amongst longhouse members (Hew, 2011). In addition, from a gendered point of view, the change of subsistence livelihood to large-scale agriculture has impacts upon the role of women as the custodians of agrarian traditions and traditional economy in a longhouse community. The issuance of land titles and thus proceeds of oil palm development to the heads of households, who are typically men, increases the degree of dependence of women on male heads of households for their fair share of proceeds (Hew and Kedit, 1987 in: Hew, 2011).

27. There are records of disputes over land between SALCRA and native communities. One long-standing dispute filed in 1995 that has not been resolved started when SALCRA 'started clearing land without informing the communities or consulting them about the ownership of the lands' (Colchester *et al.*, 2007).

28. Interview with SALCRA participants, 16 Dec 2010.

29. This increasing inequality was also found by Banerjee and Bojsen (2005) in their review of land use strategies in SALCRA Batang Ai Resettlement Scheme.

3.2 The New Concept model

Overview

The New Concept model is implemented by the Land Custody and Development Authority (LCDA), a statutory body which was first established in 1981 to facilitate private large-scale development of oil palm on NCR land in joint ventures with NCR landowners and private sector plantation companies. The scheme is different from the SALCRA model in that this is a three-party joint venture model involving an additional party – namely, a private company. This model involves the establishment of commercial oil palm plantations on NCR lands and lands claimed under *adat*. The LCDA Ordinance of 1981 empowers the body to designate Development Areas to undertake development on all categories of land for agriculture, commercial, industrial and residential purposes. With the approval of the Minister, the LCDA can undertake compulsory land acquisition.

Unlike the SALCRA scheme, with LCDA's New Concept model, customary landowners become shareholders in a joint venture company. The equity in the joint venture is based on the area of land given over to the scheme rather than a financial contribution. In this arrangement, the private investor retains 60% equity share, the native landowners retain 30% although this share is held in trust by the LCDA. The LCDA itself provides 10% paid-up capital for a 10% equity share in the venture. A preliminary survey of individual holdings is carried out to determine a participant's share in the venture. The JVC pays the participating customary landowner the value of the land which is pegged at MYR 1,200 per hectare (USD 400, which is below market value). 10% of this is paid in cash up-front, while 30% is invested for the participants in a government unit trust scheme, and 60% is invested as the landowner's equity in the JVC.

The Chairman of LCDA is the Sarawak Chief Minister who is also the Minister of Planning and Resource Management (which houses the Sarawak Land and Survey Department) and the Minister of Finance. Such linkages may be assumed to help expedite the legal and technical processes required for the Joint Venture to proceed. The New Concept approach is a strategy to divest the state of financial risks in developing large scale plantations by channelling direct investments from the private sector. It also enables the acquisition of customary lands in large blocks of 5,000 hectares and above. This is the minimum size considered commercially viable for plantations.

The LCDA plays multiple roles throughout the entire process. First, it functions as a Land Bank, as it makes rural land available for development by declaring Development Areas using the LCDA Ordinance 1981. Second, it acts as an intermediary between customary landowners and private sector investor, and coordinates and supervises the resulting JV as a managing agent. LCDA is represented in the joint venture by Pelita Holdings Sdn Bhd. Under the Principal Deed, the customary landowners are asked to jointly agree to appoint and authorise Pelita Holdings to be their sole Trustee to develop the surrendered land for them and to receive the benefits from the resulting JVC. Pelita Holdings facilitates the transfer

of NCR and *adat* lands to the JVC.³⁰ A master lease is issued to the JVC for the Native Land Area for a period of 60 years (equivalent to two oil palm growing cycles).

In the agreement the JVC becomes the registered proprietor of the plantation and NCR landowners are not expected to have direct involvement with the investor. The standard agreement requires them to pledge that they will not interfere with the use and development of the land. It is also stated that 65% of the profits earned from the plantation project shall be distributed to the shareholders in proportion to their shareholdings, but this is subject to the availability of sufficient funds including those set aside for future expansion, loan repayments and capital investment requirements and other lawful deductions. The customary landowners do not receive title to their land during the tenure of the JVC, and upon expiry of the lease to the JVC, the restitution of the land to the customary landowners is not automatic – customary landowners are expected to apply to the Superintendent of Land and Survey to re-establish their land rights (Jitab and Ritchie, 1991).

The JVC is formed with an agreement between the investor company and the Trustee. It allows five directors to be appointed: three are nominated by the investor, and two by LCDA. The latter also appoints the JVC's chairman from its nominees, while the Managing Director is nominated by the investor company. Only recently has the provision been made for representatives of native landowners to sit on the board, but they do not have voting rights. Customary landowners are not involved in any decision-making or financial arrangements of the JVC.

The next section discusses the case of the Boustead Pelita Kanowit scheme, which commenced in the mid-1990s.

A case study: Boustead Pelita Kanowit

Boustead Pelita Kanowit (BPK) is the current name of the first New Concept JVC, although the investor and the name of the project have changed several times since the initiative was first launched in August 1996. Presently, the venture involves Boustead Holdings Berhad (BHK) as the investor, Pelita Holdings as Trustee, and customary landowners in Kanowit District. Land clearing and planting began in 1996 although the joint venture agreement between the investor and the state government was officially signed only in May 1998. The Principal Deed between the customary landowners and Pelita Holdings was only signed in January 2002.³¹ The total area leased to BPK is 14,411 hectares, with 12,649 hectares planted to date. BPK is the largest of the New Concept projects, making up 26% of the current total planted area.³² As of 2009, the project includes six estates,³³ and involves 2,133 NCR landowner participants from 1,685 households.

30. Legally, only natives are allowed to transact in NCR land, the resulting JVC has to be deemed 'native' by application to the State Secretary for a special direction pursuant to Section 91(1)(d) of the Land Code.

31. Pers. comm. with ex-LCDA official, November 2010.

32. <http://www.pelita.gov.my/ncr.html> (accessed on 23 November 2010).

33. Boustead Holdings Berhad 2009 Annual Report, available online at <http://www.boustead.com.my/invesrelate/Annual%20Reports/Boustead%20Holding2.pdf>

As the pioneering project for the new three-way concept, there were high expectations of success. Despite there being little financial data in the public domain, media sources and annual reports suggest that the project has underperformed in terms of both commercial viability and improvements to local livelihoods. The project accumulated losses of MYR 95 million (USD 28.5 million) by its ninth year of operation (Cramb and Ferraro, 2010).

According to industry sources and officials, some of BPK's financial problems can be attributed to low yields,³⁴ combined with heavy borrowing at high interest rates (Cramb and Ferraro, 2010). The Asian economic crisis of 1997-98 and poor performance of palm oil in the global markets in the early 2000s were also cited as factors contributing to the company's losses (as cited in company documents).

By 2005, the company had reportedly spent more than MYR 200 million (USD 60 million) in establishment costs, including MYR 35 million (USD 10.5 million) on a palm oil processing mill.³⁵ In 2009, BPK reported to its shareholders that it was still unable to declare dividends. In addition, the company projected that native shareholders would not be able to see a return on investment unless the government injected around MYR 120 million (USD 34 million) to reduce its debt (Cramb and Ferraro, 2010).

Native shareholders began to express their discontent by the fourth year (2001) when no dividends were received. By mid-2008, having failed to obtain a satisfactory response from the JVC or Pelita Holdings, customary landowners resorted to extreme measures. Participants in the scheme from 20 longhouse communities erected blockades to prevent estate workers from entering one of the plantations. A police report was lodged against BPK in 2008, based on the allegation that the company was withholding dividends.³⁶ The company responded by offering to pay 'advanced' dividends³⁷ at MYR 250 per hectare in 2008 (USD 75), although some participants rejected payment of the advanced dividends in protest.³⁸ A policy change was made in 2009 so that customary landowners would receive MYR 150 per hectare (USD 43) in advanced dividends until the JVC is able to pay out dividends (Cramb and Ferraro, 2010).

Over the entire 14-year period since the start of the project, based on the total incentive payments paid out, it is calculated that on average, a native shareholder with 6.25 hectares of land would have received a total of MYR 3,255 (USD 1,055) in

34. Reported as 7 tonnes/ha in 2005 (Cramb and Ferraro, 2010) and claimed to be 8-10 tonnes/ha in 2006 to a high of 18-20 tonnes/ha in 2009 (pers. comm. from ex-LCDA official, November 2010). In comparison, well-run commercial plantation companies planting oil palm on mineral soils in Sarawak can be assumed to produce 20-25 tonnes/ha FFB (Cramb and Ferraro, 2010).

35. <http://thestar.com.my/news/story.asp?file=/2006/4/19/southeast/13977927&sec=southeast>

36. <http://www.malaysiakini.com/news/84914> 'Angry NCR landowners act against company' by Tony Thien, 23 June 2008 (accessed 5 November 2010).

37. Also variously referred to as 'incentive payments' or 'interim dividend' as it is not actually a dividend if the joint venture is making a loss. These amounts are to be subtracted from participants' actual future dividends.

38. According to the counsel engaged by the native shareholders, interviewed in Kuching, 17 December 2010.

cash incentives in the form of advanced dividends. In a mediation dialogue with the investor and the Trustee in 2008, native shareholders were reportedly told that dividends could not be paid because BPK has been making a loss for years and had accumulated a debt of MYR 130 million (USD 42 million).³⁹ In 2009, participants initiated legal action. A suit was filed in September 2009 by 163 families against Pelita, the Sarawak Government and BPK, alleging breach of trust and negligence in properly protecting the interests of native shareholders.⁴⁰

In the case of the affected longhouse communities, some of the land that had been given over to the JVC included pepper and rubber gardens, forested fallows and paddy areas, as stated in the plaintiffs' statement of claims. Local participants believed that returns from the venture would be sufficient to secure their household needs. Moreover, the assurance of secure tenure would make the involvement in the project worthwhile. Today, many regard themselves as being worse off than if they had never participated in the scheme at all.⁴¹

Because of the political significance of the New Concept schemes to the state government, accounts given to the media by state agencies and politicians emphasise different aspects. In a 2006 feature article in *The Star*, the Assistant Minister for Rural and Land Development emphasised that villagers in the BPK project were now able to enjoy improved roads, treated water and power supply. He elaborated that the project had generated other income streams which benefited the community; there were reportedly 76 local contractors earning between MYR 3,000 (USD 818) and MYR 8,000 (USD 2,182) a month and that average monthly income for households had jumped from MYR 296 (USD 81) in 1996 to MYR 720 (USD 196) in 2006.⁴²

Income diversification is an important socio-economic development. However, there are clear misgivings and concerns voiced by local participants, particularly in relation to security of tenure and the perceived inadequacy of returns from the joint venture. In addition, native shareholders have not been provided with an effective means of channelling their concerns; as a result, many participants in the New Concept schemes have resorted to voicing their dissatisfaction through the media and the courts. Only greater transparency and independent assessments of the financial management can address the existing gap in views and perceptions. As the New Concept model continues to be the main vehicle for rural development in Sarawak, it is particularly important to learn lessons from this experience.

39. According to the counsel for the native shareholders; <http://www.indigenousportal.com/Heritage/Malaysia-Natives-are-not-only-NCR-landowners-they-are-part-of-the-land.html> (accessed on 5 November 2010).

40. Information was announced in Bursa Malaysia's (Malaysian Bourse) website (<http://announcements.bursamalaysia.com>), dated 26 April 2011, titled 'Legal action against Boustead Plantations Berhad ("BPlant"), a wholly owned subsidiary of Boustead Holdings Berhad ("BStead") and Boustead Pelita Kanowit Sdn Bhd ("BPK"), a 60% owned subsidiary of BPlant' (accessed on 29 August 2011).

41. According to the counsel for the native shareholders; <http://www.indigenousportal.com/Heritage/Malaysia-Natives-are-not-only-NCR-landowners-they-are-part-of-the-land.html> (accessed on 6 November 2010).

42. <http://thestar.com.my/news/story.asp?file=/2006/4/19/southeast/13977927&sec=southeast>

Evaluation

The Sarawak Ministry of Land Development website states that since the launch of the New Concept a total area of 51,362 hectares has been developed with oil palm under the scheme. However, many JVCs have become embroiled in conflicts with native shareholders over disappointing dividend payments. Non-participating communities have protested on issues concerning land encroachment and legal suits have been filed against LCDA, the Department of Land and Survey and some of the companies involved in JVCs. These conflicts have also caused several big investors to pull out of these schemes.

The BPK case study illustrates some of the shortcomings of the New Concept model. First, the structure and terms of the JV are largely immutable, and there is little or no provision for negotiation and consultation to better accommodate the needs of customary landowners. FPIC principles do not generally feature in the inception phase, and there seems to be inadequate emphasis on ensuring that prospective participants fully understand the legal and procedural technicalities of the JV. According to Ngidang (1999), decision-making did not follow the traditional method of participatory consultation amongst longhouse communities (*randau ruai*). The emphasis on accelerating the implementation of the project means that native participants do not have the opportunity to debate the potential impact of the project on their lives and livelihoods.

The deed agreement between the native landowners and Pelita as Trustee does not contain mechanisms to address grievances. There is no exit clause. In the trust deed, customary landowners are asked to relinquish their right to sue the government agency and the investor (although this has not stopped the landowners from launching legal action against the agency and the investor for breach of trust). There is no independent body or mechanism to conduct monitoring and periodic evaluation of performance. The non-disclosure of annual financial reports to native shareholders and the lack of evaluation process seem striking gaps in procedures.

The structure of the joint venture includes an Area Development Committee (ADC), which consists of community leaders and government officials and is expected to play a public relations role in promoting the project. A field survey conducted for the Sarawak Development Institute in 1998 of two of the earliest JVCs to explore landowners' perception and understanding of the JV found that the ADCs follow a 'selective patronising strategy' and allegedly discriminate against 'unfriendly' longhouse communities. As officials tended to disengage from landowners that were critical of the project, the ADC did not successfully achieve its intended purpose (Ngidang, 1999).

The same study found that in the course of promoting the New Concept schemes, numerous misrepresentations were made. According to that study, native communities are given the impression that they are not able to plant oil palm without government assistance, and that the government could potentially take ownership of customary lands for development even if communities did not surrender it.

The JVC was generally marketed as the sole route to securing infrastructure and services such as clinics and schools. Based on the survey, elements of co-option of community leaders were common (Ngidang, 1999).

The lack of economic and infrastructure development in rural Sarawak makes it difficult for members of the community to refuse the project, despite genuine concerns over the fairness of the deal. Most participants believed that the schemes would ultimately provide them with land titles which would conclusively settle longstanding tenure insecurity. Others anticipated that they would be given employment, training opportunities or contract work on the plantation. Some participants surrendered all their NCR land to the project (16% in a survey of 240 participants), but most retained some for other uses (IDEAL, 2001).

The IDEAL report also claims that although some of the projects succeeded in improving basic infrastructure in the form of roads, water and electricity supply, there are others that still had to rely on streams for water. In almost all cases, plantation development involved sacrificing the capacity to collect forest resources for food, medicines and building materials, and reduced areas for subsistence farming. Overall, there has been no research to show how effective the New Concept projects have been in alleviating poverty. Instead, the level of uncertainty has intensified among some NCR shareholders (Ngidang, 2005). They worry about future dividends and the status of their land in the event that the projects fail. Based on interviews with community informants, the New Concept projects have also caused disunity and conflict which has split some longhouse communities.

Thus far, there seems to be little evidence that the feedback and criticisms of the New Concept scheme are being taken on board, apart from a new policy of making incentive payments of MYR 150 per hectare/year (USD 43) to participants from the first year of planting, and the inclusion of a non-voting landholder representative on the board of each JVC (Cramb and Ferraro, 2010).

3.3 Sarawak: summary and assessment

Having conducted detailed economic analyses to contrast the two main approaches to extend oil palm on native customary lands in Sarawak, Cramb and Ferraro (2010) concluded that if the New Concept model lived up to the expectation of achieving commercial yields and dividends, it would be superior to the SALCRA model on the grounds of increased efficiency. However, when the actual yields and dividends achieved by the joint venture schemes were taken into account, Cramb and Ferraro (2010) found that the SALCRA model was superior on both efficiency and equity grounds. The SALCRA model was found to be able to achieve 'reasonable yields and positive net benefits overall, while providing significantly more benefits to local people, not only in terms of income but also with regard to security of tenure and the degree of participation in scheme affairs' (Cramb and Ferraro, 2010). The recent moves within SALCRA to provide more clarity of financial management and establish

stronger communications channels with participants are indications that feedback is being taken on board.

Concerns regarding production and dividends aside, the impact of these large-scale development models on the lives of native communities as they make the transition from a mostly agrarian economy to being 'labourers and shareholders without decision-making powers' (Hew, 2011) requires urgent consideration as the consequences of the state's 'politics of development' are far-reaching and complex, yet inadequately studied.

4. Partnership models in Sabah

The two case studies for Sabah are implemented by the Sabah Land Development Board (SLDB). The first is a project in Dalit, which commenced in the late 1990s in the Keningau District; the other is the Agropolitan land development scheme at Lalampas, Tongod, which began only in 2009 (see Figure 2). SLDB's pioneering of oil palm expansion into the Sabah interior is often credited by its proponents for improving local livelihoods and spurring economic development in Keningau District and Nabawan, filling the gap created by the timber industry which has been in decline since 2000. There are plans to develop another 10,000 ha of interior lands in the immediate future.⁴³

SLDB is a statutory body established in 1969 under the Chief Minister's Department to implement Sabah's rural development programme. Its mission is 'to act as a catalyst in transforming rural areas and improving well-being among rural population in Sabah through land consolidation by way of commercial cultivation and modern farming.'⁴⁴ Despite being a government-linked agency, SLDB does not own land, nor does it receive grants from government. It must therefore rely on its own profit margin to survive.⁴⁵ It cannot raise commercial loans since it does not own land, but it is given the mandate by the government to develop land entrusted to it. Section 32 of the SLDB Enactment of 1981, however, allows its Board to raise loans from the government or, with the consent of the Minister of Finance, obtain temporary loans or overdrafts from financial institutions.

In generating its own operational funding, SLDB has embarked on a range of joint venture arrangements, including several with smallholder cooperatives.⁴⁶ Different types of profit-sharing mechanisms are used in Dalit and Lalampas where the venture is with smallholders that have customary claims to lands that may be titled or untitled. Typically, in such projects the profit margin tends to be small, but sufficient to cover operational costs and provide a 2-3% return on investment.⁴⁷

43. The areas slated for further expansion by SLDB are Sinua, Tinagalan, Lumiri and Nabawan (interview with an SLDB officer, Kota Kinabalu, 11 March 2011).

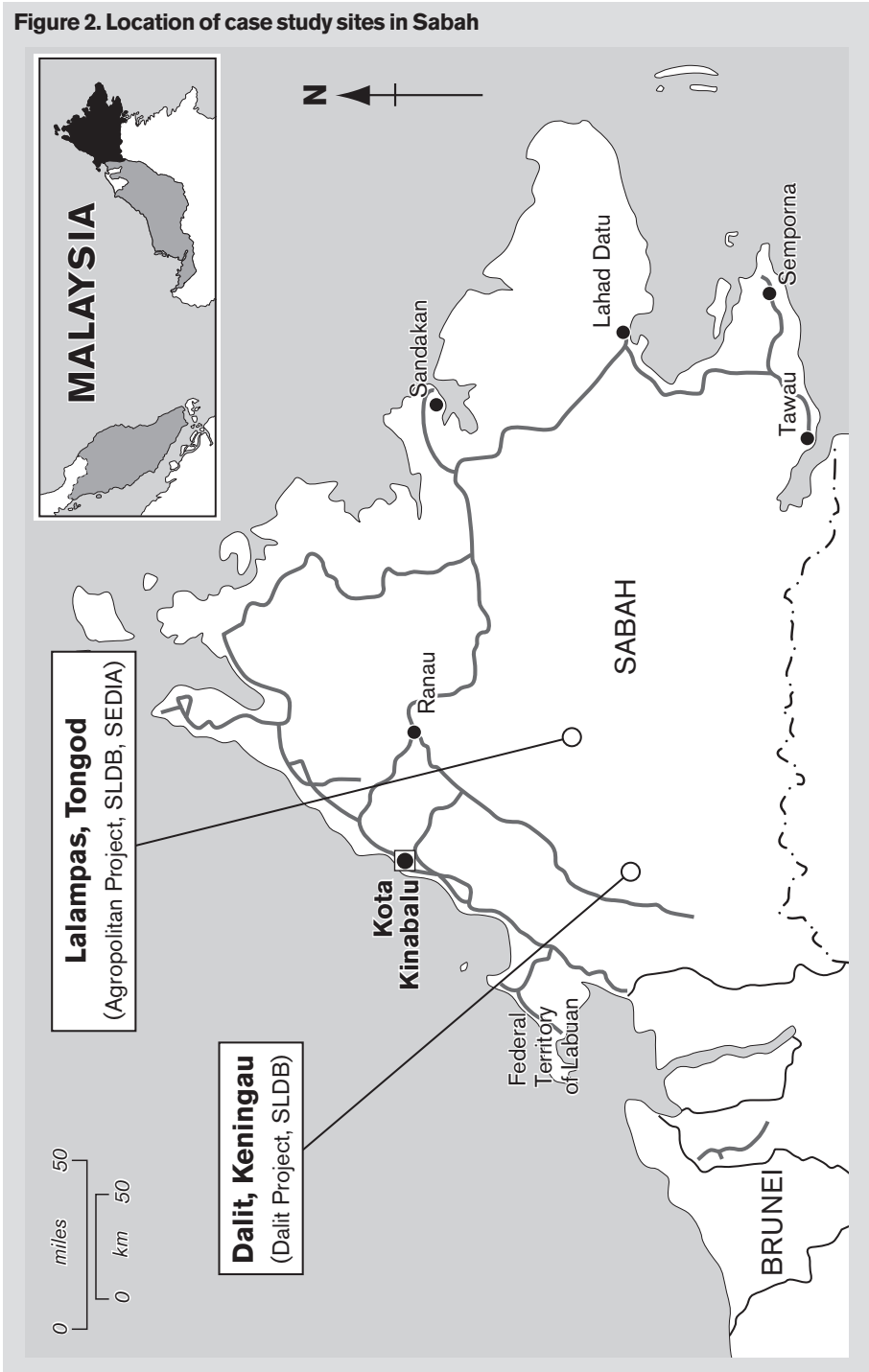
44. SLDB website, <http://www.sldb.com.my/index.php?sc=MissionStatement>

45. Interview at SLDB Office, Kota Kinabalu, 11 March 2011.

46. For example, the joint venture arrangement with the Kandang Besar Cooperative at Keningau operates on 191 hectares of land with 903 members.

47. Interview at SLDB office, Kota Kinabalu, 11 March 2011.

Figure 2. Location of case study sites in Sabah



4.1 Case study 1: SLDB joint venture in Dalit, Keningau District

Ownership

The SLDB joint venture at Dalit, in the District of Keningau, involves five villages: Dalit Gana, Dalit Laut, Dalit Stesyen, Ponggul and Kalampun. The initiative began in August 1997 with the establishment of a nursery plot. However, the agreement between individual participants and SLDB was only signed in 2005. Under the agreement, SLDB would manage the land claimed under customary rights by the Murut (Tagal) community until 2025. The venture is based on a 60:40 profit-sharing model with community participants getting 60% of the net proceeds. The total size of the Dalit plantation is 1,718 hectares. This is divided into two estates: Dalit 2 (1,362ha) is on the community-claimed area, while Dalit 1 (356ha) is entirely owned by SLDB as it is claimed that this area is unencumbered State Land.⁴⁸

There are 299 participants from the five villages, usually representing whole households. Once the agreement period is completed, scheme participants would obtain Native Titles to small lots in the Dalit 2 area. Over this period, SLDB would be expected to recover its development capital. Community participants are expected to benefit from employment in the SLDB estate and from hands on experience on the plantation. In this model, once the oil palm begins to fruit, JV participants are paid quarterly proceeds from profits made.

Voice

According to interviews with Dalit scheme participants, SLDB first approached the Dalit villages in the 1980s to solicit their participation in the scheme but local communities were not in favour of participating. Community members generally believe that they have customary rights to these lands and the process of applying for Native Title is merely a state-required formality. Most were already engaged in the cultivation of coffee, rubber and fruit trees⁴⁹ and were worried about what would happen to their lands with the introduction of the scheme. Some were also worried about losing access to nearby forests for hunting and the collection of forest products. When approached again in the 1990s, the villages of Punggol and Dalit Laut were against the venture. They needed to have a clearer understanding of the terms and conditions before entering into an agreement and observed that there were inadequate mechanisms for local people to influence decision-making and to understand the financial status of the proposed development.

The headman of Dalit Gana was one of the first local leaders to support the venture. Although he acknowledged that there was an element of risk, he reasoned that the

48. In state administrative terms, State Land is 'unowned land'. However, much that is regarded as 'unowned land' is really land claimed under customary rights that has yet to be titled, which has become the source of numerous conflicts. According to the Malaysian Human Rights Commission (SUHAKAM), Sabah has the highest number of registered conflicts over land in Malaysia involving customary rights issues compared to Sarawak and Peninsular Malaysia (SUHAKAM, 2009).

49. Field notes, March 2011.

scheme was an opportunity for development and employment and would enable the local community to send their children to school.⁵⁰

Historically, Dalit Gana's ancestral territory is much smaller than that of Punggol and Dalit Laut (based on the land area cleared by their ancestors). As scheme participants are entitled to 6 hectares per household, Dalit Gana participants stood to obtain a larger share of the territories of Punggol and Dalit Laut.⁵¹ Hence, it would have been advantageous for Dalit Gana to participate as it would have entitled them to a larger share of the land.

Despite the unresolved issues, eventually all the community leaders agreed to participate. For many, the reason for going ahead with the scheme was simply that they 'did not want to be left behind'.⁵² The Punggol leaders reportedly managed to negotiate for more rewards compared to the other villages by including several household members as scheme participants, therefore entitling them to receive a share of the annual proceeds and land distribution at the end of the agreement period. This and other perceived inequalities that emerged at the project inception stage have remained a source of contention among villagers and arguably have the potential of fuelling conflict between villages.

During fieldwork in March 2011, local respondents stated that they were not entirely clear, initially, on how the JV system would work, and felt that the signing of individual contracts had been rushed and not fully understood.⁵³ Respondents also felt that it was difficult to reach SLDB officers to get clarification and support, and that there was no dialogue with the community to develop a shared framework for coordination. In the end, local people participated for a variety of reasons including the opportunity to benefit from infrastructure and plantation development, and to give their families a stronger economic footing. They were particularly interested in securing individual Native Titles to their lands. The process for facilitating land distribution after the venture continues to be somewhat unclear. According to an SLDB representative, it will be decided upon 2-3 years before the termination of the agreement.

Initially, in the absence of a functioning forum for participants to engage SLDB in discussions, participants organised themselves to raise concerns. In the early 2000s, a committee was formed to monitor the SLDB venture; the committee eventually disbanded as it was not recognised by SLDB and the District Office.⁵⁴ In response to local dissatisfaction, in August 2010 SLDB appointed a salaried Village Coordinator (*penyelaras*) for each village so that participants could have clearer lines of communication with SLDB management. One element of community dissatisfaction was the perceived low proceeds distributed even during a period when – according to local respondents – both CPO and FFB prices were known to

50. Interview with Ketua Kampung (Village Head) Dalit Gana, January 2011.

51. Interviews, Punggol and Dalit Laut villages, 5-6 March 2011.

52. Village interviews, Dalit, 5-7 March 2011.

53. In a written response dated 17 September 2011, SLDB has explained that several dialogues and forums were held but the villagers forget details easily.

54. Interviews, Dalit villages, 6 March 2011.

be exceptionally high. The Village Coordinators help to monitor field work and bring community issues to the attention of the estate management. They are also able to obtain a more accurate impression of production and revenue and 'fight for higher proceeds', should the need arise.⁵⁵

The introduction of the Village Coordinator system is viewed as a positive development and has also coincided with higher proceeds being paid out (see Table 4). Participants remain unfamiliar though with the inner workings of estate management, such as financial information on operating costs, debt repayment and funds set aside for replanting. SLDB has explained that participants are eligible to participate in the economic activities of the plantation such as obtaining contracts for transporting FFBs, or in social activities such as motivation programmes for schoolchildren.⁵⁶

Table 4. Proceeds distributed to participants by SLDB, 2007-2010

Year	2007	2008	2009	2010
Dividend	MYR 988,000 (USD 280,000)	MYR 1,270,000 (USD 360,000)	MYR 1,809,000 (USD 513,000)	MYR 3,500,000 (USD 993,000)

Source: unpublished data, SLDB 2011.

Risk and reward

It has now been more than a decade since the Dalit project commenced. In that time it is undeniable that there have been tangible improvements in infrastructure and amenities. The community began to receive regular proceeds from the profits of the plantation in 2007, approximately 9 years from the start of the project. The proceeds are normally paid on a quarterly basis directly to their bank accounts (although the quarter can stretch beyond three-month periods at times).

In November 2010, the Deputy Minister for Natural Resources and Environment attended an event in Keningau to celebrate the success of SLDB's role in Dalit, with the presentation of a dividend totalling MYR 557,373 (USD 158,142), presumably the proceeds for one financial quarter.⁵⁷ The cheque presentation was accompanied by an announcement of a road improvement project to be implemented in 2011-12 with support from the Federal government.⁵⁸ It has been observed by Guyot (1971) that successful estate development and oil palm expansion are opportunities for political elites in power to gain political mileage; Dalit is no exception. Road projects to the estate, housing for workers, and mock cheque presentations are used to prove that the JVs are succeeding at improving the lives of the rural poor, in the hope of enlisting the interest of other villages to participate in similar plantation schemes.

55. Interview with Dalit scheme participants, 6 March 2011.

56. SLDB correspondence dated 17 September 2011.

57. Reported in the New Sabah Times, 9 November 2010 (<http://www.newsabaitimes.com.my/nstweb/fullstory/44091> accessed on 11 November 2011).

58. Reported in the New Sabah Times, 9 November 2010 (<http://www.newsabaitimes.com.my/nstweb/fullstory/44091> accessed on 11 November 2011).

Media reports suggest that JVs have helped local participants gain a level of income security and improve their socio-economic position.⁵⁹ In the case of Dalit, the distribution of proceeds for 2009 of MYR 1,809,000 (USD 513,000) for the year, divided among 299 participants, translates into a monthly average of MYR 504 (USD 143) per participant. With the exception of one village that negotiated for more than one participant per family to receive proceeds, most households received an allocation for one family member. Considering that the average monthly income for heads of household in 2009 was MYR 883 (USD 250) in Sabah and MYR 669 (USD 190) for Keningau,⁶⁰ most Dalit participants received proceeds that were below the average level of monthly income for household heads. The distribution for 2010 was higher, however: MYR 3,500,000 (USD 993,000) or approximately MYR 975 (USD 277) per household per month, which is above the average monthly income.

Interviews with community participants indicate that there is a wide range of experiences in the way the estates have influenced household livelihoods. For some, the proceeds from SLDB supplement their other agricultural efforts of planting hill rice and mixed food crops, individual oil palm and rubber smallholdings. The availability of daily paid labour is an option for additional income from time to time and improved road and communications networks have made it easier for villagers to sell produce and to engage in other business ventures. In contrast, for households that have insufficient remaining land to work on, the SLDB proceeds are their main source of income. Proceeds are used to cover children's school fees, and unexpected expenses such as gifts for weddings and funerals or other similar expenses in addition to basic household needs. Unfortunately, the quantum of the proceeds does not seem sufficient to raise their economic position. The fact that the proceeds are paid at quarterly intervals was also raised as a concern by some community participants. Households often end up accumulating debt on their credit payments until the next proceeds are disbursed. In addition, it is understood to be normal practice for SLDB to withhold 30% of the proceeds due to community participants until after the accounts are audited. Some scheme participants feel that delaying payment places an unfair burden on them – but they have not yet found an avenue to raise this concern.

Proceeds from SLDB do not seem to have proven to be sufficient for capital accumulation and to provide adequate leverage to pursue entrepreneurial initiatives. Generally, only those with titled land (NT) outside the SLDB plantation, or those with family members employed in the public sector, are able to access bank loans with which to start their own ventures such as transport services and small shops.⁶¹ The same applies to acquiring sufficient start-up capital to establish their own oil palm smallholdings or extend existing rubber plots; funds having to be generated from elsewhere as proceedings are generally insufficient.

59. See for instance Borneo Post, 14.04.2009: A3.

60. Unpublished data, Department of Statistics Malaysia, 2011.

61. Community interviews in Dalit, 6 March 2011. The issue of off-farm work especially on the problem of accumulating start-up capital for local communities involved in oil palm is similar to patterns elsewhere in Sabah (see Majid Cooke, 2009).



Photo: © Puah Sze Ning | www.szening.com

Work on oil palm plantations is still largely done by hand. Large plantations rely heavily on migrant workers as locals consider the wages to be unattractively low.

Although employment opportunities are created in the Dalit estates and local participants are given priority for these jobs, the monthly wage for such work is low (in the region of MYR 300 or USD 97) and insufficient to sustain a family.⁶² SLDB's own data on human resources (unpublished 2011)⁶³ indicate that the bulk of participants work on the plantation on a part time basis so that out of 1,486 workers, only 19 were full time in 2010. Also, out of 4,381 workers, only 1,467 (34%) were local, the rest being foreign (largely Indonesian) labourers. Fieldwork data indicates that, presently, only 10 individuals from each of the Dalit villages have taken up positions as field supervisors, labourers and office staff. Women from the villages mainly work as casual and general workers, collecting loose fruits and planting cover crops. Daily paid work is available but the payment for this also seems unattractively low at MYR 10 (USD 3.24) per day when they take into account the opportunity cost forgone if they were to work on their own gardens and farms, and harvesting their own crops. Consequently, the estate depends heavily on migrant workers from Indonesia.

An additional concern for participants in this JV is over territory. Oil palm plantations transform village landscapes into continuous scenery dominated by a single crop. Villagers like those from Kalampun that have or are seeking land titles generally know the size and location of their lands based on landscape features. However, physical landmarks typically disappear or become obscured when lands are prepared for the oil palm crop. Traditionally, customary lands are inherited from past generations that first cleared these lands. In addition to differentiating status in the community, the size and location of these lands form a vital link with the past. Consequently, concerns over territory are common for most indigenous communities in Borneo (Peluso, 1996; Ngidang, 2005). SLDB, being mandated to work in poverty alleviation, may be less concerned with these complex socio-cultural matters.

Evaluation

Interviews at SLDB Kota Kinabalu and its field office at Keningau suggest that Dalit is regarded as a success in terms of economic and social achievements. Economically, the distribution of quarterly proceeds and opportunities for income diversification are seen as achievements. It is true that proceeds from the plantation form a significant part of household income for a majority of the population and Dalit villagers have been relatively successful at generating extra income through diversifying livelihood activities. New economic activities include obtaining contracts to transport FFBs to the mill, or employment as field supervisors and administrative staff. In terms of its social programme, SLDB has also begun initiatives for meeting the training and educational needs of the younger generation. There is also talk of further training initiatives in the future.

Nevertheless, the impact of the scheme on local people's lives must be examined more broadly if the joint venture approach is to achieve its objectives of poverty alleviation.

62. Based on interviews with villagers who are also plantation workers 5-6 March 2011.

63. SLDB special written communication dated 27 September 2011.

As the diverse swidden systems of local people have been replaced by oil palm, in recent years, securing adequate food supplies has become a pressing concern. With wildlife populations now depleted, hunting is no longer a viable option in Dalit, and space for rice cultivation is limited because rice must compete with rubber and oil palm planted by the participants themselves. Some households interviewed said they could only meet their rice requirements for half a year; for others, yields were sufficient for only a few months. As a result, a portion of proceeds that participants received from SLDB is spent on purchasing rice.

The pressure to meet subsistence needs is believed to have contributed to the call from villagers to degazette the nearby Forest Reserve as compensation for the land that is now being used by the SLDB plantation. In March 2011, the deputy director of the Department of Land and Survey reported that the state would degazette the Mandalom Forest Reserve of 8,555 hectares for the benefit of 8,400 people from 26 villages that are now squeezed for space in their own village areas.⁶⁴ This development should be regarded with caution if it effectively represents a strategy to open up new forested and semi-forested areas for commercial monocrops. If degazettement is unavoidable, it is vital that the former Forest Reserve is carefully zoned to ensure that areas are designated for planting food crops to meet subsistence needs, and also to preserve shared forest resources and heritage areas.⁶⁵

As improving the lives of participants in joint venture schemes is the rationale for oil palm extension into the interior, more effort needs to be invested in ensuring that the basic and social needs of participating communities are met in tandem with plantation development. Specifically, beyond targets for extending oil palm hectareage, and for maintaining the qualities of the environment and land which sustain life such as water catchment, rivers and streams as well as forest resource areas, efforts should be put in place to ensure that there is sufficient land for people to meet their subsistence needs. In Dalit, clearing and planting are understood to have commenced even before local people had the opportunity to consider how the plantation development would affect their lives.

There is also scope for further improving the provision of roads, infrastructure and amenities to the five Dalit villages and ensuring a reliable supply of water and electricity. Although discontent over the disappointing quarterly proceeds has decreased with the establishment of the Village Coordinators and the increase in the amount disbursed in 2010, there is still a need for a functioning framework for the local community to participate in decision-making, voice their concerns, or monitor the performance of the venture. Finally, based on the size of disbursements thus far,

64. Sunday Star, 13 March 2011; <http://thestar.com.my/news/story.asp?sec=nation&file=/2011/3/13/nation/8258991> (accessed on 20 March 2011).

65. This trend in thinking about Forest Reserves as a possible reserve for the use of future generations is shared by other villages in Sabah and augurs poorly for conservation and resource management in the state generally. Based on fieldwork for the Human Rights Commission of Malaysia (SUHAKAM) documenting customary land issues and conflicts, proposals for degazettement of Forest Reserves are being discussed among villages as far apart as Ranau and Tenom (fieldwork February, April 2011).

the claim that plantations boost efficiency and profitability would seem at odds with the size of the annual proceeds declared by SLDB and with the nine-year wait for the community participants to receive their first payment.

SLDB seems primarily orientated towards addressing the logistical and technical aspects of estate management, with less emphasis and expertise allocated to social concerns. At the commencement of the project in the 1990s, SLDB arguably had little capacity to deal with the complicated social issues arising from plantation expansion. Perhaps there is scope now for allocating sufficient resources to these aspects of plantation management and clarifying the process of allocating Native Title at the end of the lease period so that it takes into account local people's concerns about territory. SLDB has the potential to build on its plantation experience in Dalit by investing in better understanding the concerns of the community so that it can engage with its local partners throughout Sabah more productively now and in future.

4.2 Case study 2: the Agropolitan Project at Lalampas, Tongod District

The model

SLDB was appointed by the Sabah government to be the sole operator of the Lalampas Agropolitan Project in Ulu Sungai Tongod. The project involves the development of an oil palm plantation on lands claimed under customary rights. It covers 16 villages with customary rights claims in the Lalampas development area. Altogether, 1,022 individuals – descendants of families that had previously lived in Lalampas – were considered eligible to participate in the scheme.

Planning for the Lalampas Agropolitan Project began in 2009, with a level of community consultation, the appointment of SLDB as developer, and preliminary site preparation. The official launch took place in March 2011. The Lalampas Agropolitan project is also one of the first projects emerging from the state government's new policy of 'fast-tracking' Communal Titles (CTs) to communities for the purpose of making available large contiguous lots for plantation expansion.⁶⁶ Under section 76 of the SLO 1930, native communities can make a collective application for customary land as an alternative to applying for individual Native Titles. The CT is awarded to a list of beneficiaries whose decisions and actions are monitored by the Collector of Land Revenue (usually the Director of the Department of Land and Survey), who serves as the Trustee.

Because neither the Trustee nor the beneficiaries have power of sale, CTs are often regarded as a means to retain village land under shared tenure, and a preventative measure against the perceived tendency of Sabah natives to sell land once title is awarded. Previously, CTs were not generally viewed as land intended for development.⁶⁷ The factor that now makes it possible for oil palm to be cultivated on

66. On the politics of land application and approval in Sabah, see Majid Cooke *et al.* (2006) and Majid Cooke (2008).
67. Daily Express 6 Aug 2010: p1, Interviews Lalampas villages, Tongod 22-23 Feb 2011.

CT land is a new provision that empowers the Chief Minister to allow any land scheduled for development (*tanah terancang*) to be awarded a CT. To facilitate this, the District Office serves as Trustee and works with the Department of Land and Survey (DLS) to recruit, replace or exclude CT beneficiaries.

The DLS introduced the 'fast tracking' policy in December 2009 purportedly as a strategy to overcome the backlog of applications for Native Title (NT). Long delays in processing and approving NTs is commonplace in Sabah, and in Tongod District only 3,237ha out of NT applications for 10,522ha have been approved by 2010.⁶⁸ The DLS indicates that the CTs will only take six months. If all beneficiaries are in agreement, section 77 of the SLO 1930 also enables CT land to be subdivided into individual lots at a future date.

The programme to extend plantations to CT land coincides with a unity of views among government, politicians and the private sector that growing oil palm on a large scale, and pairing such lands with developers (either government linked ones such as SLDB or privately owned companies), are a way to increase productivity on land regarded as idle, and a mechanism for addressing rural poverty through employment or 'rent'.⁶⁹

Ownership and voice

In the Lalampas case, the award of CT was accompanied by the appointment of SLDB as the project's developer. A project management agreement was signed between the developer and community participants for a period of 30 years. The partnership involves a 70:30 division in shareholding between SLDB (70%) and the community participants (30%), after deducting operational costs. The increase from 60 to 70% arose from the need for SLDB to bear more of the establishment costs since Federal government funding for infrastructure did not eventuate.⁷⁰ Aside from the plantation, housing is expected to be built in a planned Community Economic Zone for a third of the 1,022 beneficiaries.

At the pre-agreement stage for the Lalampas Agropolitan project, villagers were understood to have objected to the criteria used for deciding on 'legitimate' beneficiaries. Disagreements were also registered by some over being allocated infertile and hilly land. Eventually, some concessions were made to accommodate community concerns, such as locating the Community Economic Zone in the more fertile area.⁷¹ Community participants were also concerned about land remaining in the hands of state appointed Trustees throughout the duration of the venture. The framework for community participation in decision-making and representation needed improvement despite ad hoc meetings being held by the development agencies and the District Office concerning beneficiaries.

68. Seminar paper by the Director of Land and Survey, 11 January 2011, Kota Kinabalu.

69. Briefing notes for the Sabah State Secretary from the Department of Land and Survey, undated; Daily Express, 21 Sept 2009: p. 5.

70. Interview with Sabah Institute of Development Studies, 28 February 2011.

71. Interview with a SLDB officer, Kota Kinabalu, 11 March 2011.

Other community concerns remain unaddressed. No process for the channelling of collective voice was designed into the project and there are no mechanisms in place for raising issues of concern. According to officers of the Institute of Development Studies that have helped to conceptualise the Agropolitan scheme, there are plans to 'teach local participants' how to grow high impact crops, provide training on becoming agricultural entrepreneurs and involve local communities and cultural associations to look into traditional knowledge.⁷²

Risk and reward

Despite uncertainties, villages signed the agreement because of several perceived advantages, foremost among which was the potential of obtaining land titles after 30 years, at the end of the lease.⁷³ Other perceived benefits included the diversification of income sources and the boost to infrastructure in the form of roads and housing. Diversification of income could take several forms, including employment with the project, being able to sell farm produce, or being able to obtain small contracts from agricultural and infrastructure development projects associated with the Agropolitan scheme. Eventually, proceeds from the SLDB plantation would then become another source of income for beneficiaries.

The risk for the Lalampas community is that the real prospects for income diversification may be limited. The profitability of an oil palm venture is also impacted by a host of changing factors such as commodity prices, the availability of cheap migrant labour, and interest rates on loans taken to establish plantations and build associated infrastructure. All these factors will affect the proceeds received by community participants, which might or might not be sufficient for securing livelihoods.

Another critical aspect is attention to securing basic needs. The focus of agriculture in the Community Economic Zone is to be on cash crops, which at this stage include lemongrass, chillies and turmeric. As subsistence crops and rice will not be grown here, handouts are expected to be given to participants while waiting for the yield from these crops.⁷⁴ The combined uncertainties of the success of these crops and the sufficiency of handouts means that land outside the Agropolitan area where the villages are now located will continue to be important for growing food crops and to obtain side income.

Evaluation

Ultimately, the success of the scheme will hinge on SLDB's creativity in pursuing economic and social sustainability. Social sustainability pertains to the capacity to listen and nurture voices from below, and to increase transparency and

72. Interview at IDS, 28 February 2011.

73. Villagers accept that CTs may be a useful means of preventing land sales, but they also note that they may not provide the options necessary for those interested in venturing outside agriculture (for example to raise collateral or bank loans for business).

74. Interview at IDS, 28 February 2011.

accountability in decision-making and reporting. Currently, there appears to be adequate capacity for pursuing economic success, but the ability to attain social sustainability could be strengthened. There has been significant competition among different villages and among groups within villages. Social discord may result if little attention is given to enhancing community capacity to participate in decision-making and building consensus. For indigenous communities, the prospect of securing tenure through 'fast tracking' is certainly attractive. But as section 77 of the SLO 1930 allows for sub-division of the CT to individual beneficiaries, there is some unease as to what safeguards are in place to monitor the actions of Trustees, because they too can be subject to particular influences under specific political and economic conditions.

Successful management of the Agropolitan joint ventures goes beyond the project area itself. If the social and environmental well-being of the majority of beneficiaries who will be living in their existing villages is factored into management objectives, there will be less future resistance and anxiety for SLDB. It is therefore important for both SLDB and the participating community to be clear from the outset about what their respective objectives are once the 30-year lease ends. Native landowners themselves must determine the level of ownership and participation they expect to assert over the venture, as this has implications for the kind of capacity and skills building which should take place during implementation. SLDB will also need to be cognisant of the need for community development and training which should be incorporated into its plans.

Typically, once a project gets underway, SLDB will become fully occupied with managing the agricultural and infrastructural aspects of the project. However, equal emphasis needs to be placed on providing effective support for meeting the basic needs requirements of communities and implementing community development programmes. This could be done with the help of existing social development agencies or assistance could be sought from other qualified non-government organisations.

In terms of assuring transparency and accountability to beneficiaries, it should not be necessary to rely solely on the initiative of SLDB to fulfil this need. In order to strengthen the credibility of the sector, local community participants should be provided with another official avenue to pursue inquiries and concerns. This could take the form of an independent support organisation established for participants in government joint venture programmes. Aside from boosting community confidence in such schemes, the experience of monitoring the venture and seeking advice from advocates and partners would provide beneficial lessons that would equip local participants for a more direct role in estate management in the future.

4.3 Sabah: summary and recommendations

The JV models at Dalit and Tongod emerged at different times spanning a period of 13 years beginning the late 1990s, but are influenced by dominant concerns among planners and political elites about poverty among smallholders who are mostly rural and indigenous. Oil palm has been cast as the saviour crop for alleviating poverty and for solving problems of backlog in land administration, and more recently for safeguarding titled customary lands from being sold. These would seem unrealistically high expectations for any crop. The reality is that the oil palm sector is dominated by the interests of large-scale plantations concerned with profit making through the use of relatively cheap foreign labour (Azizah, 2002). These companies enjoy state support because of their potential for generating revenue compared to smallholders who are self-supporting producers. The state has also played a significant role in mediating among these competing aspirations and interests while holding on to its own agenda through the creation of conditions that it can control. Such conditions refer to the influence that government can exercise through the use of public development agencies (such as SLDB). Government can also exert influence via the choice of citizens who are deemed eligible to entitlements. And lastly, it wields influence by using to advantage indigenous needs for security of tenure for lands claimed under customary claims. As seen in the Dalit and Lalampas cases, an important persuading factor for indigenous peoples to participate in the schemes is the hope of getting Title to their land.

The Sabah study has documented some of the benefits provided by the SLDB schemes in Sabah, but also some of the concerns and frustrations expressed by local people at the two study sites. For both Dalit and Tongod, the social discontent originates in the wish for greater respect for territory, and for more transparency and voice. In Dalit, discontent also arose from differences among villages in their capacity to negotiate with SLDB for garnering benefits from the estate project, from the perceived lack of transparency in how proceeds are calculated, and from the low wages for manual labour. Because the formal mechanism for channelling local concerns to management is minimal (via the village coordinators – *penyelaras*), there seems to be a dissonance in the interpretation of reality between SLDB, who regard the venture at Dalit as a model of success, and some of the community participants.

There is an opportunity to achieve a more comprehensive community development model with the 16 villages now being targeted at Tongod. The key question that needs to be raised is how community participation can be strengthened beyond the creation of manual jobs and the provision of 'rent'. Not asking this question means that the burden of change is likely to be unequally shared among the parties involved, with local communities shouldering much of the effects of change. The change that has been paved by the onset of estate oil palm agriculture is a partial or complete separation of smallholders from their land, with land being externally managed on their behalf.

5. Options for smallholders: a matter of choice

Oil palm is commonly assumed to be a capital intensive crop that is most suited to larger plantations with access to large capital expenditure and loan financing. This may be true in the early days of its development, where efficiencies of scale and a contiguous area of at least 5,000 hectares are required to ensure the economic viability of the construction of large capacity mills. Moreover, the existence of large plantations and mills throughout Sabah and Sarawak provides smallholders with opportunities to sell their produce to existing mills. Road access also enables many of them to deliver FFBs to mills within the stipulated 24 hours to assure high Oil Extraction Rates (OER). Currently, Sarawak smallholders make up less than 4% of the total number of oil palm smallholders in Malaysia, but their participation is growing both in numbers and average size of landholding (see Table 5 below). According to industry informants, demand for palm seedlings from the MPOB by smallholders currently outstrips supply. Findings on production activities, especially on how smallholders operate in obtaining seedlings and juggling input into their oil palm holdings are similar for Sarawak and Sabah.⁷⁵

Table 5. Participation of oil palm smallholders in Sarawak, 2000-2007

	Number	% of total oil palm smallholders in Malaysia	Planted area (ha)	% of total planted area in Malaysia	Average size (ha)
2000	1,560	1.78%	6,807ha	2.12%	4.36ha
2007	4,620	3.84%	29,214ha	6.19%	6.32ha

Source: Rahman *et al.* (2008).

Most smallholders start small and expand gradually, according to what they can afford on mostly cash terms (and limited credit issued by mills and other related local businesses). They tend to begin planting on a few hectares of NCR land, and expand only as their earnings and savings increase. This strategy of 'slow and steady' development can reap sustained benefits in a relatively short period of time, as smallholders do not take on massive capital expenditure involving high interest loans. Many new smallholders are also opportunistic and choose planting areas along old logging roads or roads that have been put in by neighbouring plantation companies.

Oil palm is reasonably attractive to smallholders because it is considered relatively easy work after the initial development years. However, in developing their

75. Outcomes for Sabah appear similar to those in Sarawak (Gassner *et al.*, 2011).

Photo: © Pua Sze Ning | www.szening.com



Oil palm seedlings ready to be transplanted into newly prepared fields.

plantations, smallholders lack access to technical knowledge of best practices – from agronomic aspects to health and safety and environmental care. For example, it is not uncommon for new smallholders, unaware of the need to use certified seedlings from MPOB licensed nurseries, to use ‘loose fruit’ or ‘voluntary oil palm’ (VOP) – seedlings that germinate from oil palm fruit left uncollected on the ground as planting material.⁷⁶ Such seedlings produce poor performing trees.⁷⁷ From interviews with smallholders in Sarawak, they are clearly motivated to boost the productivity and profitability of their oil palm areas. However, they feel that agricultural extension services are not being efficiently mobilised to meet this demand. Apart from MPOB, which is a Federal agency, the Sarawak government does not presently have a programme that directly assists independent oil palm smallholders.⁷⁸

In principle, the technical assistance required by smallholders can be met relatively easily. Extension agencies and the industry in general have the potential to close this gap by assisting in capacity building as a form of corporate social responsibility or community outreach. As smallholders are adept at learning from the experience of others, improved practices are often shared among close-knit communities.

76. Pers. comm. with MPOB extension officer, December 2011.

77. A survey in Sarawak in 2004 showed that average smallholder FFB yields were extremely low, at 6 tonnes/hectare/year, which suggested the widespread use of VOP. It has now risen to 12-16 tonnes/hectare/year.

78. In the past there were two schemes targeting smallholders (the Smallholder Oil Palm Scheme and Oil Palm Mini Estates), but these were discontinued.

This next case study is of a strategic partnership between oil palm smallholders and an oil palm plantation adjacent to them. Although very recently introduced, the process of establishment is being closely documented in the hopes that it will provide a more inclusive business model which provides lasting benefits to local landowners.

5.1 Case study: Keresia Smallholder Group Scheme in Sarawak

The model

The Keresia Smallholder Group Scheme (KSGS) was established in October 2010 as a joint project between the oil palm smallholders of Rumah Majang,⁷⁹ Keresia Plantations Sdn Bhd, Keresia Mill Sdn Bhd (collectively referred to as Keresia Plantations and Mill, or KPM) and Wild Asia Sdn Bhd, a Malaysian independent social enterprise working on sustainability issues. It is jointly funded by Keresia Plantations and Wild Asia through the Palm Oil Producer Support Initiative (POPSI), a fund to support oil palm smallholders to become RSPO certified, managed by Solidaridad, an international network organisation based in the Netherlands that supports the creation of sustainable supply chains in internationally traded commodities.

KPM is a company owned and operated by ethnic Ibans (the largest sub-group among the Sarawak Dayaks). It began as a rattan plantation in 1981 and only ventured into oil palm in 1996. KPM currently owns 6,023 hectares of land, of which 5,347 hectares is planted. It boasts a high yield rate of 24 tonnes of FFB per hectare and received RSPO certification in October 2010. The project with the smallholders of Rumah Majang was initiated by Wild Asia, who recognised the need to address the performance gap between oil palm smallholders and plantation companies. Together with KPM, Wild Asia developed a proposal for POPSI funding to improve the performance and productivity of Keresia Mill's independent smallholder suppliers.

The aim of the project is to leverage off the experience of the plantation company to develop a support programme that will provide guidance, training and financial incentives to smallholders in the supply base of the RSPO certified mill. The project aims to increase smallholders' yield from current mature stands as well as improve the bunch weight of FFB. For immature plantings, issues identified include the use of poor planting material and uneven growth, poor planting technique and maintenance, planting on marginal soil, the lack of proper fertiliser regime, and poor chemical selection and usage. This pilot project is a learning and model-building platform. Hence it is heavily based on the participation and involvement of the smallholders themselves. The project also aims to organise smallholders into a group so that it is structurally easier to deliver technical support and capacity building. The ultimate aim is to prepare the smallholder group for RSPO certification.

79. An Iban longhouse, named after its headman, Majang.

Voice and ownership

Historically, Keresia Plantations obtained the lease of its current land in 1981 through direct negotiations with the surrounding communities. Over this time, it has developed an amicable working relationship with the neighbouring longhouse communities. Local people began to experiment with planting oil palm in 1997 using a gift of seedlings from KPM. When the oil palms started to produce fruit and profits, other community members became interested. KPM gave out more free seedlings to Rumah Majang households in 2003 and it is this tranche of seedlings that makes up 58% of current plantings.⁸⁰ Convinced of the economic benefits of oil palm, most of the smallholders gradually expanded their oil palm holdings by buying their own seedlings from private nurseries, plantation companies, the Department of Agriculture and MPOB. The smallholders work on their oil palm plots with their families, or in community groups when required. Out of the 34 families (a total of 179 people in a 26-door longhouse), there are 27 smallholders (usually the household head). Most of the longhouse residents have stopped planting other cash crops since planting oil palm which has become their main source of income.

For the KSGS, a code of conduct clarifies the group members' responsibilities and helps to keep members accountable. The only agreement that exists is between the individual smallholders and the group itself. By agreeing to be part of the group, the smallholders agree to abide by the code of conduct of the group. KSGS is currently chaired by the longhouse leader. Aiming for RSPO certification helps focus the direction for the group, and enables them to measure themselves against a common standard. As a group, members are potentially able to save on farm operation costs, and purchase tools, fertilisers, and chemicals at bulk discount prices. Members have to be MPOB registered and also be registered FFB suppliers to Keresia Mill. The Group has a total holding aggregate of at least 40 hectares, the rights to land are clear and free from dispute (based on verification with the longhouse leader), there is no planting on disputed land or land with high conservation values (HCV), and no extensive plantings on peat. The code of conduct includes a grievance procedure besides a system for communication and transparency.

A management system or Internal Control System (ICS) is currently led by a member of KPM's quality management team and works to improve agronomic, environmental and social performance of the smallholders. This includes planning for new plantings, improving fruit set, soil fertility, water conservation and quality, harvesting methods, reducing soil erosion, managing pest and diseases, increasing understanding of FFB grading and pricing, as well as general management of documents and finances to keep track of production costs and yields.

80. Based on unpublished data gathered by Wild Asia, 2010.

Table 6. Smallholder production by suppliers to Keresia Mill in 2009

Total FFB production in 2009*	Estimated number of palms planted before 2007**	Estimated area planted (at 130 palms/ha)	Average FFB production (tonnes/ha)	Total annual net earnings at MYR 465/tonne of FFB	Average annual earnings per ha at MYR 465/tonne of FFB in 2009
1,447.43ha	19,000	146.15ha	9.72t/ha	MYR 660,568.77 (USD 187,130)	MYR 4,519.80 (USD 1,280)

Notes: *based on Keresia Mill documentation; ** palms planted after 2007 are assumed to be non-fruiting.

Risk and reward

The group is not contractually bound to sell their FFBs to Keresia Mill despite the involvement of KPM in managing the ICS and providing technical support. However, Keresia Mill is able to offer better prices for FFBs because timely delivery results in a higher OER. KPM also offers a credit facility to 77% of the smallholders for them to obtain fertiliser at cost price. The cost is deducted from the monthly payment for the sale of FFBs. All except two of the smallholders regularly sell their FFBs to Keresia Mill which pays the smallholders on a monthly basis. As most of the smallholders have not previously kept reliable records of their oil palm ventures, the most reliable production data was from the mill's record of sales. The project estimated average FFB production and earnings per hectare based on the number of palms the smallholders reported to have planted. This case study allows more detailed financial projections as KPM is cooperating fully with this study.

The low yield of 9.72 tonnes/hectare estimated for the Rumah Majang smallholders is not unexpected, as the palms are still young (most fruiting palms were planted between 2003 and 2006). The project's baseline field assessment had found that smallholders had planted the palms too close together which produces undersized fruit bunches. Inadequate or inconsistent fertiliser application is another issue and based on neighbouring KPM's weather monitoring data, 2009 was an unexpectedly wet year which even affected the annual yield at KPM.

As all the smallholders used their own labour with community assistance, some have made substantial profits and savings over the years to be able to afford their own trucks to transport FFBs to the mill. They are also able to supplement their earnings by assisting others within the group to transport their FFBs. So far, local smallholders have channelled a significant proportion of their earnings to expanding their oil palm areas: 55% of palms were planted from 2007. In 2010, they earned enough to collectively build themselves a new brick-and-cement longhouse.

The baseline survey completed before the start of the KSGS estimated that despite low annual FFB yields of 9.72 tonnes/hectare in 2009 (output from 45% of their planted palms) they were still able to earn more than MYR 660,569 (USD 187,130) as a group, an average of MYR 24,466 (USD 6,930) per smallholder – roughly

equivalent to MYR 4,520 (USD 1,280) per hectare per annum. This is possibly due to the low operational costs borne by the smallholders as most of them work the smallholdings themselves with their extended families. There is no capital expenditure and no interest payable.

The obvious opportunity cost in working on their own oil palm farms is the cost of not pursuing paid employment or growing other crops for domestic consumption or sale. However, this has not proven to be a huge concern as most smallholders regard oil palm work to be easier and less time consuming (after establishment) compared to their previous work in the logging industry. What is potentially a cause for concern is the propensity for paddy farming areas to be given over to oil palm which could impact long-term food security. Overdependence on one crop also increases the exposure to the vagaries of the world commodity market. Further planning workshops are being planned by the project managers to explore these issues more closely with the longhouse community.

At the initial stages, the KSGS pilot project requires funding and technical input from external parties to set up a documentation and management system for the ICS, baseline assessments, and consultation with participants in addition to field training visits by agronomists and other technical specialists. Further costs will also be incurred when the group undergoes RSPO certification.

Evaluation and recommendations

KPM has a longstanding relationship with its neighbouring communities as the owner is of the same ethnic background as the customary landowners and was personally involved in negotiations with the communities at the start of the venture. The 'local factor' may be an important element of this relationship, in contrast to JVCs which typically involve large plantation companies from Peninsula Malaysia. Boundaries between the communities and the company have been clearly delineated. The decision of KPM to commit to RSPO and corporate social responsibility in general opened up possibilities for accessing funding and partners to develop programmes for neighbouring smallholders. Finally, the collaboration was also enabled by KPM's high yields and OER, which also benefits the FFB gate price for smallholders.

Careful monitoring and documentation of the KSGS will be important to evaluate whether this business model involving smallholder organisations being mentored by an established oil palm company is replicable in other parts of Sarawak and Sabah. One obvious requirement is the initial funding needed to support the inception process, and community liaison and training. In the case of KSGS, KPM agreed to fulfil these roles with the creation of a Scheme Manager position to facilitate training, monitoring and communication with the smallholders. The smallholder group model adopted by the KSGS smallholders depends on the assistance of a supportive company, although this role could arguably be played by any person or organisation with the relevant experience to manage and implement the ICS and provide

technical advice. Aside from companies, assistance may also come from MPOB, NGOs, community organisations, agriculture departments, and private consultants.

The KSGS model will be continuously evaluated over the course of the two-year project to see if some of these costs can be recovered from the sale of RSPO-certified FFB at premium prices. There are also plans to explore other supply-chain partnerships. The key principle of this approach lies in the code of conduct and the framework of the group, which are developed with the group members themselves to make it accountable and transparent to its members. Having an RSPO certified mill nearby is certainly an advantage to smallholders as it provides a ready market for certified FFBs at premium gate prices.

One matter that requires attention is the need for greater tenure security to assure customary landowners that the considerable investment of labour and resources into improving the profitability of their smallholdings will not be wasted. When interviewed, KSGS members indicated that they preferred to be independent smallholders over joining a state-led partnership scheme as it was more important to them to have control over agricultural developments on their land, and be able to manage the use of monthly profits from the sale of FFBs.

The smallholder-company partnership model puts native communities in the driver's seat of the agribusiness venture. In this case study, customary landowners have autonomous authority over their land and plantations. They are directly involved in the creation of the cooperative or group, and are closely involved in all the processes of oil palm agriculture from field to mill. Finally, the emphasis on RSPO standards helps to uphold sustainability issues through the use of FPIC, consultation and planning, and procedures for dealing with grievances. As the international demand for sustainable palm oil increases, those sectors of the industry that have made inroads into producing environmentally and socially sustainable outputs are better positioned to reap the benefits of higher prices.

5.2 Boosting productivity through support for smallholders

Currently the independent smallholder sector in Sarawak is constrained by a number of factors – the limited availability of seedlings, a lack of access to capital financing, credit facilities and technical support. Poor transport infrastructure presents a significant obstacle in some areas. The KSGS model to support independent smallholders is still at an initial stage but will undoubtedly provide lessons on forming inclusive business partnerships with local communities. However, for this model to be applicable, communities need to be close to palm oil mills and functional road transport networks. In addition, training and technical assistance are needed to boost the capacity of members of the group, and the support and interest of a larger plantation company is a key ingredient.

As detailed production data are not available from the joint venture case studies for Sarawak, it is not possible to contrast the different business models examined in this

Photo: © Tan Kian Yong | Dreamstime.com



Oil palm fruits on delivery trucks, awaiting to be sent for processing.

study with the figures available from KSGS. However, in applying the concepts of equity and efficiency, indications are that the smallholder mentorship model being applied in the KSGS provides an alternative which confers notable advantages. Without significant external assistance, participating smallholders from Rumah Majang already manage to obtain a reasonable return from FFB production from their lands which they are able to translate into monthly household income. The KSGS initiative will provide the necessary transfer of technical skills and strategic business skills to boost productivity and reduce costs. By positioning themselves as producers of RSPO certified palm oil, profits can be expected to increase if there is no major drop in premium CPO prices.

Undoubtedly, much more can be done to improve efficiency across the different business models, however even if yield levels were similar, independent smallholders would still reap the most benefit because they are able to enjoy all of their net proceeds. Unlike the state-supported joint venture schemes in Sabah and Sarawak, they are not encumbered by loan interests on heavy borrowings.

In-depth assessment of the oil palm sector by the National Economic Advisory Council (NEAC) (2010a) has highlighted the importance of supporting smallholders. Of the five million hectares of oil palm land in Malaysia (including the Peninsula states), over 40% is owned by private smallholders and a further 20-25% is owned by smallholders supervised by government agencies. The NEAC observed that 'a majority of smallholder's productivity is still well below commercial plantation average yield levels of nearly 25 tonnes per hectare' and concluded that '(t)hese issues stem from a lack of management expertise, technological know-how as well as financial constraints that limit their growth. This has been exacerbated by the reluctance of

smallholders to seek aid from the private sector and the lack of collaborative efforts between government-linked companies (GLCs), the private sector and smallholders to raise productivity' (NEAC, 2010a).

The KSGS case study confirms this assessment and indicates that substantial gains for smallholders can be achieved through strategic alliances with the private sector and the appropriate support from agricultural extension agencies. Clearly, substantial investments requiring external funding are not necessary to establish viable plantations with tangible economic benefits to rural populations. Examples from both Sabah and Sarawak show how independent oil palm smallholdings have the potential to be highly profitable with minimal assistance from external sources, especially if processing facilities and basic road access are in place. In both Sabah and Sarawak, the main factors hampering the growth of the smallholder sector include the irresolution of customary land tenure claims and the limited resources currently being allocated to agricultural extension with smallholders. These issues can be addressed at policy level and by creating more incentives for plantation companies to provide technical support to boost the productivity and profitability of smallholder plantations and GLCs in their vicinity.

6. Discussion and recommendations

This report has assessed different models underpinning the expansion of oil palm plantations on native customary lands in Sabah and Sarawak. In both states, developing large-scale commercial oil palm has become the main strategy to improve local livelihoods and drive the establishment of much needed infrastructure and facilities. The oil palm sector is now an integral part of Malaysia's national development strategy and substantial resources are channelled into ensuring not only that the industry is profitable but that its approaches support its prominent social agenda.

The report discussed the Sarawak SALCRA and New Concept schemes as well as two approaches implemented by the SLDB in Sabah. These JV models generally involve companies assuming responsibility for commercial plantation development on NCR lands. They also do not appear to have clear arrangements for sharing financial information with customary landowners. Participating communities have managed to benefit in a number of ways, mainly from the provision of roads and basic amenities, as well as the opportunity to provide support services to the agricultural sector, undertake small business ventures, and employment on the estates.

Oil palm plantations have proven to be a force for improvement in some rural areas as seen by the example of independent smallholders who are clearly benefitting from the rapid growth of oil palm plantations and mills in their midst. However, questions remain on the fairness of the structure and process of the various state-sponsored partnership models, which remain open to claims that they lack accountability and transparency in their undertakings with the customary landowners.

Proceeds paid to participants in the ventures have ranged widely – some participants have been relatively satisfied with the amount and regularity of payments, while others have been sufficiently disenchanted to institute highly visible collective action and grievance proceedings against the state government, investor and agency responsible for the venture. A considerable source of discontent is the limited ability community participants have to access information on the performance of the JVs. Customary landowners have already taken pains to identify the need for mechanisms to dialogue with the managers of the ventures so that they have a channel to raise concerns and suggestions.

Today, native landowners expect to have the opportunity to participate effectively in planning at the inception stage and in decision making during the implementation of agricultural partnerships. Unless a degree of transparency is introduced, misgivings and suspicions regarding the financial and operational management of JVs are likely to persist. More specific recommendations have been included for the various schemes within the respective sections of this report.

6.1 Towards evidence-based policy

Malaysia has earned its reputation as a leader in the oil palm industry. Its commitment to developing the sector is more than just rhetoric, as can be seen from MPOB's track record of pioneering commercially viable R&D in every aspect of upstream and downstream activity since 1974. The organisation has been able to sustain continuous research and innovation which is funded by a cess (special tax) of MYR 9-11 (USD 3-3.70) for every tonne of CPO produced, a provision that has been in place for over 20 years. These funds reportedly support over 200 researchers whose efforts generated 412 R&D findings in 2008 alone. In 2009, MPOB chairman Datuk Sabri Ahmad reported that as many as 40 new technologies are generated each year to boost productivity and efficiency.⁸¹ An objective of the national oil palm industry is to stay competitive and 'to ensure agricultural sustainability', which is defined as having economic, social and environmental components (Jalani *et al.*, 2002). Seen from this perspective, it is timely that some of its considerable resources are focussed on the social leg of the sustainability of the sector.

Are current approaches to involve community stakeholders in the oil palm sector adequately enabling rural people to improve their incomes, escape the poverty trap and participate effectively in the development of their landholdings? An independent economic assessment of joint ventures and business partnerships with the full cooperation of the companies and bodies concerned may be one way of ascertaining whether these schemes represent the best ways to mobilise agricultural development on customary lands. If there are shortcomings in these approaches, it may be time to consider a policy shift towards a system that will more effectively make use of scarce resources for optimum gains for community participants.

If the joint venture partnership format advocated by state agencies is to continue, a level of openness to reform and strategies to develop and monitor a wider range of performance indicators is needed to restore confidence in these programmes. This is particularly the case when there is a high level of variability of claims made by customary landowners and of the agencies responsible for the different models explored in this paper.

6.2 A more holistic approach to land development

The case studies in Sabah and Sarawak have shown that more care needs to be invested into managing land use change for the benefit of the communities concerned. There is a tendency of implementing bodies to concentrate on the establishment of plantations with little consideration given to maintaining the quality of the living environment and ensuring that local communities have sufficient forest and land resources for subsistence needs and other agricultural investments. These matters have frequently been overlooked in the haste to clear and plant. Clearly there are serious implications for food security, alternative income and environmental

81. Business Times (2009) 'MPOB at forefront of R&D'; 3 Feb 2009.

Photos: © Sumei Toh



Left: a smallholder gathers shoots from along the riverbank for the evening meal.
Right: an elderly man splices rattan for making craft.

health for affected communities. To address this, it is essential to improve the quality of consultation and participatory planning with local communities at the earliest possible stage of the venture. Native landowners need to be given avenues to influence how oil palm and the associated land use changes will be managed in the communal landscape.

Sustained communication with the agency involved throughout the life of the project would help pre-empt problems and local leaders would be in a better position to smooth the social and environmental transition. As transparency and openness have been flagged as an important priority, environmental planners, rural development professionals and the agencies and authorities responsible for infrastructure and services should be closely involved to ensure that community participation is well integrated in development planning and implementation.

6.3 Ripe for change: strategies for supporting smallholders

Turning now to the broader question of exploring the most beneficial partnerships for developing oil palm on customary land, it is essential to consider whether the current schemes and business models in use are the right fit for rural communities in Malaysian Borneo today. Indications from recent studies and interviews with native smallholders suggest that the partnership models developed in the 1970s and 1990s need to be recast to better reflect the current conditions, different realities and aspirations of native communities. It should be acknowledged that the current generation of customary landowners are much better networked, better informed and are less willing to play a passive role. Native communities interviewed in both Sabah and Sarawak have expressed their interest in being more directly involved in developing profitable smallholdings on their customary lands.

In an MPOB study of factors which were limiting productivity (Basri *et al.*, 2004), the shortcomings of the current extension services to smallholders were identified as a major impediment to optimising oil palm land in combination with issues such as the

lack of experienced agricultural workers. It was noted that with over 90,000 smallholdings covering an estimated 343,342 hectares, mainly in Peninsular Malaysia, there was a need to boost support to smallholders. Most large companies already have their own in-house advisors and consultants, yet smallholders do not have the resources to significantly enhance productivity without assistance. The factors contributing to the lower productivity and profitability of smallholdings compared to commercial plantations have been explored in the previous sections and have also been well documented elsewhere (Zen *et al.*, 2005; NEAC, 2010a). Cognisant of these shortcomings, in their cost-benefit analysis researchers projected that if sufficient assistance could be extended to farmers so that the current average FFB rate of 15 tonnes/hectares could be increased to 20 tonnes/hectare and the OER of 18.44% be raised to 20%, this would translate into an increase in income of MYR 463.5 million (USD 122 million) (Jalani *et al.*, 2002), most of which would be enjoyed by smallholders which are mainly family run operations.

Other researchers have highlighted the superior impact of micro-interventions in improving returns to smallholders. Zen *et al.* (2005) noted that 'it is not just technology that counts, but the surrounding system of support, including technical advice and back-ups, training, and better loan terms'. In this regard, the KSGS pilot project featuring the partnership between KPM and its neighbouring smallholders is an innovative attempt to overcome the constraints that prevent smallholders from matching commercial yields and attaining larger returns (Vermeulen and Goad, 2006); key features include tapping into NGO or industry networks to boost technical skills and developing small groups or cooperatives to enhance economies of scale and bargaining power.

In addition to benefiting from improved practices, access to fertiliser at group rates, and fair rates for FFBs, smallholder group scheme participants stand to benefit from premium prices for sustainable palm oil as they equip themselves for future RSPO certification. KSGS participants are able to leverage off existing infrastructure as well as the expertise and experience of the company personnel which includes familiarity with local weather and soil conditions. These partnerships are location specific, cost effective and built on strong ongoing relationships. A combination of sustained interaction and cumulative knowledge amongst highly motivated group participants may be what makes this venture more likely to be successful than prefabricated solutions using unskilled migrant labour.

There is tremendous potential for similar innovative approaches to mentoring group smallholders to be undertaken by oil palm companies large and small. In fact, various incentives could be developed to spur players in the sector to engage neighbouring smallholdings in programmes to boost productivity and profitability as a form of corporate social responsibility. In conjunction with such initiatives, MPOB could identify efficient mechanisms to ensure that technological advances are made available to smallholders for whom they have the potential to generate significant gains nationwide. In particular, more can be done to meet the current demand for higher yielding seed stock by smallholders. Such moves are consistent with

strategies outlined in the Sabah Development Corridor Blueprint to boost productivity by extending support to smallholders, increasing the supply of high quality planting materials, enhancing planting methods and scaling up efforts through clustering (IDS, 2007). The need for more consistent support to smallholders has also been highlighted as an area requiring immediate attention from MPOB which has substantial resources to play this strategic role (NEAC, 2010b).

6.4 Clarifying land tenure

A recurring theme that has emerged in the course of this study is that many communities that signed up to joint venture schemes did so because they felt that they had no other choice – they considered this to be the only way in which they would be able to gain secure tenure to customary lands, and also to attract the kind of investment into infrastructure and services not available in rural areas.

Under the ‘fast track’ joint venture system in Sabah, for instance, the granting of communal titles to participants currently involves tying up this land to state-linked development agencies for 25 to 30 years. If during the 30 years, there is an active agenda for community participation in estate management, then the potential for developing community autonomy and enhanced community decision-making would be higher. At this stage, there is little sign that community development is being looked into more seriously than has been the standard practice (generally piecemeal), or that there is a proactive approach for developing community capacity in independent decision-making concerning social and economic pathways in the post-joint venture period. Continued dependence would be a likely outcome if income diversification is not forthcoming. Household income diversification, such as through being involved in the transport industry has proven to be possible only if participants have other access to sources of initial start-up capital such as through family members who are employed in the civil service or other similar jobs (Majid Cooke *et al.*, 2006; Majid Cooke, 2009). The case studies in Lalampas and Dalit indicate a need to find a closer match in terms of translating traditional territories to land titles so that the community’s connection with their ancestors does not become erased in the administrative zeal for expedience in parcelling off land rights in standard-sized blocks.

Under the New Concept, the Sarawak government binds the delivery of development with conditions that ultimately seem to benefit external parties and political elites more rather than local communities. The state’s main solution for delivering development to the perceived underdeveloped native communities residing in the interior regions of Sarawak is hinged on a simple but powerful narrative of incorporation into the palm oil economy through joint venture partnerships with the private sector. The variable and contentious outcomes, however, signify the complexity of the situation on the ground.

If Sarawak’s current political-economic paradigm prevails, the tug of war for land between local native communities on the one hand, and the state-linked private

sector complex on the other, is likely to continue to persist. This stalemate needs to end with a concerted shift to delineate land tenure that reconciles both customary and constitutional systems. Clarifying and confirming NCR land as well as customary lands that are managed under *adat* would stand to benefit native communities contemplating agricultural development partnership, as this would create a more level playing field between stakeholders. Moreover, it offers them the opportunity to choose how they wish to utilise their land resources and whom they choose to do this with.

Agencies and parastatals created to support the development of oil palm need to be delinked from political agendas and focus on their core business of impartial agricultural development and improvement of rural infrastructure and services. Importantly, for the oil palm industry to be managed efficiently and successfully, the industry itself needs to be in the position to utilise its knowledge and strive for best practices. Studies have shown that one of the reasons given for poor yields per hectare in Malaysia is the expansion of plantations into more marginal lands (Jalani *et al.*, 2002). According to industry insiders, JVs are sometimes directed to develop particular lands which they already know are unsuitable for plantations. Certainly, with a more integrated approach towards optimising land use for communities, such areas might be more productive for hill rice or amenity forest rather than underperforming oil palm plantations. With a fresh emphasis on partnering for improved productivity, the preoccupation with opening up new areas for oil palm needs to be replaced with a focus on achieving a healthier balance of areas under natural vegetation, traditional agriculture and planted with food crops.

6.5 Bracing for competition and leading through best practice

Although Malaysia is in pole position with Indonesia as one of the top exporters for oil palm, there is no time to rest on its laurels. In the not too distant future, it should expect increased competition from countries in Africa and South America that are becoming important producers. Commodity prices will undoubtedly be affected. In addition, costs of production can also be expected to increase in tandem with climbing oil prices which could push up costs for fuel and fertiliser. Domestically, the availability of cheap labour is another persistent constraint, even as the cost of importing migrant labour continues to rise (NEAC, 2010a).

Internationally, the demand for certified palm oil from consumer markets is gradually gaining ground in response to increased awareness of the impacts of the rapid expansion of large-scale oil palm developments on the environment and increased demand from the EU for biodiesel. The ability for oil palm producers in Sabah and Sarawak to gain a foothold in this lucrative market will depend on the sector's willingness to orientate to changing global market conditions which call for improved accountability all along the supply chain. Based on issues raised by JV participants in this and other studies (Vermeulen and Goad, 2006; Colchester *et al.*, 2007; Ngidang, 1999), several aspects of the current partnership schemes to expand oil

palm onto customary lands would not be in compliance with conditions for RSPO certification if left unaddressed.

The way in which these schemes conduct their relationship with community stakeholders would come under particular scrutiny. In general, evidence of FPIC needs to be demonstrated and mechanisms for assuring transparency need to be seen. Further, native participants need to have access to an effective grievance redress system, the right to seek private counsel and representation, and the right to discontinue the partnership if it has sufficient reason to feel that its interests in the venture are not being upheld. Many of the social concerns that have been raised arising from agricultural expansion on customary land would be addressed through adherence to RSPO principles.

Calls for Malaysia to take the lead in producing certified palm oil have come not only from native rights advocates and from NGOs, but from the oil palm industry's own leadership. Dr Yusof Basiron, the CEO of MPOB, issued a challenge to the sector from his blog saying: 'It is time to brand Malaysian palm oil for better public and consumer perception'.⁸² He said that Malaysian companies were now investing in the costly exercise of revamping their operations and participating in the audit process. However, he emphasised that consuming countries in turn needed to demonstrate their commitment by providing ready markets for CPO at premium prices.

Indeed, the process of refitting the Malaysia palm oil industry for increased sustainability and better global positioning has already begun. In August 2010, FELDA Group became the world's first smallholder organisation to attain RSPO certification through two of its Peninsula-based palm oil mill complexes in Pahang – Kota Gelanggi 1 and Lepar Utara 6 – and 11 estates supplying FFBs to the mills. According to the Group's Chairman, FELDA expected to net an additional income of over MYR 1 million (USD 300,000) annually based on current levels of CPO production sold with an additional premium of USD 50 per tonne on top of the existing CPO market price.⁸³ He said that the Group had set a target of getting all 70 of its palm oil mills to be RSPO-certified by 2016. To its credit, FELDA Group has shown strong support to the national RSPO initiative and is now leading by adopting best practice principles because of its belief that it will be among the first to profit from responding to the demands of future markets.

82. <http://www.ceopalmoil.com/2009/12/look-out-for-malaysian-palm-oil-brand> (accessed 23 January 2011).

83. <http://thestar.com.my/news/story.asp?file=/2010/8/13/business/6847098&sec=business> (accessed on 27 February 2011).

7. Conclusion

In Sabah and Sarawak, customary landowners are keen to see some of their lands become commercially profitable. This is evidenced by the different ways they have adapted to the rapidly emerging oil palm economy around them and their openness to state-promoted and other approaches to oil palm development. There is also widespread interest in alternatives to the dominant strategies that are supported by the state – this includes becoming independent oil palm smallholders, forming independent JVs or entering into private agreements to rent land to private plantation companies. There is compelling evidence that the quality of social and financial benefits of participation in the oil palm sector is closely correlated to the way in which native communities are incorporated into the programme.

McCarthy's research in Indonesia reveals that 'individuals who find themselves incorporated into oil palm under unfavourable conditions (adverse incorporation) will not only remain poor but may even face deeper poverty' (2010). This is a telling reminder that mere incorporation into the oil palm economy alone does not automatically translate into improvements to rural livelihoods. He goes on to say that much depends 'on the terms under which local communities engage with the oil palm industry' (McCarthy, 2010). Unfortunately, the terms of some of the joint venture schemes reviewed here could also be described as 'unfavourable' to local native landowners.

The KSGS model outlined here provides an alternative model that aims to improve this engagement right from the starting block by using the RSPO framework as a guideline for social, economic and environmental best practices. In contrast to the other JV models explored here, customary landowners retain control over their land, while gaining valuable business and technical knowledge of managing their own oil palm smallholdings. Other models, such as independent JVs, between informed customary landowners and companies are also options to be explored, especially in regions where there are not yet many palm oil mills to facilitate a market for smallholders' crop. However, this model has not been widely discussed, as examples of this are rare in Malaysian Borneo.

If oil palm expansion is to achieve the desired developmental impact on rural communities in Sabah and Sarawak, objectives of efficiency need to be matched by equity and participation. Importantly, statutory bodies and agencies involved in overseeing rural development need to expand their criteria and indicators of success beyond the achievement of expanded land area, length of roads built or increases in production and exports. For these claims to be meaningful, it is necessary to obtain finer indications of well-being and advancement at community level. These analyses should also capture indicators of economic and social mobility through increased income and accumulation of capital, and access to education, training and employment or business opportunities for local participants. Other indicators of

success would be environmental quality, the health and well-being of local communities, and the strength of community-based organisations and their capacity to engage effectively as partners in government schemes and future managers of agricultural properties after their lease agreements terminate.

Issues of efficiency and equitability in the oil palm sector have received close scrutiny in conjunction with the development of strategic policy elaborated within the New Economic Model for Malaysia (NEM) which was launched by Malaysia's Prime Minister in March 2010. The following statement was prominent among the strategies put forward by the National Economic Advisory Council (NEAC) to improve the competitiveness of Malaysia's oil palm sector:

The government again needs to play its part in regulating dealings between the smallholders and the private sector, for instance by establishing a tribunal for legal recourse to address any issues. MPOB can step in to provide technological assistance through its commercial R&D projects and by providing funding to smallholders using part of their idle funds. Inclusive business models to improve productivity rather than outright land acquisitions by the private sector should be considered to ensure returns for the private sector while retaining the land rights and providing benefits to smallholders. (NEAC, 2010b)

The report highlights the need for the relevant government and industry leaders to pursue approaches that empower smallholders to participate more effectively in the oil palm industry by providing access to funding, training and resources, as well as improvements in infrastructure. Swidden farmers and smallholders have shown themselves to be astute land managers – responsive to positive market incentives and capable of managing diversified agricultural investments according to local needs and priorities. Research in agricultural economics now indicates that supportive government policies that directly engage local people in planning, implementing, and evaluating land use within customary areas are likely to be more effective for sustained agricultural development in the contemporary scenario (Cramb *et al.*, 2009).

The need to assure community ownership to land was also specifically mentioned as part of the process (NEAC, 2010b). Clearly some in the oil palm industry see these developments as the natural next step to ensure global competitiveness, for others, it may well be a paradigm shift too far. Ultimately, the oil palm sector and national leaders will determine whether oil palm development in Malaysia is to operate at a higher standard.

References

- Abraham, C. (2011) Felda – a victim of its own success. *Malaysiakini*. 9 March.
- Appell, G. (1989) Social Anthropological research among the Rungus Dusun. A talk for Sabah Society given on Friday August 22, 1986, Kota Kinabalu.
- Appell, G. (1997) 'The History of Research on Traditional Land Tenure and Tree Ownership in Borneo.' *Borneo Research Bulletin* 28: 82-97.
- Azizah, K. (2002) Economic slowdown and its impacts on Cross-national Migration and Policy on Alien Migration in Malaysia. In: OECD. *Migration and the Labour Market in Asia: recent trends and policies*. Paris: OECD Publishing.
- Banerjee, N. and Bojsen, K.P.M. (2005) Negotiability and Limits to Negotiability – land use strategies in the SALCRA Batang Ai Resettlement Scheme, Sarawak, East Malaysia. *Danish Journal of Geography* 105(1):17-28, 2005.
- Basiron, Y. (2007) Palm oil production through sustainable plantations. *European Journal of Lipid Science and Technology* 109 (2007): 289-295.
- Basri, M.W., Siti Nor Akmar, A. and Henson, I.E. (2004) Oil Palm – Achievements and Potential. New directions for a diverse planet. Proceedings of the 4th International Crop Science Congress, 26 Sep-1 Oct 2004, Brisbane, Australia.
- Bian, B. (2007) Native Customary Rights (NCR) over Land in Sarawak, Malaysia. Accessible from: http://www.illegal-logging.info/item_single.php?it_id=501&it=document (accessed on 30 Nov 2010).
- Borras, S.M., McMichael, P. and Scoones, I. (2010) The politics of biofuels, land and agrarian change: editors' introduction. *The Journal of Peasant Studies* 37 (4): 575-592.
- Brookfield, H., Padoch, C., Parsons, H. and Stocking, M. (2002) *Cultivating Biodiversity, Understanding, Analysing and Using Agricultural Diversity*. London: ITDG Publishing.
- Bulan, R. (2006) Native Customary Land: Trust as a Device for Land Development in Sarawak. In: Majid Cooke, F. (ed) *State, Communities and Forests in Contemporary Borneo*. 45-64.
- Bulan, R. (2007) Native Title in Malaysia: A 'Complementary' Sui Generis Right Protected by the Federal Constitution. *Australian Indigenous Law Review* 11(1).
- Bulan, R. and Locklear, A. (2008) *Legal perspective on native customary land rights in Sarawak*. Human Rights Commission of Malaysia (SUHAKAM).
- Choo, Y.M. (2011) Overview of the Malaysian Oil Palm Industry 2010. Report of the Director-General of the Malaysian Palm Oil Board, 12 January 2011. Available at http://econ.mpob.gov.my/economy/Overview_2010_final.pdf (accessed on 20 Feb 2011).
- Colchester, M. (2004) and Fergus Mackay (2004) In Search of Middle Ground, Indigenous Peoples, Collective Representation and the Right to Free and Prior Informed Consent. Draft paper for the 10th Conference of the International

- Association for the Study of Common Property, Oaxaca, August. Available at http://www.danadeclaration.org/pdf/fpic_ips_may04_eng_dft.pdf (accessed on 28 November 2011).
- Colchester, M., Wee, A.K., Wong, M.C. and Jalong, T. (2007) *Life is Land: Land Rights and Oil Palm Development in Sarawak*. Forest Peoples Programme and Sawit Watch.
- Cramb, R. (2007) *Land and Longhouse: Agrarian Transformation in the Uplands of Sarawak*. Denmark: Nias Press.
- Cramb, R. (2009) *Agrarian Transitions in Sarawak: Intensification and Expansion Reconsidered*. Working Paper no. 6. The Challenges of the Agrarian Transition in Southeast Asia (ChATSEA).
- Cramb, R. and Ferraro, D. (2010) Custom and Capital: A Financial Appraisal of Alternative Arrangements for Large-Scale Oil Palm Development on Customary Land in Sarawak, Malaysia. Paper contributed to workshop on 'The Oil Palm Dilemma: Agrarian Transformation, State Policy and Resource Conflict in Indonesia and Malaysia', Australia National University, 8-9 April 2010.
- Cramb, R. and Sujang, P.S. (2011) 'Shifting ground': Renegotiating land rights and rural livelihoods in Sarawak, Malaysia. *Asia Pacific Viewpoint* Vol 52: 136–147. DOI: 10.1111/j.1467-8373.2011.01446.x
- Cramb, R.A., Colfer, C.J.P., Dressler, W., Laungaramsri, P., Le, Q.T., Mulyoutami, E., Peluso, N.L. and Wadley, R.L. (2009) Swidden transformations and rural livelihoods in Southeast Asia. *Human Ecology* 37 (3): 323-346.
- Dauvergne, P. (1997) *Shadows in the Forest: Japan and the Politics of Timber in Southeast Asia*. Cambridge, MIT Press.
- Doolittle, A. (2001) From Village Land to "Native Reserve": Changes in Property Rights in Sabah, Malaysia 1950-1996. *Human Ecology* 29(1):69-98.
- Gassner, A., Majid Cooke, F. and Mohd Noor, M.F. (2011) *Yield Performance of Smallholder Oil Palm Fields and Consequences for Sustainable Rural Development in Malaysia*. Unpublished manuscript.
- Guyot, D. (1971) The Politics of Land: Comparative Development in Two States of Malaysia. *Pacific Affairs* 44 (3): 368-389.
- Hew, C.S. (2011) Coping with change. Special Issue: Migration, Agrarian Transition, and Rural Change in Southeast Asia – Part 1. *Critical Asian Studies* 43(4): 595-616.
- Hong, E. (1987) *Natives of Sarawak: Survival in Borneo's Vanishing Forest*. Pulau Pinang, Institut Masyarakat.
- Ichikawa, M. (2007) Degradation and loss of forest land and land-use changes in Sarawak, East Malaysia: a study of native land use by the Iban. *Ecol Res* 22: 403–413.
- IDEAL (2001) *A social study report of the oil palm plantation in the Kanowit District of Sarawak*. Available at <http://www.rengah.c2o.org/assets/pdf/de0081a.pdf> (accessed on 25 January 2011).
- IDS (Institute for Development Studies), Sabah (2007) *Sabah Development Corridor Socio-economic Blueprint 2008-2025*. Kota Kinabalu.

- Jalani, B.S., Basiron, Y., Darus, A., Chan, K.W. and Rajanaidu, N. (2002) Prospects of Elevating National Oil Palm Productivity: a Malaysian Perspective. *Oil Palm Industry Economic Journal* 2(2): 1-9.
- Jitab, K. with Ritchie, J. (1991) *Sarawak Awakens: Taib Mahmud's Politics of Development*. Selangor: Pelanduk Publications.
- Jomo, K.S., Chang Y.T. and Khoo, K.J. (2004) *Deforesting Malaysia*. London, Zed Books.
- Koh, L. P., Ghazoul, J., Butler, R., Laurance, W., Sodhi, N., Mateo-Vega, J. and Bradshaw, C.A (2009) Wash and Spin Cycle Threats to Tropical Biodiversity. *Biotropica* 42(1): 67–71 2010.
- Li, T.M. (2007) *The Will to Improve. Governmentality, Development, and the Practice of Politics*. London: Duke University Press.
- Li, T.M. (2010) Indigeneity, Capitalism, and the Management of Dispossession. *Current Anthropology* 51 (3): 385-414.
- Majid Cooke, F. (1999) *The Challenge of Sustainable Forest: The Policy of Forest Resource Use in Malaysia 1970 to 1995*. Allen and Unwin, Sydney and University of Hawaii Press, Honolulu.
- Majid Cooke, F. (2002) Vulnerability, Control and Oil Palm in Sarawak: Globalization and a New Era? *Development and Change* Vol.33 (2): 189-211.
- Majid Cooke, F. (2003) Maps and Counter-Maps: Globalised Imaginings and Local Realities of Sarawak's Plantation Agriculture. *Journal of Southeast Asian Studies* 34(2): 265-284.
- Majid Cooke, F. (2006) Expanding State Spaces: Using 'Idle' Native Customary Land in Sarawak. In: Majid Cooke (ed.) *State, Communities and Forests in Contemporary Borneo*. Asia Pacific Environment Monograph 1, Australian National University E Press, Canberra Australia.
- Majid Cooke, F. (2008) Land Development and Livelihood Vulnerability in Sabah. Peer Reviewed Paper presented at the 17th Biennial Conference of the Asian Studies Association of Australia in Melbourne 1-3 July 2008. Available at <http://arts.monash.edu.au/mai/asaa/proceedings.php> (accessed on 27 July 2010).
- Majid Cooke, F. (2009) In Situ Off farm work in the Transport Industry among Oil Palm Smallholders in Sabah: Negotiating the Border of Licit and Illegal Activities. *Asia Pacific Viewpoint* 50 (1) 24-28.
- Majid Cooke, F. and Vaz, J. (2011) *A Review of Indigenous and Community-Conserved Areas in Sabah*. Global Diversity Foundation for the Sabah Biodiversity Centre, Bornean Biodiversity and Ecosystem Conservation Project II, Kota Kinabalu.
- Majid Cooke, F., Ngidang, D. and Selamat, N. (2006) Learning by Doing, Social Transformation of Smallholder Oil Palm Economies of Sabah and Sarawak, Malaysia. Report submitted to UNESCO under their Participatory Programme Research Project No. 272 132 03 MAL
- McCarthy, J.F. (2010) Processes of inclusion and adverse incorporation: oil palm and agrarian change in Sumatra, Indonesia. *Journal of Peasant Studies* 37 (4), 821-850.

- McCarthy, J.F. and Cramb, R.A. (2009) Policy narratives, landholder engagement, and oil palm expansion on the Malaysian and Indonesian frontiers. *The Geographical Journal* Vol. 175, No. 2, 112-123.
- MPOB (Malaysian Palm Oil Board) (2011) *Overview of the Malaysian Oil Palm Industry 2010*. Report by MPOB Director General Datuk Dr. Choo Yuen May. Available at http://econ.mpob.gov.my/economy/Overview_2010_final.pdf (accessed on 25 August 2011).
- NEAC (National Economic Advisory Council) (2010a) Appendix B: Oil Palm Sector. *New Economic Model for Malaysia - Strategic Policy Directions*. Putrajaya: NEAC. Available at <http://www.neac.gov.my/publications.php?subcategory=nem%20reports&ID=317&title=concluding%20part%20-%20appendix%20b%20-%20policies%20for%20the%20palm%20oil%20sector> (accessed on 8 August 2011).
- NEAC (National Economic Advisory Council) (2010b) NEM 2: *Palm Oil Industry*. Putrajaya: NEAC. Available at <http://www.neac.gov.my/publications.php?subcategory=papers&ID=354&title=palm%20oil%20industry> (accessed on 8 August 2011).
- Ngidang, D. (1999) Landowners' Perception and Understanding of the Joint Venture Concept of Native Customary Rights Land Development in Ulu Teru and Kanowit. Draft Report submitted to the Sarawak Development Institute, February 1999.
- Ngidang, D. (2003) Transformation of the Iban Land Use systems in Post Independence Sarawak. *Borneo Research Bulletin* 34: 62-78.
- Ngidang, D. (2005) Deconstruction and Reconstruction of Native Customary Land Tenure in Sarawak. *Southeast Asian Studies* 43(1): 47-73.
- Padoch, C. and Peluso, N.L. (1996) Borneo People and Forests in Transition. In: Padoch and Peluso (eds.) *Borneo in Transition: People, Forests, Conservation and Development*. Oxford: Oxford University Press.
- Peluso, N.L. (1996) Fruit Trees and Family Trees in an Anthropogenic Forest: Ethics of Access Property Zones and Environmental Change in Indonesia. *Society for Comparative Study of Society and History* 38(2): 511-547.
- Peluso, N.L. and Vandergeest P. (2001) Genealogies of the Political Forest and Customary Rights in Indonesia, Malaysia, and Thailand. *Journal of Asian Studies* 60(3): 761-812.
- Rahman, A.K.A., Abdullah, R., Shariff, F.M. and Simeh, M.A. (2008) The Malaysian Palm Oil Supply Chain: The Role of the Independent Smallholders. *Oil Palm Industry Economic Journal* Vol.8 (2)/2008.
- Rerkasem, K., Lawrence, D., Padoch, C., Schmidt-Vogt, D., Ziegler, A.D. and Bruun, T.B. (2009) Consequences of Swidden Transitions for Crop and Fallow Biodiversity in Southeast Asia. *Human Ecology* 37(3): 347-360.
- Runciman, S. (1960) *The White Rajahs: A History of Sarawak from 1841 to 1946*. Cambridge, Cambridge University Press.
- Sather, C. (1990) Trees and Tree Tenure in Paku Iban Society. The Management of Secondary Forest Resources in a Long Established Iban Community. *Borneo Review* 1: 16-40.

- Simeh, A. and Ahmad, T.M.A.T. (2001) The Case Study on the Malaysian Palm Oil. Regional Workshop on Commodity Export Diversification and Poverty Direction in South and South-East Asia, Bangkok 3-5 April, UNCTAD and ESCAP.
- Stiglitz, J. (2007) *The Malaysian Miracle*, 11 September. Available at <http://www.project-syndicate.org/commentary/stiglitz91/English> (accessed on 11 January 2011).
- SUHAKAM (Malaysian Human Rights Commission) (2009) Annual Report. SUHAKAM, Kuala Lumpur.
- Tanner, D. and Kirk, R. (2008) Matrix to mosaic: habitat fragmentation from 1982-1999 in Sabah, Malaysian Borneo. *Borneo Research Bulletin* 39: 255-268.
- Teoh, C.H. (2010) *Key Sustainability Issues in the Palm Oil Sector: A Discussion Paper for Multi-Stakeholders Consultations*. The World Bank Group.
- Vermeulen, S. and Cotula, L. (2010) *Making the most of agricultural investment: A survey of business models that provide opportunities for smallholders*. IIED/FAO/IFAD/SDC, London/Rome/Bern.
- Vermeulen, S. and Goad, N. (2006) *Towards better practice in smallholder palm oil production*. Natural Resource Issues Series No. 5. London: IIED.
- White, N. (2004) The Beginnings of Crony Capitalism: Business, Politics and Economic Development in Malaysia, c. 2955-70. *Modern Asian Studies* 38 (2): 389-417.
- Wilcove, D.S. and Koh, L.P. (2010) *Addressing the threats to biodiversity from oil-palm Agriculture*. *Biodiversity Conservation* 19: 999-1007.
- Zen, Z., Barlow, C. and Gondowarsito, R. (2005) Oil palm in Indonesian socioeconomic improvement: a review of options. Working Paper in Trade and Economics 11. Economics, Research School of Pacific and Asian Studies, Australian National University.

Newspaper articles

- Borneo Post (2009), SLDB pays RM 1 mln joint-venture profit to cooperative. 14 April: p.3.
- Business Times (2009) MPOB at forefront of R&D, 3 Feb 2009.
- Daily Express (2009) Bulk of subsidiary titles backlog cleared. 6 October 2009: p. 3.
- Daily Express (2009) Four Ranau villages cement oil palm JV, 21 September: p. 5.
- Daily Express (2009) Limit on outsider land ownership: Dept. not in favour, 13 September: p. 1.
- Daily Express (2010) 7,600 Acres should be communal land: MP. 1 October 2010: 7.
- Daily Express (2010) Attention to all in anti-pverty projects: Ewon. 27 November 2010:7.
- Daily Express (2010) Four Ranau villages cement oil palm JV. 21 April 2010: p. 5.
- Daily Express (2010) No Agri land for P'sula Firms if SAPP Forms Govt. 5 October: p.3.
- Daily Express (2010) Sabah Leads in Land Reform. 30 May.
- Daily Express (2010) Second Communal Title next year. 6 August: p.1.
- Daily Express (2010) Win Win Solution. 6 July 2010: p.10.

- Daily Express (2010) Yong told: Clarify whether FMUs bulldozed during SAPP. 8 October: p. 2.
- Daily Express (2011) NCR Intact, says CM. 10 April 2011.
- Daily Express (2011) Oil Palm on 10,000 acres in Sook soon. 5 January.
- Malaysiakini (2001) Landmark Judgment Rules in Favour of Sarawak Natives by Chendang Hollis, Malaysiakini May 12th, 2001.
- Malaysiakini (2011) Sarawak tribes get OK from court to fight land claims. March 2011.
- New Straits Times (2010) Sabah on target to eradicating poverty. 25 May 2010.
- The Star (2010) Felde gets RSPO certification, 13 August 2010.
- The Star (2010) Planters Seek Review of Tax, Cess and Levy. 11 Jan 2010.
- The Star (2011) Villagers can apply for ownership after state de-gazettes forest reserves. 13 March 2011.

Unless otherwise stated, all websites referred to in this report were last accessed on 26 December 2011.

Community-investor business models: Lessons from the oil palm sector in East Malaysia

Concerns about food and energy security, coupled with increasing returns from agriculture, have increased interest in agricultural investments in developing countries. Public debates about 'land grabbing' have questioned the socio-economic impacts of large-scale land acquisitions. There is new interest in business models involving collaboration between companies and communities.

In Eastern Malaysia, community-investor business models have been implemented for several years to expand oil palm cultivation in customarily held lands. This report documents lessons learned through case studies of different business models.

Land, investment and rights series

ISBN: 978-1-84369-841-8

ISSN: 2225-739X



International Institute
for Environment
and Development