

# Making an informed choice

## A review of oil palm partnerships in Sabah and Sarawak, East Malaysia

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The report was commissioned by IIED with funding from IFAD. It builds on years of accumulated research conducted in Sarawak by Robert Cramb of the University of Queensland and Dimbab Ngidang of UNIMAS, and Fadzilah Majid Cooke of Universiti Malaysia Sabah. Additional field research to update previous studies and compile new data on collaborative business models was carried out by Su Mei Toh in Sarawak. Fadzilah Majid Cooke and Su Mei 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 reviewed of the literature and drafted the final report.

# TABLE OF CONTENTS

List of abbreviations and acronyms

List of tables

<b>1</b>	<b>INTRODUCTION</b>	<b>6</b>	
1.1	Harvesting the benefits of the ‘golden crop’	6	
1.2	Customary Land as the next resource frontier	7	
1.3	A search for successful partnership models	9	
1.4	Outline of this report	11	
1.5	Scope limitations	11	
<b>2</b>	<b>MALAYSIAN BORNEO: LAND, PEOPLE AND DEVELOPMENT</b>		
2.1	Ethnic diversity and customary lands	13	
2.2	Land legislation and legal pluralism	14	
<b>3</b>	<b>OIL PALM JOINT VENTURES IN SARAWAK</b>		
3.1	The SALCRA model	16	
3.2	The “New Concept” model	20	
3.3	Case Study: Boustead Pelita Kanowit	20	
3.4	Sarawak – summary and recommendations	23	
<b>4</b>	<b>PARTNERSHIP MODELS IN SABAH</b>		<b>25</b>
4.1	Case Study: SLDB Land Development in Dalit, Keningau District	26	
4.2	Case Study: The Agropolitan Project at Lalampas, Tongod District	31	
4.3	Sabah – summary and recommendations	35	
<b>5</b>	<b>OPTIONS FOR SMALLHOLDERS - A MATTER OF CHOICE</b>		
	<b>37</b>		
5.1	Case Study: Keresia RSPO Smallholder Group Scheme (KRSGS)	38	
5.2	Boosting productivity through support for smallholders	41	
<b>6</b>	<b>DISCUSSION</b>		
6.1	Towards evidence-based policy	44	
6.2	A more holistic approach to land development	44	44
6.3	Ripe for change – strategies for supporting smallholders	45	45
6.4	Clarifying land tenure	46	
6.5	Bracing for competition and leading through Best Practice	46	
<b>7.</b>	<b>CONCLUSION</b>		<b>47</b>
	References	48	
	List of interviews and field research dates	54	

## List of abbreviations and acronyms

ADC	Area development committee
BPK	Bousted Pelita Kanowit
CPO	Crude palm oil
CT	Communal title
DLS	Sabah Department of Land and Survey
FELCRA	Federal Land Consolidation and Reclamation Authority
FELDA	
FFB	Fresh Fruit Bunches
FPIC	Free and Prior Informed Consent
HCVF	High Conservation Values Forest
ICS	Internal Control System
IFAD	International Fund for Agricultural Development
JV	Joint venture
KRSGS	Keresas RSPO Smallholder Group Scheme
KP	Keresas Plantations
MARDI	Malaysian Agricultural Research and Development Institute
MLDS	Ministry of Land Development Sarawak
MRDS	Ministry of Rural Development
MESEJ	Mini Estet Sejahtera (Happy Mini-estates)
MPOB	Malaysian Palm Oil Board
NCR	Native Customary Rights
NT	Native Title
OER	Oil Extraction Rate
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
VOP	Voluntary Oil Palm



## 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, which is 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 legal system and domestic production relations is essential for contextualising the development of these business models (Dauvergne 1997; Majid Cooke 1998, White, 2004; Jomo et al 2004).

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 native landholders, 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; and
- **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 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 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 local landholders, 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,<sup>1</sup> 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 NGOs and community advocates, and from local landowners and oil palm smallholders. The report also draws on data from the literature and media reports. The focus is on two joint venture models in Sarawak (the model developed by the Sarawak Land Consolidation and Rehabilitation Authority, 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 JV companies 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, oil palm agriculture has been characterised by some as the “greatest immediate threat to biodiversity in Southeast Asia” (Wilcove and Koh, 2010). The replacement of forest with monocultures is regarded as a leading cause of habitat and species loss, climate change and disenfranchisement of native peoples from traditional lands and life (Koh et al, 2010; Tanner and Kirk, 2008; Brookfield et al, 2007; Padoch and Peluso, 1996). 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).

Undoubtedly, seeking an appropriate balance between conservation and highly profitable land use change is a development issue which warrants serious consideration. Space constraints prevent us from taking these issues up in this report. The focus here is on social and economic aspects; on the balance between conservation and development, reference can be made to the vast scholarly literature and online fora on these topics.<sup>2</sup>

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 livelihoods and well being for native landowners. 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.

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<sup>1</sup> We are grateful to Robert Cramb and Dimbab Ngidang for their generosity in sharing their research findings of published or yet to be published data. Research by Fadzilah Majid Cooke that is yet unpublished was also useful for this report.

<sup>2</sup> For examples of scholarly writings, see Hong (1987), Bian (2007), Bulan (2008), Ngidang (1999), Majid Cooke (2002, 2003), and McCarthy and Cramb (2009). The [www.sarawakreport.org](http://www.sarawakreport.org), [www.dayaknation.com](http://www.dayaknation.com) and [www.sarawakheadhunter.blogspot.com](http://www.sarawakheadhunter.blogspot.com) are examples of the many blogsites which decry the loss of customary land in Sarawak.

The next section contextualises Eastern 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 engagement with native landholders.



## 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, well-known among which are the Kadazan Dusun, Sungai and Murut groups of Sabah and the Iban, Bidayuh, the Orang Ulu Dayak groups and Melanau in Sarawak. There are numerous smaller ethnic groups categorised in official records as 'Other indigenous'. Sabah has more than 30 different indigenous groups which make up approximately 60 percent of the state's population; in Sarawak there are 38 sub-ethnic groups that make up around 50 percent of the state's population. In both states, these communities form the majority of the rural population which accounts for approximately half the population in both states.

Most indigenous communities in Sabah and Sarawak are closely associated with their ancestral territories for which they have often developed sophisticated resource management systems.<sup>3</sup> Typically such systems involve rice cultivation (largely hill rice) and a mix of other subsistence crops. In Sarawak, for native longhouse communities shifting cultivation requires a reserve of land and forests aside from cultivated land to ensure a sufficient rotational fallow system. The customary law, or *adat*, of longhouse communities 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 or NCR 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. The cultivated landscape consists of ancestral lands that have been planted with food crops such as hill rice and cash crops such as rubber, pepper and cocoa, as well as forest-fallowed farmlands, or *temuda*. 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 Ibans regard their territorial domain or *pemakai menoa* to include areas of *temuda* and *pulau galau* (Ngidang, 2003; Cramb, 2009).

Native rights or ownership to land are conferred to the pioneers who first cleared land for cultivation. There are native 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. Pioneering families pass on their NCR to subsequent generations although this custom of generational inheritance is based on oral traditions and community memory. It is rarely found in written form (Sather, 1990; Peluso, 1996; Appell, 1997). The largest portion of land claimed under customary rights comprises regenerating forests that are described as agro-diverse (Brookfield et al, 2002). In such agro-diverse landscapes a mixture of crops (pepper for Sarawak, rubber and cocoa for Sabah as well as Sarawak) are grown interspersed with fruit trees, within or in the vicinity of forests which have been left to regenerate.

### 2.2. Harvesting the benefits of the 'golden crop'

Oil palm (*Elaeis guineensis*) is hailed as the highest yielding oil crop per hectare. It is about ten times more productive than soybean and has the advantage of being a

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<sup>3</sup> Doolittle 2001; Colchester et al 2007; Cramb 2007; Majid Cooke and Vaz 2011.

perennial tree crop with a productive life of 25 to 30 years (MPOB, 2010). In Malaysia, which first began to plant oil palm in the 1960s, the crop has rapidly become the mainstay of the national economy and an engine of growth, earning its reputation as the 'golden crop'. Palm oil is Malaysia's third largest export and a significant foreign income earner; global exports in 2010 totalled RM59.8 billion (USD19.6 billion). These achievements have also established 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 been credited with bringing development to impoverished rural communities - particularly in Peninsula Malaysia in the 1970s, where the crop was central to the bold initiative of opening up new areas 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 per cent in 1970 to almost negligible levels in the 90s (Ariff Simeh and Tengku Mohd Ariff Tengku Ahmad 2001). 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 198,069 km<sup>2</sup>. 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/km<sup>2</sup> for Sarawak, and 42/km<sup>2</sup> for Sabah.<sup>4</sup> More than 50 percent of their population is rural. They also have the highest incidences of poverty among the 13 states at 19.7 percent in Sabah and 5.3 percent in Sarawak, compared to 3.8 percent for Malaysia as a whole<sup>5</sup>. Poverty alleviation therefore continues to feature prominently in the rationale for continued oil palm expansion (Majid Cooke 2006; Majid Cooke et al, 2006).

Sabah has the largest area under oil palm in the country at 1.4 million hectares, while Sarawak is viewed as the new frontier for expansion. In 2010, the total area under oil palm in Sarawak grew by 9.5 percent, compared to just 3.5 percent in Sabah and 1.4 percent in the Peninsula. The Sarawak state government has grand visions for boosting its current area of 0.9 million hectares to two million hectares of oil palm by 2020 (Malaysian Palm Oil Board 2010). According to the Sabah Development Corridor Blueprint (2007), Sabah intends to position itself as a centre of excellence and trade for agricultural products by 2025, and to multiply the contribution of agriculture to GDP by four times to RM17 billion (US\$ XX). Palm oil has been singled out as the main driver of this growth.

### **Table 1: Area under Oil Palm, Sabah and Sarawak, 1990-2010**

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<sup>4</sup> 2010 Population and Housing Census.

<sup>5</sup> As of December 2009 and listed in the 10<sup>th</sup> 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.

Source: Malaysia Palm Oil Board (2009) and . Area under Oil Palm (Mature and Immature): 1975-2010

Overview of the Malaysian Oil Palm Industry 2010, released 12 Jan 2011.

[http://econ.mpob.gov.my/economy/annual/stat2009/Area1\\_2.pdf](http://econ.mpob.gov.my/economy/annual/stat2009/Area1_2.pdf) accessed on 20 Feb 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

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	500%
Sarawak	54,795	118,783	330,387	543,398	839,478	919,148	1700%
Total Malaysia	2,029,464	2,540,087	3,313,393	4,051,374	4,691,160	4,850,000	240%

palm and other cash crops such as rubber) form the basis of state wealth, which is 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 revenues, as royalties from natural gas mainly go to the federal government (Majid Cooke, 2006).

From the 1960s in Sabah and the 1970s in Sarawak, revenue from logging provided both states with the bulk of their revenue and a support base for political parties in power through licences and contracts. Some native communities participated in logging their own or their neighbours' lands because they felt that, if they did not participate, someone else would (as documented in earlier research by Majid Cooke, 1999). By the 1990s, Sabah and Sarawak became among 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. Several federal and state government agencies and statutory bodies have been at the forefront of oil palm development, and have led the introduction of various partnership models devised to develop oil palm on native customary land. While these models are extremely diverse, they 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 illustrated by the mission statement of the Sarawak Ministry of Land Development: "To expedite the development of Native Customary Rights (NCR) land and other idle land into economically productive assets for optimal and sustained benefits to the land owners and the State through plantation development and commercial oriented programmes".<sup>6</sup>

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

<sup>6</sup> [http://www.mlds.sarawak.gov.my/modules/web/page.php?id=47&menu\\_id=0&sub\\_id=103](http://www.mlds.sarawak.gov.my/modules/web/page.php?id=47&menu_id=0&sub_id=103) (accessed on 15 March 2011).

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”.<sup>7</sup>

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 remains untitled, and some of it is left to fallow under the rotation system of shifting cultivation. According to the Sabah Land Ordinance of 1930 (SLO), such lands are considered to be State Land that is ‘idle’ or unproductive. In 2010, the Sabah Department of Land and Survey (DLS) reported that 350,000 hectares of idle and ‘non-development’ land have been identified and would be put into productive use through Joint Venture (JV) agricultural development schemes.<sup>8</sup> The Sabah Chief Minister explains the primary intention behind the development thrust is to help local people “develop the land for agriculture and reap lucrative income to boost their social and economic standards.”<sup>9</sup> 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 (Sarawak Land Consolidation and Rehabilitation Authority) schemes were first introduced in Sarawak and the SLDB (Sabah Land Development Board) was established in Sabah – both in society and in the 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 the *Konsep Baru* (“New Concept”). This programme is managed by Sarawak’s LCDA (Land Consolidation and Development Authority). But despite important changes like the inclusion of private investors and the establishment of a JV company, the basic model is little changed from the older SALCRA model, in that oil palm development is still ‘done’ for native 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 (Collin, 2011, writing on Peninsula Malaysia rather than Sabah or Sarawak). In recent years, considerable discontent has emerged among local landowners involved in state-sponsored JVs in Sabah and Sarawak (Ngidang, 2003; Cramb and Ferraro, 2010). There are reportedly over 200 active cases filed with the lower courts against the Sarawak government and various companies for over alleged appropriation of ancestral land and breach of trust.<sup>10</sup> In Sarawak, the rejection of the JV approach by some native communities has slowed uptake of new projects on native customary land (Cramb, 2010). In Sabah, questions have also been raised as to whether the JV business models in use successfully uplift the economic status of rural populations and stimulate agricultural entrepreneurship (Majid Cooke et al, 2006 and 2009).

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<sup>7</sup> [http://www.mlds.sarawak.gov.my/modules/web/page.php?id=71&menu\\_id=0&sub\\_id=135](http://www.mlds.sarawak.gov.my/modules/web/page.php?id=71&menu_id=0&sub_id=135)

<sup>8</sup> Discussed in the 2010 Pemandu Labs. Pemandu stands for Performance, Management and Delivery Unit; it is a strategic division within the Prime Minister’s Department responsible for charting the national economic development programme.

<sup>9</sup> Reported in the Daily Express, 10 April 2011, ‘NCR Intact, says CM’.

<sup>10</sup> ‘Sarawak tribes get OK from court to fight land claims’ *Malaysiakini* March 2011

Another important area of change relates to the role of smallholders in oil palm development. Compared to the 1970s, many native communities have greater access to information and more experience with managing their own agricultural smallholdings. Responding to incentives to encourage participation in commercial agriculture and leveraging off the infrastructure developed by larger companies, many smallholders have seized opportunities to establish their own plantations and small businesses. As a result, in both Sabah and Sarawak there is a small but increasingly important smallholder sector. The emerging generation of native landowners desire to be more actively involved in the development of their land. In her studies of rural communities in Indonesia, Li (2007) has emphasised the importance of considering local people as active agents in their own story. People are generally very 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 improbability 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).

#### **2.4. Land legislation and legal pluralism**

Native claims to customary lands in Sabah and Sarawak are based on complex traditional laws (or *adat*), many of which are not formally recorded but are nevertheless applied and held in the collective memories of local communities. These rights to land are recognised in the Sabah Land Ordinance of 1930 (SLO) and in the Sarawak Land Code of 1958 (SLC). Both laws were inherited from the period of British influence in Sabah under the North Borneo Company and in Sarawak under the Brookes, and continuing in the post World War II period when both states were part of a British Crown protectorate.

The Codes were devised to facilitate the territorialisation of resources (to use an expression proposed by Peluso and Vandergeest, 2001). According to Vandergeest and Peluso (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 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 in modern agriculture.

However, 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 (NT) and the rights of communities to apply for shared reserves through Communal Title (CT), while Native Reserves are stipulated in sections 76 and 78. However, the land titling process is complex and can take many years (Majid Cooke et al, 2008), much fallow land and secondary forest remain untitled, and overlapping land claims have emerged - so that tenure insecurity remains a significant problem.

In Sarawak, the SLC contains similar provisions to protect customary claims (section 5(2)), but official interpretations of the Code tend to be ambivalent about recognising 'ownership' of lands under customary claims (Majid Cooke, 2002). In instances of overlapping claims from state and market interests, native peoples must be able to prove that they occupied their land prior to 1958. From the mid-1970s, a series of amendments have further weakened the provisions of the SLC that safeguard NCR lands. In 1974, section 5 (3) and (4) granted power to the Minister to extinguish native customary rights after six week's 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), imposed a fine if land "improvements" are not implemented within a three year period. This amendment effectively disregards traditional shifting cultivation systems. A 1996 amendment states that a native claimant has the burden of proving the existence of customary rights and that all land would be considered State Land unless NCR can be proved. The deletion of section 5(f) in 2000 means that the Land Code no longer recognises "other lawful means" - i.e., the traditional forms of occupation according to native customary laws for the creation of NCR. In addition, a Land Surveyors Ordinance introduced in 2002 allows only licensed surveyors to make, authorise or sign any cadastral map. This effectively makes community-mapping initiatives unlawful. According to some commentators, these changes combined have had the effect of curtailing the ability of native communities to develop their land by themselves, and of prioritising land development projects by private companies.<sup>11</sup>

The Sarawak government has been known to issue Provisional Leases to non-natives over lands on which natives claim to exercise NCR. 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 to conduct 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 landowners with customary claims on an area under the Provisional Lease only find out about the impending development when bulldozers arrive to clear their land. This has led to conflicts, blockades, violence, and legal suits filed by native people (Bulan, 2008).

In summary, although the land laws for Sabah and Sarawak contain clear provisions governing the rights of native people to customary lands and communal resources, they were also colonial acts of transformation meant to monitor the transfer of power and control over natural resources from the community to a centralised state. Anxiety over tenure narrows the choices open to native communities to sustainably manage their lands, and increases pressures for them to participate in government sponsored land development JV schemes.

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<sup>11</sup> Personal communication, 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 with native landowners in a two-way partnership between a state agency and native landowners. 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 percent of the total 920,000 ha reported to be under oil palm (Cramb 2009).

**Figure 1: Location of case studies in Sarawak**



**Is Bintulu looked at? If not I wd suggest deleting from map**

#### 3.1. The SALCRA model

The Sarawak Land Consolidation and Rehabilitation Authority (SALCRA) is a state statutory 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 and is also referred to as a Managed Smallholder approach. SALCRA has the power to declare “development areas”, which gives it the right to develop oil palm plantations on NCR land on behalf of NCR landowners. SALCRA schemes are run as joint ventures with NCR landowners.

Presently, SALCRA has a total of 48,644 hectares in four regions of southern Sarawak. It operates 18 oil palm estates and four palm oil mills. Over 40,000 hectares of the planted area features mature crops. SALCRA schemes reportedly had 21,578 participants in June 2009. Typically, Fresh Fruit Bunches (FFBs) are supplied to SALCRA's own or subsidiary mills and Crude Palm Oil (CPO) from these mills becomes the main 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 participants provide their land for one cycle of oil palm of 25 years, while SALCRA provides financial and technical resources. The capital cost of setting up a plantation and support infrastructure is funded by a combination of concessional federal loans and other grants, which the participants are to progressively repay through the sale of oil palm fruit. Under the last 5-year Malaysia Plan (2006-2010), SALCRA received grants totalling RM21 million (USD5.72 million, at 2006 rate of exchange) disbursed by the Federal government mainly for the construction of village infrastructure such as roads. SALCRA also procured loans of up to RM82 million (USD22.36 million) from financial institutions. Over 2011-2012, a further 6,750 hectares is slated for new planting. After the initial establishment phase, local landowners receive a share of profits from the net proceeds of the venture. 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 percent per annum on the outstanding balance (Cramb & Ferraro 2010). This venture between landowner participants and SALCRA is signified by a letter of consent between the two parties.

### ***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 & 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 RM473.99 million (US153.62 million) and group profit before tax of RM119.71 million (USD38.8 million) as at 31 August 2010.

Based on public announcements of SALCRA's yield production, the average annual FFB yield per hectare for SALCRA managed estates was estimated to range from 10.64 tonnes/ha in 2006 to a high of 12.03 tonnes/ha in 2010.<sup>12</sup> Except for 2008

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<sup>12</sup> 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?>

where no data was available, the average yield trend for SALCRA has been increasing since 2007. In the past four years, these returns have been estimated to account for 33 - 53 percent of SALCRA's plantation profits after accounting for operational costs. 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, RM74 million (USD24 million), is the largest disbursement to date. This is equivalent to a payment of RM1,527 (USD485) per hectare/year. For the average participant with an estimated 2.25 hectares of land under SALCRA management, this amounts to RM3,433 (USD1,113) a year, or RM286 (USD93) a month.

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<file=/2010/12/1/business/7528609&sec=business>) [why does the main text refer to 12.03 then?]

**Table 2. Estimates of production and profit from SALCRA plantations**

Year	Average FFB price (RM) (national OER)	Total FFB yield (metric tonne)	Estimated gross profit from FFB (RM million)	Total proceeds (RM millions)	Proceeds paid out as % of gross profit
2007	505 (USD147)	511,082 <sup>a</sup>	258 (USD75.1)	40.3 <sup>a</sup> (USD11.7)	16%
2008	610 (USD183)	Undisclosed	-	52 <sup>b</sup> (USD15.6)	-
2009	465 (USD132)	568,000 <sup>c</sup>	264 (USD74.9)	37 <sup>b</sup> (USD10.5)	14%
2010	605 (USD196)	585,000 <sup>c</sup>	354 (USD114.73)	74.3 <sup>c</sup> (USD24.1)	21%

\*Low and high assumptions based on 2010 average so far.

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 Dividend	Average proceeds paid /ha, assuming 48,000 ha planted	Average annual proceeds /participant
2007	RM 40.3 million (USD11.7 million)	RM 840 (USD244.50)	RM1,868 (USD543.72)
2008	RM 52 million (USD15.6 million)	RM 1,083 (USD325.15)	RM2,410 (USD723.55)
2009	RM 37 million (USD10.5 million)	RM 771 (USD218.75)	RM1,714 (USD486.31)
2010	RM 74.3 million (USD 24.1 million)	RM 1,548 (USD3,443)	RM3,443 (USD1,115.90)

Source: <http://www.palmoilprices.net/>

Dividend payments 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 phase of the estate where a participant's land is located. Hence, the proceeds range significantly depending on the management, site and soil suitability, and the age of planting. Some of this variation is lost in averaged figures.

In 2009, SALCRA's overall average payment to participants was RM771/ha (USD218.74/ha). Two examples from SALCRA participants in different plantations are used to highlight the variability of annual dividends. Both these participants have off-farm employment and do not work on their schemes. Participant A has an area of 2.27 hectares 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 17<sup>th</sup> year of planting. The 2009 proceeds received was RM1,137 (USD332.5) paid in two tranches (January and July 2010). The average proceeds in his scheme was RM500/ha (USD141.86/ha). Participant B, whose scheme is in its 22<sup>nd</sup> year, has approximately 10 hectares under SALCRA, also in Saratok. In 2010, he received a total of RM25,000 (USD7,093) in two tranches from SALCRA as proceeds for 2009. The average proceeds in his scheme was therefore RM2,500/ha (USD709.3/ha)<sup>13</sup>. In other words, average proceeds for Participant B were about 5 times higher than those of Participant A.

### **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. They do not include key production and cost data of individual estates. This remains a point of contention amongst participants as many perceive their proceeds to be very low compared to the potential profits achievable. Consequently, SALCRA has been criticised for financial mismanagement in blogs maintained by those in contact with scheme participants.<sup>14</sup> 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 in response to these demands.<sup>15</sup>

Participants' views on SALCRA are polarised - while some participants are disillusioned and deeply unhappy with the returns from the use of their land, others like *Participant B* in the example above, who receive five-figure dividends, are reasonably satisfied. Most SALCRA scheme participants agree that a more participant-oriented framework and opportunities to hold dialogues with the scheme managers would be welcomed. Some SALCRA participants have access to other sources of income, or use other land for agriculture. However, for many, giving SALCRA the use of their land for oil palm represents a significant opportunity cost especially when the annual proceeds continue to be below expectations.

### **Evaluation**

SALCRA's structure is fairly straightforward as it involves only NCR landowners and SALCRA. There has been some dissatisfaction with the size of dividends and calls have been made for the body to make its financial management more transparent. However, risks to local participants are smaller than in other schemes, as even if the estate underperforms the land asset of NCR landowners is still secure. Participation in SALCRA joint ventures is most 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

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<sup>13</sup> Based on interviews with SALCRA participants in December 2010.

<sup>14</sup> Blogs are a popular channel to express criticisms that would otherwise not be reported in mainstream media channels, which are government controlled.

<sup>15</sup> Pers. Comm., Cramb February 2011.

subsistence and the planting of other commercial crops such as pepper and rubber, in addition to developing their own oil palm smallholdings. This approach reduces vulnerability arising from low returns from the SALCRA plantation and the need to sell parcels of NCR land (including plots under SALCRA) to meet basic needs or to raise capital for other ventures<sup>16</sup>. 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<sup>17</sup>.

## **3.2. The “New Concept” model**

### **3.2.1. 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. 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 even undertake compulsory land acquisition.

With LCDA’s New Concept model, NCR holders become joint venture shareholders without having to provide financial capital, since their equity in the joint venture is based on the area of their land. In this arrangement, the private investor retains 60 percent equity share, the native landowners retain 30 percent, although this share is held in trust by the LCDA. The LCDA itself provides 10 percent paid-up capital for a 10 percent equity share in the venture. The Chairman of LCDA is the Sarawak Chief Minister and direct links with the Land and Survey Department, the Ministry of Planning and Resource Management, and the Ministry of Finance 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 NCR landowners and private sector investor, and coordinates and supervises the resulting Joint Venture as a Managing Agent. LCDA is represented in the joint venture by Pelita Holdings Sdn Bhd. Under the Principal Deed, the NCR landowners are asked to jointly agree to appoint and authorise Pelita Holdings to be their sole Trustee to undertake and develop the surrendered land for them and to receive the benefits from the resulting JVC. Pelita Holdings facilitates the transfer of NCR land to the Joint Venture Company (JVC)<sup>18</sup>. A master lease is issued to the JVC for the Native Land Area for a period of 60 years (representing two oil palm growing cycles).

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<sup>16</sup> Interview with SALCRA participants, 16 Dec 2010

<sup>17</sup> This increasing inequality was also found by Banerjee and Bojsen (2005) in their review of land use strategies in SALCRA Batang Ai Resettlement Scheme.

<sup>18</sup> Legally only natives are allowed to transact in NCR land, the resulting joint venture company 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.

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 percent 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 funds for future expansion, loan repayments and capital investment requirements and other lawful deductions. Upon expiry of the lease, the restitution of the land to the NCR landowners is not automatic; NCR landowners are expected to apply to the Superintendent of Land and Survey to re-establish their land rights (Jitab & 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 representative of native landowners to sit on the board, but they do not have voting rights.

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

### **3.2.2.A case study: Boustead Pelita Kanowit (BPK)**

Boustead Pelita Kanowit (BPK) is the current name of the first New Concept JVC, although the investor and the name of the project has changed several times since the initiative was first launched in August 1996. Presently, the venture involves Boustead Holding Berhad (BHK) as the investor, Pelita Holdings as Trustee, and NCR 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 Principle Deed between the NCR owners and Pelita Holdings was only signed in January 2002. 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.<sup>19</sup> As of 2009, the project includes six estates,<sup>20</sup> and involves 2,133 NCR landowner participants from 1,685 households.

As the pioneering project for the new three-way concept, there were high expectations of success. But despite there being little financial data in the public domain, media sources and annual reports suggest that the project had underperformed in terms of both commercial viability and improvements to local livelihoods. A study on this project found that there was an annual loss for 2010 of over RM28 million (USD7.4 million), and accumulated losses of RM95 million (USD25 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,<sup>21</sup> combined with heavy borrowing at high interest rates (up to 8% per annum). The Asian economic crisis of 1997/98 and poor performance of palm oil in the global markets in the early 2000s set the company back in maintaining its loan repayments. In addition, the project incurred large accumulated capital and operational expenditures and was reportedly weakened by poor cost

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<sup>19</sup> <http://www.pelita.gov.my/ncr.html>

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

<sup>21</sup> Reported as 7 tonnes per hectare in 2005, 8-10 tonnes per hectare in 2006 and finally increasing to a high of 18-20 tonnes per hectare in 2009. [source?]

control and financial management.<sup>22</sup> By 2005, the company had reportedly spent more than RM200 million (USD60 million) in establishment costs, including RM35 million (USD10.5 million) on a palm oil processing mill.<sup>23</sup> In LCDA's 2009 Annual Report, BPK was still unable to declare dividends and projected that native shareholders would not be able to see a return on investment unless the government injected around RM120 million (USD34 million) to reduce its debt.

Among native shareholders, discontent reportedly began to emerge by the fourth year (2001), when no dividends were received. By mid-2008, having reportedly failed to obtain a satisfactory response from the JVC or Pelita Holdings, NCR landowners resorted to extreme measures. Participants in the scheme from 20 longhouse communities are understood to have erected blockades to prevent estate workers from entering one of the plantations. A police report was reportedly lodged against BPK, based on the allegation that they had deliberately withheld dividends. In a bid to pacify angry native shareholders to remove the blockades, the company is understood to have offered to pay "advanced" dividends<sup>24</sup> at RM250 per hectare in 2008 (USD75), and at RM150 per hectare in 2009 (USD43). Some participants rejected the payment in protest.

Over the entire 14-year period since the start of the project based on the total incentive payments paid out, an average native shareholder with just over 6.25 hectares of land is understood to have received a total of RM3,255 (USD1,055) in cash incentives. 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 debt of RM130 million (USD42 million).<sup>25</sup> 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. In the case of the affected longhouse communities, some of the land that had been given over to the JVC apparently included pepper and rubber gardens, forested fallows and paddy areas. Local participants believed that returns from the venture would secure their household needs and the assurance of secure tenure would make the sacrifice worthwhile. Many regard themselves as being worse off than if they had never participated in the scheme at all.<sup>26</sup>

Because of the political significance of the New Concept schemes to the state government, accounts given by state agencies and politicians of the New Concept projects to the media 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 stated that the project had generated other income streams which benefited the community; there were reportedly 76 local contractors who earned between RM3,000 (USD818) and RM8,000 (USD2182) a month and that

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<sup>22</sup> Personal communication with ex-LCDA official, November 2010.

<sup>23</sup> <http://thestar.com.my/news/story.asp?file=/2006/4/19/southneast/13977927&sec=southneast>

<sup>24</sup> Also called *incentive payments*, 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.

<sup>25</sup> 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>

<sup>26</sup> 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>



average monthly income for each family had jumped from RM296 (USD81) in 1996 to RM720 (USD196) in 2006.<sup>27</sup>

Income diversification is an important socio-economic development. However, it is important not to ignore the misgivings and concerns voiced by local participants, particularly in relation to security of tenure and the perceived inadequacy of returns from the joint venture. Local people's primary concerns do not seem to be effectively addressed through current operational mechanisms, as 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. Learning lessons from this experience is particularly important as the New Concept model continues to be the main vehicle for rural development in Sarawak.

### **3.2.3. 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 over 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 NCR landowners. Free, prior, informed consent (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. In many cases, decision-making did not follow the traditional method of participatory consultation amongst longhouse communities (called *randau rual*). The emphasis on expedience 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. By signing the trust deed, NCR landowners relinquish their right to sue the government agency and the investor. 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 a periodic 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 joint venture found that the ADC's do not effectively fulfil their role as they follow a "selective patronising strategy" and allegedly discriminate against "unfriendly" longhouse communities. Officials tended to disengage from landowners that were critical of the project (Ngidang, 1999).

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

The same study found that in the course of promoting the New Concept schemes, 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 they did not surrender it. The JVC was marketed as the sole route to securing infrastructure and services such as clinics and schools. Based on the survey, elements of co-optation of community leaders were common (Ngidang, 1999).

The lack of economic and infrastructure development in rural Sarawak make 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 or 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, 2002).

Although some of the projects succeeded in improving basic infrastructure in the form of roads, water and electricity supply, there were some communities 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, the New Concept projects have had limited success in poverty alleviation. 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. Within communities, the New Concept projects have also caused disunity and conflict which has split 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 RM150 per hectare/year 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 Sujang, 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 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: 19). The recent moves within SALCRA to provide more clarity of financial management to community stakeholders and to establishing stronger communications channels with participants are indications that feedback is being taken on board, which stands to enhance performance of the scheme on many levels.

#### 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 map). SLDB's pioneering of oil palm expansion into the Sabah interior is credited 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 steady decline since 2000. There are plans to develop another 10,000 ha of interior lands in the immediate future.<sup>28</sup>

**Figure 2. Location of case study sites in Sabah**



SLDB is a statutory body established in 1969 under the Chief Minister's Department to implement Sabah's rural development program. 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".<sup>29</sup> 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.<sup>30</sup> 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, borrow by way of a temporary loan or overdraft from a bank.

<sup>28</sup> The areas slated for further expansion by SLDB are Sinua, Tinagalan, Lumiri and Nabawan (interview with a SLDB officer, Kota Kinabalu, 11 March 2011)

<sup>29</sup> SLDB website, <http://www.sldb.com.my/index.php?sc=MissionStatement>

<sup>30</sup> Interview with a SLDB Officer, Kota Kinabalu, 11 March 2011

In generating its own operational funding, SLDB has embarked on a range of joint venture arrangements, including several with smallholder co-operatives.<sup>31</sup> Different types of profit-sharing mechanisms are used in Dalit and Lalampas, where the venture is with smallholders who have customary claims to lands that may be titled or titled. SLDB reports that 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.

#### **4.2. Case study 1: SLDB joint venture in Dalit, Keningau District**

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<sup>31</sup> For example, the joint venture arrangement with the Kandang Besar Cooperative at Keningau operates on 191 hectares of land with 903 members.

## **Ownership**

The SLDB joint venture at Dalit, in the District of Keningau, involves five villages, namely 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 (Tagol) 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 (1,362 hectares) is on the community-claimed area, while Dalit 1 (356 hectares) is entirely owned by SLDB as it is claimed that this area is unencumbered State Land.<sup>32</sup>

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 the development capital it had invested to establish the estates. In addition, community participants are expected to benefit from finding employment in the SLDB estate and obtaining experience in cultivating and managing oil palm estates. In this model, once the oil palm plantation begins to fruit, JV participants are paid quarterly proceeds from profits made. These amounts are paid directly into participants' bank accounts. Most participants have some remaining land outside the project area, although some villages are left with less land than others after becoming participants.

## **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. When approached again in the 1990s, the villages of Punggol and Dalit Laut were against the venture. They wanted to have a clearer understanding of the process and terms of conditions before entering into an agreement. They also pointed out 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 that supported the venture. Although he acknowledged that they did not have all the information and there was an element of risk, he reasoned that "it was an opportunity for development, for employment, so that we could send our children to school".<sup>33</sup> Dalit Gana also stood to gain the most from the titling of land as most of Dalit 2 was actually on the traditional territories of Punggol and Dalit Laut who were concerned that the standardised format for titling land would dilute their customary claims.

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<sup>32</sup> 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 in Malaysia compared to Sarawak and Peninsular Malaysia (SUHAKAM, Annual Report 2009).

<sup>33</sup> Interview with Ketua Kampung (Village Head) Dalit Gana, January 2011.

The village of Punggol reportedly managed to negotiate for more rewards compared to the other villages by including spouses and adult children as participants in the project. These people are therefore entitled to annual proceeds and to 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 and arguably have the potential of fuelling conflict between villages. Despite the unresolved issues, eventually all the community leaders agreed to participate. For many, the reason for going ahead with the scheme was that they “did not want to be left behind”.<sup>34</sup>

During our fieldwork in January 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 bewildering. 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 promise of finally securing title to their lands, the potential for benefiting from infrastructure and plantation development, and the opportunity to obtain regular income and employment to give their families a stronger economic footing. The process for facilitating land distribution after the venture remains unclear. According to an SLDB representative, it will be decided upon 2-3 years before the termination of the agreement.

With the absence of a functioning forum for participants to engage SLDB in discussions, participants themselves got themselves organised to raise their concerns. In the early 2000’s, they formed a committee to monitor the SLDB venture; the committee eventually disbanded as it was not recognised by SLDB and the District Office. But in order to deal with local dissatisfaction, in August 2010 SLDB appointed a salaried Village Coordinator (*penyelaras*) for each village so that local 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 exceptionally high. The Village Coordinators help monitor field work and bring community issues to the attention of the estate management. They are also able to obtain an impression of production and revenue and “fight for higher dividends” if the need arises.<sup>35</sup>

The introduction of the Village Coordinator system is viewed by participants as a positive development and has coincided with higher dividends being paid out (see **Table 4**). Despite this, participants are not familiar with the inner workings of estate management, such as financial information on operating costs, debt repayment and funds set aside for replanting.

**Table 4: Proceeds distributed to participants by SLDB 2007 to 2010**

Year	2007	2008	2009	2010
<b>Dividend (RM)</b>	988,000	1,270,000	1,809,000	3,500,000

<sup>34</sup> Village interviews, Dalit, 5-7 March 2011.

<sup>35</sup> Interview with Dalit scheme participants, 6 March, 2011.

### ***Risk and reward***

More than a decade since the Dalit project commenced, 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, although according to XXX 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 RM557,373 (USD158,142) and the announcement of a road improvement project to be implemented in 2011-2012 with support from the Federal government.<sup>36</sup> According to some commentators, successful estate development and oil palm expansion are opportunities for political elites in power to gain political mileage (Guyot, 1971). 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.

Media reports suggest that JVs have helped local participants gain a level of income security and improve their socio-economic position.<sup>37</sup> In the case of Dalit, the distribution of proceeds for 2009 of RM1,809,000 (USD513,264) divided per year among 299 participants translates into a monthly average of RM504 (USD143) per participant. With the exception of one village that negotiated for more than one participant per family to receive proceeds (as mentioned), most households received a single allocation. Considering that the average monthly income for heads of household in Sabah for 2009 was RM883 (USD250) and for Keningau was RM669 (USD190),<sup>38</sup> most Dalit participants received proceeds that were below the average level of monthly income for household heads. The distribution for 2010 was higher, however: RM3,500,000 (USD993,049) or approximately RM975 (USD316) per household per month, which is above the average monthly income.

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<sup>36</sup> Reported in the New Sabah Times, 9 November 2010. (<http://www.newsabahtimes.com.my/nstweb/fullstory/44091>)

<sup>37</sup> See for instance Borneo Post, 14.04.2009:A3; Daily Express online 5.01.2011 at <http://www.dailyexpress.com.my/> accessed on 01 February.

<sup>38</sup> Unpublished data, Department of Statistics Malaysia, 2011.

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, and personal 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 proceeds are their main source of income. These are used to cover children's school fees, gifts for weddings and funerals, and other unexpected 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. While financial responsibility is appreciated, some local people 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 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. For example, the transport sub-contractors that move oil palm FFBs from the SLDB plantation to the nearby mill are able to raise loans for their vehicles because of security acquired from having spouses or family members holding government jobs.<sup>39</sup> The same applies to having sufficient starting capital to establish or extend rubber or oil palm smallholdings.

Although employment opportunities are created in the Dalit estates and local participants are given priority for these jobs, the monthly wage for such work seems low (in the region of RM300 or USD97, according to local workers?) and would seem insufficient to sustain a family. Fieldwork data suggests that, presently, only about ten 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 low (RM10 or USD3.24 per day). Further, there is an opportunity cost for pursuing daily paid wages at the expense of minding the labourers' own gardens and farms, particularly during busy periods for planting or harvesting. The estate depends heavily on migrant workers from Indonesia.

An additional concern for participants in this joint venture 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. But others become disoriented when physical landmarks disappear or are obscured. 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).

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<sup>39</sup> Community interviews in Dalit, 6 March 2011.



There are concerns that SLDB, being mandated to work in poverty alleviation, may not be best equipped to deal with these complex socio-cultural matters.<sup>40</sup>

### **Evaluation**

Interviews at SLDB Kota Kinabalu and its field office at Keningau suggest that Dalit is viewed 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. These claims were verified by interviews with project participants. It is true that proceeds from the plantation form a significant part of household income for a majority of the population and that Dalit villagers have been relatively successful at generating extra income through diversifying livelihood activities. New economic activities include obtaining sub-contracts to transport FFBS from plantations to the mill, or employment as field supervisors and as administrative staff. In terms of its social programme, SLDB has also begun initiatives for meeting the training and educational needs of the younger generation, and there is also talk of strengthening 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. As the diverse shifting cultivation 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 meet their rice requirements for half a year; for others, yields were sufficient for only a few months. 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.<sup>41</sup> This development should be regarded with caution if it effectively represents a strategy to open up new forested and semi-forested areas for commercial agriculture. It is vital that the former Forest Reserve should be carefully zoned to ensure that local villagers are able to meet their subsistence needs, preserve shared forest resources and heritage areas, and to pursue other forms of agriculture besides oil palm to diversify their agricultural investments.<sup>42</sup>

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 community development to ensure that the basic and social needs of participating communities are sustained together with plantation management. Specifically, beyond targets for extending oil palm acreage, and for maintaining the qualities of the environment and land which sustain life such as water catchment, rivers and streams as well as

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<sup>41</sup> Sunday Star, 13 March 2011; <http://thestar.com.my/news/story.asp?sec=nation&file=/2011/3/13/nation/8258991>

<sup>42</sup> This trend in thinking about Forest Reserves as a possible future 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 [end missing?]

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 improving the provision of roads, infrastructure and amenities to the five Dalit villages – for example, by ensuring a reliable supply of water and electricity. And 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 currently no framework for the local community to participate effectively in decision making, to voice their concerns or to monitor the performance of the venture. Also, based on the size of disbursements thus far, 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 9-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 arguably being devoted so social concerns. At the commencement of the project in the 1990s, SLDB arguably had little capacity to deal with the complicated social issues raised by plantation expansion. Another question is whether the process of allocating Native Title at the end of the lease period will adequately take 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 some level of community consultation, the appointment of SLDB as developer, and preliminary site preparation. The official launch took place in March 2011. Being new, the project’s significance in this review lies in providing an opportunity to evaluate the processes involved in developing the partnership model for the local context, and the interaction with local stakeholders in the process of establishing the venture. The Lalampas Agropolitan project is also significant in that it is one of the first projects to benefit 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 quickly.<sup>43</sup> Under section 76 of the SLO 1930, native communities can make a collective application for customary land as

<sup>43</sup> Each year, the DLS reportedly receives 30,000 land applications, out of which only 12,000 are processed (Daily Express, 6 Aug 2010). By 2009, there was reported to be a backlog of 285,000 cases (briefing notes for the State Secretary of Sabah on Communal Title at Lalampas, Tongod District, undated). On the politics of land application and approval in Sabah, see Majid Cooke et al (2006) and Majid Cooke (2008).

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 alleged tendency of Sabah natives to sell land once title is awarded. For example, in voicing his support for the new policy on CT, the Sabah Chief Minister has reasoned that “if given individual titles, they [indigenous peoples] might sell them and later become sidelined in their own motherland”. Previously, CTs were not generally viewed as land intended for development.<sup>44</sup> The factor that now makes it possible for oil palm to be cultivated on 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 is understood to have introduced the “fast tracking” policy in December 2009 as a strategy to overcome the backlog of applications for Native Title (NT). Throughout Sabah, the demand for NTs has increased over the years resulting in long delays in processing and approval. In Tongod District, only 8,000 acres out of NT applications for 26,000 acres had been approved by 2010.<sup>45</sup> The DLS indicates that the CTs will only take six months, in comparison with individual Native Title applications which average 6 – 10 years. If all beneficiaries are in agreement, section 77 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) is a way to increase productivity on land regarded as “idle”, and a mechanism for addressing rural poverty through employment or “rent”.<sup>46</sup>

### ***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% was a necessary adjustment to the need for SLDB to bear more of the establishment costs since Federal government funding for infrastructure did not eventuate.<sup>47</sup> Aside from the plantation, housing is expected to be built in a planned “Community Economic Zone”, now apparently scaled back to accommodate only a third of the 1,022 beneficiaries. The remaining beneficiaries are expected to stay in their existing villages.

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<sup>44</sup> Daily Express 6 Aug 2010:p1, Interviews Lalampas villages, Tongod 22-23 Feb 2011.

<sup>45</sup> Seminar paper by the Director of Land and Survey, 11 January 2011, Kota Kinabalu.

<sup>46</sup> Briefing notes for the Sabah State Secretary from the Department of Land and Survey, undated; Daily Express, 21 Sept 2009:5;

<sup>47</sup> Interview with Sabah Institute of Development Studies, 28 February 2011.

Part of the area targeted by the Agropolitan project at Lalampas was originally applied for by 16 villages in the 1990s through a locally formed Land Action Committee. Initially, the application was successful and customary land area was slated for distribution to native applicants under a planned land development project (*tanah terancang*).<sup>48</sup> However, following a change in government, much of this land was awarded instead to oil palm plantation companies. Despite this, Lalampas is one of the few areas that are still available for large-scale agriculture in Tongod District.

At the pre-agreement stage for the Lalampas Agropolitan project, villagers are 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. Community participants were also uneasy with 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 was deemed to be unclear, although ad hoc fora were held by the development agencies and the District Office concerning beneficiaries. Eventually, some concessions were made to accommodate community concerns, such as locating the Community Economic Zone in the more fertile area.<sup>49</sup>

Other community concerns would appear to have remained unaddressed. No space for collective voice was designed into the project and there was no plan for putting mechanisms in place for raising issues of community unity, future directions and decision making. According to officers of the Institute of Development Studies that have helped to conceptualise the Agropolitan scheme, there are plans to “teach local participants” about how to grow high impact crops, provide training on becoming agricultural entrepreneurs and involve local communities and cultural associations to look into traditional knowledge<sup>50</sup>.

### ***Risk and reward***

Despite uncertainties, villages did sign the agreement because of several perceived advantages. Firstly, there is the potential of obtaining land title after 30 years, at the end of the lease.<sup>51</sup> Other potential benefits included diversifying sources of income, infrastructure in the form of roads and housing, and the capital to increase in the value of land. 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. As oil palm grows, the land is expected to become more valuable if present trends in world oil palm price continue. Proceeds from the SLDB plantation would then become another source of income for beneficiaries.

The Dalit case study has illustrated several issues linked to oil palm development that can be expected to emerge also in Lalampas. Wages for estate farm workers

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<sup>48</sup> The abandoned initiative was part of the Tongod Regional Planning Study. Documents examined at Tongod District Office in 2006.

<sup>49</sup> Interview, with a SLDB officer, Kota Kinabalu, 11 March 2011

<sup>50</sup> Interview at IDS, 28 February 2011

<sup>51</sup> 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).

are often not attractive to people who have options from working on their own land.<sup>52</sup> In the Lalampas case, some villagers are working on whatever State Land that has not been taken up by private sector or government initiated projects. More rewarding and better paying jobs on estates are usually relatively few. Since SLDB will run the Agropolitan project on well established estate lines, it would seem unlikely that labour conditions, especially wages, would differ from those in its other estates. While opportunities for becoming small contractors will emerge (such as in the transport sector), judging from experiences elsewhere the proceeds obtained may not provide sufficient start up capital for initiating small businesses. The risk for the Lalampas community is that the real prospects for income diversification may be limited. Also, the profitability of an oil palm venture is 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 the plantation and associated infrastructure. All these factors will affect the proceeds received by community participants, which might not be sufficient for securing livelihoods.

As the community participants are not provided with financial statements relating to the development of the Agropolitan scheme, there seems to be no effective mechanism for them to scrutinise the performance of the venture. Establishing a mechanism for local participants to access information and progress updates would seem important to pre-empt questions about transparency of operations that would be likely to arise in a communication vacuum.

Another critical aspect is attention to securing basic needs. The focus of agriculture in the Community Economic Zones is to be on cash crops, namely 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. 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. Centralised agricultural projects have a tendency to attract additional population to the area in the immediate to long term. New settlers will exert additional pressure on lands and forests and water catchments, straining the capacity of the landscape to meet local subsistence needs. These are unintended consequences of the scheme which local people may not be equipped to contend with.

Finally, the benefit-sharing model developed for Lalampas Agropolitan differs from the one at Dalit, with a greater allocation to SLDB to meet the infrastructure needs of the development. To survive as a business, while maintaining its obligations to beneficiaries, SLDB could opt to develop a fully commercial section of Lalampas, the profits from which will not to be shared with beneficiaries, as was done in Dalit.

### ***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 accountability in decision making and reporting. Currently, there appears to be substantial capacity for pursuing economic success, but the ability to attain social sustainability can arguably be strengthened.

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<sup>52</sup> The current daily wage for labour (slashing, pruning, spraying, and other similar jobs) averages at RM12 (USD4) per day. [source?]

At the start of the project, there is competition among different villages and among groups within villages; if left unaddressed, this situation raises concerns about possible future conflict. In future, many decisions will have to be made concerning how to deal with SLDB over “rent”, over land allocation to beneficiaries, and over the management path to adopt at the end of the lease. These are decisions that will be rife with power struggles. As with other sectors of society, community unity does not come naturally in rural 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 allows for sub-division of the CT to individual beneficiaries, there is some community 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. As discussed, CTs are to be supervised by the District Officer acting as a Trustee.

For Lalampas Agropolitan there was considerable disagreement over the criteria used by planners to determine eligibility of beneficiaries. Generally, indicators defined by authorities consider villagers to be legitimate beneficiaries if they were income poor, had ancestral ties to the land at Lalampas and had not moved out of Tongod. Indicators to identify the poor using the poverty line excluded households who have small but steady income yet still struggle to make ends meet. Many among the community said that those having links with ancestors at Lalampas (regardless of where the descendants might be currently residing) and are linked by marriage should have the opportunity to benefit from the scheme. They did not perceive a need to discriminate against those whose spouses were from elsewhere or were not indigenous. Similarly, they said that children of such marriages should still be eligible to participate. This inclusive view of citizenship has not been accepted by planners, who exclude children of mixed marriages as well as the foreign partners of such marriages. This need to authenticate identity and citizenship entitlements would seem to contrast with the ethnic inclusivity that is evident in many Sabah ethnic groups (Budianto, 2009).

Land allocation practised by SLDB elsewhere is based on ideas of uniformity so that each claimant at Lalampas would be entitled to 6 hectares of land regardless of their ancestral history or territory. As with most indigenous peoples of Borneo, ownership and access to land is accorded by the labour of one’s ancestors, so some families may have claim to more land than others (Peluso, 1996), which also influences leadership and social structures in villages. Similar to Dalit, such claims abound at the community level in Lalampas, but there is little mechanism within the planning process to take account of “territory”.

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 on 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. Consequently, it may not have the time or the expertise to look into enhancing community capacity or the physical environment in which beneficiaries live. Effective support needs to be mobilised for meeting basic needs requirements of communities and implementing community development programmes. It could do so with help of existing social development agencies or can be outsourced to 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 concerning development 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 mainly by large-scale plantations interested in profit making and which are reliant on foreign labour (Azizah Kassim, 2003). These companies enjoy state support because of their potential for generating revenue. 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 customary claims.

This study has documented some of the benefits provided by the SJ schemes in Sabah, but also some of the concerns and frustrations expressed by local people in 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 perceived low wages for manual labour. Because of the lack of mechanism to channel local concerns to the management, 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, who have raised these concerns during our fieldwork.

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 stakeholders, 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 have been 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. However, the existence of large plantations and mills throughout the Sabah and Sarawak provides smallholders with opportunities to sell their produce to existing mills. As a result, smallholder participation can be expected to increase. Road access also enables 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 the Table below). According to industry informants, demand for palm seedlings from the MPOB by smallholders 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.<sup>53</sup>

**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	6,807	2.12	4.36
2007	4,620	3.84	29,214	6.19	6.32

Source: MPOB 2010

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 acres 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 based on accessibility, for instance 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, compared to other annual or short-term cash crops that can be more labour intensive. However, in developing their plantations smallholders lack access to technical knowledge of best practices - from agronomic aspects to health and safety and environmental impacts. 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) - the name given to seedlings that germinate from oil palm fruit left uncollected on the ground as planting material.<sup>54</sup> Such seedlings produce poor performing trees when mature.<sup>55</sup> From interviews with smallholders in Sarawak, there is clearly interest to boost the productivity and profitability of their oil palm

<sup>53</sup> Outcomes for Sabah appear similar to those in Sarawak (Gassner et al, forthcoming). [pls ensure this is in biblio]

<sup>54</sup> Personal communication with MPOB extension officer.

areas; however, thus far there has been insufficient focus on mobilising the resources 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.<sup>56</sup>

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. As smallholders are adept at learning from the experience of others and highly motivated to boost the productivity of their own crops, improved practices have the potential to spread among close-knit communities. Using this rationale, 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 more immediate benefits to local landowners.

## **5.1 Case study: Keresia RSPO Smallholder Group Scheme (KRSGS) in Sarawak**

### ***The model***

The Keresia RSPO Smallholder Group Scheme (KRSGS) was established in October 2010 as a joint project between the oil palm smallholders of Rumah Majang, Keresia Plantations Sdn Bhd (KP) and Wild Asia Sdn Bhd (WA), an independent social enterprise working on sustainability issues. It is jointly funded by Keresia Plantations, Wild Asia as well as POPSI, a fund for oil palm smallholders managed by Solidaridad, a Dutch funding agency.

Keresia Plantations is an Iban-owned company which began as a rattan plantation in 1981. It started to plant oil palm in 1996. Keresia Plantations 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 Keresia Plantations, WA 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

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<sup>55</sup> A survey in Sarawak in 2004 showed that average smallholder FFB yields were extremely low, at 6 tonnes per hectare per year, which suggested the widespread use of VOP. It has now risen to 12 – 16 tonnes/hectare/year.

<sup>56</sup> In the past there have been two schemes targeting smallholders (the Smallholder Oil Palm Scheme and Oil Palm Mini Estates), but these were discontinued.

building. The ultimate aim is to prepare the smallholder group for RSPO certification.

### ***Voice and ownership***

Historically, KP 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 KP. When the oil palms started to produce fruit and profits, other community members became interested. KP gave out more free seedlings to Rumah Majang households in 2003 and it is this tranche of seedlings that today makes up 58% of current plantings. 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 (116 people) in the longhouse, there are 22 smallholders (usually head of family, or *bilik*). Most of the longhouse residents have stopped planting other cash crops since planting oil palm, which is now their main source of income.

For the Keresia RSPO Smallholder Group Scheme, 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. KRSGS 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 registered FFB suppliers to Keresia Mill. The group has a total holding aggregate of at least 100 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 (HCVF), 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 KP'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.

### ***Risk and reward***

The group is not contractually bound to sell their FFBs to KP's mill, despite the involvement of KP in managing the ICS and providing technical support. However, it makes economic sense for the smallholders to sell to Keresia because of its proximity. Keresia Mill is able to offer better prices because of the higher OER due to timely delivery of FFBs to the mill. Keresia Mill also offers a credit facility to 77% of the smallholders for them to obtain fertiliser. The cost is deducted from the monthly payment for the sale of their FFBs. According to the smallholders, the mill offers the fertiliser based on bulk price making it cheaper for them to buy. All except two of the smallholders regularly sell their FFB to Keresia Mill. The mill pays

the smallholders on a monthly basis. The reason why the other smallholders opt to sell elsewhere is that they prefer to be paid in cash at the point of sale.

As most of the smallholders have not previously kept reliable records of their oil palm venture, 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 Keresia Plantations is cooperating fully with the study.

**Table 6: Smallholder production by suppliers to Keresia Mill in 2009**

<b>Total FFB production 2009, ha*</b>	<b>Estimated number of palms planted before 2007**</b>	<b>Estimated ha planted (at 130 palms /ha)</b>	<b>Average FFB production (per ha)</b>	<b>Total annual net earnings @ RM465/T FFB</b>	<b>Average annual earnings per ha @ RM465 /T FFB (2009)</b>
1,447.43	18,290.00	140.69	10.29	RM508,042.93 USD	RM3,611.06 USD

*\*based on Keresia Mill documentation \*\*Palms planted after 2007 are assumed to be non-fruiting.*

The low yield of 10.3 tonnes/hectare from the Rumah Majang smallholders is not unexpected, as the palms are still young; most fruiting palms were planted between 2003 and 2007. The project’s baseline field assessment had found that smallholders had planted the palms too close together and this produces undersized fruit bunches. There was also inadequate or inconsistent fertiliser application. In addition, based on neighbouring KP’s weather monitoring data, 2009 was an unexpectedly wet year, and the annual yield in KP was lower in 2009 than in 2008. A lower smallholder output would therefore also be expected.

As all the smallholders used their own labour with community assistance, some have made substantial profit 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 crops. So far, local smallholders have channelled a significant proportion of their earnings to expand their oil palm areas - 42% of palms were planted from 2007. In 2010, they collectively built themselves a new brick-and-cement longhouse, costing an estimated RM40,000 (USD12,965) per *bilik*.

The baseline survey completed before the start of the KRSGS estimated that despite low annual FFB yields of 10.3 tonnes/hectare in 2009 (output from 58% of their planted palms) they were still able to earn more than RM500,000 (USD141,864) as a group, an average of RM23,000 (USD7,455) per smallholder. This is equivalent to RM3,611 (USD1,024) per hectare per annum. This is possible due to the low operational costs borne by the smallholders, as most of them work the smallholdings themselves with their extended families, no capital expenditure, and with 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. This has not proven to be a huge concern as most smallholders regard oil palm work to be easier and less time consuming compared to their previous work in the logging industry. What is potentially a cause for concern is the propensity for oil palm smallholdings to eat into paddy farming areas which will impact food security and require more labour input than is currently available from within the

community. Obviously overdependence on one crop exposes smallholders to the vagaries of the world commodity market. These issues have been identified by the project managers and further planning workshops are being planned to explore them more closely with the longhouse community.

At the initial stages, the KRSGS 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 be incurred when the group undergoes RSPO certification.

### ***Evaluation and recommendations***

The new collaboration between KP and longhouse communities has been possible due to multiple factors. KP has a longstanding relationship with its neighbouring communities. The owner of KP has the same ethnic background as the local NCR landowners and was personally involved in negotiations with the communities at the start of the venture. He continues to maintain a mutually respectful relationship with them. 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 KP 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, a tight management structure at KP has contributed to good yields and healthy financials.

Careful monitoring and documentation of the KRSGS will be important to evaluate whether the business model involving smallholder organisations being mentored by established oil palm companies are replicable in other parts of Sarawak and Sabah. One obvious requirement is initial funding needed to provide the necessary support for inception processes, community liaison and training. In the case of KRSGS, it was fortunate that KP agreed to fulfil these roles. The smallholder group model adopted by the KP smallholders depends on the assistance of a supportive company, although this role could arguably be played by any person 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 KRSGS 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 that might absorb some of these costs. The key principle of this approach lies in the code of conduct and the framework of the group, which is 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.

There is a need for greater tenure security to assure native landowners that the considerable investment of labour and resources into improving the profitability of their smallholdings will not be wasted. When interviewed, KRSGS members indicated that they preferred to be independent smallholders over joining a state-led partnership scheme; on balance they placed a higher priority on having control over agricultural developments on their land, and the ability to manage the use profits from the sale of FFBS which could be accessed on a monthly basis.

The smallholder-company partnership model is exploring important new territory, as it aims to put native communities in the driver’s seat of the agribusiness venture. In

this case study, NCR 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 output 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 in rural areas as well as uncertain land tenure present significant obstacles. The KRSGS model to support “sustainable” 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 successful there needs to already be palm oil mills close to communities 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 necessary ingredient.

As detailed production data is not available from the joint venture case studies for Sarawak, it is not possible to contrast the different business models examined in this study with the figures available from KRSGS. However, in applying the concepts of equity and efficiency, indications are that the smallholder mentorship model being applied in the KRSGS 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 land. This they are able to translate into monthly household income by sale to the nearby mill. The KRSGS initiative will provide the necessary transfer of technical skills and strategic business advantages to boost productivity and reduce costs. Furthermore, by positioning themselves as producers of RSPO certified palm oil, profits can be expected to increase if there is no major drop in global CPO prices.

Undoubtedly, much can also 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. In addition, unlike the state-supported joint venture schemes in Sabah and Sarawak, they are not encumbered with loan interests on heavy borrowings.

From this perspective, substantial investments with external funding are not always necessary to establish viable plantations to enhance 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.

## **6. DISCUSSION AND RECOMMENDATIONS**

This report has assessed different models underpinning the expansion oil palm plantations on native customary lands in Sabah and Sarawak. In both states, developing large-scale commercial oil palm estates is pursued as the main strategy to improve local livelihoods and drive the establishment of much needed infrastructure and facilities. The growth of 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 the industry approach is in support of this prominent social agenda.

The report discussed the Sarawak SALCRA and New Concept schemes as well as two approaches implemented by the SLDB in Sabah. All these joint venture models do not appear to have a well-established arrangement for sharing financial information with native landholders, and they generally involve companies assuming responsibility for commercial plantation development on NCR land. 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 for income diversification through support services to the agricultural sector, small business ventures, and employment on the estates. The significant role of plantation companies and SALCRA is not disputed and they have proven that they can be a force for positive improvement in 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 rural areas. However, questions remain on the fairness of the structure and process of the partnership models, which seem to lack accountability and transparency in their undertakings with the NCR 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 joint ventures, and the opportunity to participate effectively in planning at the inception stage and in decision-making during the implementation period. Native landholders 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. Unless a degree of transparency is introduced, misgivings and suspicions regarding the financial and operational management of the joint venture 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 impressive track record of pioneering commercialisable R&D in every aspect of upstream and downstream activity since 1974. The organisation has been able to support continuous research and innovation because of a cess of RM9 imposed for every tonne of CPO produced. These funds support over 200 researchers whose efforts generated 412 R&D findings in 2008 alone. In 2009, MPOB chairman Datuk Sabri Ahmad reported that an average of 40 new technologies are generated each year to support companies boost their productivity

and efficiency.<sup>57</sup> An avowed 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, 2004). 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 fulfilling the objectives to enable 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 may be one way of ascertaining whether these schemes represent the best ways to mobilise agricultural development on customary lands. If the joint venture partnership format advocated by state agencies is to continue, a level of openness to reform and instituting strategies to develop and monitor a wider range of performance indicators may be the only way to restore confidence in these programmes. This is particularly the case when there is a high level of variability of claims made by native landowners and 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 also shown that more effort needs to be invested into managing land use change. There is a tendency to concentrate on the establishment of plantations, with little consideration given to maintaining the quality of the living environment and ensuring 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 health for the affected community. 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, and sustained communication channels with the agency involved throughout the life of the project.

These consultations will make it possible to pre-empt problems and local leaders will be in a better position to anticipate and smooth the social and environmental transition. How to initiate transparency and openness is the main question facing development agencies at this stage, because the other aspects (that of physical management of plantations in economically viable ways) are already well established. Environmental planners, rural development professionals and the agencies and authorities responsible for infrastructure and services should be closely involved to ensure that these “new” requirements for transparency and community participation are well integrated in development objectives.

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<sup>57</sup> Business Times (2009) MPOB at forefront of R&D, 3 Feb 2009.



### **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 native 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 NCR landholders 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 the NCR land.

In a 2004 study on factors which were limiting productivity, MPOB's own researchers identified the inadequacy of current extension services to smallholders as a major impediment to optimising oil palm land in combination with issues such as experienced agricultural workers. It was noted that with over 90,000 smallholdings covering an estimated 343,342 hectares throughout Malaysia, there was a need to boost support to smallholders seeing as large companies already had their own in-house advisors and consultants. 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). 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 percent be raised to 20%, this would be expected to translate into an increase in income of RM463.5 million (USD122 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 KRSGS pilot project featuring the partnership between Keresia Plantations and its neighbouring smallholders is an innovative attempt to overcome the constraints that prevent smallholders from matching commercial yields and attaining larger profits (Vermeulen and Goad, 2006); these 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 benefitting 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. KRSGS 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 ongoing relationships. A combination of sustained interaction and cumulative knowledge amongst highly motivated group participants are 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 which could be undertaken by oil palm companies large and small. In fact incentives could be offered to the industry to boost the productivity of neighbouring smallholdings as a form of corporate social responsibility. In combination with this, MPOB should 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).

#### **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 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 is linked to the tying up of the land to state-linked agencies that will develop the land 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 will be good. At this stage, there is little sign that community development is being looked into, or that there is a proactive approach for developing community capacity. Continued dependence is a likely outcome since income diversification has not proven to be 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 other than from the oil palm industry such as through other family members who are employed in secure government or other similar jobs (Majid Cooke et al, 2006).

Under the New Concept, the state government binds the delivery of development with conditions that ultimately seem to benefit external parties and political elites 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 outcomes, however, signify the complexity of the situation on the ground.

If Sarawak’s current political 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 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 with 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, 2004). According to industry insiders, JVs are sometimes directed to develop particular constituencies 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 as amenity forest than underperforming oil palm areas.

## 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, in the not too distant future, it should expect increased competition from countries in Africa and South America that are becoming increasingly 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 will push up costs for fuel and fertiliser. Internally, the availability of cheap labour is another persistent constraint, while the cost of importing migrant labour continues to rise.

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 oil palm sectors willingness to orientate to changing global market condition which calls 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, 2007; Ngidang, 2009), several aspects of the current partnership schemes to expand oil palm onto customary lands would not be in compliance with conditions for RSPO certification. The way in which these schemes conduct their relationship with community stakeholders would come under particular scrutiny. In general, evidence of Free, Prior and Informed Consent 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".<sup>58</sup> He said that Malaysian companies had already begun 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.

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 palm oil mill complexes in Pahang - Kota Gelanggi 1 and Lepar Utara 6 - and 11 estates supplying FFBs to the mills, all in Peninsula Malaysia. According to the Group's Chairman, FELDA expected to net an additional income of over RM1million annually based on current levels of CPO production sold with an additional premium of USD50 per tonne on top of the existing CPO market price.<sup>59</sup> 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 reap the benefits of anticipating the demands of future markets.

<sup>58</sup> <http://www.ceopalmoil.com/2009/12/look-out-for-malaysian-palm-oil-brand/>

<sup>59</sup> <http://thestar.com.my/news/story.asp?file=/2010/8/13/business/6847098&sec=business>



## **7. CONCLUSION**

In Sabah and Sarawak, native landowners are keen to see their land 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 their NCR 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", suggesting that mere incorporation into the oil palm economy is not a silver bullet to improve the livelihoods of vulnerable rural communities. He explains that much depends "on the terms under which local communities engage with the oil palm industry" (McCarthy 2010).

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 hectareage, length of roads built or increases in production and exports. For these claims to be meaningful, it is necessary to obtain finer indications at the level of communities. These analyses should also capture indicators of improved economic and social mobility through increased income and resources, and access to education, training and employment or business opportunities for local participants. Evidence of planning and participation would be evidenced by environment quality, the health and wellbeing 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. From the earlier discussion section it is obvious that there are many constructive steps that can be taken to improve the ability of oil palm to become a meaningful tool for empowering indigenous and rural communities. Clearly some in the oil palm industry see these developments as the natural next step to ensure 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.

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