

## Law Enforcement in HCV Area

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## HCV Principle

1. Globally, regionally or nationally significant concentrations of **biodiversity values** (Protected areas, Threatened-endangered species, endemic species)
2. Globally, regionally or nationally significant large **landscape** level forests
3. Forest areas that are in or contain rare, threatened or **endangered ecosystems**
4. Forest areas that provide **basic services of nature** in critical situations (water, erosion, fire)
5. Forest areas fundamental to meeting **basic needs** of local communities
6. Forest areas critical to local communities' traditional **cultural identity**



## NUMBER AND SIZE OF CONSERVATION AREAS

FUNCTION	Number	Area (ha)
Nature Reserve	243	12.284.031,34
Marine Nature Reserve	5	4.043.541,30
Wildlife Sanctuary	73	5.052.541,30
Marine Wildlife Sanctuary	2	5.220.000,00
National Park	43	12.284.031,34
Marine National Park	7	4.043.541,30
Nature Recreation Park	104	258.469,85
Marine NRP	14	491.248,00
Game Reserve (hunting)	14	225.103,94
Grand Forest Park	22	344.174,41
<b>Luas Total</b>	<b>527</b>	<b>27.190.992,91</b>



## Common Issues

- Conflicting land-use claim & Encroachment
- HCV area in APL for Agriculture is not recognized by the Indonesian government
  - **Kawasan Lindung (Spatial plan regulations, Kepres No.32/1990, articles 3-33 = HCV1-6)**
- Location permit and HGU is for plantation
- HCV area is idle land
- Implementing management plan of HCV
- Inadequate support and protection from local authorities



## Key Questions

- Can we legally protect and manage HCV area?  
**Forestry, Conservation, Plantation Law**
- Can government consider HCV as an idle land of HGU concession?  
**Agrarian & Plantation Law**



## Can we legally protect and manage HCV area?

- **Forestry Law**
  - Forest ≠ Forest Area
  - Forest area management
  - Forest product
- **Answer**
  - **HCV is not in the forest area**
  - **Not strong enough unless related to forest product from HCV**



## Can we legally protect and manage HCV area?

- **Conservation Law**
  - Forest ≠ Forest Area
  - Conservation areas
  - Protected species in forest area and non-forest area
- **Answer**
  - HCV is not conservation area
  - YES YOU CAN, as long as related to protected species
  - Nature Conservation Agency (BKSDA)



## Can we legally protect and manage HCV area?

- **Plantation Law**
  - HGU in APL
  - Plantation Areas/Concession
- **Answer**
  - HCV is located in plantation area
  - YES YOU CAN, article 21: using plantation area without permission.
  - Maximum penalty five years in jail and fine five billions rupiah



## Can government consider HCV as an idle land of HGU concession?

- **Agrarian Law**
  - UU No.5/1960
  - PP No.40/1996
  - PP 16/2004
  - PP No.11/2011
  - PMNA No.24/2002
- **Obligation to use HGU in a wisely manner, maintain environmental carrying capacity & function, biodiversity, ecosystem linkage, soil fertility, natural resources, and sustainable development**



## PP No.11/2011 Idle Land

- The spirit of this regulation is optimizing land to improve environmental quality, poverty reduction, employment, food security and energy
- Government reserves all right to take the land back to the state but will execute it in a prudence way

## Can government consider HCV as an idle land of HGU concession and take it back?

- **Agrarian Law**
  - HCV area is part of plantation management to develop sustainable oil palm and for public interest
- **Answer**
  - They can't, if plantation company prove their effort to manage HCV area
  - Government can do for particular degraded HCV area where its function is not exist



## Recommendation

- Formally informed local authorities dealing with forestry, conservation, environment, & plantation regarding allocated HCV areas
- Develop and share management plan of HCV area
- Develop MoU with forestry/environment/conservation authorities, and local community to manage HCV area
- Awareness action through signboard of HCV in Bahasa Indonesia & Local Language
- Patrol, inventory, & enforcement



## Policy recommendation

- Scale up RSPO P&C into international law
- Encourage local government to establish local regulation (perda) to implement spatial planning law and Kepres No.32/1990
- Encourage joint ministerial decree between Ministry of Agriculture, Ministry of Forestry and Head of BPN regarding protection area in HGU concession



## Conclusion

- No obligation for plantation owner to establish HCV area, except for RSPO member
- There is an obligation to protect protected species (Conservation law, environmental law)
- Kepres No.32/1990: valid but not fully adopted by UU and PP on spatial plan
- Yes, law enforcement can be carried out to protect HCV area based on Plantation Law, Conservation Law
- Well managed HCV Area can not be considered as an idle land

