

# Losing Ground

The human rights impacts of oil palm plantation expansion in Indonesia



A report by Friends of the Earth, LifeMosaic and Sawit Watch

February 2008

*“Indonesia is a uniquely diverse country whose communities and environment are being sacrificed for the benefit of a handful of companies and wealthy individuals. This report should help the Indonesian government to recognise that there is a problem, and to step up efforts to protect the rights of communities. In Europe we must realise that encouraging large fuel companies to grab community land across the developing world is no solution to climate change. The EU must play its part by abandoning its 10 per cent target for biofuels.”*

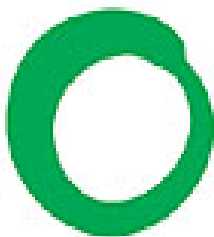
Serge Marti, LifeMosaic - Author of Losing Ground

*"Oil palm companies have already taken over 7.3 million hectares of land for plantations, resulting in 513 ongoing conflicts between companies and communities. Given the negative social and environmental impacts of oil palm, Sawit Watch demands reform of the Indonesian oil palm plantation system and a re-think of plantation expansion plans."*

Abetnego Tarigan, Deputy Director, Sawit Watch

*“This report shows that as well as being bad for the environment, biofuels from palm oil are a disaster for people. MEPs should listen to the evidence and use the forthcoming debate on this in the European Parliament to reject the 10 per cent target. Instead of introducing targets for more biofuels the EU should insist that all new cars are designed to be super efficient. The UK Government must also take a strong position against the 10 per cent target in Europe and do its bit to reduce transport emissions by improving public transport and making it easier for people to walk and cycle.”*

Hannah Griffiths, Corporate Accountability Campaigner, Friends of the Earth.



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## ACRONYM LIST

AMAN	Aliansi Masyarakat Adat Nusantara (Indigenous Peoples Alliance of the Indonesian Archipelago)
AMDAL	Environmental Impact Assessment
APKASINDO	Government-run body representing smallholders
BAPPEDA	Badan Perencanaan Pembangunan Daerah (Regional Planning and Economic Development Agency)
BAPPEDALDA	District and Provincial Environmental Agency
BAPPENAS	Ministry of State Planning
BOD	Biological oxygen demand
Brimob	Brigade Mobil Polri (Mobile brigade / Riot Police)
CBD	Convention on Biological Diversity
CEO	Chief executive officer
CIFOR	Centre for International Forestry Research
CIRAD	Centre de coopération internationale en recherche agronomique pour le développement (French Agricultural Research Center for International Development).
CPO	Crude Palm Oil
DEPNAKERTRANS	Departmen Tenaga Kerja & Transmigrasi (Indonesia Ministry of Manpower and Transmigration)
DFID	UK Department for International Development
EIA	Environmental Impact Assessment
FFB	Fresh fruit bunches
HGU	Hak Guna Usaha (Land use permit)
IPK	Izin Pemanfaatan Kayu (Forest conversion licence)
IL	Izin lokasi (Location licence)
ILO	International Labour Organization
ICRAF	International Centre for Research in Agroforestry - now the World Agroforestry Centre.
IP	Izin prinsip (Initiation Permit)
IPOC	Indonesian Palm Oil Commission
IUP	Ijin usaha perkebunan (Plantation business permit)
KPA	Konsorsium Pembaruan Agraria (Consortium for Agrarian Reform)
KAPUK	Kesatuan Aksi Petani untuk Keadilan (Farmers Association for Justice)
KHL	Kebutuhan Hidup Layak (Indonesian government measure of basic needs for a decent life)
KKPA	Koperasi Kredit Primer Anggota (a government initiative from the 1990s where smallholders are not tied to specific mills)
KUD	Koperasi Unit Desa (State-run farmers' cooperative).
NPV	Net present value
NGO	Non-governmental organisation
NES	Nucleus Estate Schemes
NTFP	Non-Timber Forest Product
PIR	Perkebunan Inti Rakyat (Nucleus Estate Smallholder Scheme)
PIR-Trans	Perkebunan Inti Rakyat Transmigrasi (Nucleus Estate Smallholder Scheme with Transmigration).
POM	Palm oil mill
POME	Palm oil mill effluent
PT	Perseroan Terbatas (Limited Liability Company)
PTPN / PTP Nusantara	Perseroan Terbatas Perkebunan Nusantara (State-owned plantation company)
Rp	Indonesian Rupiah
RSPO	Roundtable on Sustainable Palm Oil
RM	Malaysian ringgit
TEV	Total economic value
WALHI	Wahana Lingkungan Hidup - Friends of the Earth Indonesia
UN	United Nations

## **EXECUTIVE SUMMARY**

### **i) Introduction**

Agrofuels – also known as biofuels - have been heralded as a low carbon solution to climate change in an energy-hungry world. The European Union has set targets for 10 per cent of all transport fuel to come from crops by 2020. Some see the emerging agrofuel market as an economic opportunity bringing jobs and wealth to developing countries. Others fear that it is leading to the large-scale privatisation of land and natural resources as large companies move in.

Palm oil, a versatile vegetable oil already used extensively for food production, cosmetics and animal feed, is increasingly in demand as an agrofuel. In response to this growing market, large-scale oil palm plantations are being developed in Latin America, West Africa and South East Asia.

Indonesia, the world's largest producer of crude palm oil, has already increased its palm estates to 7.3 million hectares, and is planning to expand the area under plantation by a further 20 million hectares – an area the size of England, the Netherlands and Switzerland combined.

The damaging impact of oil palm plantations on the environment in South East Asia is already well-documented. Plantations are one of the main drivers of deforestation in Indonesia, destroying the habitat of endangered wildlife, including the orangutan and the Sumatran tiger. Fires used to clear the land and peat bogs are drained to plant oil palms, releasing hundreds of millions of tonnes of carbon dioxide, making Indonesia the third highest contributor of CO<sub>2</sub> emissions in the world.

But it is not just Indonesia's forests that are under threat from oil palm. An estimated 60-90 million people in Indonesia depend on the forests for their livelihoods, but many are losing their land to the expanding palm oil industry. Communities have managed this land for generations, growing food and cash crops and harvesting medicines and building materials. Some areas are community protected areas of forest. Oil palm plantations transform this land to monoculture, and evidence suggests that communities are paying a heavy price.

*Losing Ground*, the report published by Friends of the Earth, Sawit Watch and LifeMosaic, reveals growing evidence of human rights violations associated with the Indonesian oil palm industry. Drawing on interviews with individuals on the ground, new Sawit Watch data, and previous research, it provides an insight into some of the civil, political, economic, social and cultural impacts of oil palm plantations.

The report highlights the urgent need to address the potential human rights implications of transforming vast areas of land into industrial plantations for agrofuel development in Indonesia, and elsewhere in the developing world.

## **ii) Who owns the forest?**

*“The government official asked me if I have a land ownership certificate and I answered that every single durian tree, and every single tengkawang tree, and every single rubber tree that we or our ancestors have planted are certificates. I am an indigenous person born here. My ancestors have already defended this land for generations.”* [Indigenous leader, West Kalimantan]

Land is a fundamental issue for many indigenous people and others forest dependent people in Indonesia. Land is also key to the debate about oil palm. While many indigenous communities have lived on the same land for generations, their rights to this land are not clear under Indonesian law.

Many present day policies are rooted in the country’s colonial past where Dutch law allowed tobacco and rubber plantations to be set up on traditionally-owned common lands. The 1945 Indonesian Constitution partially recognises indigenous peoples’ rights but also declares that: “land, water, and all natural resources that belong to common pools and public goods, are under state control and will be utilized for the maximum welfare of the people”. Under the Suharto regime, oil palm plantations were imposed on communities and indigenous peoples in the name of national development, even against their wishes.

Even recent legislation severely limits people’s rights to their land by allowing companies, working with local governments, to take over vast areas of local people’s land if they show that their business is in accordance with State development plans.

*“He said this was State land and we had no right to it. No matter whether it was the land where we grew our crops, built our houses or used as home-gardens, he said, it was State land and they were going to take it. He threatened that if I opposed this, they would put me in jail.”* [Community leader, West Kalimantan]

Respect for the rights of local communities is seen as fundamental in moves to develop a more sustainable palm oil industry. The Roundtable on Sustainable Palm Oil, a joint business – NGO initiative to improve standards in the palm oil industry argues that communities must give their free, prior and informed consent to the development of plantations on their lands if plantations are to be developed sustainably.

Under international law, there is a growing recognition that indigenous peoples must have the right to give their "free, prior and informed consent" to proposals to develop their traditional lands. This means that they must be able to participate meaningfully in the decision making process, be given full information about the proposals beforehand, and that the decision should not be made under pressure or skewed by corruption. They have the right to withdraw consent, and to refuse development proposals on their lands.

## **iii) Consultation, persuasion and broken promises**

Once land has been identified by a company wanting to develop a new plantation, according to the law, the local communities and indigenous peoples must be consulted about the development and about appropriate levels of compensation. An environmental impact assessment (EIA) must also be carried out before a land use permit is given.



But evidence suggests that this process is rarely adhered to on the ground. Many communities and indigenous peoples say they were not consulted. Some say that the first they knew about a proposed plantation was when bulldozers arrived. Others report being called to a meeting to be told that a plantation was being developed.

Where consultation does take place, the process is seldom open and transparent. One community liaison officer employed by an oil palm developer told researchers he was given a fund for bribing village chiefs and that his job was to find out who was influential in the village and who could be bribed.

Palm oil companies make promises to build new roads, schools and irrigation schemes. Village chiefs may be paid “incentive payments” and treated to holidays.

Many communities complain that these promises are not kept once the lands have been cleared – and that the promised wealth fails to materialise.

*“They promised to set up irrigated rice fields, a school, electricity, build a road, fish ponds. As it turns out, none of that was true. Now they do not even want to build our school or repair the track leading to the longhouse – so we are beginning to have second thoughts about them and not trust them anymore.”* [Villager, West Kalimantan]

Many communities are not aware of their rights under the law. Some villagers claim they were misled and did not realise they were permanently giving up the rights to their land.

*“They told us they would make compensation payments for the land. They said that if the oil palm failed, they would give back the land to the owner. They would only borrow the land for 25 years. This is what the company people said.”* [Community leader, West Kalimantan]

There is also wide variation in the levels of financial compensation paid for land and in the amount of land provided as smallholdings for farmers. Some companies do not offer smallholdings to farmers at all.

Evidence on the ground also reveals that some plantations have been approved without carrying out a full or accurate EIA. One study revealed that some plantations did not seem to have completed an EIA at all.

In some districts, large areas of land have been cleared without any form of approval from the authorities.

In other cases, permission is given for a new plantation, but once the forest has been cleared for timber, no oil palm is planted. This leaves the local community deprived of its land and deprived of future job prospects. In East Kalimantan estimates suggest that less than 10 per cent of the area approved for plantations has actually been planted with oil palm. According to some estimates up to 18 million hectares have been cleared under oil palm licences but not subsequently planted.

Indonesia suffers from endemic corruption, and breaches in the law can easily be overlooked. Some reports suggest that companies routinely bribe district authorities to gain permission for a plantation.

#### **iv) Conflict**

*“This all used to be the community's land! It was all seized [by the company]. It was defending this land that two of our men got killed. They were kidnapped and killed. Just because they wanted to defend this land, close to that [palm oil] factory over there. We do not know who killed them and it has never been investigated.”* [Community leader, Sumatra]

Given the discriminatory legal framework and the flaws in the consultation process, it is not surprising that many are unhappy with the development of plantations on their lands. Demonstrations and land occupations are common, often resulting in a heavy crackdown from the company's own security forces, the police or the military. Protestors have been arrested, beaten and even killed.

In January 2008, 513 conflicts between communities and companies were being monitored by Sawit Watch. Some of these conflicts can be traced back to earlier land disputes, particularly from the Suharto era when the land rights of communities received even less recognition than today. Most recent conflicts are also about land rights, but other disputes arise over levels of compensation, unmet promises, and over smallholding arrangements.

The presence of migrant labourers, a consequence of previous government policies to move people from more densely populated parts of Indonesia to forest areas, has aggravated the situation in some areas, creating ethnic and religious tensions.

According to human rights groups, communities have little option for legal redress or even protection against violent tactics. The involvement of the police and the military – and the longstanding lack of accountability within the security forces – mean there is nowhere for communities to turn.

The armed forces and police in Indonesia have a reputation for corruption and reportedly are often directly involved in company activities, or are likely to benefit from protecting them.

#### **v) Jobs and prosperity**

*“We all handed over our land for the oil palm plantation. At first, we were told that we would all be employed by the company. We needn't think about any other work such as agriculture, rubber tapping, or any other kind of work. That is what they promised us, promised! But three to four years later they started firing people at the company. We have lost the ownership rights over our land and now we are left without jobs.”* [Villager, West Kalimantan]

The debate around the expansion of the oil palm industry is sometimes framed in terms of trade-offs between the crop's environmental impacts and the need for economic development, but few local people appear to benefit.

Money is of course being made from palm oil. The price of crude palm oil has risen steadily. But many of the villagers who have given up their land to become small-holders or to work on the plantations find they are no better off.

*“In the past we could send our kids to school, now it's difficult, we can't any more. Yes we have a smallholding but not much, with only one two-hectare plot, we barely earn enough to feed ourselves. If we had five or six plots we could send our children to school. But in our case, with only one plot, it is impossible. Oil palm has made our lives very difficult.”* [Smallholder, East Kalimantan]

Most smallholdings are limited to two hectares of land, which many farmers claim cannot produce enough income to cover the costs. These estate smallholders are generally under contract to the plantation and must pay back the costs of setting up the small-holding, including the cost of pesticides, fertiliser and technical expertise. Most estate smallholders are obliged to sell their harvest to the company mill, and may be charged for using the mill's facilities. Most have little understanding of how these costs are calculated or how their debts mount up.

There are also complaints that companies delay handing over smallholdings, keeping the profits from the first harvests for the company; that smallholdings contain fewer oil palm trees; and that they yield less fruit.

Smallholders who are unable to pay their debts to the plantation company can be forced to provide labour in exchange for their debt.

*“This plantation has been going on for 23 years – they still haven't paid off their debt. And they won't pay it now as they are not harvesting since the palms aren't producing anymore...”* [Oil palm co-operative leader, West Kalimantan]

For those without smallholdings, employment opportunities are limited once the plantations are established and many of the jobs that do exist earn only the minimum wage. Some plantations rely on casual labour to harvest the fruit, with reports of casual labourers receiving less than the minimum wage.

*“They had promised us jobs but there aren't that many. Basically, the only prospect we have is as casual labourers.”* [Villager, West Kalimantan]

Villagers also find that their overall cost of living increases with the arrival of the plantations. No longer able to harvest food and products from the forest and without land to grow their own crops, they need more cash to survive.

*“Once we stay on a company compound we have to buy everything. When I lived with my family, it would never have occurred to me to buy vegetables. We grew everything ourselves. That was better.”* [Female plantation worker, Sumatra]

Dependence on a single crop commodity increases the vulnerability of those involved in the palm oil industry. Although prices are still rising, there are fears the boom may end, especially as competition increases from other countries. However farmers are tied into 25 year production cycles.

Economic studies and the experience of those on the ground suggest that many communities can be better off growing other crops or a variety of crops. Community-owned rubber and damar (a tree producing resin) plantations have been shown to be profitable, as is small-scale certified timber production, yet there is little government support for developing such alternatives.

*“The only solution is not to be dependent on one commodity only, such as oil palm. There are other economic alternatives such as rubber, cacao, pepper, and others, which we must cultivate. We have to develop this existing local economic potential.”*  
[Oil palm smallholder, West Kalimantan]

## **vi) Water and pollution**

*“In the past when there was no oil palm plantation here, water in the river was very deep, but now it's very shallow. We run out of water, it is difficult for people to find clean water in the dry season, not every one has a drilled well. In the past in the forest, after a month and a half of dry season we would still find many small rivers. Nowadays after a month or so of dry season they have all dried up* [Smallholder, West Kalimantan]

Although oil palm plantations are planted in areas of relatively high rainfall, the communities interviewed reported that local rivers had far less water than before the plantations existed. There are reports of increased flooding in the rainy season, with plantations affecting the natural drainage patterns.

In Aceh, 360,000 people were displaced from their homes and 70 died as a result of floods in 2006. Recurrent flooding has been a problem in the region since oil palm plantations arrived.

Access to water has become difficult for some communities, especially where water sources are now out of bounds because they are on private land.

*“Every day during the rainy season, the dam holding back the liquid waste leaks waste into the river. The water is not fit for consumption when this happens. The waste spills into the river and kills the fish and other larger animals, such as fresh water turtles. That is what happens because of the waste that [the mill] discharges into the river.”* [Teacher, West Kalimantan]

Oil palm plantations and the palm oil milling process can cause serious pollution problems if not correctly managed. Plantations are intensively sprayed with pesticides and herbicides, creating toxic run off. Effluent from the milling process is also toxic and should be stored in special ponds.

Reports of pollution incidents are common, with effluent regularly discharged into rivers, killing fish and contaminating drinking and washing water. Some reports suggest that

because treating the effluent is expensive, many mills rely on discharging it into open water course. Little action seems to be taken by the authorities to prevent such incidents, which are illegal under Indonesian law.

*“I used to be in charge of the company's liquid waste management... When the rainy season starts, the liquid waste pond fills up and I had to discharge some of the waste into the river. I did that in the middle of the night, so that nobody would know. That was my job...the company used to give money to the government officials who came - and so they would just disappear and the problem was never solved. So one could say that the local communities have been poisoned by the company.”* [Palm oil mill employee, Sumatra]

Access to clean water is a fundamental human right and an essential prerequisite for good health and access to food.

## **vii) Destroying Cultures**

*“This is the sacred area of our ancestral leaders. This used to be covered by primary forest. From here to there, and all around, there was only thick forest with big trees, trunks as thick as barrels. The place was called ‘rimba batu bernyanyi’ [the forest of the singing rocks] – this has been handed down from generation to generation. Now there are no big trees anymore, it is all surrounded by oil palms.”* [Indigenous leader, Sumatra]

The arrival of an oil palm plantation completely alters the life of local people and in the process many of their traditional customs and values are disappearing. In many cases important cultural sites, including ancestral burial grounds, are destroyed and replaced with oil palm trees.

*“I said this grove is customary land, graves, our ancestors who must not be disturbed. They said we should mark the trees that mustn't be cut... Once we had finished we told them we had already marked the important places. "OK", they said. The next day, everything had been chopped down. Nothing was left standing. This is when the problems started.”* [Dayak leader, West Kalimantan]

Other aspects of indigenous culture are also disappearing. The traditions and rituals which were once part of farming practice in the forest no longer take place, often because the sacred sites have been destroyed. As a consequence the customs and the language are being forgotten. Indigenous culture is rarely recorded in written form and as practices die out, elements may be lost completely.

## **viii) Conclusions**

The unsustainable expansion of Indonesia's palm oil industry is leaving many indigenous communities without land, water or adequate livelihoods. Previously self-sufficient communities find themselves in debt or struggling to afford education and food. Traditional customs and culture are being damaged alongside Indonesia's forests and wildlife.

Human rights – including the right to water, to health, the right to work, cultural rights and the right to be protected from ill-treatment and arbitrary arrest – are being denied in some communities.

If palm oil is to be produced sustainably, the damaging effects of unjust policies and practices in the Indonesian plantation sector must be addressed.

### **A strong message to Europe**

Much of the responsibility for the situation in Indonesia lies with the Government of Indonesia. But European governments must also face up to their responsibilities in driving the consumption of agrofuels, and in particular, the consumption of palm oil.

### **The European Union and member states should:**

- Adopt legally binding restrictions on investment in and subsidies for the use and marketing of edible oils and palm oil-derived energy sources (including agrofuels) from unsustainable sources.
- Ban imports of palm oil for agrofuel and energy until safeguards addressing all the issues can be introduced.
- Abandon targets (for example in the Fuel Quality Directive or the Renewable Energy Sources Directive) for agrofuel use in their countries, as this will inevitably lead to oil palm expansion resulting in exacerbation of and increase in the problems detailed in this report.
- Strongly support actions by the governments of producer countries to ensure that member-state companies obey the national law in those countries, and those which do not do so are prosecuted.
- Introduce tighter regulations on companies to ensure they take their social and environmental responsibilities into account.

### **European companies operating in Indonesia:**

- Should uphold the principle of Free Prior and Informed Consent and withdraw operations from areas where local communities and indigenous peoples refuse oil palm development
- Pay compensation for damages to land and the resources as agreed with the affected indigenous peoples and local communities.
- Should respect the customary rights and culture of indigenous people and other communities.
- Allow independent verification and monitoring of company practice to ensure that all claimed standards are met.

There must also be a moratorium on forest conversion for palm oil in Indonesia.

# Losing Ground

The human rights impacts of oil palm plantation expansion in Indonesia



Author, Serge Marti, LifeMosaic

A joint report by Friends of the Earth, LifeMosaic and Sawit Watch



## 1. INTRODUCTION

### 1.1 Reason and scope for this report

*“At first the company pretended that they had the best intentions. But many problems have emerged since. They promised us many things. They said they would give us a smallholding plot, but it turned out they didn’t; they said they would give us houses, but they didn’t...It would be better to still have our intact land and continue with our agriculture and not be disturbed by others. The impacts of oil palm are first and foremost that all the land is gone; then that all animals are extinct; and that all the trees are gone. All this is part of the impact of having the company here. Our environment is very polluted. It has become difficult to find drinking water...The worst things are the environmental impacts, the forest is destroyed and we cannot manage it anymore. This is bad for the community and bad for the country as a whole.”<sup>1</sup>*

*“Oil-palm cultivation is responsible for widespread deforestation that reduces biodiversity, degrades important ecological services, worsens climate change, and traps workers in inequitable conditions sometimes analogous to slavery. This doesn’t have to be the case.”<sup>2</sup>*

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<sup>1</sup> Recorded interview with community leader in oil palm plantation, Sintang District, West Kalimantan, 2006.

<sup>2</sup> Rhett A. Butler, Palm Oil doesn’t have to be bad for the Environment, 4 April 2007, [http://news.mongabay.com/2007/0404-oil\\_palm.html](http://news.mongabay.com/2007/0404-oil_palm.html)



A number of recent reports have demonstrated the environmental impacts of the oil palm industry, ranging from forest destruction, fires, the loss of orangutan habitat, pollution and the drying out of peat-land leading to massive CO<sub>2</sub> emissions. These reports have also described some of the human rights abuses increasingly associated with oil palm plantations in Indonesia.<sup>3</sup> Other studies have focused on the Indonesian land acquisition system and its impacts on indigenous peoples' rights, and on the social and economic difficulties facing Indonesian oil palm smallholders.<sup>4</sup> In July 2007, a submission was made to the United Nations (UN) Committee for the Elimination of Racial Discrimination, drawing attention to human rights violations experienced by indigenous peoples in Kalimantan, Indonesian Borneo.<sup>5</sup> The Committee responded by noting its deep concern about the number of conflicts between local communities and oil palm companies in the country, and that existing laws did not sufficiently guarantee the rights of indigenous peoples in Indonesia.<sup>6</sup> This report acknowledges a strong debt to these and other studies.

In addition, *Losing Ground* draws on other existing literature, newspaper articles, and new research by Indonesian non-governmental organizations (NGOs) such as Sawit Watch (Oil Palm Watch) – the leading organisation working on oil palm and human rights in Indonesia – and WALHI (Wahana Lingkungan Hidup Indonesia - Friends of the Earth Indonesia). The report also relies on testimonies obtained from 20 communities in the Indonesian provinces of Riau, West Kalimantan and East Kalimantan, ensuring that the voices of communities directly affected by oil palm plantations are heard.

*Losing Ground* aims to bring this information together to highlight the extent of the human rights violations associated with the oil palm industry in Indonesia and the urgent need to prevent further such violations, particularly in the light of current Indonesian plans for massive oil palm expansion. Although non-exhaustive, it provides an overview of some of the human rights impacts of oil palm plantation development in Indonesia. It does so by:

- Describing historical developments and recent policies that have led to the present situation.
- Explaining how both the policies and practice of oil palm development are leading to wide-spread conflict over land and resources in rural Indonesia.

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<sup>3</sup>See for example: The 'Golden' Crop? Palm Oil in Post-Tsunami Aceh, Eye on Aceh, September 2007; Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Milieudéfensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo, July 2007; Afrizal, The Nagari Community, Business and the State, Sawit Watch and Forest Peoples Programme, 2007; Peatland degradation fuels climate change, Wetlands International and Delft Hydraulics, 2006; Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005; and The oil for ape scandal - How palm oil is threatening orang-utan survival, Friends of the Earth, The Ape Alliance, The Borneo Orangutan Survival Foundation, The Orangutan Foundation (UK), The Sumatran Orangutan Society, 2005.

<sup>4</sup> Colchester, M., et al., Promised Land – Palm Oil and Land acquisition in Indonesia: Implications for Local Communities and Indigenous Peoples (hereafter referred to as Promised Land), Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006 and Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>5</sup> Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN and other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>6</sup> p.4, Concluding observations of the UN Committee on the Elimination of Racial Discrimination on the Initial and Third Reports of Indonesia, UN Doc: CERD/C/IDN/CO/3, 15 August 2007.

- Specifically showing how the conversion of indigenous peoples' customary land into oil palm plantations is leading to conflict over land.
- Furthering the debate on the economic impacts of oil palm on local communities, oil palm smallholders, and plantation labourers, particularly by offering comparisons with pre-oil palm community land management.
- Showing how the plantations are responsible for the violations of the cultural rights of indigenous peoples.
- Giving an account of the impacts of water shortages and water pollution caused by the oil palm industry.

This report also makes a number of recommendations on the steps and reforms needed to protect the rights of indigenous peoples and local communities and to prevent further unsustainable oil palm plantation development.

It aims to contribute constructively to the debate on the rights impacts of oil palm plantations for edible oil and agrodiesel in Indonesia, and to support the efforts of all of those who are working to bring about a fair and sustainable Indonesian oil palm sector. In particular this report aims to demonstrate that there cannot be fair and sustainable oil palm if communities are denied to right to free, prior and informed consent, as they are under present policies and practices.<sup>7</sup>

The types of human rights violation described in this report and the environmental impacts associated with oil palm plantations are not, unfortunately, unique to Indonesia. We hope that *Losing Ground* will serve as a case study to explain the urgent need to address potential human rights implications of large-scale agrofuel (also known as biofuel) development in developing countries.

*Losing Ground* is aimed at those who can help reform the Indonesian oil palm sector: policy-makers in the Indonesian government; oil palm plantation companies; oil palm company investors and bankers; policy makers in Europe who are setting targets for agrofuels.

Providing access to information for local communities is essential if they are to make informed decisions about land use and development that benefit themselves and future generations, and if they are to demand the rights they are entitled to enjoy under Indonesian and international law. We therefore hope that this report will be particularly useful to Indonesian communities and to NGOs that work nationally and internationally to defend their rights.

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<sup>7</sup> "In contemporary international law, indigenous peoples' have the right to participate in decision making and to give or withhold their consent to activities affecting their lands, territories and resources or rights in general. Consent must be freely given, obtained prior to implementation of activities and be founded upon an understanding of the full range of issues implicated by the activity or decision in question; hence the formulation: free, prior and informed consent." p.9, Colchester, M. and MacKay, F., *In Search of Middle Ground: Indigenous Peoples, Collective Representation, and the Right to Free, Prior and Informed Consent*, Forest Peoples Programme, 2004.

## **1.2 Context**

### **1.2.1 Oil Palm Expansion Plans in Indonesia**

Demand for edible oil is increasing in Europe and in rapidly developing nations such as India and China. By 2012 palm oil is forecast to be the world's most produced, consumed and internationally traded edible oil. Demand for palm oil is also driven by new markets for agrodiesel spurred by increasing international concern about energy security and greenhouse gas emissions. In response to this demand, large-scale oil palm plantations are being established throughout Latin America, West Africa and particularly South East Asia.

Most palm oil (87 per cent in 2006) is produced from industrial plantations in Indonesia and Malaysia. Indonesia has the fastest oil palm plantation growth rate in the world and surpassed Malaysia as the largest producer of CPO (Crude Palm Oil) in the world during 2007.<sup>8</sup>

In early 2008, Indonesia already has a reported 7.3 million hectares of land under oil palm.<sup>9</sup> This represents a significant increase on 6 million ha in 2006.<sup>10</sup> In addition a further 18 million hectares of land have been cleared for oil palm, but not subsequently planted. The prime motivation for this additional land clearance is reportedly access to timber rather than plantation development.<sup>11</sup>

Regional development plans assign a further 20 million hectares of land for plantation expansion by 2020, primarily in Sumatra, Kalimantan (Indonesian Borneo), Sulawesi and West Papua.<sup>12</sup> As this report will show, expansion so far has largely been at the expense of the indigenous communities who live in expansion areas, and at considerable cost to the environment. If the problems of the Indonesian oil palm plantation system are not addressed, rapid expansion will continue to be detrimental to human rights and ecosystems.

### **1.2.2 The Environmental Impacts of Oil Palm**

Indonesia is renowned both for its extraordinary biodiversity and for the rate of loss of this diversity, and has been identified as a global priority by international conservation priority-setting exercises. Its rich biodiversity is threatened by rapid landscape change, pollution and over harvesting.<sup>13</sup>

According to Greenpeace, the Guinness Book of World Records 2008 will bestow on Indonesia the dubious honour of being "the country which pursues the highest annual rate of deforestation...with 1.8 million hectares of forest destroyed each year between 2000 and

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<sup>8</sup> Indonesia: Palm Oil Production Prospects Continue to Grow, United States of Agriculture Foreign Agricultural Service, Commodity Intelligence Report, 31 December 2007, [http://www.pecad.fas.usda.gov/highlights/2007/12/Indonesia\\_palmoil/](http://www.pecad.fas.usda.gov/highlights/2007/12/Indonesia_palmoil/)

<sup>9</sup> Kebun Sawit 2007, Sawit Watch data, last updated December 2007.

<sup>10</sup> "Total area for Indonesia palm oil in 2006 is estimated at 6.07 million hectares according to a information from the Indonesia Palm Oil Board (IPOB)." Quoted in: Palm Oil Production Prospects Continue to Grow, United States of Agriculture Foreign Agricultural Service, Commodity Intelligence Report, 31 December 2007, [http://www.pecad.fas.usda.gov/highlights/2007/12/Indonesia\\_palmoil/](http://www.pecad.fas.usda.gov/highlights/2007/12/Indonesia_palmoil/)

<sup>11</sup> p.11-12, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>12</sup> p.26, Table 1.2. Provincial Government Plans to Expand Oil Palm Plantations, in Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>13</sup> p.10, Third National Implementation Report (Indonesia) on the Convention on Biological Diversity, [www.cbd.int/doc/world/id/id-nr-03-en.pdf](http://www.cbd.int/doc/world/id/id-nr-03-en.pdf)

2005.”<sup>14</sup> In a number of reports oil palm plantations have been identified as one of the major contributors to rainforest destruction.<sup>15</sup> These reports include Indonesia’s Third Implementation report on the Convention on Biological Diversity which notes that oil palm plantations were one of the primary causes of deforestation in the 1990s. It states that such large-scale land conversion was the largest cause of the 1997-1998 fires, which burned nearly five million hectares of forest and imposed approximately US \$8 billion in economic losses on Indonesia’s citizens and businesses.<sup>16</sup>

Despite the assurances of Rachmat Witoelar, the Indonesian environment minister, that “we are not going to sacrifice any trees for biofuels”,<sup>17</sup> a substantial part of Indonesia’s planned oil palm expansion continues to be in natural forest. A report published in July 2007 by Mileduefensie (Friends of the Earth Netherlands) states for example that three companies owned by Wilmar – one of the world’s biggest oil palm plantation groups – were illegally clearing tropical forests in West Kalimantan without having obtained the necessary permits.<sup>18</sup> In August 2007, an Associated Press investigative team also found evidence of ongoing forest clearance for oil palm plantations in Central Kalimantan.<sup>19</sup>

Deforestation, particularly on such a massive scale, impacts heavily on the environment. It places severe pressures on biodiversity and species such as the Sumatran tiger or the orangutan – in the decade between 1992 and 2003 orangutan habitat declined by 5.5 million hectares, while the plantation area across Borneo and Sumatra increased by almost 4.7 million hectares.<sup>20</sup>

Furthermore, the impact of this destruction has global significance. Forest clearance for plantations, associated forest fires and drying out of tropical peatlands, all contribute heavily to Indonesia’s greenhouse gas emissions. According to Wetlands International, and the World Bank, Indonesia has the third highest CO<sub>2</sub> equivalent emissions in the world after the US and China, and just ahead of Brazil whose own forest destruction boosts its emissions significantly.<sup>21</sup> The Stern report – commissioned by the UK government to investigate the

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<sup>14</sup> Indonesia poised for World Record as fastest destroyer of forests, Greenpeace South East Asia, 16 March 2007, <http://www.greenpeace.org/seasia/en/news/indonesia-fastest-forest-destroyer>

<sup>15</sup> See for example: p.8, Executive Summary: Indonesia and Climate Change Working Paper on Current Status and Policies, World Bank and DFID, 2007; Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

<sup>16</sup> p.11, Third National Implementation Report (Indonesia) on the Convention on Biological Diversity, [www.cbd.int/doc/world/id/id-nr-03-en.pdf](http://www.cbd.int/doc/world/id/id-nr-03-en.pdf)

<sup>17</sup> Indonesian Minister of the Environment Rachmat Witoelar, public declaration at Sir Nicholas Stern’s presentation and press briefing: Public Forum on Global Climate Change and Indonesia, World Bank Office, Jakarta, 23 March 2007. Witoelar later repeated this promise: “There were will be no trees cut down for the sake of palm oil”, quoted in Brummitt, C. Orangutans squeezed by biofuel boom, Associated Press, 4 September 2007, <http://www.msnbc.msn.com/id/20478277/>

<sup>18</sup> p.6, Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Mileduefensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo July 2007.

<sup>19</sup> Brummitt, C., Orangutans squeezed by biofuel boom, Associated Press, 4 September 2007, <http://www.msnbc.msn.com/id/20478277/>

<sup>20</sup> p.12, The oil for ape scandal - How palm oil is threatening orang-utan survival, Friends of the Earth, The Ape Alliance, The Borneo Orangutan Survival Foundation, The Orangutan Foundation (UK), The Sumatran Orangutan Society, 2005.

<sup>21</sup> p.5, Peatland degradation fuels climate change, Wetlands International and Delft Hydraulics, 2006.

economic costs of climate change – found that the loss of natural forests around the world contributes more to emissions each year than the global transport sector.<sup>22</sup>

### **1.2.3 Endemic corruption**

Indonesia suffers from endemic corruption. The country scores 2.3 out of 10 on Transparency International's corruption perception index, with only 36 countries in the world scoring worse than Indonesia.<sup>23</sup> Corruption permeates the oil palm industry and the economy more generally, as well as the security forces and the judiciary. For example:

- A recent World Bank study found that companies in Indonesia spend five per cent of their annual sales on bribes each year.<sup>24</sup> A study into levels of corruption in the Indonesian regions, published in 2006, found that firms paid bribes equivalent to just under 40 per cent of the taxes they paid, and noted that businesses operating in natural resource rich locations paid higher bribes.<sup>25</sup>
- A report published in 2002 found that corruption was pervasive amongst civilian and military officials, many of whom were involved in illegal cutting and marketing. The report cited a study by the Ministry of Forestry and Estate Crops which found that illegal logging was a well-organised criminal enterprise “with strong backing and a network that is so extensive, well established and strong that is bold enough to resist, threaten, and in fact physically tyrannize forestry law enforcement authorities”. Among those identified by the study as being involved in illegal logging were government officials, both civilian and military, law enforcement personnel and legislators.<sup>26</sup>

The abusive practices which arise from this situation in the oil palm sector are compounded by lax administration and poor performance by government officials regarding adherence to legal requirements or procedures.<sup>27</sup> They undermine law enforcement and access to justice and as such are central to many of the violations of rights described in this report, including being contributory factors to many of the hundreds of oil palm related conflicts across Indonesia.

Corruption in the judiciary is widely acknowledged. In 2002 the UN Special Rapporteur for Independence of Judges and Lawyers, Param Cumaraswamy, expressed concern at widespread corruption at all levels of the judiciary in Indonesia, stating:

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<sup>22</sup> p.171-172, Stern Review on the economics of climate change, [http://www.hm-treasury.gov.uk/independent\\_reviews/stern\\_review\\_economics\\_climate\\_change/sternreview\\_index.cfm](http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/sternreview_index.cfm)

<sup>23</sup> Transparency International, Corruption Perceptions Index, 2007. [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2007](http://www.transparency.org/policy_research/surveys_indices/cpi/2007)

<sup>24</sup> Wood, J., Destination Indonesia, CFO Asia – The Magazine for Financial Directors and Treasurers, <http://www.cfoasia.com/archives/200506-02.htm>

<sup>25</sup> p.147, Revitalizing the Rural Economy: An assessment of the investment climate faced by non-farm enterprises at the District level, The World Bank, 2006.

<sup>26</sup> p.123, Barber C., Forests, Fires and Confrontation in Indonesia Forest, in Matthew, R., M. Halle, and J. Switzer., Conserving the Peace: Resources, Livelihoods and Security, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002.

<sup>27</sup> p.173, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

*“I didn't realize corruption was so endemic. Practically everyone with whom I discussed the matter admitted the prevalence of corruption in the administration of justice...it seeps right from the police, the prosecutors and to the courts.”<sup>28</sup>*

There is little evidence of any serious political will to tackle corruption. In March 2007 a former governor of East Kalimantan was sentenced to 18 months in prison after being convicted of issuing irregular land permits for oil palm which led to illegal logging. The governor was accused of accepting large bribes to grant 33 plantations permits to the Surya Dumai Group. Both the company manager and the governor escaped full charges of bribery and received short jail sentences for fund mismanagement technicalities.<sup>29</sup>

Similarly, although Presidential Instruction No. 5/2001 was passed, which addressed to some extent the role of the military in illegal forestry operations, its effectiveness appears to have been undermined by a lack of will to implement the measures, and members of the armed forces reportedly remain heavily involved in illegal logging.<sup>30</sup>

#### **1.2.4 Indonesia's international human rights obligations**

The human rights referred to in this report are guaranteed under key international human rights instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Elimination of All Forms of Racial Discrimination. These international instruments should provide a framework whereby the rights of those affected by the development of plantations are protected, allowing communities to protect their unique culture, to participate meaningfully in decisions about future land use, and ensuring that fundamental rights such as the right to water, to health and to safety at work are protected.

#### **Indigenous Peoples' Rights**

Recently adopted UN Conventions (legally binding) and Declarations (non-binding), have extended the protection offered to indigenous peoples in international law.

The Convention on Biological Diversity recognises the need to respect, preserve and maintain the knowledge of indigenous peoples and their traditions. Indonesia's Third National Implementation Report on the Convention on Biological Diversity states that “many programs have been undertaken in Indonesia to empower forest-dependant communities” and refers to participative planning in forest management processes in East Kalimantan. This report, however, demonstrates how forest communities continue to be largely disempowered and to experience considerable obstacles to participating effectively in forest management processes and as such calls into question the Indonesia government's commitment to such initiatives and to respecting the right of forest peoples to free, prior and informed consent.

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<sup>28</sup> p49, Without remedy, Human Rights Abuse and Indonesia's Pulp and Paper industry, Human Rights Watch, Vol. 15, No. 1 (C), January 2003.

<sup>29</sup> Governor gets 18 months in Kalimantan illegal logging case, <http://www.orangutan.org.au/323.html> And: Bos Surya Dumai Divonis 18 Bulan Penjara, 03 May 2007, <http://www.tempointeraktif.com/hg/nasional/2007/05/03/brk,20070503-99350.id.html>

<sup>30</sup> p23, Too High a Price, The Human Rights Cost of the Indonesian Military's Economic Activities, Human Rights Watch, Volume 18, No. 5(C), June 2006.

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (to which Indonesia is not yet a party) and the Convention for the Safeguarding of the Intangible Cultural Heritage (ratified by Indonesia on 18 October 2007) both contain important measures to protect indigenous culture.

The Non-legally binding instrument on all types of forests was adopted on 17 December 2007. As a General Assembly declaration, it indicates a consensus reached amongst the nations of the world. It expresses concern at continued deforestation and forest degradation and the resulting impacts on economies, the environment, the livelihoods of at least a billion people and their cultural heritage and recognises the need to enhance the economic, social and environmental values of forests for the benefit of present and future generations.

Most important in this context is the UN General Assembly Declaration on the Rights of Indigenous Peoples which was finally adopted in September 2007 after over 20 years of debate. The Declaration is a major step forward in the advancement of the rights of indigenous peoples not least because it recognises that their special relationship with the land and its resources needs to be protected as a collective right. The Declaration is intended to set the minimum standard and to inform measures to address the historical injustices and widespread discrimination and racism faced by indigenous peoples. The Declaration affirms the right of indigenous peoples to have control over their own lives, to maintain their distinct cultural identities for future generations, and to have secure access to the lands and natural resources essential to their ways of life.

Despite Indonesia's backing for the Declaration, the Indonesian government resists attempts to identify distinct indigenous peoples in Indonesia by arguing that the entire population at the time of colonisation remained unchanged. The government argues that "the rights in the Declaration accorded exclusively to indigenous people, and did not apply in the context of Indonesia."<sup>31</sup> Such perspectives continue to discriminate against indigenous peoples and threaten their unique traditional governance systems, values, languages, traditions, customs, culture and identities.

The UN Commission on the Elimination of Racial Discrimination has called on Indonesia to "respect the way in which indigenous peoples perceive and define themselves. It encourages the State party to take into consideration the definitions of indigenous and tribal peoples as set out in ILO Convention No. 169 of 1989 on Indigenous and Tribal Peoples, and to envisage ratification of this instrument."<sup>32</sup> However such steps have yet to be taken, and as the next chapter makes clear, discrimination against indigenous people remains entrenched in Indonesian law.

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<sup>31</sup> General Assembly Adopts Declaration on Rights of Indigenous Peoples; 'Major Step Forward' towards Human Rights for all, says President, Sixty-first General Assembly Plenary, 107th & 108th Meetings (AM & PM), 13 September 2007, <http://www.un.org/News/Press/docs/2007/ga10612.doc.htm>

<sup>32</sup> Concluding observations of the UN Committee on the Elimination of Racial Discrimination on the Initial and Third Reports of Indonesia, UN Doc: CERD/C/IDN/CO/3, 15 August 2007



## **2. LAND ACQUISITION AND THE INDONESIAN PLANTATION SYSTEM**

*"In my community, our understanding is that we have rights to our land and the natural resources both above and below the land. Everything up to sky belongs to us. Several laws and policies have classified our forests as State forests and the minerals as property of the State. We don't see it like that. I have hair on my arm, on my skin. Both are mine. I also own the flesh and bones beneath. They are also mine. No one has the right to take me apart. But the policy has cut these things apart and thus has cut us into pieces. We want the land back whole."<sup>33</sup>*

This chapter considers the origins and the present reality of the land acquisition system for oil palm plantations in Indonesia. This background is key to understanding how the current Indonesian oil palm plantation system may lead to injustice, conflict and human rights violations.<sup>34</sup>

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<sup>33</sup> Pak Nazarius, indigenous leader, quoted in: Colchester, M., *The People vs. Corporate Power*, Multinational Monitor; 7 January 2005.

<sup>34</sup> This report's author is indebted to Forest Peoples Programme and Sawit Watch for much of the information contained in this chapter, and in particular for their excellent publication, *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006



## **2.1. Whose Land? Customary Law Versus State Law**

Indonesia has a population of 220 million people. An estimated 60 to 90 million people derive their livelihoods from land classified as ‘State Forest Areas’, which cover 70 per cent of Indonesia’s territory.<sup>35</sup> Many of the rural lands of Indonesia are not the uninhabited forests of popular imagination, nor abandoned lands to which no group lays claim. Instead these areas are usually anthropogenic (human-created) or humanised (human-modified)<sup>36</sup> forest landscapes, typically consisting of: primary and secondary forests; fields for annual crops transformed into multi-function agroforestry systems over 30 year rotations (including community planted rubber forests or other cash crops); fruit groves; community protected sites of cultural significance (including burial sites in forest groves); and homesteads.

A large proportion of Indonesia’s rural inhabitants are governed – to a greater or lesser extent – by custom, and are referred to as indigenous peoples in international law.<sup>37</sup> Rural communities use customary law to regulate access to land and the use of forests and other resources. Many of these communities consider themselves to have rights over the land that their livelihoods depend on, as this forest dweller explains:

*“The government official asked me if I have a land ownership certificate and I answered that every single durian tree, and every single tengkawang [shorea spp. - illipe nut trees] tree, and every single rubber tree that we or our ancestors have planted are certificates. I am an indigenous person born here. My ancestors have already defended this land for generations. I do not want outsiders to disturb us. We will not allow any companies to establish plantations on our land.”<sup>38</sup>*

Most of the 20 million hectares of land proposed by district governments for conversion to large-scale oil palm plantations are lands which indigenous peoples have derived their livelihoods from for many generations.

Indigenous peoples and their rights are only partially recognized by the 1945 Indonesian Constitution, which deems that these rights are subordinate to the national interest and societal development; qualifications which have serious implications for the respect of these rights.<sup>39</sup>

The lack of recognition of customary rights and customary law was also seen in Law No. 5 of 1979 on Village Government, which “subordinated indigenous peoples’ traditional

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<sup>35</sup> p.11, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>36</sup> p.4, Posey, D., *National Laws and International Agreements affecting Indigenous and Local Knowledge: Conflict or Conciliation?*, Avenir des Peuples des Forets Tropicales, 1997.  
[http://lucy.ukc.ac.uk/Rainforest/SML\\_files/Posey/posey\\_1.html#Page4](http://lucy.ukc.ac.uk/Rainforest/SML_files/Posey/posey_1.html#Page4)

<sup>37</sup> p.11, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>38</sup> Recorded interview, indigenous leader, Sekadau District, West Kalimantan, 2006.

<sup>39</sup> Article 18B of the Indonesian Constitution declares that: “The State recognizes and respects traditional communities along with their traditional customary rights...as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.”, while Article 4(3) of the Indonesian constitution provides that “... The State cares for indigenous peoples’ rights as long as such rights exist and are recognized and are not in direct contradiction to national interests.”

authorities, institutions, and laws to an imposed and unified Javanese village administration system that severely limits and in some cases negates the exercise of indigenous peoples' rights." This law has been replaced by Law No. 32 of 2004 on Regional Government, which retains the discriminatory subordination of local customary law to Javanese customary institutions.<sup>40</sup>

The lack of recognition of customary rights and customary law leads to a "widely divergent view of land rights by the government and by people who live in and draw their livelihoods from the forests of Indonesia."<sup>41</sup> The government considers customary law to be a constraint to development, while local people use customary law to justify their rights to the land.<sup>42</sup>

This clash of perspectives has severe implications for the allocation of land for large-scale oil palm plantation development, and is a major reason for frequent conflicts in the sector, analysed in the second chapter of this report. The divergent views partially originate in Indonesia's colonial history.

## **2.2. Colonial Origins of the Plantation System**

Much of the territory making up modern Indonesia was a Dutch colony for over 350 years, until it became independent in 1945. As a small country, the Netherlands could only send out a relatively small Dutch contingent to its colonial administration service. In order to manage the huge territory the Dutch empire relied instead on a system of alliances with local political entities, usually governed by custom. Pragmatism therefore compelled the Dutch empire to partially acknowledge customary law for political convenience.

However, during the nineteenth century Dutch planters began to establish large plantations (tobacco and other crops) on fertile Sumatran soils. To facilitate plantation expansion the colonial government passed the 1870 Agrarian Law which allowed the colonial government to provide planters with leases on land for up to 75 years. The law included a Domain Declaration (Domeinverklaring), which stated that all land not under clear ownership was considered State land. Communities' rights over land were not recognised as these were based on customary law which was not recognised as proof of ownership in Dutch law.<sup>43</sup> Under the customary system of land ownership, rights to fallow land and secondary forests were retained by whoever had first cleared the land.<sup>44</sup>

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<sup>40</sup> p.7, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, UN Committee on the Elimination of Racial Discrimination, Seventy-First Session, Submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 30 July – 18 August 2007.

<sup>41</sup> Nuh and Collins, in p.12, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>42</sup> p.12, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>43</sup> p.41-42 Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>44</sup> p.52, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

The Domain Declaration led to the establishment of 2.5 million hectares of plantations in the Dutch East Indies by 1938, and resulted in farmers who had owned land becoming labourers and landless or land poor peasants.<sup>45</sup>

Plantation contracts issued under the 1870 law authorised planters to clear “empty land” in order to set up plantations. Contracts established in 1877 and 1878 stated that concessionaires should be granted a specified amount of “wasteland” (woeste grond). The terms “empty land” and “wasteland” referred to those areas which communities considered to be their uncultivated common lands. In this manner, the 1870 law led to fallow and common land being considered state land.

After it became independent, Indonesia inherited the doctrine of state control over “wasteland” from its former colonial rulers.<sup>46</sup> To this day, the concepts of “wasteland”, “degraded land” and “empty land” are used to justify plantation expansion. For example, the Dutch Federation of Oils, Fats and Margarine stated in 2004 that “in Indonesia over 10 million ha of land is lying waste, much of which is suitable for palm oil expansion. Hence there is no need to convert forest.”<sup>47</sup> The operations manager of a major plantation company told a Friends of the Earth campaigner in 2006 that their interest was only in converting “degraded land”.<sup>48</sup>

## **2.3. Laws Regulating Land Acquisition and Plantation Establishment**

### **2.3.1 Laws after Independence in 1945**

After Indonesia gained independence in 1945, a series of laws were enacted, which strengthened the state’s hold over land.

The Indonesian Constitution determined that “Land, water, and all natural resources that belong to common pools and public goods, are under state control and will be utilized for the maximum welfare of the people”.<sup>49</sup> As a result of this 70 per cent of Indonesia’s territory continues to be classified as state-owned forest, and indigenous peoples are denied any meaningful rights to this land.<sup>50</sup>

The Mining Act of 1945 established the “controlling right of the state”, granting the state the authority to “regulate, operate, classify, utilize, reserve and preserve natural resources for the benefit of the people, including deciding on and regulating the legal relations between people and natural resources.”<sup>51</sup>

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<sup>45</sup> p.52, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>46</sup> p.34, *Borneo: Treasure Island at Risk*, WWF-Germany, Frankfurt am Main, 2005.

<sup>47</sup> Meeting report, World Rainforest Movement / WALHI, Southeast Asia regional meeting on Oil Palm and Pulpwood Plantations, Jakarta, 2004.

<sup>48</sup> Friends of the Earth notes from RSPO (Roundtable on Sustainable Palm Oil), RTIV, 2006.

<sup>49</sup> p.2, Bachriadi, D., Sardjono, M., *Local Initiatives to Return Communities Control over Forest Lands in Indonesia: Conversion or Occupation?*, Paper prepared for the 11<sup>th</sup> Biennial Conference of the International Association for the Study of Common Property, Bali, 2006.

<sup>50</sup> p.1, Executive Summary, *Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures*, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007

<sup>51</sup> p.52, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

The Basic Agrarian Law of 1960 recognised the existence of communal land belonging to customary communities,<sup>52</sup> but also strengthened the principle of eminent domain, by which the state can acquire land for public purposes against the wishes of the prior owners.<sup>53</sup> In 1961 Law No. 20 on the Revocation of Rights over the Land and the Goods above it was passed. This law gave authority to the President to revoke rights in land in order to serve the public interest, and opened the possibility for private companies to demand revocation of rights, where their business had been agreed by government and were in accordance with national development plans.<sup>54</sup> While no longer in use, it is the spirit of this law which forms the basis of land acquisition practices to this day.

Until 1960 plantations were still regulated by Dutch laws. Under the Basic Agrarian Law of 1960 colonial plantation concessions were extended by 20 years and then phased out. Companies seeking to establish new plantations were granted temporary land use rights for 35-year periods, extendable for another 25 years. These land use permits are known as HGU (Hak Guna Usaha).<sup>55</sup>

Presidential Instruction No.9 in 1973 demanded revocation of rights over land to take place through “wise and fair methods”, yet widened the scope of the State to “expropriate rural properties in the name of national development, and since plans to expand plantations were part of national development plans, paved the way for plantations to be imposed on community lands, even against the expressed wishes of local people.”<sup>56</sup>

Presidential Decree No.55 in 1993 established the need for discussions with local communities, but limited community participation to the process of reaching consensus on compensation for relinquishing rights in land.

### **2.3.2 Reform Era**

At the time of the downfall of President Suharto, the Ministry of Forestry and Plantations issued new regulations for plantations,<sup>57</sup> including a complex new series of permitting steps, a 20,000ha maximum plantation area for a single company in one province, and direct company involvement in negotiations with local communities.

Some positive developments for communities included new rules regulating community participation in land acquisition and plantation permitting processes, particularly with regard to compensation for land, and participation of communities in plantation management

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<sup>52</sup> p.43, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>53</sup> p.52, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>54</sup> p.53, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>55</sup> p.56, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>56</sup> p.54, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>57</sup> Keputusan Menteri Kehutanan dan Perkebunan. Nomor : 728/Kpts-II/1998. Tentang: Luas Maksimum Pengusahaan Hutan dan Pelepasan Kawasan hutan untuk budidaya; Surat Keputusan Menteri Negara Agraria SK MenNag No 2, 1999; Keputusan Menteri Pertanian Nomor 357/Kpts/HK.350/5/2002 tentang Pedoman Perijinan Usaha Perkebunan.

through smallholdings. In theory, communities also obtained the right to ask for some of their land to be enclaved; that is to be excised from the land use permit (HGU), although in practice communities were rarely able to exercise this right because of a lack of information and reform era confusion.<sup>58</sup>

Nonetheless Law No5/1999 continued to discriminate against affected communities, by establishing that “the local community cannot claim rights to land over which persons or legal entities hold a land use permit (HGU), even though the land was formerly local communities’ communal land.”<sup>59</sup>

### **2.3.3 Land Acquisition and Plantation Establishment since 2004**

While immediate post-Suharto reform era policies included minor changes towards increased recognition of community rights to free, prior and informed consent, since 2004 the tendency to deny communities the right to object to plantations (or other land uses on their territories) has accelerated. This can particularly be observed in the following legislation:

#### **Law no.32/2004 on Regional Autonomy**

This law gives district level governments more rights and responsibilities over developing the local economy. In particular this hands most licensing for plantations over to district level control.

#### **Law 18/2004 on Plantations**

Under the 2004 Plantation Act, land use permits were granted for 35 years and could be extended on three occasions to a total of 120 years. This law has been superseded by the 2007 Investment Law.

#### **Presidential Regulation No.36/2005 on Acquisition of Land for the Implementation of Development in the Public Interest**

This regulation changes the definition of the public interest, allowing projects by private and transnational companies to be classified as in the public interest, as well as strengthening the state’s right to revoke land ownership and denying community rights to object to a development.<sup>60</sup> Under this regulation communities must be informed of the development and why it is in the public interest. Further community involvement is limited to negotiating levels of compensation for land. If no agreement is reached then the government will set compensation at the level of the taxed value of the land, and after a 14 day period the project can go ahead regardless of community objections.<sup>61</sup>

#### **Presidential Regulation 65/2006**

Regulation 65/2006 supersedes Presidential Regulation No.36/2005. It removes some of the language about extinguishing rights to land and lengthens the community consultation process to 120 days. However observers agree that the regulation limits “the legal options available to property owners to challenge Government efforts to acquire land for

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<sup>58</sup> Communication from Sawit Watch Staff, December 2007.

<sup>59</sup> p.43-44, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>60</sup> Fauzi, N. and Setiawan, U., *Acquisition of Land for Development*, in SMERU Newsletter No.16, 2005.

<sup>61</sup> Communication from Sawit Watch Staff, December 2007.

infrastructure projects.”<sup>62</sup> If customary land-owners have not reached agreement on compensation after the agreed period, then the extinguishment of rights to land proceeds, though now the final decision rests with central government again.<sup>63</sup>

### **Investment Law No.25/2007**

This law also places investor rights above community rights. It extends the initial land use permit to 60 years, with the option of a 35-year extension,<sup>64</sup> and does not provide a clear process for rescinding a land use permit (HGU) if problems arise. This is true also for mining, pulp plantations, and logging concessions.

## **2.4. The Permit Process by Law**

### **Ministerial Decree No.26/2007**

In February 2007, the Minister of Agriculture issued Ministerial Decree No. 26/2007, which allows a plantation company to acquire land use rights over 100,000 hectares in a single province, up from the previous maximum 20,000 hectares per province. The Guidance in Decree No. 26/2007 is also intended to clarify the process for obtaining a plantation permit under the 2004 Plantation Act.

- Once a company obtains an IP (initiation permit or izin prinsip) in a particular district, the district government should identify land suitable for plantations from the district land use plans.
- The company is then required to prepare a set of over a dozen documents in order to apply for a business permit. Despite limitations on community rights, under the terms of the Plantation Act communities should still be able to intervene at several stages of this process.
- For example the EIA (Environmental Impact Assessment or AMDAL), must involve community consultation during the initial field analysis. This initial assessment is given to local environment ministry representatives who set up an EIA commission made up of the company, the consultant, NGOs, civil servants and the local community. The commission evaluates the initial assessment and if all is found in order the EIA certificate is given.
- The terms of a letter of partnership with the local community and a proposal to establish smallholdings, both needed in order to obtain the business permit, should also require community consultation.
- The district government issues an IL (location license or izin lokasi) to the company. The community should be consulted again to debate the terms of land compensation as well as the amount of oil palm smallholdings that farmers should obtain.
- With the necessary set of documents, (EIA, letter of partnership, smallholding proposal, maps and other documents) the company should next apply for an IUP (plantation business permit or izin usaha perkebunan).

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<sup>62</sup> Embassy of the United States in Indonesia Website, Indonesia Infrastructure Forum, November 1-3, 2006, <http://www.usembassyjakarta.org/econ/infra-summit05/infrastructure-summit06.html>

<sup>63</sup> Sumardjono, M., Perpres No 65/2006, Apa yang Berubah?, Kompas, 21 June 2006, <http://www.kompas.com/kompas-cetak/0606/21/opini/2741975.htm>

<sup>64</sup> Indonesia's Investment Law, 25 April 2007, iNusantara Networks: Socio-Economic & Political Analysis [http://www.fdi.net/documents/WorldBank/databases/indonesi/indonesia\\_investment\\_law\\_07.pdf](http://www.fdi.net/documents/WorldBank/databases/indonesi/indonesia_investment_law_07.pdf); Also Surambo, A., UU Pnm, Si 'Gong Sukawan' itu (Sebuah Kritik terhadap UU Penanaman Modal, pp.4-6, Tandan Sawit Vol2, 2007, Sawit Watch.

- The company then hands the IUP, to 'Panitia B', a body including representatives of the national land agency at provincial and district levels, district-level civil servants from the ministry of forestry and the environment ministry (BAPPEDALDA), NGOs, and the local community. Panitia B assesses all of the information and then recommends to the national land planning agency whether or not it should release a land use permit (HGU). While Panitia B is carrying out its assessment it is still in theory possible for communities to demand that land delineation be clarified, to let it be known if there is opposition to the plantation, and to obtain clarification about the arrangements for oil palm smallholdings.<sup>65</sup>

Once a HGU is released, there is little chance of it being suspended, and there are in apparently no known cases of this happening.

Indonesian laws curtail indigenous peoples and local communities' rights to object to large-scale developments such as oil palm. In reality, however, the situation is even more serious due to poor company practice, corruption and other irregularities.<sup>66</sup>

## **2.5. Land Acquisition in Practice: Irregularities in Community Consultations**

While the permitting process allows for community consultations at several stages, in actual fact these community consultations rarely take place as planned.

### **2.5.1 Many communities not consulted**

Many communities report that they are not consulted at the appropriate stages of the permitting process. Many communities do not know that oil palm is planned on their land, until they find bulldozers at work clearing their ancestral territories:

- In 2005 the villagers of Semunying Jaya, Bengkayan District, West Kalimantan found PT (Perseroan Terbatas or Limited company) Ledo Lestari of the Duta Palma Group clearing primary forest on their communal lands when the community had had no interaction with the company at that point.<sup>67</sup>
- Up to 300 hectares of land belonging to Senujuh village in Sambas District, West Kalimantan, were allegedly cleared by PT Wilmar Sambas Plantation in late 2005 or early 2006 without any warning to the community and despite clear community opposition to oil palm on their lands.<sup>68</sup>

A major report on land acquisition published in 2006 stated that no consensus building meetings were conducted prior to the decision to allow oil palm estates in any of the cases it investigated. Companies arrived in their areas following decisions at local government level

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<sup>65</sup> Sawit Watch and Forest People Research on No. 26/Permentan/ar.140/2/2007, Unpublished.

<sup>66</sup> Above section: Communication from Sawit Watch Staff, December 2007.

<sup>67</sup> p.58, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the United Nations Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007

<sup>68</sup> p.13, Saragih, J., Perampasan dan Pembakaran Lahan Masyarakat oleh PT Wilmar Sambas Plantation, Tandan Sawit, vol. 2/7 2007, Sawit Watch.

to develop oil palm plantations,<sup>69</sup> and no communities were involved in the EIA process although companies were operating on customary (ulayat) lands.<sup>70</sup>

## **2.5.2 Pay-Offs and Inflated Promises in Community Consultations**

*“They are good with words and this makes it easier for them to lie to people – and they are used to it.”<sup>71</sup>*

*“They promised to set up irrigated rice fields, a school, electricity, build a road, fish ponds. As it turns out, none of that was true. Now they do not even want to build our school or repair the track leading to the longhouse – so we are beginning to have second thoughts about them and not trust them anymore.”<sup>72</sup>*

When community consultations do take place, these are often flawed, and palm oil plantation companies do not engage with communities in a manner that allows the communities to effectively participate in decision-making processes at any point during the oil palm plantation development.<sup>73</sup>

The key figure in the consultation process is the company’s community liaison officer. One such company liaison officer was interviewed in Riau during the course of the research for this report, but wished to remain anonymous. He stated that:

- Community liaison officers spend as much time as possible in villages assessing who is in favour of oil palm, who is against, who is influential, who can be bribed.
- Companies take village leaders to see successful oil palm plantations in North Sumatra or to Sanggau District in West Kalimantan. At this time village leaders are sometimes offered ‘free holidays’.
- Community liaison officers are given 30-50 million rupiahs to offer bribes and incentives for village chiefs and other persons of note.<sup>74</sup>

These allegations seem to be borne out by community testimonies:

*“As the head of the hamlet I was responsible to the company. At the beginning, I always received an incentive payment along with my salary. That was part of their approach.”<sup>75</sup>*

*“Village authorities receive incentives if they manage to convince their village’s inhabitants to hand over land to the company, even if they do not hand over any land themselves. The amount can be up to Rp. 300,000 per month, but*

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<sup>69</sup> p.171, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>70</sup> p.179, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>71</sup> Recorded interview with rubber farmer, Sekadau District, West Kalimantan, 2006.

<sup>72</sup> Recorded interview with longhouse dweller, Sintang District, West Kalimantan, 2006.

<sup>73</sup> p.179, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>74</sup> Interview with Community Liaison Officer from private company, Riau, 2007

<sup>75</sup> Recorded interview with community leader in oil palm plantation, Sintang District, West Kalimantan, 2006.



*the hamlet chief only received Rp. 200,000 because there were only few people who decided to join the scheme. That is what the company people told us.”<sup>76</sup>*

Other company tactics identified during the course of field-work for this report included companies offering expensive cigarettes, cakes, biscuits and alcoholic drinks in community meetings to gain favourable responses from communities, as well as using psychological pressure, or making inflated promises about the benefits of oil palm to convince communities to relinquish land.

*“They said ‘you are poor and your life is so hard. If you join our company everything will be so much easier for you’. We let that influence us, seeing how they all looked so well off. We thought we would be safe with them. We agreed to sell them our land. The price was Rp. 60,000 [£3.50] per hectare for non cultivated land.”<sup>77</sup>*

*“They promised us we would live comfortably; our village would be like a town. That is the image they tried to sell us. They do not understand that once the forest is gone, the river will dry up and no one will be able to live here.”<sup>78</sup>*

Additionally, communities are generally not informed of licensing procedures so they are not able to prepare their responses. Letters between the company, village officials and the district government are not made available to the wider community. Maps of proposed plantations are also not made available making it difficult for communities to assess whether the company is operating in areas covered by permits.

Research by Sawit Watch and other NGOs has highlighted cases where companies – PT SIA in West Kalimantan and PT PHP in West Sumatra – have not consulted with communities but have instead held meetings with community members to inform them of the oil palm estates development plans and where they have misled communities by telling them that “they were required to transfer their customary (ulayat) lands to the estates because the project had been approved by the local government.”<sup>79</sup>

There are some reports of intimidation being used during community meetings in which local police and army personnel as well as district level officials may take part. Community members are known to have been verbally pressurized and intimidated by oil palm companies, with the support of local government officials and local military officials.<sup>80</sup>

### **2.5.3 Communities are not told they are losing rights to land**

Companies also frequently fail to explain to communities that the land they relinquish will not return to them at the end of the HGU, but will instead return to the State. The research carried out for this report suggests that community leaders are being duped into signing

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<sup>76</sup> Recorded interview with community leader in oil palm expansion area, Sekadau District, West Kalimantan, 2006.

<sup>77</sup> Recorded interview with longhouse dweller, Sintang District, West Kalimantan, 2006.

<sup>78</sup> Recorded interview with rubber farmer, Sekadau District, West Kalimantan, 2006.

<sup>79</sup> p.171, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

<sup>80</sup> p.179, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

agreements which they think entail temporary transfers of use rights, when the government or company representatives know that they are actually agreeing to the extinguishment of their rights in land. This is reported to occur even when government agencies facilitate negotiated transfers of community lands to companies.<sup>81</sup> One community leader said:

*“They told us they would make compensation payments for the land. They said that if the oil palm failed, they would give back the land to the owner. They would only borrow the land for 25 years. That is what the company people told us.”*<sup>82</sup>

#### **2.5.4 Lack of clear negotiations on the allocation of oil palm smallholdings**

According to an agrarian specialist, when companies promise to hand smallholdings over to communities as part of plantation development plans:

“this promise is never backed up in writing in the letter agreeing to handing over land. It is only a spoken promise. This omission is used by the company in order to avoid handing over smallholdings since there is no written proof”.<sup>83</sup>

Another complaint frequently made by communities is that they are not consulted on the model of smallholding allocation. Companies offer different models such as 7.5:2 where for every 7.5 hectares relinquished by the community the company operates five hectares of nucleus plantation directly and the community is offered two hectares of smallholdings or 9:1 where for every 10 hectares of land relinquished, one hectare of smallholding returns to the community. Clearly some models are more beneficial to the community, but communities are rarely involved in decisions surrounding these models. One community member stated:

*“At the time it was not clear to me how they intended to organise the distribution of plots once the oil palm was planted. They said they used a proportion of 9:1, but we do not understand what that means.”*<sup>84</sup>

In 1995 in Sanggau District, West Kalimantan, communities rejected the model offered by PT SIA and the district head, and proposed a model more beneficial to farmers. The company refused and responded by stating that their proposed model was “in accordance with existing local government regulations.”<sup>85</sup> In imposing the model, “the communities felt that PT SIA and the government had effectively rejected their existence as a people governed by customary law and had ignored their customary rights in land, and was simply taking over their land for their own interests.”<sup>86</sup>

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<sup>81</sup> p.16, Colchester, M., et al., *Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre*, 2006.

<sup>82</sup> Recorded interview with community leader in oil palm expansion area, Sekadau District, West Kalimantan, 2006.

<sup>83</sup> Hari Sutanta, Negara patut disalahkan atas terjadinya konflik agraria di Indonesia, 8 March 2007, <http://www.beritabumi.or.id/berita3.php?idberita=727>

<sup>84</sup> Recorded interview with community member in expansion area, Sekadau District, West Kalimantan, 2006.

<sup>85</sup> p.171, Colchester, M., et al., *Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre*, 2006.

<sup>86</sup> p.127, Colchester, M., et al., *Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre*, 2006.

## **2.6. Land Acquisition in Practice: Permit Irregularities**

### **2.6.1 Land Clearance Outside HGU Boundaries**

There are allegations of land clearance taking place outside of the HGU boundaries. For instance WALHI reported in 2005 that PT PSA cleared 2,880 hectares outside of their HGU in Lancang Kuning, Riau, Sumatra.<sup>87</sup> In North Sumatra the National Land Agency found in 2004 that state-owned oil palm company PTPN II had developed over 19,000 hectares of plantations outside of their permit areas.<sup>88</sup>

### **2.6.2 Land Clearing without permits**

Incidents of land clearance taking place without the required permits having been issued are reported.

- The Semunying Jaya community accused PT Ledo Lestari of the Duta Palma group of companies of starting land clearance operations without an EIA (and without a land clearing permit, a forest use licence or a HGU) in West Kalimantan in 2005.<sup>89</sup>
- A previous Friends of the Earth study points to land clearing taking place without required permits, expansion outside concession boundaries and illegal burning.<sup>90</sup>

### **2.6.3 Problems with Environmental Impact Assessments**

Numerous serious problems arise because Environmental Impact Assessments (EIAs), commonly known as AMDAL, are not properly undertaken and often provide misleading or inaccurate information.

- A report by Milieudefensie accused Wilmar Group subsidiaries (PT ANI, PT WSP, and PT BCP) of clearing land without approved environmental impact assessments or other necessary licences.<sup>91</sup> PT WSP allegedly began clearing land in late 2005 but only obtained a location licence (izin lokasi) on 7 April 2006.<sup>92</sup>
- Even when EIAs are issued there are complaints that these are 'copy-and-paste' exercises whereby an EIA report compiled for one company is used as a mould for another plantation company. Evidence of this practice was allegedly found in an EIA report prepared for PT WSP, which listed elephants as possible pests affecting the company's oil palm plantations although elephants are neither pests nor are they found in West Kalimantan any longer.<sup>93</sup>

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<sup>87</sup> *Kembalikan Tanah Pada Petani, Tangkap dan Adili Pimpinan PT. PSA dan Surya Dumai Group, WALHI, May 2005*, [http://www.walhi.or.id/kampanye/hutan/shk/050504\\_tambusai\\_if/](http://www.walhi.or.id/kampanye/hutan/shk/050504_tambusai_if/)

<sup>88</sup> DPR RI temukan 19.093 ha lahan dikuasai PTPN II di luar HGU, <http://www.smeru.or.id/beritadaerah/files/20040826lahanptpndiluarhgulbhmedan.htm>

<sup>89</sup> p.58, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>90</sup> p.27, Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

<sup>91</sup> p.36, Policy, Practice, Pride and Prejudice - Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia), Milieudefensie, Lembaga Gemawan and Kontak Rakyat Borneo, 2007.

<sup>92</sup> Saragih, J., Perampasan dan Pembakaran Lahan Masyarakat oleh PT Wilmar Sambas Plantation, Tandan Sawit, vol. 2/72007.

<sup>93</sup> p.41, Policy, Practice, Pride and Prejudice - Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia), Milieu Defensie, Lembaga Gemawan and Kontak Rakyat Borneo, 2007.

Government agencies such as the Ministry of State Planning (BAPPENAS) admit that many companies operate without EIAs, and can do so because law enforcement is weak.<sup>94</sup> Further problems regarding EIAs for palm oil mills are described in the section on water.

#### **2.6.4 Companies obtain permits only for clearing forest**

Many companies have obtained land use permits only for the purpose of clearing forest with no intention to plant oil palm. A well-known example is that of East Kalimantan where NGOs estimate that less than 10 percent of the three million hectares of East Kalimantan forest allocated to oil palm concessions has actually been converted into working plantations.<sup>95</sup> In January 2005 118 oil palm companies were operating in East Kalimantan over a total area of 1,766,462 hectares. Of these only 54 had land use permits (HGU) and plantation business permits (IUP). Only 32 of these companies planted oil palm over no more than 124,096 hectares.<sup>96</sup>

#### **2.6.5 Corruption**

With responsibility for issuing plantation permits devolved to the districts, there are plenty of allegations and some evidence that officials sometimes use the permit process to obtain personal benefits.

Many local officials are reportedly offered payments, areas of oil palm, or bribes in kind and as such they all have an interest in the community handing over its land. A payment of Rp. 200,000 to an accountant can make the land transfer look like a legitimate investment.<sup>97</sup>

In an article published on the Malaysian National News Agency website in September 2007, Ryaas Rasyid, a member of Indonesia's House Commission II (Komisi II DPR) alleged that regional corruption was on the rise. He stated that "Regional autonomy has transferred powers and money from the central to provincial administrations while the handling of money and power in the regions had poor supervision from Jakarta", and that "planning contains many loopholes for the authorities to engage in embezzlement". The article also suggested that "abuses were committed in the granting or issuance of business permits" by governors, district heads and other high-ranking officials.<sup>98</sup>

If bribes for permits are as substantial and frequent as the circumstantial evidence indicates, they represent a heavy investment for any company before operations begin.<sup>99</sup> In order to recoup this investment, companies need to obtain community land quickly and may be less inclined to apply free, prior and informed consent when engaging with communities.

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<sup>94</sup> p.IV-34, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

<sup>95</sup> p.41, Too High a Price: The Human Rights Cost of the Indonesian Military's Economic Activities, Human Rights Watch, 2006. <http://hrw.org/reports/2006/indonesia0606/index.htm>

<sup>96</sup> Ade Fadli, Sawit untuk Kesejahteraan: Mimpi dan Kenyataan, Borneo Ecology and Biodiversity Conservation, 2005. <http://timpakul.hijaubiru.org/sawit-5/>

<sup>97</sup> Allegations made by oil palm company Community Liaison Officer, Riau, 2007.

<sup>98</sup> Indonesia: Many Corruption Cases In Regions Because Of Poor Supervision, Bernama, September 10 2007. [http://www.bernama.com/bernama/v3/news\\_lite.php?id=284157](http://www.bernama.com/bernama/v3/news_lite.php?id=284157)

<sup>99</sup> VII-9, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.



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### 3. LAND DISPUTES AND CONFLICT

*“This all used to be the community's land! It was all seized [by the company]. It was defending this land that two of our men got killed. They were kidnapped and killed. Just because they wanted to defend this land, close to that [palm oil] factory over there. We do not know who killed them and it has never been investigated.”<sup>100</sup>*

The rapid expansion of oil palm plantations in Indonesia continues to lead to hundreds of disputes and conflicts over land, involving demonstrations, land occupations, displaced persons, arrests, beatings, torture and deaths.<sup>101</sup> Organisations such as Sawit Watch, which are monitoring plantation expansion, believe that the number of conflicts is on the increase and that further large-scale oil palm expansion will result in more conflicts unless the rights issues around plantation expansion are addressed.

While recognising that the issues raised require further in-depth study, this chapter makes an initial attempt to analyse conflicts in the Indonesian oil palm sector by:

- Exposing the scale of conflict taking place in Indonesian oil palm plantations.

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<sup>100</sup> Recorded testimony of community leader, Riau, Sumatra, July 2006

<sup>101</sup> KPA (Konsorsium Pembaruan Agraria – the Consortium for Agrarian Reform) data related in p.30, Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

- Providing illustrative case studies of ongoing conflicts dating back to forced militarised land expropriation during the Suharto era, and of conflicts related to recent rapid new oil palm plantation expansion.
- Giving an overview of some of the aggravating factors which explain why oil palm conflicts build up, intensify, and persist over time.

This chapter focuses on oil palm related conflicts between communities and companies, and between communities and local government. It does not attempt to address related conflicts which arise between and within communities. These so-called horizontal conflicts are also complex, and they are often symptoms of the unjust policies and illegitimate practices employed by the oil palm industry in order to obtain land.

The majority of conflicts follow a similar pattern:

- “Land on which local communities have longstanding claims and are often growing tree crops or harvesting non-timber forest products, are allocated to a company without consultation with the community.
- People protest to the company and local officials, and often the company makes promises of compensation, participation in the plantation scheme, or other enticements.
- The company does not honour its promises and the community again protests to local government and company officials.
- Nothing is done to meet their demands, and local people take action, destroying or confiscating equipment and vehicles, occupying basecamps, preventing plantation staff from working, and the like.
- The company hires local police or military...to retaliate, and more violence ensues.”<sup>102</sup>

One commodity guide found that with oil palm plantations, “disputes arise with previous land users/owners who are often disadvantaged groups with high dependency on natural resources. Issues include loss of farmland and loss of access to forest resources for use and sale.” The guide also noted that there are “particularly severe problems in Indonesia where national and local tenure systems conflict”.<sup>103</sup>

While other factors described in this chapter add to the frequency, intensity, and duration of conflicts, this lack of recognition of indigenous peoples’ rights continues to be the key underlying cause. The link between conflict and the failure to respect these rights was acknowledged in August 2007 by the UN Committee on the Elimination of Racial Discrimination:

*“The Committee notes with deep concern reports according to which a high number of conflicts arise each year throughout Indonesia between local communities and palm oil companies. The Committee is concerned that references to the rights and interests of traditional communities contained in*

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<sup>102</sup> Adapted from: p.138, Barber C., Forests, Fires and Confrontation in Indonesia Forest, In Matthew, R., M. Halle, and J. Switzer., *Conserving the Peace: Resources, Livelihoods and Security*, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002.

<sup>103</sup> p.37, Better Management Practices Project for IFC and WWF-US: Phase 2 Commodity Guides. IIED, ProForest, Rabobank, 2004. Although Rabobank collaborated on the project, the report contains a disclaimer stating that the report does not necessarily reflect the views of Rabobank on all issues.

*domestic laws and regulations are not sufficient to guarantee their rights effectively.”<sup>104</sup>*

The International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, both of which have been ratified by Indonesia, contain provisions which protect people from arbitrary arrest, prolonged detention without trial, ill-treatment and torture, and guarantee the right to life. Despite this protection, violations of these are rights are frequent in the context of law enforcement around plantation disputes.

It is beyond the scope of this report to assess the impact of conflict on the oil palm sector itself. Nonetheless it is probable that the numerous conflicts described in this chapter may have the following impacts:

- Companies have to make significant payments to secure plantations: to officials for obtaining permits; to community liaison officers who attempt to convince communities to hand over land; to village officials for the same purpose; and to security forces such as police and private militias controlling the plantations.
- Conflict adds to company costs when communities refuse to hand over land, leading to patch-work plantations that are difficult to operate.
- Other costs to companies include lost harvests when communities occupy disputed land or harvest disputed oil palm areas. A reported example of this was a three-day strike by smallholders in Jambi province in June 2006 where lost revenue for oil palm company PT SAL, as a result of fresh fruit bunches not being harvested, led to an estimated loss of Rp. 12 billion (£670,000).<sup>105</sup>
- Conflicts and human-rights abuses in the oil palm plantations lead to reputational risks for companies already impacted by successive reports demonstrating the widespread environmental destruction associated with the industry.

### **3.1 Scale of Oil Palm Related Conflict**

As of January 2008, Sawit Watch was monitoring 513 active conflicts between companies and communities in the oil palm plantation sector in Indonesia. These conflicts involved 135 companies from 23 groups. Both private and state-owned companies were implicated. Sawit Watch believes there may in fact be as many as 1,000 communities in oil palm related conflicts in Indonesia.<sup>106</sup> In June 2007 the director of KPA (Konsorsium Pembaruan Agraria – the Consortium for Agrarian Reform), which has extensively documented land related conflicts in Indonesia, stated that both the frequency and the intensity of agrarian conflicts in Indonesia were on the increase.<sup>107</sup> According to its data, during the first four months of 2007

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<sup>104</sup> p.4, Concluding observations of the UN Committee on the Elimination of Racial Discrimination on the Initial and Third Reports of Indonesia, UN Doc. CERD/C/IDN/CO/3, 15 August 2007.

<sup>105</sup> Partnership in Oil Palm Plantations; The Mask of Oppression, Yayasan Keadilan Rakyat (YKR), Jambi, 2006.

<sup>106</sup> Sawit Watch, Data Kasus Konflik 2008, January 2008. Also communication from Sawit Watch Staff, January 2008.

<sup>107</sup> Sri Hartati Samhadi, Reformasi Agraria yang Setengah Hati, Kompas, 30<sup>th</sup> June 2007.  
<http://www.kompas.com/kompas-cetak/0706/30/Fokus/3643428.htm>

alone, 13 conflicts – of which five were oil palm related – resulted in community members being arrested, shot and in one case killed.<sup>108</sup>

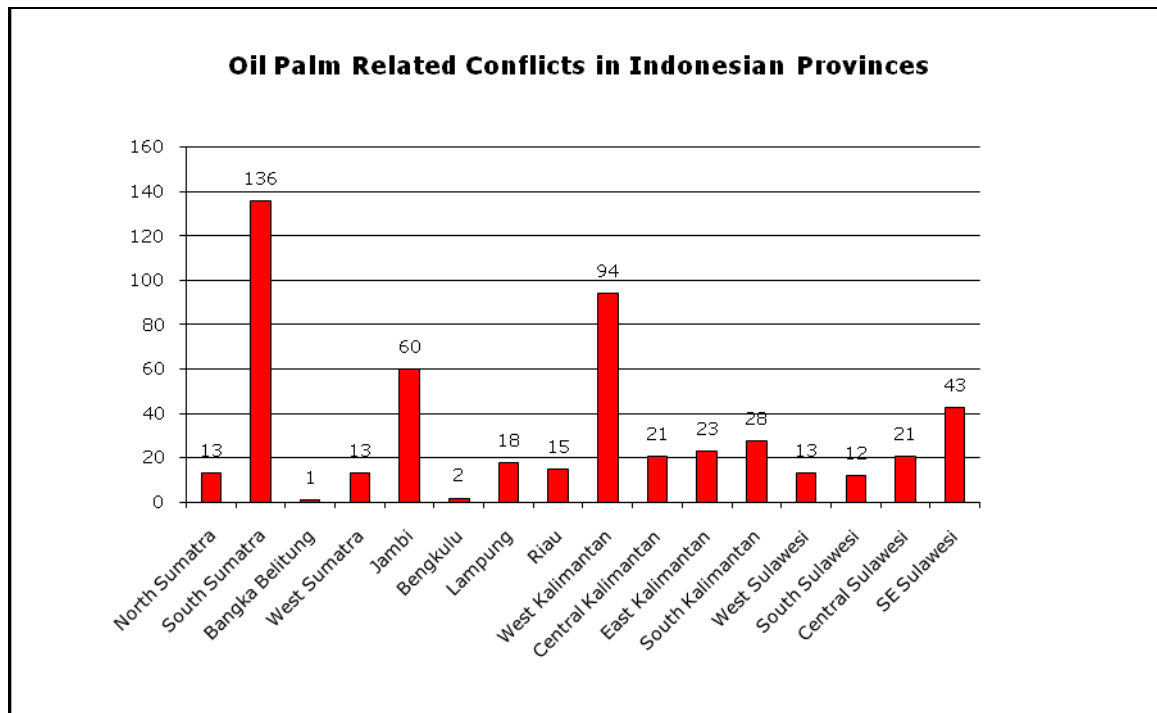


Figure 1: Oil Palm Conflicts across Indonesia, based on Sawit Watch data, 2008<sup>109</sup>

The level of conflict in oil palm plantations is not new. One regional study from 2000 reported that all 81 oil palm plantations in South Sumatra had experienced land dispute problems with local communities.<sup>110</sup> Information collated by the Consortium for Agrarian Reform (KPA) from media sources and by member organisations in 19 provinces showed that between mid-1998 and early 2002:

- At least 479 local people and activists defending community rights were tortured in 41 conflicts.
- At least 12 were killed in 14 conflicts.
- At least 134 were shot in 21 cases.
- At least 25 were abducted in seven cases.
- At least 936 were arrested in 77 cases.
- At least 284 houses or huts were burned down or destroyed in 25 cases.
- No less than 307,954 hectares of peasants' land was affected by crop damage, destruction and burning.

<sup>108</sup> KPA, Laporan Perkembangan Konflik Agraria Periode Januari-April 2007, [http://www.kpa.or.id/index.php?option=com\\_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1](http://www.kpa.or.id/index.php?option=com_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1)

<sup>109</sup> Sawit Watch, Data Kasus Konflik 2008, January 2008.

<sup>110</sup> Kartodihardjo, H. and Supriono, A. (2000), The impact of sectoral development on natural forest conversion and degradation – The case of timber and tree crop plantations in Indonesia, CIFOR Occasional Paper No. 26, in p.29, Better Management Practices Project for IFC and WWF-US: Phase 2 Commodity Guides, IIED, ProForest, Rabobank, 2004.).



- No less than 1,901 peasants and activists were threatened in 157 cases.<sup>111</sup>

Such conflicts over plantation development or land are not limited to oil palm. The Consortium for Agrarian Reform (KPA) has also recorded 1,753 cases of agrarian protests across Indonesia between 1970 and 2001. Some 20 per cent of these were local people protesting against large-scale plantation corporations, involving 1.3 million hectares of land and nearly 258,000 households.<sup>112</sup> The Centre for International Forestry Research (CIFOR) identified 359 conflicts occurring in the forest sector in Indonesia between 1997 and 2003.<sup>113</sup>

## **3.2 Factors Exacerbating Conflict**

The rapid expansion of oil palm plantations, and the government policies and company practices described in the chapter on land are the main factors driving conflict. Other factors include unfulfilled promises around small holdings, historical grievances, the impact of transmigration and environmental degradation.

### **3.2.1 Historical Grievances**

During the Suharto 'New Order' period between 1967 and 1998, Indonesia strengthened state rights over most of the national territory and invited both state-owned companies (PT. Perkebunan Nusantara - PT.PN) and private sector companies to open large-scale oil palm plantations as well as other plantations and extractive industries.

Decisions for the allocation of land use were made by central government on the basis of information obtained from local government. The entire system of government was militarised with a majority of village heads, sub-district chiefs, district chiefs, provincial governors and local parliament members selected from military staff or from civilians supporting the military.<sup>114</sup>

During the New Order period, communities were unable to negotiate directly with companies when new oil plantations were established as the government usually represented the companies in negotiations. The government used military officers to intimidate communities into handing over land in the name of national stability and development and accepting company operations.<sup>115</sup> A community leader from a village in Sanggau District, West Kalimantan explained what he was told by a member of the armed forces when his village's land was taken over at the time:

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<sup>111</sup> Information from KPA (Konsorsium Pembaruan Agraria), translated and published in *Down to Earth* No 52, February 2002, and cited on P31, Wakker, E. *Greasy Palms – The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia*, Friends of the Earth, 2005

<sup>112</sup> Bachriadi, 2002 quoted in Afrizal, p.1, *The Nagari Community, Business and the State: The Origins and the Process of Contemporary Agrarian Protests in West Sumatra, Indonesia*, Sawit Watch / Forest Peoples Programme, Bogor, 2007.

<sup>113</sup> [http://www.cifor.cgiar.org/PressRoom/News/2007/news2007\\_2.htm](http://www.cifor.cgiar.org/PressRoom/News/2007/news2007_2.htm), Kompas - 30 January 2007\_Title: Hutan, Banjir, dan Nasib Si Miskin

<sup>114</sup> For discussion of the role of the armed forces of the republic of Indonesia (ABRI) in civilian life during the New Order period see for instance: *Civil Military Relations: The Role of ABRI in Indonesian Socio-Political Life*, Lieutenant Colonel I Gede Wajan Sardjana, Master's Thesis, Naval Postgraduate School, Monterey, 1995.

<sup>115</sup> p.76, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

*“He said this was State land and we had no right to it. No matter whether it was the land where we grew our crops, built our houses or used as homegardens, he said, it was State land and they were going to take it. He threatened that if I opposed this, they would put me in jail. We felt helpless as small people and were afraid of the green and yellow uniforms, so we gave up. But I asked: what is to become of us, who live here, if all this land is converted into a plantation?”<sup>116</sup>*

Indigenous communities that refused oil palm development were accused of being pro-communist and anti-development.<sup>117</sup> During this period there were repeated cases of displacements and human rights abuses.<sup>118</sup> At this time the government also implemented the PIR-Trans (Perkebunan Inti Rakyat Transmigrasi, or nucleus estate smallholder scheme with transmigration), which brought transmigrants principally from the heavily populated islands of Java, Madura and Bali, to work on oil palm plantations as labourers or as smallholders, often resulting in conflict between local people and transmigrants.<sup>119</sup>

Local communities continue to call for redress and justice for past human rights abuses and other injustices which occurred during the New Order period. The downfall of President Suharto in 1998 emboldened local communities to call for redress for these grievances, and led to renewed conflicts during the reform era.<sup>120</sup> Many of these conflicts are still ongoing today.

### **3.2.2 Present company practices in obtaining land**

*“It is often the case that we, the local land-owners, are the last ones to know about our land being used for palm oil. One month ago my land was suddenly marked by the company PT Bahari Lestari. The company wanted to include my land as part of the palm plantation they were developing. So, they cut my Nipah trees [a type of tree which people make into roofs] in order to do that. I told them ‘this land is my land; you cannot just seize my land.’ They said they would pay compensation but until now I have received nothing. My neighbour’s land was also taken in the same way. Some of us have land certificates, but it makes no difference. I have lost my land.”<sup>121</sup>*

The period between 1998 and 2007 has been characterised by rapid new growth of oil palm plantations, from under three million hectares<sup>122</sup> to over seven million hectares of oil palm estates according to present estimates. The rapid expansion of plantations in itself is a major

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<sup>116</sup> Recorded testimony of community leader, West Kalimantan, January, 2006

<sup>117</sup> See Pergulaan case-study below.

<sup>118</sup> Detailed information on human rights abuses during the New Order period can be obtained from Amnesty International ([www.amnesty.org](http://www.amnesty.org)) and Human Rights Watch ([www.hrw.org](http://www.hrw.org)).

<sup>119</sup> p.23, Casson, A., The Hesitant Boom: Indonesia’s Oil Palm Sub-Sector in an Era of Economic Crisis and Political Change, CIFOR Occasional Paper No. 29, 2000.

<sup>120</sup> p.271, Afrizal, The Nagari Community, Business and the State, Sawit Watch and Forest Peoples Programme, 2007; p.13, Casson, A., The Hesitant Boom: Indonesia’s Oil Palm Sub-Sector in an Era of Economic Crisis and Political Change, CIFOR Occasional Paper No. 29, 2000.

<sup>121</sup> Interview with Tumingan from Bandar Baru village, Tamiang District, 1 July 2006, quoted in p.17, The ‘Golden’ Crop? Palm Oil in Post-Tsunami Aceh, Eye on Aceh, September 2007, [www.aceh-eye.org](http://www.aceh-eye.org)

<sup>122</sup> p.22, Colchester, M., et al., Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

factor in explaining high levels of conflict, particularly given the ongoing lack of recognition of indigenous and local community land rights, and irregular company practices which are leading to resentment and a sense of helplessness among affected communities. This in turn is leading to civil unrest, protests, demonstrations, arrests, injuries and even deaths.

However, many conflicts have also arisen between villagers and oil palm companies when promises made by the companies with regard to oil palm smallholdings have not been fulfilled. The complex problems surrounding smallholding allocations are described in detail in the chapter on economics in this report. In summary the problems which most commonly lead to conflicts include:<sup>123</sup>

- Some communities are not given smallholdings at all.
- The process of handing over the smallholdings is neither fair nor transparent, and often does not respect initial agreements between the company and the communities.
- Many companies do not hand smallholdings to communities at the agreed planting age, leading to economic losses for communities.
- Communities may not know that they will be burdened with debt, and levels of debt are decided by companies, government and banks with no smallholder involvement.
- Company promises of infrastructural development and other support to communities do not materialise, leading to resentment.
- Difficulties arise in the distribution of smallholdings. Communities variously report that smallholdings are on the least fertile land; far from roads and mills; given preferentially to individuals that helped the company obtain land; and given on neighbouring communities land rather than on their own.
- Community resentment that the price of fresh fruit bunches is set by the company with no smallholder involvement; a lack of company or government maintenance of roads leading to smallholdings; and a lack of company support for re-planting a second 25-year cycle of oil palm.

### **3.2.3 The role of the judiciary and security forces**

*“Our people just don't know how to refuse it. They want to refuse it but do not know how to go about it. If we become violent, they will answer with more violence. Even to their meetings with communities they bring their security guards. We refuse to hand over our land, none of us wants to give up our land. We would rather be dead than disgraced. We own nothing but our land.”<sup>124</sup>*

Widespread corruption in the judiciary removes any notion of equality before the law and any concept of impartiality. Many communities feel that given the overt or perceived complicity of the security forces in local disputes, the frequent lack of successful approaches and tactics such as community declarations, letter-writing and lobbying of local government officials, as well as the unrealistic prospect of redress through the legal system, they have no choice but to undertake actions such as land occupation, illegal harvesting of crops, demonstrations, blockading roads to mills, obstructions to re-planting a second cycle of oil palm and in some

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<sup>123</sup> These problems are all discussed in detail in this report, section 4.2 Economic Realities for Estate Smallholders. Smallholder complaints also addressed in, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>124</sup> Recorded interview, Rubber Farmer, Sekadau District, West Kalimantan, 2006. – Pak Kadri

cases burning down of plantations.<sup>125</sup> These illegal actions frequently lead to the intervention of security forces and an escalation of conflict.

According to international human rights groups such as Human Rights Watch, long standing impunity and a lack of accountability of the security forces have not only undermined communities' confidence in the ability and willingness of the security forces to enforce law and order, but have also led directly to human rights abuses against forest communities by those forces, fuelling resentment and leading to further conflict.<sup>126</sup>

In the oil palm sector, as in other forest sectors such as the pulp and paper industry, there are reports of the frequent involvement of the military, the police as well as private militias in plantation conflicts.<sup>127</sup> Members of the security forces have verbally and physically intimidated and threatened community members, arbitrarily detained community members, and used excessive force in law enforcement activities around plantation disputes in some cases leading to the deaths of villagers. They have also been used to silence dissent and have failed to prevent or to intervene in response to violence including assault of community members by hired thugs or company militias.<sup>128</sup>

In 2001 data from the Consortium for Agrarian Reform (KPA) indicated that the military was involved in half of all plantation related conflicts.<sup>129</sup> In Siak District, Riau in April 2007 private militias allegedly working for PT Arara Abadi, a pulp plantation company, reportedly used clubs, shields, German Shepherd dogs and tear gas to remove local community members occupying land in protest against the company's decision to remove a small-scale independent oil palm plantation in order to plant acacia for pulp.<sup>130</sup>

Conflict is also fuelled by the police, military and militias' pursuit of their own interests, which are often contrary to those of communities. Historically the Indonesian military has held considerable power in Indonesian society, and although this has decreased since the fall of President Suharto, it remains a powerful force. Its widespread deployment at the local level in parallel to civilian administrations provides many opportunities for individual soldiers and units to exploit their positions to advance or protect their economic interests.<sup>131</sup>

Both the armed forces and police have a reputation for corruption and are deeply involved in economic activities. In 2002 the State Minister for the Environment, commenting on oil palm plantations and burning, remarked that it was an "organized crime which often involves

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<sup>125</sup> See for example: Jefri Gideon S., *Kriminalisasi Massal Dibalik Janji Manis Ekspansi Perkebunan Sawit*, pp.15-17, Tandan Sawit, Vol.1, 2007, Sawit Watch; p.16, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch*, 2006.

<sup>126</sup> See for example: *Without remedy, Human Rights Abuse and Indonesia's Pulp and Paper industry*, Human Rights Watch, Vol. 15, No. 1 (C), January 2003.

<sup>127</sup> Communication from Sawit Watch Staff, December 2007.

<sup>128</sup> p33-44, *Without remedy, Human Rights Abuse and Indonesia's Pulp and Paper industry*, Human Rights Watch, Vol. 15, No. 1 (C), January 2003.

<sup>129</sup> p.29, Wakker, E., *Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia*, Friends of the Earth, 2005.

<sup>130</sup> KPA, *Laporan Perkembangan Konflik Agraria Periode Januari-April 2007*, [http://www.kpa.or.id/index.php?option=com\\_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1](http://www.kpa.or.id/index.php?option=com_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1)

<sup>131</sup> p.9, HRW: *Too High a Price, The Human Rights Cost of the Indonesian Military's Economic Activities*, 21 June 2006

government officials and military officers....Many companies feel free to burn because government officials or military officers back their activities".<sup>132</sup>

A report published in April 2006 on the proposed project to develop a 1.8 million hectare plantation on the Indonesian Kalimantan / Malaysian Sarawak border stated that the Indonesian military's "support to the mega-project is most likely driven by attempts to regain income and control over resource exploitation in the border area".<sup>133</sup> Sometimes the local police are also reportedly offered areas of oil palm in exchange for their support.

### **3.2.4 Transmigration**

Transmigration is the practice of resettling people from the densely populated inner islands (Java, Bali, Madura) to less densely populated outer islands such as Sumatra, Borneo and Papua.<sup>134</sup> The policy of transmigration was initiated under Dutch colonial rule, and continued to be official policy for post independence Indonesian governments. Between 1950 and 2000, government transmigration schemes resettled over 6,270,000 people. A large number of these were resettled as labourers or smallholders for monoculture plantations, including oil palm estates.<sup>135</sup> Transmigrants were frequently given land which local and indigenous peoples considered to be their customary land. In some cases, land given to the transmigrants was unsuitable for agriculture increasing the likelihood of conflict between transmigrants and indigenous peoples for forest resources.<sup>136</sup>

The declared aims of transmigration were to achieve a more balanced demographic development; to alleviate poverty by providing land and new opportunities to generate income for poor landless settlers; and to exploit more effectively the "potential" of the "outer islands".<sup>137</sup> Critics, however, alleged that transmigration led to further pressure on natural forests; was politically inspired to control the indigenous population of the outer islands; violated customary land rights and was aimed at the forced assimilation of indigenous peoples and forest dwellers.<sup>138</sup> Transmigration has furthermore led to increased religious and ethnic tensions between local Christian inhabitants and Muslim migrants and has been overtly used in an attempt to weaken nationalist or separatist tendencies in areas such as Papua and East Timor.<sup>139</sup>

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<sup>132</sup> State Minister of Environment Sony Keraf, quoted in p.134, Barber, C., *Forests, Fires and Confrontation in Indonesia Forest*, In Matthew, R., M. Halle, and J. Switzer., *Conserving the Peace: Resources, Livelihoods and Security*, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002.

<sup>133</sup> p.7-10, Wakker E., *The Kalimantan Border Oil Palm Mega-project*, Commissioned by Milieudefensie and the Swedish Society for Nature Conservation (SSNC), April 2006.

<sup>134</sup> Table 1: Transmigration Figures 1950 - 2000, in Adhiati A. and Bobsien A. (ed.) *Indonesia's Transmigration Programme - An Update*, Down to Earth, 2001, <http://dte.gn.apc.org/ctrans.htm#workon>

<sup>135</sup> p.142, Barber C., *Forests, Fires and Confrontation in Indonesia Forest*, In Matthew, R., M. Halle, and J. Switzer., *Conserving the Peace: Resources, Livelihoods and Security*, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002

<sup>136</sup> p.135, Barber C., *Forests, Fires and Confrontation in Indonesia Forest*, In Matthew, R., M. Halle, and J. Switzer., *Conserving the Peace: Resources, Livelihoods and Security*, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002

<sup>137</sup> Introduction in Adhiati A. and Bobsien A. (ed.) *Indonesia's Transmigration Programme - An Update*, Down to Earth, 2001, <http://dte.gn.apc.org/ctrans.htm#workon>

<sup>138</sup> Introduction in Adhiati A. and Bobsien A. (ed.) *Indonesia's Transmigration Programme - An Update*, Down to Earth, 2001, <http://dte.gn.apc.org/ctrans.htm#workon>

<sup>139</sup> Human Rights Watch, *Background briefing on Indonesia: Urgent Action Needed to Halt Communal Violence*, 9 December 1998

Some critics considered transmigration to be a contributory factor in conflicts over land:

*“The development of a transmigration site adds an ethnic/regional, and sometimes religious, dimension to conflicts over land and forest resources. Many conflicts at transmigration sites are outwardly ‘ethnic’ conflicts between local communities and the Javanese migrants – but access to forest lands and resources is almost always a significant element of what they are fighting over. In case after case, indigenous inhabitants and transmigrants have clashed, sometimes bloodily.”*<sup>140</sup>

Economic grievances and competition over resources as a result of decades of transmigration are believed to have been significant contributory factors to repeated outbreaks of communal violence between local Dayak populations and Madurese transmigrants in Central Kalimantan in which hundreds of people were killed. In 2001 during one such outbreak, around 500 Madurese immigrants including women and children were killed and over 150,000 people displaced.<sup>141</sup> Between December 1996 and March 1997 approximately 500 Madurese migrants were also killed and 20,000 displaced following inter-communal violence attributed by some to the increasing economic and political marginalisation of the Dayak community, to which transmigration was perceived to be a contributory factor. The government response to the violence led to further human rights violations including arbitrary arrests, ill-treatment and detention without trial, while those behind the majority of the murders and violence were not brought to justice.<sup>142</sup>

Since 2000 transmigration has no longer been pursued on the same scale by the government. Nevertheless Indonesian Ministry of Manpower and Transmigration data in 2004 suggested that the outer islands could accommodate a further one million transmigrant families, particularly in Kalimantan, Papua, Sumatra, Maluku and Sulawesi – all areas with large planned oil palm development.<sup>143</sup> In addition data from the Ministry website in 2007 reveals that a number of private oil palm companies are developing company funded transmigration schemes.<sup>144</sup> During the field-work for this report, communities frequently reported company-sponsored ‘transmigration’ to new plantations.

Both existing and new transmigration can be contributory factors in oil palm related conflicts, particularly in sensitive areas such as Papua or Maluku.

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<sup>140</sup> p.142, Barber C., *Forests, Fires and Confrontation in Indonesia* Forest, In Matthew, R., M. Halle, and J. Switzer., *Conserving the Peace: Resources, Livelihoods and Security*, IISD, IUCN, CEESP, Foreign and Commonwealth Office, 2002.

<sup>141</sup> See for example: Human Rights Watch World Report 2001, *Indonesia: Human Rights Developments*; International Crisis Group (ICG), *Communal Violence in Indonesia: Lessons from Kalimantan*, Asia Report N°19, 27 June 2001.

<sup>142</sup> Human Rights Watch, *West Kalimantan: Communal violence in West Kalimantan*, December 1997.

<sup>143</sup> *Konsep Transmigrasi Sebagai Alat Pembangunan Daerah*, Tabel 1. Sebaran dan potensi kawasan transmigrasi menurut provinsi, DepNakerTrans, 2004.

[http://www.nakertrans.go.id/statistik\\_trans/BERITA%20TRANS/2004/Juni/WPT,LPT.php](http://www.nakertrans.go.id/statistik_trans/BERITA%20TRANS/2004/Juni/WPT,LPT.php)

<sup>144</sup> *Dinamika Transmigrasi, Rencana Penandatanganan MOU dengan Investor*, DepNakerTrans, 2007. [http://www.nakertrans.go.id/statistik\\_trans/DINAMIKA%20TRANS/2007/JUNI/DT\\_juni02.php](http://www.nakertrans.go.id/statistik_trans/DINAMIKA%20TRANS/2007/JUNI/DT_juni02.php)

### **3.2.5 Environmental Degradation**

Although further research is required, there are some indications that environmental degradation may aggravate oil palm related conflict. For example, in Persaguan hamlet, in Simalungun District, North Sumatra, oil palm company PT Kuala Gunung planned to create a canal taking water from the village to irrigate a nearby oil palm plantation but met opposition from the community on the grounds that the plantation land was still in dispute and that the canal would divert water from the local farmers' crops. On 19 April 2007, two police trucks and two PT Kuala Gunung private militias allegedly entered Persaguan village where they beat and arrested a number of members of the local farmers group FPNMH (Forum Petani Nagori Mariah Hombing). A total of 17 villagers were arrested on unclear grounds.<sup>145</sup> Several months later the arrested farmers reportedly remained in detention.<sup>146</sup>

## **3.3 Case Studies: Ongoing Conflicts from the Suharto era**

### **3.3.1 Pergulaan village, North Sumatra**

The village of Pergulaan, Serdang Bedagai District, North Sumatra was established at the end of 18th century by Javanese workers brought in by the Dutch Colonial administration to work on plantations. In 1939 the Pergulaan community cleared 431.5 hectares of forest for agriculture and housing. By 1955 the villagers had obtained a form of land titling and were paying tax on their land.

In 1968, the London-Sumatra Company (PT LonSum) obtained a HGU (land use permit) for oil palm and cacao plantations from the government, including land which the villagers of Pergulaan considered their own and derived their livelihood from. In 1974 villagers were allegedly forced by the company to hand over a total of 165.6 hectares of their land. Some were accused of being members of the communist party and were subjected to mental and physical torture. The villagers were also forced to sign over their crops to the company under pressure from the police and military officers.<sup>147</sup>

From 1998 onwards villagers repeatedly tried to claim back the land, which PT LonSum was using for oil palm and was about to re-plant for a second cycle of the crop. The villagers occupied the land on several occasions but were stopped by police and private guards. In December 1998 a collision between Brimob (Mobile Brigade / riot police) police and villagers led to a company vehicle being burnt and a villager being injured by rubber bullet.<sup>148</sup>

The community sought redress to the long-standing land dispute by lobbying district level, provincial and national authorities including ministers and the national parliament. With no solution found in March 2006, some 300 Pergulaan villagers once again occupied the

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<sup>145</sup> KPA, Laporan Perkembangan Konflik Agraria Periode Januari-April 2007, [http://www.kpa.or.id/index.php?option=com\\_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1](http://www.kpa.or.id/index.php?option=com_content&task=view&id=124&Itemid=53&PHPSESSID=c09c160474f3b33ad7cdea6339b26fa1)

<sup>146</sup> Haksoro A., Penangkapan Petani Simalungun, Warga Tuntut Kapolri Copot Kapolres, Voice of Human Rights News Centre, 11 June 2007. <http://www.vhrmedia.net/home/index.php?id=view&aid=4957&lang=>

<sup>147</sup> Khairul Ikhwan, Masyarakat Kuasai Kembali Lahan PT Lonsum, Detikcom, 20 March 2006, <http://jkt3.detiknews.com/index.php/detik.read/tahun/2006/bulan/03/tgl/20/time/185843/idnews/562282/idkanal/10>

<sup>148</sup> Khairul Ikhwan, Masyarakat Kuasai Kembali Lahan PT Lonsum, Detikcom, 20 March 2006, <http://jkt3.detiknews.com/index.php/detik.read/tahun/2006/bulan/03/tgl/20/time/185843/idnews/562282/idkanal/10>

contested plantation land and planted corn, banana and cassava as a way of demonstrating that the land was theirs. Eleven villagers were arrested on the charge of entering, occupying and damaging land and plantations belonging to PT LonSum. One villager by the name of Tumiran subsequently died, allegedly as a result of the pressure of the six-month court session.

In December 2006, the remaining 10 villagers were sentenced to up to a year in prison with a Rp.500,000 fine.<sup>149</sup> They have appealed against the verdict and sentence. Their current situation is unknown. Villagers again planted crops on the contested land, and in October 2007 private militias hired by PT. LonSum allegedly pulled up the community's crops.<sup>150</sup> The company reportedly went on to dig a security ditch which the villagers consider is blocking their access out of the area, leading to further clashes with police in November 2007.<sup>151</sup>

### **3.3 Case-Studies: Conflicts from New Plantation Expansion**

#### **3.3.1 Tambusai Timur village, Riau, Sumatra**

On 24 November 2004, thousands of villagers from Tambusai Timur and Kepenuhan Hulu villages, took part in a demonstration to protest about PT Panca Surya Agrindo<sup>152</sup> (PT PSA)'s continued occupation of and operations on customary land, seemingly with the tacit acceptance of the district authorities.<sup>153</sup>

During the demonstration, a group of militia members, allegedly armed by and working for the company,<sup>154</sup> arrived at the scene of the rally and proceeded to attack protesters. Irfan Rangkuti, aged 41, and Amran Lubis, aged 35, both of Tambusai Timur village, were cut and stabbed to death by private militias, armed with spears, arrows and swords. Another five men were wounded and one of these, Usman Siregar, died of his wounds several months later.<sup>155</sup>

Local police allegedly looked on while the attacks took place. Three days after the attack militia members were reportedly still present at the site of the crime. They had not been disarmed by the police.

The case was rooted in forced land appropriation which began in 1995 when PT PSA obtained a land use permit over 10,600 hectares of land from the Minister of Agrarian

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<sup>149</sup> Khairul Ikhwan, Petani Serdang Bedagai Divonis 1 Tahun Penjara, Detikcom, 13 December 2006, <http://jkt3.detiknews.com/index.php/detik.read/tahun/2006/bulan/12/tgl/13/time/190921/idnews/719790/idkanal/10>

<sup>150</sup> Anggota DPR minta PT LonSum Tunjukkan Iktikad Baik, Khairul Ikhwan, Detikcom, 26 October 2007. <http://www.detiknews.com/index.php/detik.read/tahun/2007/bulan/10/tgl/26/time/002728/idnews/845121/idkanal/10>

<sup>151</sup> Massa Bentrok dengan PT Lonsum, Khairul Ikhwan, Detikcom, Medan, 27 November 2007. <http://www.detiknews.com/index.php/detik.read/tahun/2007/bulan/11/tgl/27/time/193052/idnews/858406/idkanal/10>

<sup>152</sup> An oil palm company owned by the Duta Surya Group of companies.

<sup>153</sup> Sawit Watch, Dua Warga Tamusai Timur Terbunuh – Akibat Penyerangan Pamswakarsa PT. PSA, pp.1-3, Tandan Sawit Vol.1 Tahun 5, 2005.

<sup>154</sup> H. Abbas Jamil, and Al Azhar, Steps Taken for Tambusai Timur Case Settlement, letter addressed to Governor of Riau Province, based on an investigation carried out by FKPMR and a member of the Indonesian House of Representatives. Also: Gubri: Tragedi Berdarah di Rohul Harus Dituntaskan, Pemerintah Provinsi Riau, 28 July 2005. <http://www.riau.go.id/index.php?module=articles&func=display&ptid=1&aid=3772>

<sup>155</sup> Sawit Watch, Dua Warga Tamusai Timur Terbunuh – Akibat Penyerangan Pamswakarsa PT. PSA, pp.1-3, Tandan Sawit Vol.1 Tahun 5, 2005.



Affairs/Head of National Land Agency.<sup>156</sup> An investigation by a government team in 2001 into PT PSA's plantations found that the company was developing oil palm plantations without any formal licence over a further area of 2,880.8 hectares, including:

- 695 Ha of Suka Maju HPL Transmigration area (DK IV SKDP) in Tambusai Timur
- 2,185.8 Ha of customary (Ulayat) land of Tambusai Timur Village and Tambusai Utara Village

The team recommended the return of this land to the villagers, and asked for smallholdings to be developed for the transmigration village of Sukamaju, as well as for Tambusai Timur and Tambusai Utara villages. The Rokan Hulu District authorities decided to stop the land from being used either by the villagers or the company from April 2002 onwards.

However, PT PSA continued to harvest the plantations on this land, causing resentment amongst villagers. PT PSA was also not respecting an agreement between it and Kepenuhan Hulu village to develop 700 hectares of oil palm plantations with smallholdings.

In 2005 the Farmers Association for Justice (KAPUK) rejected a company and government offer of a smaller area of land on a neighbouring village's land since they believed this would cause further conflict between communities. They have continued to demand that those responsible for the deaths of the three men be brought to justice.<sup>157</sup>

### **3.3.2 Semunying Jaya village, Bengkayang District, West Kalimantan**

Semunying Jaya is a village in West Kalimantan situated near the border with Sarawak, Malaysia. The inhabitants are of the Iban group of Dayak indigenous peoples and have lived in the area since time immemorial. According to community testimonies, during the 1980s their customary lands were logged against their wishes by PT Yamaker Kalbar Jaya, a logging concessionaire and part of a foundation established by the Indonesian armed forces.<sup>158</sup> Further forest destruction on village lands was caused by state-owned company Perum Perhutani between 1998 and 2000 and after 2001 by PT Lundu, a Malaysian sawmill, which allegedly logged timber illegally on the Indonesian side of the border.

In 2002 PT Agung Multi Perkasa obtained permits to develop an oil palm plantation in the area. According to the community, the company had not planted any oil palm after two years of operations, and instead continued to illegally log customary forests and sell the timber across the Malaysian border. In 2004 the company's permit was suspended since no planting had taken place, and initial permits for a 20,000ha plantation were handed to another private oil palm company by the name of PT Ledo Lestari.

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<sup>156</sup> Decision Letter No. 42-VIII-1995 of the Minister of Agrarian Affairs/Head of National Land Agency dated October 30 1995 containing the transfer of Land Use Permit (HGU) from PT. Adei to PT.PSA and the change of crop type from Cacao into Oil palm crop extending over 10,600 Ha.

<sup>157</sup> Letter from KAPUK, Farmers Association for Justice, to the Regent of Rokan Hulu, 2005. Also: H. Abbas Jamil, and Al Azhar, Steps Taken for Tambusai Timur Case Settlement, letter addressed to Governor of Riau Province, based on an investigation carried out by FKPMR and a member of the Indonesian House of Representatives; Green, J., The Biofuel Time Bomb, The Mail on Sunday, 28 April 2007; *Kembalikan Tanah Pada Petani, Tangkap dan Adili Pimpinan PT. PSA dan Surya Dumai Group*, May 2005. [http://www.walhi.or.id/kampanye/hutan/shk/050504\\_tambusai\\_lf/](http://www.walhi.or.id/kampanye/hutan/shk/050504_tambusai_lf/)

<sup>158</sup> p.3, Wakker, E. The Kalimantan Border Oil Palm Mega-Project, commissioned by Milieudefensie – Friends of the Earth Netherlands and the Swedish Society for Nature Conservation (SSNC), April 2006

In March 2005 PT Ledo Lestari brought in heavy machinery to the area. No meetings were held with the community to discuss the company plantation plans. In July 2005 community rubber plantations were destroyed by the company during road-building activities. The community protested and fined the company under customary law. PT Ledo Lestari did not pay the fine and the community responded by seizing a company motorbike and protesting to the local police.

In August 2005 PT Ledo Lestari began to clear areas of land in Semunying Jaya including primary forest protected by the community for generations to ensure the irrigation of their rice fields, areas of community rubber plantations and other cash crops, secondary forest and sacred forests of spiritual significance to the community. Despite repeated community complaints in meetings with the company and district and sub-district authorities, the company continued to clear up to 9,000 hectares of community forest, apparently without a forest conversion licence (IPK – Izin Pemanfaatan Kayu).

On 12 December 2005 the community seized a Komatsu excavator and six Stihl chainsaws in an attempt to stop the forest clearance, and invited the company manager to come and discuss the situation. Instead the police allegedly threatened villagers that they could disappear in the middle of the night as in the anti-communist era. Between 30 January and 7 February 2006 two villagers were detained by the police.

In February 2006 villagers issued a declaration which stated “the Semunying Jaya community call upon you to respect the sovereignty of our land, the protection of our water and forest resources as we inform you that we still refuse any oil palm plantation in our area, in whatever form or shape it may be”. One of the reasons given by the community to refuse oil palm is that it will result in conflicts between communities.

Despite ongoing protests and interventions, the Semunying Jaya forests were once more being cleared by PT Ledo Lestari in early 2007. The community is now fearful of arrest and intimidation and does not know what further steps to take to protect its land.<sup>159</sup>

### **3.3.3 Conflict between Wilmar group and Senujuh village, West Kalimantan**

After a merger with the Kuok group of Malaysia goes through, Wilmar will become one of the largest oil palm companies in the world, with a plantation land bank of 573,000ha. It will become the largest trader of palm and lauric oils, the largest edible oil refiner, and one of the largest palm biofuel manufacturers in the world. Wilmar will handle about a quarter of global palm oil output. The Wilmar Group is rapidly expanding its West Kalimantan operations. One of the multiple companies under its management is PT WSP, 95 per cent owned by the family of the CEO (Chief Executive Officer) of Wilmar International.<sup>160</sup>

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<sup>159</sup> Information compiled from: Semunying Jaya Declaration; p.58, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007, and Sawit Watch field notes: Penggusuran Lahan untuk perkebunan kelapa sawit PT. Ledo Lestari Di Wilayah Masyarakat Adat Dayak Iban, Dusun Pareh, Desa Semunying Jaya, Kecamatan Jagoi Babang, Kabupaten Bengkayang, Propinsi Kalimantan Barat, 2006.

<sup>160</sup> p.71, Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Milieudefensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo July 2007

In November 2005 PT WSP started clearing land in the village of Senujuh, Sejangkung sub-district, Sambas district, without the knowledge or permission of the community, and without yet having obtained a legal permit. The company cleared rubber agroforests which the local community depended on for their livelihoods. The clearance continued despite community protests to local leaders, so on 19 March 2006 villagers “stopped 31 company workers, and confiscated an excavator and five chainsaws used by the workers to clear the community forest. Together with members of the local parliament and the Forestry Department, village officials wrote a letter to the company to remove its workers and equipment from Senujuh.”<sup>161</sup> The company manager apologised, and the communities returned the land clearing equipment. However further land clearing reportedly took place. Five hundred and sixteen villagers signed a public statement in February 2007 asking for all oil palm expansion to be stopped in their villages and expressing disappointment that their village head had given consent without consulting the community.

Wilmar said they respected the community’s decision. However Wilmar did not inform the community that by April 2006 PT WSP had in fact been given over to a subsidiary of the Ganda Group of companies owned by the brother of Wilmar’s CEO, Mr. Martua Sitorus.<sup>162</sup> This leaves open the possibility that the community would have to restart the process of trying to halt development of the plantation on their land.

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<sup>161</sup> p.45 Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Milieudefensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo July 2007.

<sup>162</sup> p.45-46 Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Milieudefensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo July 2007.



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#### **4. ECONOMIC IMPACTS OF OIL PALM ON LOCAL COMMUNITIES**

*“It’s said that people in the plantations are all rich. That’s not true. At most one third have done all right, but two thirds are worse off than before.”<sup>163</sup>*

The debate around oil palm expansion is sometimes framed in terms of trade-offs between the crop’s environmental impacts and the need for economic development.<sup>164</sup>

Many oil palm companies and local governments promote the crop as a pathway to rural development, job creation and poverty alleviation. The Malaysian Palm Oil Council claims for example that “the plantation industry drives economic growth. In short, this creates jobs for the poorest people, including native populations, triggers downstream activities, and brings in revenue for national development and stability.”<sup>165</sup> Al Halil Jamli, chief executive of the Indonesian National Team for Biofuel Development, claimed in 2007 that the main concern for the biofuel development programme was to reduce poverty and to create

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<sup>163</sup> Recorded interview, Oil Palm Smallholder, Bodok, Sanggau District, West Kalimantan.

<sup>164</sup> See for example p.5, Palm Oil: A Sustainable Future, Unilever, which identifies “the need to have a balanced trade-off between agricultural development and the protection of rain forests and natural habitats”, [http://www.unilever.com/Images/Palm%20Oil%20-%20A%20Sustainable%20Future%202002\\_tcm13-5315.pdf](http://www.unilever.com/Images/Palm%20Oil%20-%20A%20Sustainable%20Future%202002_tcm13-5315.pdf)

<sup>165</sup> p.5, Malaysian Palm Oil Council, Oil Palm - Tree of Life, 2006.  
<http://www.mpoc.org.my/download/publications/envo/Tree%20of%20Life.pdf>

employment.<sup>166</sup> As a result, many commentators assume that oil palm plantations will also result in economic benefits for local communities.

There is no doubt that the oil palm boom is benefiting some economic actors. In 2007 Indonesia's oil and fat exports, mainly comprised of crude palm oil, increased dramatically.<sup>167</sup> The three largest private groups in Indonesia all own extensive oil palm estates, including in number one position the part UK-owned Jardines/Astra Group.<sup>168</sup>

Backed by strong international demand for vegetable oil and agrofuel, as well as strong oil prices, the price of CPO continues to rise, with a recent peak of \$1,000 per tonne.<sup>169</sup> But many local communities and indigenous peoples are not getting better off with oil palm. In August 2007 the Jakarta Post remarked "dramatically rising palm oil prices may be making investors and businessmen rich, but pickers and other locals working on the fringes of the palm oil industry are yet to see much, if any, benefit".<sup>170</sup>

Reports published over the last 10 years have consistently shown that the conditions of smallholders and labourers working on or linked to large plantations are often very poor.<sup>171</sup> In Pasaman District, West Sumatra, an oil palm producing area with over 63,249 ha of estates, the Deputy District Chief noted in 1999 that the benefits of oil palm were being enjoyed unequally and that estate industries had failed to improve local livelihoods. Statistics from 2000 supported his argument showing that of a total population in Pasaman of 504,530 persons, no less than 92,033 were living in poverty and hunger, with 778 babies registered as suffering malnutrition.<sup>172</sup> A 2005 study in West Kalimantan found that "former hunter-gatherers built their new houses away from the village road as they expected traffic jams when all the inhabitants can afford their own cars". Instead, the study went on to say, "many of them are now left with large debts but no land."<sup>173</sup>

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<sup>166</sup> Patterson, M., Biofuel to power Indonesia's anti-poverty drive, AFP, 17 February 2007 He further claimed that: "Four million jobs is equivalent to five to six million hectares of oil palm, jatropha and cassava and the income for the people is above the minimum wage," and that "at current crude palm oil prices, two hectares of oil palm would give the owner four million rupiah (about 440 dollars) a month..."

<sup>167</sup>For the first eight months of 2007, Indonesia's "vegetable and animal oil and fats exports, that were mainly comprised of crude palm oil (CPO), made up about 9.0 percent of the cumulative non-oil and gas exports ..., with export values of 5.39 billion US dollars, up from 3.54 billion dollars a year earlier." Bhui, A., Indonesia's Aug Trade Surplus Narrows, Thomson Financial, October 1 2007,

<sup>168</sup> The three largest private Indonesian groups are: PT Astra International Tbk., Salim Group, and Sinar Mas Group. From 'Top 100 Private Groups', in *Globe Asia Magazine*, Vol.1 No.8, September 2007.

<sup>169</sup> CPO Prices Cross US \$1,000 Mark, 14 January 2008,

<http://www.hellenicshippingnews.com/index.php?mod=article&cat=Freightnews&article=7337>

<sup>170</sup> Wulandari, F. and Pardonmuan, L., Palm Oil is not a Field of Dreams for all, *The Jakarta Post*, 21 August 2007.

<sup>171</sup> Colchester, M., et al., *Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre*, 2006, Wakker, E., *Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia*, Friends of the Earth, 2005. Sirait, M., *Petani Plasma dalam Jeratan Lingkaran Pemiskinan*, pp. 24-26 in *Kalimantan Review Special Edition*, No. XIV/2005. *Sakitnya Tertusuk Duri Sawit*. Institute Dayakology, Pontianak. *The Bitter Fruit of Oil Palm: Dispossession and Deforestation*. World Rainforest Movement, 2004. Raniq, E., *Bertani Sawit, Untung atau Buntung*, PENA, 2004. Florus, P., *Petebang, E., Panen Bencana Kelapa Sawit*. Institut Dayakologi, Pontianak, 1999.

<sup>172</sup> p.133, Colchester, M., et al., *Promised Land, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre*, 2006.

<sup>173</sup> p.21, Hubendick, L., *Richer or Poorer? – An economic analysis of forest conversion into oil-palm plantations in Indonesia*, Unpublished Paper, 2005.

Throughout the field-work for this report, families living in oil palm plantations reported economic hardship, unemployment, and a lack of options for young people.<sup>174</sup> A woman working as an oil palm smallholder in Paser District, East Kalimantan, stated:

*“In the past we could send our kids to school now it's difficult, we can't any more. Yes we have a smallholding but not much, with only one two-hectare plot, we barely earn enough to feed ourselves. If we had five or six plots we could send our children to school. But in our case, with only one plot, it is impossible. Oil palm has made our lives very difficult.”*<sup>175</sup>

The leader of a smallholder's cooperative in Ketapang District, West Kalimantan, had these words to say of his experience with oil palm:

*“We used to live like this, but with no debt, and now we don't have land. If development does not lead to the prosperity of communities near that development then this is colonialism. Why? Because it is the outsiders who benefit, those who are being 'developed' have to hang on, they go backwards, they have fewer and fewer rights, their land is taken away.”*<sup>176</sup>

This chapter reviews existing evidence of the economic impacts of oil palm development on local communities. It relies on research, reports, government statistics, newspaper articles and other published sources, as well as testimonies from local communities. Accurate data on the local economics of oil palm is often difficult to come by, since companies and cooperatives hold this under commercial confidentiality.

The chapter focuses on three aspects of the community economics of oil palm: the transformation of community economies from diversity to monoculture, economic realities for estate smallholders and economic conditions for oil palm workers.

## **4.1 Diversity to Monoculture: Community Economies Transformed**

This section looks at the transformation of community economies to oil palm plantation development, and challenges the conventional wisdom that continued plantation growth is due to a lack of economic alternatives for local communities.<sup>177</sup> The following points are considered:

1. Community economies before plantation establishment.
2. The transformation of community economies to oil palm.
3. Community alternatives to oil palm.
4. Barriers to local economic development.

### **4.1.1 Community Economies before Plantation Establishment**

In areas where monoculture plantations have not transformed the local economy, forest dependent communities secure their livelihoods from a range of strategies. Communities

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<sup>174</sup> Interviews in 20 oil palm plantation areas in Riau, West Kalimantan and East Kalimantan.

<sup>175</sup> Recorded interview with oil palm smallholder in Paser, East Kalimantan, 2006.

<sup>176</sup> Recorded interview, Head of Smallholders Cooperative, Ketapang District, West Kalimantan.

<sup>177</sup> Butler, R., Eco-friendly palm oil could help alleviate poverty in Indonesia: Palm oil is not a failure as a biofuel, Mongabay.com, April 4 2007. [http://news.mongabay.com/2007/0403-oil\\_palm.html](http://news.mongabay.com/2007/0403-oil_palm.html)

plant an assortment of annual food crops (such as rice, corn, vegetables) as well as perennial cash crops (such as rubber agroforestry systems, pepper, resins). In addition community economies are supported by ecosystem goods and services and common pool resources, which provide substantial proportions of monetary and non-monetary incomes.<sup>178</sup>

### **Ecosystem Goods and Services**

Examples of goods and services that have economic values in forest ecosystems are given in the table below:

<b>Forest Goods and Services of Economic Value<sup>179</sup></b>				
	<b>Goods and Services</b>	<b>Local</b>	<b>Regional</b>	<b>Global</b>
<b>Direct Use</b>	Forest Products			
	- Timber	x	x	x
	- Fuelwood/Charcoal	x		
	- Non-timber Forest Products	x		
	Genetic Information			
- Traditional Medicine	x			
- Pharmaceuticals	x	x	x	
- Research	x	x	x	
	Recreation and Tourism	x	x	x
<b>Indirect Use</b>	Regulation of Regional Rainfall		x	
	Flood and Water Yield Regulation	x	x	
	Control of Soil Erosion	x	x	
	Carbon Storage and Sequestration	x	x	x
	Health	x		
<b>Option</b>	Future Direct and Indirect Uses of Above Goods and Services	x	x	x
<b>Non-Use</b>	Traditional / Cultural Knowledge and Traditions	x	x	x

Table 2: Goods and services derived by forest communities from forest ecosystems

Many communities who live on land proposed for plantation expansion are forest dependent peoples for whom ecosystem goods and services are particularly valuable. The World Resources Report 2005, a major global study into the contribution of environmental income to the wealth of the rural poor, quotes an example from Nigeria where returns on labour are three to four times higher for harvesting and selling woodland products than for agricultural wage labour. The report states that collection and sale of wild products can often prove to be more lucrative than other rural employment options.<sup>180</sup>

Surveys in tropical forest ecosystems around the world show the relative importance of environmental income, which provides up to 35 per cent of the total income of rural households (Table 3).

<sup>178</sup> By way of illustration of non-monetary incomes, during a community meeting held as part of the fieldwork for this report, a group of women in a forest community drew up a list of items they could obtain freely from the land but would have to pay for or give up using, should the land be converted to monoculture. In 45 minutes they named over 100 items and also suggested that the list was far from exhaustive. Recorded interview of community meeting in Sintang District, West Kalimantan, 2005.

<sup>179</sup> Adapted from Table 2.2, p.16, *The Economic, Social and Ecological Value of Ecosystem Services: A Literature Review*, Eftec for the Department for Environment, Food and Rural Affairs, UK, 2005.

<sup>180</sup> p.39, *World Resources Report 2005, The Wealth of the Poor – Managing Ecosystems to fight poverty*.

Location	Ecosystem	Goods or Services Used	Benefit to Households
Shindi Ward, Southern Zimbabwe	Forests and grasslands	Wild fruits, timber, thatching grass, livestock fodder	Ecosystems contribute an average of 35 per cent of total income. Cavendish 2000
Southern Malawi	Forest	Firewood, fruit, mushrooms, bushmeat, insects, honey	Forest income contributes up to 30 per cent of total income. Fisher 2004
Iquitos, Peru	Tropical forest	Non-timber forest products, including fruits, latexes, medicines, tourism and carbon sequestration	Forests provide \$422 of potential sustainable income per hectare annually. Lampietti / Dixon 1995
Budongo Forest, Uganda	Semi-deciduous tropical forest	Fuel wood, building materials, wood for furniture, food, medicinal plants	Biomass provides 90 per cent of the energy needs for the country and between six per cent and 25 per cent of household income in Bundongo village. Aryal 2002

Table 3: Benefits to households from ecosystem goods and services, adapted from World Resources Report 2005<sup>181</sup>

A number of studies in Indonesia and around the world also demonstrate that communities derive considerable income from forests, as shown in the Table 4.

Lim 1997	\$1364/household (1990) \$667, \$2410, \$2544, \$3172/ household (avg = \$2199) (1992); 14 per cent or \$191 from forest for 1990 study	Monetary and non monetary household net income, forest income focus	Perak and Pahang, Malaysia Orang Asli
Whiteman and Aglionby 1997	\$237/adult \$191 subsistence benefit for a total direct -use benefit of \$428	Monetary and nonmonetary net income, forest and fisheries focus	Danau Sentarum Nature Reserve, West Kalimantan, Indonesia
Godoy et al. 1995	\$95 to \$820/person, NTFP (non-timber forest product) per household = 13-87 per cent.	Monetary and nonmonetary household income, NTFP focus	Bocay River and eastern territory of Sumu in Nicaragua
Melnyk and Bell 1996	\$4696 and \$1902/household in each village respectively	Value of wild foods to households	Amazonas state, Venezuela
Gunatilake et al. 1993	\$31.80 -\$745.60/family 63 per cent of total income & 59 per cent of cash income from forest resources NTFP income = 16 per cent.	Monetary and non-monetary household income, NTFP focus	Knuckles National Wilderness Area, Sri Lanka

Table 4: Overview of average incomes of forest based communities (adapted from Wollenberg et al. 2001)<sup>182</sup>

### Common Pool Resources

Some of the income earned from environmental goods and services comes from common pool resources. Common pool resources are:

*“forests, fisheries, reefs, waterways, pastures, agricultural lands, and mineral resources that no individual has exclusive rights to...Local and distant residents go there to collect fire wood, graze their cattle, gather non-timber forest*

<sup>181</sup> p.37, Table 2.2: Diverse Uses of Environmental Income, in World Resources Report 2005, The Wealth of the Poor – Managing Ecosystems to fight poverty.

<sup>182</sup> p.42, Wollenberg, E., et al, Income is Not Enough: The Effect of Economic Incentives on Forest Product Conservation (A comparison of forest communities dependent on the agroforests of Krui, Sumatra and natural dipterocarp forests of Kayan Mentarang, East Kalimantan), Center for International Forestry Research, 2001.



*products like medicinal herbs or mushrooms, hunt, fish, collect water, or make use of a variety of other services such as visiting sacred groves. Because these 'commons' or 'public domain' lands are such a rich source of environmental income, they are a crucial element in the livelihood strategies of the poor, particularly those who do not own land themselves.”<sup>183</sup>*

A variety of surveys indicate that common pool resources can contribute from 15 to over 50 per cent of incomes of the rural poor, and that the very poorest people depend on common pool resources most for their livelihoods. For the poorest people common pool resources also operate as a form of safety net, providing food and fuel for basic survival when other incomes become rare.<sup>184</sup>

### **Undervaluing the importance of environmental income**

Despite environmental income being central to communities living in or near forests, its economic value is often misunderstood and underestimated. The World Resources Report 2005 says of ecosystem goods and services:

*“Some have a market value when sold, but many are consumed locally or at home, and do not enter into the formal economy. In effect, the poor exist in an informal, and often unrecognized, economy. This has led to the systematic undervaluation of the assets of the poor and the underestimation of the potential benefits of sound ecosystem management.”<sup>185</sup>*

Common pool resources equally get left out of policy decisions that are vitally important to the rural poor because they also suffer from poor visibility. As the World Resources Report 2005 explains:

*“If programs to alleviate poverty continue to undervalue the assets of the poor and misunderstand the dynamics of the informal economy, they will remain only partially effective.”<sup>186</sup>*

This undervaluation may stem from a lack of data since most transactions belong to the informal economy and are unaccounted for in official economic statistics.<sup>187</sup> In other cases undervaluation may be convenient for corporate and rent-seeking interests. Some scientists working on tropical forest issues argue that “large-scale corporate and export-oriented enterprises tend to view forest dwellers more as an obstacle to economic development, and the disruption of their traditional ways has resulted in mass migration to jobs in the poorest strata of society”.<sup>188</sup>

Whatever the reason, this undervaluation leads to decision-makers assigning a lower priority to forest ecosystems as economic assets than they should.<sup>189</sup> This may go some way towards

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<sup>183</sup> Jodha in p.39, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*, WRI in collaboration with UNDP, UNEP and World Bank, Washington, 2005.

<sup>184</sup> p.39-40, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*.

<sup>185</sup> p.38, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*.

<sup>186</sup> p.38, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*.

<sup>187</sup> p.39, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*.

<sup>188</sup> p.907, Bruijnzeel, L.A., Bonell M., et.al, *Conclusion: Forests, Water and People in the Humid Tropics: An Emerging View*, in Bonell, M. and Bruinjzell, L.A., *Forests Water and People in the Humid Tropics*, UNESCO, Cambridge, 2004

<sup>189</sup> p.38, World Resources Report 2005, *The Wealth of the Poor – Managing Ecosystems to fight poverty*.

explaining the ubiquitous preference for monoculture oil palm plantations by Indonesian local and national government.

#### **4.1.2 The Transformation of Community Economies to Oil Palm**

##### **Community loss of ecosystem goods and services and common pool resources**

The scale and speed of oil palm plantation expansion in Indonesia, the lack of community rights in land, problems with corruption in permit allocations and irregularities in community consultations,<sup>190</sup> all lead to the loss of ecosystem goods and services including common pool resources. Forests are cleared resulting in the loss of forest resources such as bushmeat, forest fruit and vegetables, medicinal plants, roofing and building materials, firewood, and materials for traditional crafts. Community agroforestry plots may also be lost.

Besides a loss of resources, communities also bear the brunt of externalities such as fires (set to clear the plantations), floods (which are reported to follow plantation establishment), and a loss of access to clean water.<sup>191</sup>

Common land is an important part of most customary tenure systems in Indonesia. But the conversion of land use to oil palm generally results in a weakening or a termination of customary tenure systems. State ownership, which had existed *de jure* now becomes the *de facto* reality on most of the land, with long-term concession rights for companies, and two hectare plots individually owned by smallholders. Land described by companies as degraded or abandoned may in fact be part of common pool resources providing income and safety nets to the poorest of the rural poor, who lose out when this land is planted over with oil palm monoculture.

##### **Economic cost of conversion to monoculture**

The loss of land rights, of ecosystem goods and services, and of common pool resources may have a high cost for local communities. A woman working as a pesticide sprayer on a plantation in Riau, Sumatra explained:

*“Once we stay on a company compound we have to buy everything. When I lived with my family, it would never have occurred to me to buy vegetables. We grew everything ourselves. That was better.”*<sup>192</sup>

A rubber farmer in Sekadau, West Kalimantan made the following observation about the neighbouring village, which had accepted oil palm:

*“And what about their grandchildren? They have little land left, the forest is gone, there is nowhere left to collect edible forest plants – they now need money for everything. That is what I see and that is why we oppose the establishment of an oil palm plantation in our area.”*<sup>193</sup>

In West Kalimantan, 139 respondents from four villages were interviewed about the economic impact of their lands being converted to plantations. Forty-nine per cent said that their life situation was worse at present than before the plantation, 37 per cent said that their

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<sup>190</sup> See chapter on Land in this report.

<sup>191</sup> See chapter on Water in this report.

<sup>192</sup> Recorded Interview, oil palm pesticide sprayer, Riau, July 2006.

<sup>193</sup> Recorded interview, Sekadau district, West Kalimantan, 2006.

life was better than before and 12 per cent said that their life was the same as before (around one per cent were not sure). Of the ones whose life had become worse, 78 per cent said it was due to the oil palm plantation which had taken their land, 47 per cent said it was due to there being less forest, and 13 per cent said that it was due to more flooding.<sup>194</sup>

WALHI carried out a cost analysis of the conversion of 17,998 hectares of mixed-use forest and agroforest land to oil palm plantation in Manis Mata Sub-District, Ketapang District, West Kalimantan. According to their research the total loss incurred by the local people as a result of the land use change amounted to 272.26 billion rupiahs (approx £15 million) as shown in table 5<sup>195</sup>

<b>Component</b>	<b>Total Net Present Value (NPV) in Indonesian Rupiah, over 30 years production (discount rate 10%)</b>
<b>Income from Agriculture</b>	<b>52.8 billion</b>
<b>Direct Value of Forest Products</b>	<b>111.62 billion</b>
<b>Value of Biodiversity</b>	<b>32.10 billion</b>
<b>Ecological Value</b>	<b>76.10 billion</b>
<b>Total</b>	<b>272.26 billion</b>

Table 5: Total Economic Loss suffered by communities near the PT HSL licence area. Data developed from village monographies based on surveys carried out by Walhi West Kalimantan in 2004

Plantation establishment also reportedly leads to the deterioration of small-scale inland fisheries, affected by river pollution from palm oil mills. As the fish are consumed locally these losses are often overlooked in poverty alleviation strategies.<sup>196</sup> A fisherman from Riau’s heavily contaminated Siak river testifies:

*“The river would be crowded with people catching fish. One fish could fetch prices as high as Rp. 300,000 – Rp. 400,000 [approximately £16-£22]. Those times are over. Now there are no fish in the river, there are just no fish anymore...In the past what we caught in one day was enough to cover our cost of living for the day...It is not only the liquid waste of the [CPO] plant, but the actual oil palm plantation pollutes the water too. During the dry season the plantation is sprayed with pesticides, herbicides and fertilizers and as soon as the rainy season comes, the rain washes them into the river. These substances are poisonous for the fish and kills them.”<sup>197</sup>*

<sup>194</sup> p.10, Hubendick, L., Richer or Poorer? – An economic analysis of forest conversion into oil-palm plantations in Indonesia, Unpublished Paper, 2005.

<sup>195</sup> Adapted from p.33, Tabel IV.7 Total Nilai Kerugian Ekonomi Sumber Daya Alam di Sekitar HGU PT HSL Kecamatan Manismata, Air Mata Manismata, Walhi KalBar, 2006.

<sup>196</sup> p.38, Béné 2003 and Degen et al. 2000 in: World Resources Report 2005, The Wealth of the Poor – Managing Ecosystems to fight poverty.

<sup>197</sup> Recorded interview, fisherman, Siak river, Riau, 2006.

### **Reduction of income diversity and resilience to shocks**

Livelihood diversification is a common feature in rural areas of developing countries such as Indonesia.<sup>198</sup> Diverse income strategies as described at the beginning of this section are a means for rural communities to construct sustainable livelihoods, while at the same time spreading risks from external events such as commodity price fluctuations or climate change. Livelihood diversification may also act as a stepping-stone to diversification into non-agricultural incomes.

The present oil palm development model prefers large-scale land transfers from communities to companies and leads to a loss of environmental goods and services as well as common pool resources. As a result there is a strong risk that this plantation model may reduce communities' abilities to develop sustainable livelihoods through diversification. Dependency on a single export commodity has proved risky to farmers in the past, as this oil palm smallholder from Bodok, West Kalimantan reports:

*“Our experience dealing with oil palm for 25 years when our main income only came from our smallholdings has proved that oil palm was not enough to cover our daily life cost...So the only solution for the future is not to be dependent on one commodity only, such as oil palm. There are other economic alternatives such as rubber, cacao, pepper, and others, which we must cultivate. We have to develop this existing local economic potential.”*<sup>199</sup>

While some analysts predict that the present commodity boom may be longer-lasting than previous booms,<sup>200</sup> and while some of the price increases in CPO may indeed reach smallholders, nonetheless any reputable financial advisor would warn communities that investments may go up as well as down. At the third Roundtable on Sustainable Palm Oil in 2005, James Fry, a vegetable oil expert, warned that vegetable and palm oil prices had been on a downward trend since 1950 with a three to four per cent drop in prices each year and a rise in production costs of around two to three per cent per year. He suggested that plantations required productivity increases of three to five per cent per year to keep up.<sup>201</sup> Indeed one study suggests that adjusted crude palm oil prices were as high as US\$1,354 per tonne in 1980.<sup>202</sup> This would indicate that recent price spikes up to US\$1,000 per tonne<sup>203</sup> still leave the real price of CPO substantially lower than it was 28 years ago, with no guarantee of reversing the longer-term downward trend.

Oil palm smallholders with no other source of livelihood<sup>204</sup> may be economically exposed to future difficulties for a number of reasons:

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<sup>198</sup> p.22, Hussein, K. and Nelson, J., Sustainable Livelihoods and Livelihood Diversification, Working Paper 69, IDS Sustainable Livelihoods Programme, 1998. The paper considers livelihood diversification to be ‘the process by which rural families construct a diverse portfolio of activities and social support capabilities in their struggle for survival and in order to improve their standards of living’ (Ellis, 1997).

<sup>199</sup> Recorded interview, oil palm farmer, West Kalimantan, 2006.

<sup>200</sup> p.23, Dan Denning, Commodity Markets are at the Start of a Long-Term Bullish Trend, Money Week, 27 May 2005.

<sup>201</sup> Public announcement by Dr. James Fry of LMC International, at RSPO RT3, November 2005. Also partially quoted in: p.3, Tailliez, B., Caliman, J.P., Verwilghen, A., Omont, H., Scientific Research for Sustainable Palm Oil Production, Session 3 – Paper 5 – CIRAD (Centre de coopération internationale en recherche agronomique pour le développement)

<sup>202</sup> p.11, Robbins, P., Stolen Fruit: The Tropical Commodities Disaster, Zed Books, 2003.

<sup>203</sup> CPO Prices Cross US \$1,000 Mark, 14 January 2008,

<http://www.hellenicshippingnews.com/index.php?mod=article&cat=Freightnews&article=7337>

<sup>204</sup> This is often the model proposed in smallholder estate schemes described in the next section of this chapter.

- Oil palm plantations are expanding rapidly throughout the tropics. Despite expanding demand, commodities are well-known for boom-bust cycles.
- Oil palm plantations are vulnerable because of their 25 or more year rotation.
- Palm oil demand is for use in agrofuel in the EU especially strong but there are signs of a consumer backlash because of negative social and environmental impacts of plantation expansion. This risk was described in July 2007 in The Jakarta Post: “Fluctuations in palm oil demand because of rising international concern over its ecological impact as well as increased competition from other biofuels such as biodiesel and cellulosic ethanol expose Indonesia to global market risk. A global palm oil shock would devastate the Indonesian economy.”<sup>205</sup>
- Farmers with only two hectares of oil palm smallholding are financially exposed at the time of re-planting which requires a large capital investment, and the ability to withstand four to five lean years waiting for the new palms to be of harvesting age.
- Single commodity farmers are less able to adapt to climate change.
- The expansion of large-scale oil palm plantations may affect local food sovereignty.<sup>206</sup>

A smallholder in West Kalimantan commented:

*“If all the lands were converted into oil palm plantations, we would not be able to plant anything anymore and there will be food shortages. There is no more land for us to grow plants, to fish or to grow vegetables. I think we have to consider this, we cannot be dependent on one commodity, or better still we should just refuse oil palm here because oil palm plantations destroy other economic resources.”*<sup>207</sup>

### **Comparing oil palm monoculture and traditional forest livelihoods**

Traditional livelihood strategies are difficult to quantify since they consist of multiple monetary and non-monetary incomes. Local oil palm income is more readily measurable as daily or monthly wages for labourers, or as income received for fresh fruit bunches harvested by smallholders. However, as has been noted, data for smallholder incomes can also be difficult to obtain from cooperatives and companies.

A few studies attempt to draw comparisons. A study in 2003 showed that the cost of living was higher for oil palm farmers than for traditional farmers.

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<sup>205</sup> Thoumi, G. and Butler, R., Carbon credits could be big earner for Indonesia, The Jakarta Post July 28 2007. <http://www.thejakartapost.com/yesterdaydetail.asp?fileid=20070728.E02>

<sup>206</sup> Orth, M., Subsistence Foods to Export Goods: The impact of an oil palm plantation on local food sovereignty, North Barito, Central Kalimantan, Indonesia, Wageningen and Sawit Watch, 2007. Unpublished work.

<sup>207</sup> Recorded interview, Oil palm farmer, Bodok, West Kalimantan, 2006.

Expense	Oil Palm Farmer	Traditional Farmer
Rice	Rp.3,000,- per kilogram x 50 kg = 150,000	No cost as harvested from own fields
Vegetables and meat	Rp.15,000/day x 30 days = 450,000	Mainly from fields and forest, therefore much less expenditure: Rp.5,000 x 30 days = 150,000
Oil and kerosene	Rp.1,000(cost in village) x 20 litres per month = 20,000	Firewood is still available so smaller expense for oil and kerosene Rp. 1000 per litre x 10 litres = 10,000
Coffee, Sugar, Soap	Rp. 100,000	Rp. 100,000
Total	Rp. 720,000	Rp. 260,000

Table 6: Comparison of cost of living for basic necessities: Oil palm smallholder / Non-oil palm farmer with forest gardens, 2003 prices.<sup>208</sup>

One study putting forward economic reasons to conserve wild nature, cites a case-study comparing several options for the use of forest land around Mount Cameroon, Cameroon. The study showed that private economic benefits favoured conversion to small-scale farming, while conversion to plantations yielded negative private benefits. The study also showed that the total economic value (TEV) – including social benefits such as non-timber forest products, flood control, and carbon storage – over 30 years of land use, was highest under reduced impact logging, only marginally less for small-scale farming, whereas oil palm plantations were shown to have a negative TEV.<sup>209</sup>

A collaborative study carried out by the World Agroforestry Centre<sup>210</sup> and other research groups, including the Indonesian Agency for Agricultural Research and Development, found smallholder rubber agroforestry (using clonal planting material) substantially more profitable than large-scale oil palm monoculture plantations.<sup>211</sup>

### 4.1.3 Community Alternatives to Oil Palm

With 20 million hectares of plantation expansion planned by 2020 across Indonesia, oil palm appears to be one of the few economic development opportunities offered to indigenous and local rural communities. Yet it would be wrong to assume that rural communities lack alternatives.

#### Examples of alternatives to large-scale oil palm plantations

It is outside of the scope of this report to describe community alternatives to large-scale oil palm plantations in any detail. The examples below give a small sample of how local livelihoods can be improved while at the same time keeping ecosystem functions working:

<sup>208</sup> Adapted from p.64, Raniq, E., Bertani Sawit: Untung atau Buntung?, Pena KalBar, 2004. With present oil and kerosene prices nearer Rp.4,000/litre the difference in monthly expenditure would be further exacerbated.

<sup>209</sup> p.951-956, Balmford, A., et al., Economic Reasons for Conserving Wild Nature, Science, Vol. 297, 9 August 2002.

<sup>210</sup> Formerly ICRAF – the International Centre for Research in Agroforestry

<sup>211</sup> p.231, Tomich, P. et al., Agricultural Intensification, Deforestation and the Environment: Assessing Tradeoffs in Sumatra, Indonesia, pp.221-244, in: Tradeoffs and Synergies?, eds.: D.R. Lee and C.B. Barrett), CAB International, 2001.

- ICRAF has demonstrated the high incomes derived by farmers from damar (*Shorea javanica*) agroforests in Lampung, Sumatra.<sup>212</sup> Mature damar agroforest has been reported as providing farm incomes ranging from approximately \$733 (£352) to \$1708 (£821) per hectare per year in 1997<sup>213</sup>.
- Small scale certified timber production has brought above average incomes for local communities in Sulawesi increasing community income per cubic metre of timber from Rp.400,000 (£22.22) to Rp. 1,445,000 (£80.27).<sup>214</sup>
- Indigenous communities in the Philippines have benefited from marketing spring water and jam from forest fruit to urban supermarkets.<sup>215</sup>
- A range of community-led initiatives developed by Filipino indigenous peoples together with an International Labour Organization (ILO) project resulted in increased income levels of 44 per cent across partner communities.<sup>216</sup>
- It has been suggested that carbon payments for avoided deforestation could be worth a great deal more than oil palm to Indonesia.<sup>217</sup> Direct or indirect payments to forest communities to sequester carbon could in theory be envisaged under emissions reductions schemes,<sup>218</sup> although there are risks associated with this approach under present governance standards and tenure laws.
- Payments to communities for the provision of other eco-system services (biodiversity, watershed protection, recreation) could also be envisaged under the right circumstances.<sup>219</sup>

### **Case Study: Rubber**

Rubber is another commodity benefiting from current high prices.<sup>220</sup> Community owned rubber agroforests are planted on approximately 2.5 million hectares of land in Indonesia and provide about 70% of Indonesia's total rubber harvest<sup>221</sup> (with Indonesia the second largest producer in the world after Thailand). Communities plant the rubber themselves without

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<sup>212</sup> Budidarsono, S., Arifatmi, B., De Foresta, H., and Tomich, T., Damar Agroforest Establishment and Sources of Livelihood: A Profitability Assessment of *Damar* Agroforest System in Krui, Lampung, Sumatra, Indonesia, Southeast Asia Policy Research Working Paper No.17, ICRAF, 2000.

<sup>213</sup> Income between Rp.1.65 million to Rp.3.84 million (in 1997 when US\$1 = Rp.2,248) p.11, van Noordwijk, M., et al, Is Hutan Tanaman Rakyat a new paradigm in community based tree planting in Indonesia?, ICRAF Working Paper Number 45, ICRAF Southeast Asia 2007.

<sup>214</sup> Unggul, S., Maring, P., Making Progress towards Environmental Justice: The Role of Local Institutions, Market Access, and Certification in Sustainable Community Logging in Konawe Selatan, Southeast Sulawesi, Presentation given in Bali, 2006.

<sup>215</sup> Mind your spread! - Jam and Jellies from Kalahan, RUPES E-News Issue 2 - September 2006 [http://www.worldagroforestrycentre.org/sea/networks/RUPES/ENews/index\\_edition2.htm#HKm](http://www.worldagroforestrycentre.org/sea/networks/RUPES/ENews/index_edition2.htm#HKm)

<sup>216</sup> p.21, Arquiza, Y., Weaving a New Web of Life, INDISCO Case Study No. 7, International Labour Organization, 2001.

<sup>217</sup> Thoumi, G. and Butler, R., Carbon credits could be big earner for Indonesia, The Jakarta Post, 28 July 2007. <http://www.thejakartapost.com/yesterdaydetail.asp?fileid=20070728.E02>

<sup>218</sup> p.21, Scherr, S., White, A., and Kaimowitz, D., Making Markets work for Forest Communities. Policy Brief 1. Forest Trends, 2002.

<sup>219</sup> See for instance: RUPES (Rewarding Upland Poor for Environmental Services), World Agroforestry Centre, <http://www.worldagroforestrycentre.org/sea/networks/rupes/index.asp>; Also: Electronic Forum on Payment Schemes for Environmental Services in Watersheds, Final Report, Food and Agriculture Organization of the United Nations (FAO), Santiago, August 2004, <http://www.rlc.fao.org/foro/psa/pdf/report.pdf>

<sup>220</sup> Pardomuan L., Rubber turns pricey on surging demand, scarce supply, Business Spectator, 10 November 2007

[http://www.businessspectator.com.au/bs.nsf/Article/Rubber\\_turns\\_pricey\\_on\\_surging\\_demand\\_scarce\\_suppl\\_8N5MV?OpenDocument?OpenDocument](http://www.businessspectator.com.au/bs.nsf/Article/Rubber_turns_pricey_on_surging_demand_scarce_suppl_8N5MV?OpenDocument?OpenDocument)

<sup>221</sup> Wibawa et al, 2005, quoted in p.17, van Noordwijk, M., et al, Is Hutan Tanaman Rakyat a new paradigm in community based tree planting in Indonesia?, ICRAF Working Paper Number 45, ICRAF Southeast Asia 2007.

needing to relinquish their land to companies. This is just one of the differences between rubber and oil palm which communities have identified.

<b>RUBBER</b>	<b>OIL PALM</b>
Planted on own land	Land has to be relinquished to estate
No limit on holding size	Max. two hectare smallholdings
Also produces timber, fuelwood, hunting, vegetables, medicines	Few other products
Low start up costs	High start up costs
Fewer social impacts	Many social impacts: resettlement, discredited leaders, social problems (fornication, drinking, consumerism)
Fairer prices (although middlemen practices may be poor)	Low prices
No price setting by govt.	Government and companies set prices
Choice of buyers	Forced to sell to estate
Farmers control level of production and when to make sale	Little control of harvesting volumes. Must market fruit within 48 hours.
Transport easier	Transport harder (although roads may come with estate)

Table 7: Differences between rubber and oil palm identified in community interviews<sup>222</sup>

Many of the communities interviewed during research for this report voiced their preference for rubber:

*“It is better for my children and grandchildren to grow rubber trees, hopefully the government will provide grants for rubber plantations, but even if the government do not give us anything we will plant rubber trees ourselves.”<sup>223</sup>*

*“Rubber is very simple, we tap the sap in the morning and sell it in the afternoon. There is no monopoly and people are free to choose to whom they want to sell it, we can choose who is willing to pay more.”<sup>224</sup>*

In the community of Sanjan, West Kalimantan, rubber farmers reported yields per family of an average of 15 kg/day, with an estimated 20 days of harvesting per month. At the price of Rp.9,000 per kilo, farmers earned Rp.2,700,000 (£138) per month.<sup>225</sup> These incomes, high for the area, were possible thanks to the community planting clonal rubber they had grafted themselves, and proximity to the road. This demonstrates how small changes to community circumstances can bring about improvements in the local economy.

<sup>222</sup> Adapted from: p.39, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>223</sup> Recorded interview, Oil palm farmer, Bodok, West Kalimantan, 2006.

<sup>224</sup> Recorded interview, Rubber farmer, Sekadau District, West Kalimantan, 2006.

<sup>225</sup> Personal communication with Director of Walhi KalBar and interview with Sanjan rubber farmer, Sanggau District, West Kalimantan, 2007.



#### **4.1.4 Obstacles to Community Alternatives**

Many communities visited during the fieldwork for this report claimed that they were being forced into oil palm because of lack of support for other livelihood options, which they preferred.

For example the head of the government plantations department in Central Kalimantan Province, Farinthis Sulaiman, was quoted in August 2007 as saying that rubber plantations were economically more valuable than oil palm, and that local communities were demanding support for planting rubber in preference to oil palm. The official went on to ask why there was much greater government support for oil palm, with 420,000 hectares planned, than for rubber with only 122,000 hectares planned. He suggested that the explanation was that district chiefs were demanding oil palm despite a community preference for rubber.<sup>226</sup>

Although economic alternatives to palm oil monoculture are clearly available to communities, it is often difficult to develop these successfully given a number of obstacles faced by communities:

- Uncertain tenure over forest-land and restricted access to resources are the biggest constraints to developing local forest-based economies.<sup>227</sup> According to a Forest Trends policy brief: “transferring or returning forest assets to the ownership or long-term use of local people is a politically and financially feasible first step for poverty reduction”.<sup>228</sup>
- There are complex, poorly understood and contradictory regulations adding a regulatory burden on local forest producers. For example agroforestry systems covering huge areas (four million hectares in Sumatra alone), are considered illegal within the State Forest since they are considered agricultural activities according to the forestry regulatory framework.<sup>229</sup>
- Small-scale producers do not benefit from a level playing field of market policies.
- Lack of rewards for environmental services: at present there is an absence of effective or efficient structures that would for instance allow payments for carbon storage to be made to communities.<sup>230</sup>
- There is a lack of credit and investment that supports community development. Small-scale agroforestry producers cannot obtain loans from banks since banking systems and practices are not adapted to their needs.<sup>231</sup> The head of the plantations department in Central Kalimantan, mentioned above, explained that banks were unwilling to give credit to farmers unless they had partners or guarantors. Oil palm smallholders had to be in partnership with a large-scale oil palm company, which

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<sup>226</sup> Karet Lebih Ekonomis dari Sawit, Kalteng Pos Online, 6 August 2007.

<http://www.kaltengpos.com/berita/index.asp?Berita=Fokus&id=32168>

<sup>227</sup> p.11, Scherr, S., White, A., and Kaimowitz, D., Making Markets work for Forest Communities. Policy Brief 1. Forest Trends, 2002; p.18, van Noordwijk, M., et al, Is Hutan Tanaman Rakyat a new paradigm in community based tree planting in Indonesia?, ICRAF Working Paper Number 45, ICRAF Southeast Asia 2007.

<sup>228</sup> p.11, Scherr, S., White, A., and Kaimowitz, D., Making Markets work for Forest Communities. Policy Brief 1. Forest Trends, 2002.

<sup>229</sup> p.17, van Noordwijk, M., et al, Is Hutan Tanaman Rakyat a new paradigm in community based tree planting in Indonesia?, ICRAF Working Paper Number 45, ICRAF Southeast Asia 2007.

<sup>230</sup> p.19, van Noordwijk, M., et al, Is Hutan Tanaman Rakyat a new paradigm in community based tree planting in Indonesia?, ICRAF Working Paper Number 45, ICRAF Southeast Asia 2007.

<sup>231</sup> VII-5, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

gave the bank confidence that its money would be returned. He suggested the banks should lend to rubber farmers organised in cooperatives.<sup>232</sup>

- One of the major complaints in parts of rural Indonesia is of a lack of infrastructure such as roads, which in turn becomes a barrier to market access.

## **4.2 Economic Realities for Estate Smallholders**

Indonesia has over seven million hectares of land planted with oil palm. In 2005 when the total area of oil palm was 5.6 million hectares, the total area of smallholdings covered approximately 1.9 million hectares, or some 34 per cent of the total area. As a result just under one million smallholders and their families had two hectare plots at that time.<sup>233</sup>

There are two main kinds of smallholders. Some 22 per cent of smallholders are independents who develop smallholdings relying on their own capital and land. Most farmers cannot develop independent smallholdings because of a lack of technical knowledge or capital for smallholding establishment. Some plantations do not buy fresh fruit from independent sources.<sup>234</sup> These factors limit numbers of independent smallholders despite evidence that this option offers the best returns to land and to labour.<sup>235</sup>

This section focuses on estate smallholders, which represent some 78 per cent of all smallholders.<sup>236</sup> Estate smallholders are attached to oil palm companies by contracts and debts. They are generally farmers from local communities and indigenous peoples whose lands have been taken over to make way for oil palm estates.<sup>237</sup> Some of the smallholders are transmigrants.

Estate smallholders generally belong to one of three schemes:<sup>238</sup>

- Nucleus Estate Schemes (NES or PIR – Perkebunan Inti Rakyat), set-up by the Indonesian government from the 1970s until the mid-90s under which a para-statal company directly manages the central estate, or nucleus. Smallholders are located in a wider circle around the estate and tend to be bound by agreements to sell their produce to a single mill.
- Koperasi Kredit Primer Anggota (KKPA), a government initiative from the 1990s where smallholders are not tied to specific mills.

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<sup>232</sup> Karet Lebih Ekonomis dari Sawit, Kalteng Pos Online, 6 August 2007.

<http://www.kaltengpos.com/berita/index.asp?Berita=Fokus&id=32168>

<sup>233</sup> Tinjauan Aspek Ekonomi: Prospek dan Dampak Terhadap Industri Kelapa Sawit Nasional, Presentation given at Seminar KLP Sawit, Bappenas, 23<sup>rd</sup> January 2006. Similar figures (1.8m ha) reported in: p.6-8, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>234</sup> p.10-11, Papenfus, M.M., An Analysis of Independent Smallholder Oil Palm Adoption in Sumatra, Indonesia, Southeast Asia Policy Research Working Paper, No15, World Agroforestry Centre (ICRAF).

<sup>235</sup> p.10, Papenfus, M.M., An Analysis of Independent Smallholder Oil Palm Adoption in Sumatra, Indonesia, Southeast Asia Policy Research Working Paper, No15, World Agroforestry Centre (ICRAF).

<sup>236</sup> Based on data in p.18, Zen Z., Barlow, C. and Gondowarsito, R., Oil Palm in Indonesian Socio-Economic Improvement - A Review of Options, Oil Palm Industry Economic Journal, Vol. 6(1) 2006.

<sup>237</sup> p.6, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>238</sup> There are also provincial smallholders schemes such as K2I in Riau and KSK (Kebun Sawit Keluarga) in West Kalimantan. These schemes are purportedly designed for poverty alleviation but there have been widespread protests to the extent that the KSK scheme has been abandoned according to NGO's in West Kalimantan such as PENA and Walhi KalBar.

- Nucleus / smallholder schemes set up by private companies.

These schemes have roughly similar characteristics. Local communities and indigenous peoples relinquish a larger area of land in exchange for a two hectare plot of oil palm – known as a ‘kapling’. The remaining land is either included as part of the nucleus estate or allocated to transmigrants.<sup>239</sup> The amount of land relinquished in exchange for smallholdings varies. In most NES schemes local people handed over 7.5 hectares to the company and received two hectares in return while under KKPA schemes eight hectares were handed over and two given in return.<sup>240</sup> In some areas, private oil palm companies are reportedly asking communities to relinquish up to 10 hectares of land in exchange for one hectare of smallholding.<sup>241</sup> Sawit Watch’s recent experience has been that private plantation companies increasingly dispense with smallholdings altogether, only offering them as a last resort if negotiations with communities require them.<sup>242</sup>

Companies initially establish both the company-run plantation nucleus and the smallholdings, and invest the initial capital outlay for plantation establishment, fertilisers, pesticides and technical assistance.<sup>243</sup> Smallholders are then required to pay for these goods and services and in doing so incur a debt with the company, which must be repaid with interest. Smallholders are usually organised into cooperatives, which manage the debt repayment. In some cases reported during the field work for this report, the debt was as high as Rp. 60 million (£3,268).<sup>244</sup> This is the equivalent of eight years and 11 months of minimum pay in West Kalimantan at 2007 rates.<sup>245</sup> Some commentators have suggested that smallholder schemes are formed as a way for companies to procure people’s land and to access cheap credit in the name of the community.<sup>246</sup>

In theory the smallholding system could benefit a large proportion of smallholders. In reality, because of high levels of debt and the numerous barriers to generating income described below, many farmers are unable to repay their debt “and they are thus in permanent debt to the companies and forced to provide their labour in exchange on a permanent basis”.<sup>247</sup>

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<sup>239</sup> p.34, Wakker E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

<sup>240</sup> Saragih J., *Komparasi dan Pembanding Kondisi Perkebunan Kelapa Sawit di Kalimantan Barat*, Sawit Watch Unpublished Paper, 2007. For further examples of ratios see p.14, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>241</sup> Personal communication from human rights activists from Sekadau District in West Kalimantan, 2006.

<sup>242</sup> Communication from Sawit Watch Staff, December 2007.

<sup>243</sup> Community interviews in Riau, West Kalimantan and East Kalimantan 2006-2007. Communication from Sawit Watch Staff, December 2007.

<sup>244</sup> Communication from Sawit Watch Staff, December 2007. Also Recorded interviews, Sintang District, West Kalimantan.

<sup>245</sup> [http://www.nakertrans.go.id/pusdatinnaker/upah/ump\\_2007.php](http://www.nakertrans.go.id/pusdatinnaker/upah/ump_2007.php)

<sup>246</sup> p.34, Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

<sup>247</sup> p.11, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the United Nations Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

#### **4.2.1 Land Acquisition and Plantation Establishment Phase**

##### **Insufficient Compensation for Land.**

Payments for land are often minimal. Communities have no access to market information about the real value of the land. Companies commonly call land payments 'ganti rugi', meaning compensation for a loss. As a result, communities are often under the impression that the land is only being borrowed and that they are being compensated for not being able to carry out productive activities on this land during the plantation cycle. In reality, when communities receive these payments, they are relinquishing their rights to the land in perpetuity.<sup>248</sup> As such, it is impossible for communities to negotiate a fair level of payment for their land, if indeed they would consent to hand over the land in these circumstances.

There appears to be no consistency in the level of compensation granted. In Sekadau district, West Kalimantan, prices cited by communities for a hectare of land ranged from 400,000 (£21.80) to 1,100,000 (£59.93) per hectare depending on whether it was fallow land, or productive land including locally owned rubber plantations.<sup>249</sup> In Ketapang District, West Kalimantan communities reported being paid for land in rice.<sup>250</sup> In 2007 a community member interviewed in Bali village, West Kalimantan reported receiving compensation only for fruit trees on his land, and as a result received Rp. 800,000 for 11 hectares of land or £4.00 per hectare.<sup>251</sup> Companies often pay no compensation at all for areas considered by the company or the local government to be empty or unused land.<sup>252</sup>

During the field work for this report farmers repeatedly alleged that fields or forest gardens were being bulldozed against their will and with no compensation.

##### **Irregularities in the handing over of smallholdings to farmers**

In theory, prospective smallholders should be given their smallholdings from the company once it begins to produce fruit, usually about four years after planting. In practice, the process of handing the plots to the smallholders is problematic,<sup>253</sup> with many farmers having to wait eight or more years to receive their plots, and some not receiving them at all.

For example, in Nagari Kinali, West Sumatra, the oil palm companies PT AMP, PT INKUD and PT PMJ reportedly failed to provide any of the smallholdings that they had promised to proposed local recipients. The companies had apparently planted the promised smallholding areas, but did not transfer them to local farmers even after the oil palms began to produce.<sup>254</sup> In West Kalimantan, PT MPE, PT Bonti and PT HSL (Harapan Sawit Lestari) all allegedly only gave smallholdings to farmers after eight years.<sup>255</sup>

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<sup>248</sup> p.14, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>249</sup> Recorded interviews, 2006.

<sup>250</sup> p.49-50, Raniq, E., *Bertani Sawit, Untung atau Buntung*, PENA, 2004.

<sup>251</sup> Interview with farmer in Sanggau District, West Kalimantan.

<sup>252</sup> See explanation of colonial origins of concept of empty land in this report, section 2.2 Colonial Origins of the Plantation System.

<sup>253</sup> p.128, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>254</sup> p.123, Afrizal, *The Nagari Community, Business and the State*, Sawit Watch and Forest Peoples Programme, 2007.

<sup>255</sup> *Down to Earth* No.66 August 2005, Indigenous peoples oppose oil palm in West Kalimantan, <http://dte.gn.apc.org/66ind.htm>

Companies can often get away with delayed transfers of smallholdings, because there is often no written evidence of the promises made.<sup>256</sup>

The chart below shows an estimate of oil palm productivity over a 25-year plantation cycle on three different types of land. The chart shows that by year four after planting there is already a significant harvest, and by year eight the palms are near maximum production. If farmers only receive smallholdings in years eight or later instead of year four, they are at a considerable economic disadvantage, and will experience difficulties repaying debts over a reduced income cycle.<sup>257</sup>

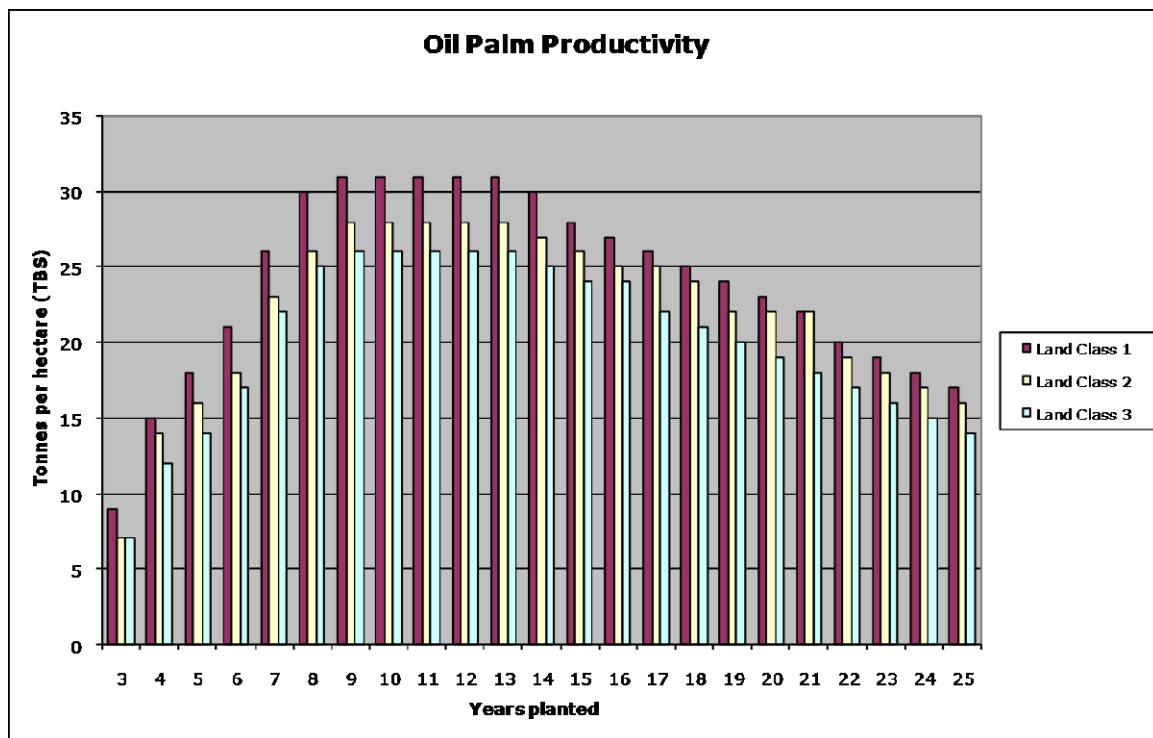


Figure 1: Oil Palm Productivity Based on Industry Data<sup>258</sup>

Other problems are associated with the handover of smallholdings. Some families complain they have received no smallholding despite relinquishing land to the plantation. In the case of PT TBS in Pucuk Rantau village, Kuantan Sengingi, Riau, communities complained that only 4,658 families had received smallholdings although the company had allegedly promised smallholdings for 5,000 families, and that the overall debt incurred by smallholders was reportedly still based on the cost of 5,000 smallholdings.<sup>259</sup>

<sup>256</sup> See for instance case of PT TSG in West Sumatra reported in p.127, Afrizal, *The Nagari Community, Business and the State, Sawit Watch and Forest Peoples Programme*, 2007.

<sup>257</sup> *Sriwijaya Post*, 30th March 2001, '85 Paket Plasma PT LonSum Ditunda' (85 PT LonSum smallholding packages delayed). Noor, R., R. Rofiq and R. Lumuru. *Plantation Co-operative Credit Schemes Exploit Communities*. Sawit Watch/Walhi Jambi. Press release, 12 July 2002. Interview with Community Liaison Officer from private company. Anonymous, Riau, 2007. Also Sirait, M., *Petani Plasma dalam Jeratan Lingkaran Pemiskinan*, pp. 24-26 in *Kalimantan Review Special Edition*, No. XIV/2005.

<sup>258</sup> Tabel 4. Produktivitas Tanamna Kelapa Sawit, in p.7, Siahaan, D., *Buku Pintar Mandor*. Plantation field supervisor manual obtained from a Company's Community Liaison Officer, 2007.

<sup>259</sup> *Analisis Sistem Pola KKPA Perkebunan Kelapa Sawit Masyarakat 10 desa Pucuk Rantau Dengan PT. Tri Bakti Sarimas di Kec Kuantan Sengingi, Kabupaten Kuantan Sengingi, Yayasan Elang*, 2006.

Farmers also complain that land allotted for smallholdings is less productive and too far from their homes,<sup>260</sup> reducing the financial viability of smallholdings. In some cases farmers complain that the smallholdings are not developed to the same standard as the nucleus by the company.<sup>261</sup> For example, Riau communities reported that the smallholding area was planted with 78 oil palms per hectare, as opposed to the 130 oil palms per hectare which had allegedly been promised.<sup>262</sup>

#### **4.2.2 Productive Life of the Smallholding**

##### **Market distortions in price setting of fresh fruit bunches (FFB)**

Present policies and practices in the price setting of oil palm fresh fruit bunches (FFB) at the factory gate allegedly lead to farmers in South Sumatra losing 23 per cent of their revenues to companies.<sup>263</sup> This pattern is reported across Indonesia and is due to a number of factors:

- Many smallholders are obliged to sell to a single buyer, either because of contractual obligation or a lack of other mills near their plot. As a result, “the market structure of FFBs is monopsonistic, because there is only one buyer and many sellers of FFBs”.<sup>264</sup>
- FFB prices are not set by the markets, but by provincial commissions which include palm oil estate representatives and the government-run body representing smallholders (APKASINDO). Smallholders are excluded from taking part in these price negotiations either directly or through independent organisations, which represent their interests.<sup>265</sup>
- The buying price is set by a price formula which is determined by government. The formula is considered by some to be outdated, and the manner of its use unfair, given: a lack of transparency in how price agreements are reached; complaints by farmers about unfavourable rates of conversion from FFB weight to Crude Palm Oil volume;<sup>266</sup> and reported company practice of overstating production costs.<sup>267</sup>

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<sup>260</sup> p.14, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006. Also see: Sirait, M., *Petani Plasma dalam Jeratan Lingkaran Pemiskinan*, pp. 24-26 in *Kalimantan Review Special Edition*, No. XIV/2005; PT Kalimantan Sanggar Pusaka case study in p.38, Wakker, E. and J.W. van Gelder, *Funding Forest Destruction: the Involvement of Dutch Banks in the Financing of Oil Palm Plantations in Indonesia*, AIDEnvironment, Contrast Advies and Telapak, 2000.

<sup>261</sup> p.14, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>262</sup> *Analisis Sistem Pola KKPA Perkebunan Kelapa Sawit Masyarakat 10 desa Pucuk Rantau Dengan PT. Tri Bakti Sarimas di Kec Kuantan Sengingi, Kabupaten Kuantan Sengingi, Yayasan Elang*, 2006.

<sup>263</sup> p.14, Maryadi, Yusuf A.K., Mulyana A., *Pricing of Palm Oil Fresh Fruit Bunches for Smallholders in South Sumatra*, Fakultas Pertanian Universitas Sriwijaya, 2004.

<sup>264</sup> p.5, Maryadi, Yusuf A.K., Mulyana A., *Pricing of Palm Oil Fresh Fruit Bunches for Smallholders in South Sumatra*, Fakultas Pertanian Universitas Sriwijaya, 2004.

<sup>265</sup> p.18, Colchester, M. and Jiwan, N., *Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil*, Forest Peoples Programme and Sawit Watch, 2006.

<sup>266</sup> p.IV-11/12, *Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal*, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

<sup>267</sup> p.9-10, Maryadi, Yusuf A.K., Mulyana A., *Pricing of Palm Oil Fresh Fruit Bunches for Smallholders in South Sumatra*, Fakultas Pertanian Universitas Sriwijaya, 2004.

- In some cases the companies that buy FFB from farmers “have their own price establishment system, even though the law states that the price should be determined by the FFB Price Setting Team”. Since the government, research institutions and farmers have little power to change the initial calculations made by the company, it is usually the company’s price which is used in practice.<sup>268</sup>
- Farmers complain of payments being made late by the cooperatives. According to a company insider this is a tactic sometimes used by corrupt cooperative staff to earn interest on the payments made by the company and to wait to make payments at the most unfavourable time (lowest FFB price) for smallholders.<sup>269</sup>

Partly as a result of these market distortions, payments for FFB can differ hugely across the country. In July 2006 smallholders in West Kalimantan reported receiving payments of Rp. 500/kilo while in Riau payments were nearer Rp.1,000/kilo.<sup>270</sup>

### **Lack of technical support leads to low productivity**

Many smallholders complain of not receiving any technical support from government or companies, which leads to lower productivity on smallholdings. Smallholding yields are also lowered because many buy ‘fake’ or substandard seedlings rather than the genuine certified palm seedlings used by large companies.<sup>271</sup> BAPPENAS (Indonesian Ministry of State Planning) estimates put smallholder yields at 2.5 tonnes of CPO per hectare, while state-owned plantations have yields of 4.82 tonnes per hectare and private companies yields of 3.48 tonnes per hectare.<sup>272</sup>

### **Difficulties getting fruit to the mills**

Farmers report that company lorries tend to collect crops from the nucleus estates before collecting fruit bunches from smallholdings. Lorries queue at the factory gate and those carrying fruit from the nucleus are waved through, while smallholders sometimes wait up to 24 hours unless they can pay bribes.<sup>273</sup> Such delays bring about risks of fruit becoming damaged.<sup>274</sup> In addition farmers report being charged for transport, loading fees when lorries are being loaded, and a ‘waiting fee’ for the time lorries queue at the mill gate.<sup>275</sup> Farmers also complain about roads not being maintained equally.<sup>276</sup> All of these transport problems lead to increased costs in getting fruits to the mill and affect smallholder incomes.

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<sup>268</sup> p.5-11, Maryadi, Yusuf A.K., Mulyana A., Pricing of Palm Oil Fresh Fruit Bunches for Smallholders in South Sumatra, Fakultas Pertanian Universitas Sriwijaya, 2004.

<sup>269</sup> Interview with Community Liaison Officer from private company. Anonymous, Riau, 2007

<sup>270</sup> Interviews with farmers in Riau and West Kalimantan as part of field-work for this report, July 2006

<sup>271</sup> p.IV-27, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

<sup>272</sup> p.IV-27, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andalan dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

<sup>273</sup> Personal Communication, Smallholder in Paya Rumbai village, Indragiri Hulu, Riau.

<sup>274</sup> p.26, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>275</sup> p.20, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>276</sup> p.26, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

### **One two hectare plot is not enough**

The vast majority of oil palm smallholders in private or state company supported growers schemes are given a two hectare plot of oil palm. An article in an industry journal recognises that two hectare smallholdings are “really not sufficient to generate a reasonable income, especially in the early lower yielding years”.<sup>277</sup> This is a major concern frequently expressed by smallholders, as in this case in East Kalimantan:<sup>278</sup>

*“Those who have a motorbike, a car, a proper house, – you can be sure they have at least three plots [six ha]. Three plots at the very least. Those with just one plot [two ha] stay poor. In my opinion and based on my own experience, I think that two hectares are not enough. If that is all the oil palm one intends to plant, one would be well advised not to do so.”*

### **Limited government or company support for replanting smallholdings**

At the end of their productive life (approximate age 25) plantations require re-planting, requiring another large capital expenditure at a time when some communities may only recently have repaid their debts from the first cycle. Communities report little support from companies or government for re-planting smallholdings. Re-planting of the company nucleus is reportedly prioritised instead. This reflects a company culture which, according to an industry journal, suffers from “a continuing temptation and tendency to emphasize the core inti [nucleus plantation] which was after all the profit core of their operation”.<sup>279</sup> Communities in this situation are left with little or no income, and no capital to invest in replanting. As a result pockets of acute deprivation are common on estates. The example below tells the story of Nursiah (not real name), a woman with a family smallholding on a state-run plantation estate in Bodok, Sanggau district, West Kalimantan:

*“The entire plantation is at the end of its productive life, and there is little income in her village. The thousands of smallholders in the area are not receiving any support to re-plant. In the meantime the company is starting to replant the nucleus land. The community contends that the nucleus land continues to be their customary land and that they want it back and not to be used by the company again. The young people, Nursiah commented, “often finish school at a young age and get uncontracted work at the plantation, working occasionally for the company. They don’t have their own land to farm or an oil palm smallholding so they sit around smoking and drinking”. She points to a group of youths in the room to whom this has happened. Nursiah continues, “if a family has only one plot [2ha] it is very hard to know what will happen to their children. The land isn’t enough to pass on to all of them. So the parents send a letter to the company to ask for the company to offer a job. There are no jobs for the girls and few for the boys so they are worried – they don’t know what the next generation will do”.<sup>280</sup>*

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<sup>277</sup> p.23, Zen Z., Barlow, C. and Gondowarsito, R., Oil Palm in Indonesian Socio-Economic Improvement - A Review of Options, Oil Palm Industry Economic Journal, Vol. 6(1) 2006.

<sup>278</sup> p.38, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>279</sup> p.23, Zen Z., Barlow, C. and Gondowarsito, R., Oil Palm in Indonesian Socio-Economic Improvement - A Review of Options, Oil Palm Industry Economic Journal, Vol. 6(1) 2006.

<sup>280</sup> Recorded interview with oil palm smallholder, Bodok, Sanggau District, West Kalimantan.



### **Companies no longer offer smallholdings**

While in the past many smallholdings were given under World Bank or Indonesian government schemes, most new plantations are being developed by private companies. Sawit Watch's observation of recent plantation expansion indicates that fewer companies are offering smallholdings, and that these may only be offered as a last resort to placate communities that are refusing plantations.<sup>281</sup>

#### **4.2.3 Debt Bondage**

*"I was told that my debt amounted to over 60 million to be returned in instalments over a period of ten years. After one year, the highest monthly income I have managed has been Rp.150,000 [£8.50] after deducting my credit payments for fertilisers, maintenance, and transportation."*<sup>282</sup>

*"A farmer participating in a NES-transmigration system in Pasir District, East Kalimantan, has testified that he has run up a debt of US\$ 2,541 to be paid over 13.5 years. This puts him in an extremely difficult situation, since he only receives US\$ 200 per year for two hectares of plantation."*<sup>283</sup>

The problems attached to smallholder production result in many smallholders being heavily indebted to companies over long periods, with little information about levels of debts, how these are calculated and when they will be repaid. Estate smallholders typically acquire debts of between US\$3,000 to SU\$6,000 for a two hectare plot.<sup>284</sup> The debt is paid in instalments over a period of at least 10 years and taken as a 30 per cent payment off the revenue from harvests.<sup>285</sup> Many farmers find it difficult to repay these debts, not least because of the market distortions described in this section.

Many smallholders do not know how much their debt is, how much monthly payments are, or when the debt is likely to be repaid. "Farmers lack contracts with mills, get very limited documentation from the KUD [state-run farmers cooperative] and as a result say they have no idea how much their remaining debts are."<sup>286</sup>

A smallholder in Sanggau, West Kalimantan, made the same point:

*"We were not given any information on the cost that we would incur to establish the oil palm plantation on our plots. That is the way it was handled back in 1982/83. With the new KKPA system nothing has changed. We do not*

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<sup>281</sup> Communication from Sawit Watch Staff, December 2007.

<sup>282</sup> Recorded interview with smallholder in Sintang district, West Kalimantan, July 2006.

<sup>283</sup> An overview of the impacts of HTI development on local economies. Comparing different strategies for the upper Segah River area, East Kalimantan, Indonesia, Unpublished.

<sup>284</sup> Smallholders repeatedly gave these figures when interviewed. Also in Rhet A. Butler, Palm Oil doesn't have to be bad for the Environment, April 4, 2007, [http://news.mongabay.com/2007/0404-oil\\_palm.html](http://news.mongabay.com/2007/0404-oil_palm.html)

<sup>285</sup> p.22, Zen Z., Barlow, C. and Gondowarsito, R., Oil Palm in Indonesian Socio-Economic Improvement - A Review of Options, Oil Palm Industry Economic Journal, Vol. 6(1) 2006.

<sup>286</sup> p.24, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

*receive any information on how much money has been disbursed. I do not agree with such procedures.”<sup>287</sup>*

For example the leader of an oil palm smallholder cooperative in Ngabang, West Kalimantan, stated:

*“This plantation has been going on for 23 years – they still haven’t paid off their debt. And they won’t pay it now as they are not harvesting since the palms aren’t producing anymore. Normally the debt is repaid in instalments of one third of the gross income. Say for instance the gross income is Rp.1,000,000 per month then Rp.300,000 is used to repay the debt. In Ngabang more than 90 per cent have not paid off their debt. Of 4,000 families there are about 100 families that have paid off their debts [2.5 per cent]. And the other families will never manage to pay off this debt since the palm trees are no longer productive. I asked someone from the company who told me there is still about Rp. 20 billion [£1,176, 470] of unpaid debt to this day.”<sup>288</sup>*

In this situation, communities and individuals unable to pay back the debt are forced to provide their labour in exchange for an undefined period of time. NGOs, including Sawit Watch, have argued that the levels of debt and the manner of acquiring and repaying the debt were such that the situation was “tantamount to debt bondage in many cases, producing oil palm fruit for the companies that control their lands and debts”.<sup>289</sup>

The Indonesian government’s Poverty Reduction Strategy Paper describes the problem for estate smallholders in North Bengkulu, Sumatra: “They should in fact have the opportunity to own land after a certain period, and to improve their technical skill in plantation management. Yet this never happens, and instead they continue to be just like plantation labourers”.<sup>290</sup> As one smallholder in Sanggau, West Kalimantan explained:

*“The problem is that...even after paying off our credit, we are still someone else’s coolie. It is just not true that we own the smallholding. That’s why I say that there is some good and a lot of bad things about oil palm.”<sup>291</sup>*

### **Unrealistic projections about smallholder incomes**

Some smallholders drawn into credit schemes based on faulty assumptions at the feasibility studies stage for example FFB prices are exaggerated, forecasted yields are too high, areas are overestimated).<sup>292</sup>

The ministry responsible for plantations has estimated that smallholder incomes could rise to US\$ 1,500-US\$ 2,000 per family per year by 2009, rising to US\$ 2,000-US\$ 2,500 between

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<sup>287</sup> Interview with smallholder in Sanggau district, West Kalimantan.

<sup>288</sup> Recorded interview with Smallholder Cooperative Leader, Ngabang, West Kalimantan, 2005.

<sup>289</sup> p.11, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>290</sup> Translated from: p.33, Kotak 1, Tanah dan Kemiskinan di Daerah Perkebunan, Strategi Nasional Penanggulangan Kemiskinan, BAPPENAS, Komite Penanggulangan Kemiskinan, 2005, [http://www.menkokesra.go.id/pdf/deputi6/snpk/snpk\\_gabungan.pdf](http://www.menkokesra.go.id/pdf/deputi6/snpk/snpk_gabungan.pdf)

<sup>291</sup> Recorded interview with smallholder from Bodok, Sanggau, West Kalimantan, January 2006.

<sup>292</sup> p.34, Wakker, E., Greasy palms - The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia, Friends of the Earth, 2005.

2009 and 2025.<sup>293</sup> In 2006 the Chief Executive of the Indonesian National Team for Biofuel Development made more enthusiastic projections about incomes for smallholders by stating that “at current crude palm oil prices, two hectares of oil palm would give the owner Rp. 4 million (about US\$440) a month”.<sup>294</sup> This figure would place present smallholder incomes at US\$5,280 per year. However smallholder incomes are often much lower, as can be seen in the table below which shows incomes from 2 hectare plots in April 2007 in Sanggau District, West Kalimantan.

	<b>Yr 4</b>	<b>Yr 5</b>	<b>Yr 6</b>	<b>Yr 10</b>	<b>Yr 15</b>	<b>Yr 20</b>	<b>Yr 24</b>
Rp/month	135,750	241,714	358,750	808,714	954,832	772,500	755,163
Rp. /Year	1,629,000	2,900,571	4,305,000	9,704,571	11,457,986	9,270,000	9,061,960
\$/Year	181.00	322.29	478.33	1,078.29	1,273.11	1,030.00	1,006.88

Table 8: Incomes from two hectare smallholdings by year of planting<sup>295</sup>

Some NGOs which have investigated this question in depth have estimated that farmers were receiving around US\$500 per year as cash income from their two hectare smallholdings – an amount many said was not enough to live on.<sup>296</sup> While reports from some independent smallholders in Riau suggest that some farmers are benefiting from current high CPO prices and obtaining reasonable incomes, many others are struggling with far more modest revenues, as a result of all the difficulties described in this section. In addition there are significant variations between smallholding yields, with one industry study recording “a variation of at least 50 per cent around the mean plasma [smallholding] yield”.<sup>297</sup>

<sup>293</sup> Kebijakan Pengembangan Kelapa Sawit Kaitannya Dengan Pengembangan Kawasan Perbatasan, presentation given by the Direktorat Jenderal Perkebunan on the occasion of the Seminar Rencana Pengembangan Perkebunan Kelapa Sawit di Perbatasan Kalimantan – Malaysia, Jakarta, 23 January 2006.

<sup>294</sup> Quoted in Patterson, M. Biofuel to power Indonesia's anti-poverty drive, AFP, 17 February 2007

<sup>295</sup> Data compiled from members of SPKS independent oil palm farmers union, Sanggau District, West Kalimantan, April 2007.

<sup>296</sup> p.24, Colchester, M. and Jiwan, N., Ghosts on Our Own Land: Indonesian Oil Palm Smallholders and The Roundtable on Sustainable Palm Oil, Forest Peoples Programme and Sawit Watch, 2006.

<sup>297</sup> p.24, Zen Z., Barlow, C. and Gondowarsito, R., Oil Palm in Indonesian Socio-Economic Improvement - A Review of Options, Oil Palm Industry Economic Journal, Vol. 6(1) 2006.

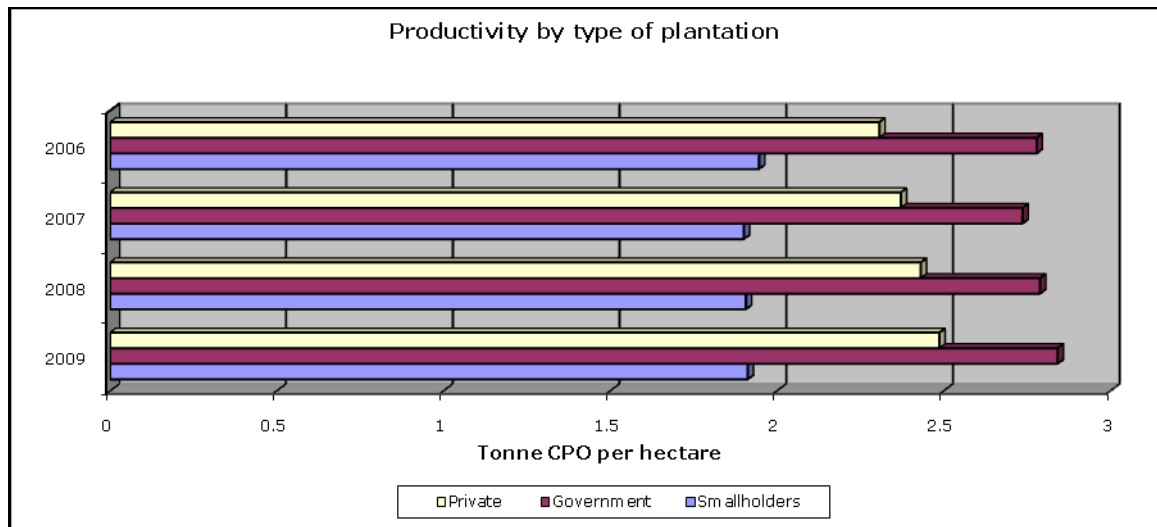


Figure 2: Department of plantations productivity by type of plantation (2006 actual figures, 2007-09 projected)<sup>298</sup>

There is also an ongoing problem of lower productivity in smallholdings. The chart above shows that smallholding produce less than two tonnes per hectare in 2006. The estimates for 2007-2009 also show that while productivity is expected to increase for both private and government owned estate plantations, it is expected to decrease for smallholdings.

More generally, projections for overall productivity are also being questioned. Many industry projections for oil palm yields seem to be higher than the reality on the ground. The French research institute CIRAD points out that while oil palm beats other oil crop rivals in terms of yields, “the difference is decreasing, to the detriment of oil palm competitiveness,” and that for 10 years or so, “scientists and officials in Malaysia have been trying to explain the stagnating performance achieved, whilst yields announced by research often speak of double for FFB/ha and more than 50 per cent for the extraction rate”.<sup>299</sup>

### 4.3 Economic Conditions for Oil Palm Workers

*“There are frequent reports of denial of rights at work, poor quality employment, high levels of unemployment, unsafe working conditions and lack of income security, and inadequate representation of agricultural/plantation workers in social dialogue. Women in rural areas, in particular, suffer even greater poverty. They are often powerless in exercising their basic rights, despite their high levels of labour force participation.”<sup>300</sup>*

<sup>298</sup> Luas Areal dan Produksi Perkebunan Seluruh Indonesia menurut Pengusahaan, Kelapa Sawit, CPO, 1967-2009, Area and Production by Category of Producer, Oil Palm, CPO, 1967-2009, Direktorat Jenderal Perkebunan.

[http://ditjenbun.deptan.go.id/web/images/stories/testing/kelapa%20sawit%20\(minyak%20sawit\).pdf](http://ditjenbun.deptan.go.id/web/images/stories/testing/kelapa%20sawit%20(minyak%20sawit).pdf)

<sup>299</sup> p.4-5, Tailliez, B., Caliman, J.P., Verwilghen, A., Omont, H., Scientific Research for Sustainable Palm Oil Production, Session 3 – Paper 5 – CIRAD (Centre de coopération internationale en recherche agronomique pour le développement), 2005. [http://www.rspo.org/PDF/RT3/Proceedings/Paper%205%20\(CIRAD\).pdf](http://www.rspo.org/PDF/RT3/Proceedings/Paper%205%20(CIRAD).pdf)

<sup>300</sup> Indonesian Plantation Workers Still Face Lack of Labour Rights, ILO Press Release, International Labour Organisation, Jakarta, Friday, 26 August 2005.

When oil palm companies seek to acquire land and permits to expand their operations, they not only hold out the promise of smallholdings, but also of providing employment for local communities and indigenous peoples. The promise of employment is a central argument to convince communities to accept oil palm plantations on their land. However, these promises often fall short and communities are left feeling deceived when it becomes apparent that many of the jobs created are temporary since plantation establishment requires much higher labour inputs than later plantation harvesting and management and that many of the jobs created are for casual day labourers who benefit from few of the protections afforded those with contracts. Additionally, wages for contracted work are frequently at or below the minimum wage, while the minimum wage itself often does not meet government's own standards for a decent living wage.

This section attempts to clarify key aspects related to oil palm plantation workers: the lack of job security; low wages; the high reported incidence of casual labourers with few rights; the impacts on women workers; and the prospects of a low skill, low wage future for millions of Indonesians.

#### **4.3.1 Job creation and security**

Estimates of employment created by plantations vary greatly. In announcing a planned 1.8 million hectare oil palm plantation in Indonesian Borneo on the Sarawak and Sabah borders in 2006, the then governor of East Kalimantan (later jailed on charges related to irregularities in the processing of oil palm permits), stated that this plantation would create work for 18 million people.<sup>301</sup> In contrast Al Halil Jamli, Chief Executive of the Indonesian National Development Team for Biofuel Development, claimed that "four million jobs is equivalent to five to six million hectares of oil palm, jatropha and cassava".<sup>302</sup> An industry presentation suggested that a million hectare plantation would create only 324,000 jobs.<sup>303</sup> It also showed that in 2005, of the 5.6 million hectares of oil palm planted, some 3.7 million hectares were nucleus estates directly operated by private or state-owned plantation companies. These nucleus plantations provided approximately 1.5 million jobs on the estates and in the palm oil mills, including management and transport related employment.<sup>304</sup>

Community testimony offers a different perspective, with community members reporting false promises of job security and quality. A frequently reported complaint is that employment promised by companies as an incentive to communities to hand over their land to plantations turn out to be jobs which are cut after a few years. One community leader from Sintang district, West Kalimantan described the promise of jobs as follows:

*"We all handed over our land for the oil palm plantation. At first, we were told that we would all be employed by the company. We needn't think about any*

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<sup>301</sup> Demi Kebun Sawit Kaltim Ubah Tata Ruang Perbatasan, Kedeputan Bidang IPSK – Lembaga Ilmu Pengetahuan Indonesia, 19<sup>th</sup> December 2006, [http://www.ipsk.lipi.go.id/inter/berita/detil\\_berita.php?vid=101](http://www.ipsk.lipi.go.id/inter/berita/detil_berita.php?vid=101)

<sup>302</sup> Patterson, M. Biofuel to power Indonesia's anti-poverty drive, AFP, 17 February 2007 He further claimed that: "Four million jobs is equivalent to five to six million hectares of oil palm, jatropha and cassava and the income for the people is above the minimum wage," and that "at current crude palm oil prices, two hectares of oil palm would give the owner four million rupiah (about 440 dollars) a month..."

<sup>303</sup> Tinjaun Aspek Ekonomi: Prospek dan Dampak Terhadap Industri Kelapa Sawit Nasional, Presentation given at Seminar KLP Sawit, Bappenas, Jakarta, 23<sup>rd</sup> January 2006.

<sup>304</sup> Tinjaun Aspek Ekonomi: Prospek dan Dampak Terhadap Industri Kelapa Sawit Nasional, Presentation given at Seminar KLP Sawit, Bappenas, Jakarta, 23<sup>rd</sup> January 2006.

*other work such as agriculture, rubber tapping, or any other kind of work. That is what they promised us, promised! But three to four years later they started firing people at the company. We have lost the ownership rights over our land and now we are left without jobs.”*<sup>305</sup>

Testimonies like this one are borne out by the literature. For example Papenfus mentions that during the establishment period of a large oil palm estate some 532 person days per hectare) are required, whereas during the operational phase person days per hectare go to 83 per year.<sup>306</sup> Another study also reported 542 days per hectare for plantation establishment and 85 person days per hectare for operations.<sup>307</sup>

The Indonesian government's Poverty Reduction Strategy Paper supports the view that job insecurity is widespread, in an example about labourers in Pelalawan District, Riau: “Their connection with the land was broken when their customary land was released to become large-scale oil palm and rubber plantations. They work as casual labourers on land that was previously theirs under customary law. Given this state of affairs they face a lack of job security.”<sup>308</sup>

According to Milieudefensie, in 2006 “about 80,000 hectares of land in Sambas provided subsistence and employment for 207,350 small farmers. By contrast, 199,200 hectares of land in Sambas held by 15 large-scale plantation companies employed only 1,944 people in the same year”.<sup>309</sup>

#### **4.3.2 Low Wages**

Community members are promised not only long-term employment but positions as skilled workers. These promises too are frequently false. Community members interviewed in the course of the research for this report explained that they were promised jobs as plantation supervisors, estate assistants, and administrative workers in company offices. In reality, local people who do obtain employment often end up working as low paid labourers who plant and tend palm trees, harvest the fresh fruit bunches, and spray pesticides or herbicides.<sup>310</sup>

Unskilled agricultural labour is generally among the lowest paid work available in Indonesia. Data from the Indonesian department of Labour and Transmigration (Depnakertrans - Departmen Tenaga Kerja & Transmigrasi) shown in the graph below demonstrates that in

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<sup>305</sup> Recorded Interview, Sintang District, West Kalimantan, December 2005.

<sup>306</sup> Papenfus, M.M., An Analysis of Independent Smallholder Oil Palm Adoption in Sumatra, Indonesia, Southeast Asia Policy Research Working Paper, No15, World Agroforestry Centre (ICRAF).

<sup>307</sup> Ginoga, K., Cacho, O., Erwidodo, Lugina, M., Djaenudin, D., Economic performance of common agroforestry systems in Southern Sumatra: implications for carbon sequestration services, Project ASEM, University of New England, 2002. <http://www.une.edu.au/carbon/CC03.PDF>

<sup>308</sup> Translated from: p.33, Strategi Nasional Penanggulangan Kemiskinan, BAPPENAS, Komite Penanggulangan Kemiskinan, 2005, [http://www.menkokesra.go.id/pdf/deputi6/snpk/snpk\\_gabungan.pdf](http://www.menkokesra.go.id/pdf/deputi6/snpk/snpk_gabungan.pdf)

<sup>309</sup> P.20-21 Policy, Practice, Pride and Prejudice, Review of legal, environmental and social practices of oil palm plantation companies of the Wilmar Group in Sambas District, West Kalimantan (Indonesia). Milieudefensie (Friends of the Earth Netherlands), Lembaga Gemawan, and KONTAK Rakyat Borneo July 2007. in: Dinas Tenaga Kerja, Transmigrasi dan Sosial. Kabupaten Sambas [<http://www.sambas.go.id/data/default.asp?fraksi=22>]. (undated). In its response to Milieudefensie (25 April 2007) Wilmar says it has 1,221 permanent (26%) and part-time (74%) workers, representing 62% of all plantation workers in Sambas.

<sup>310</sup> This was reported in numerous interviews with communities in East Kalimantan, West Kalimantan, and Riau. Sawit Watch staff also confirm frequent reports of such promises being made to communities.

2006 66 per cent of all agricultural workers earned less than £21.61 a month, well under minimum wage levels set separately for each province. A further 18 per cent earned between £21.61 and £32.42, which was just under or just over the set minimum wage in different provinces.

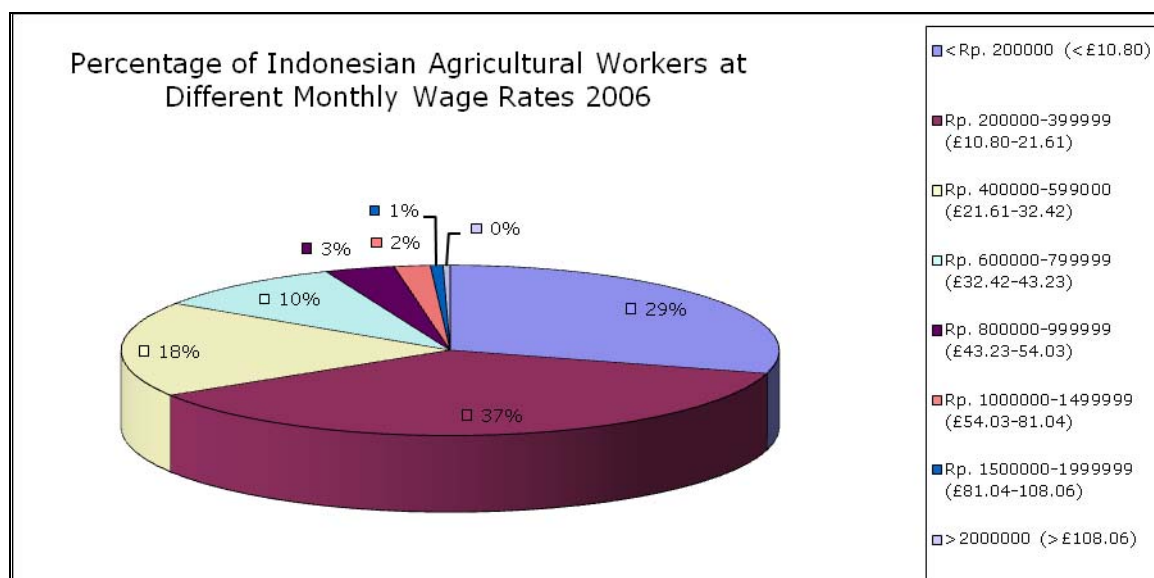


Figure 3: Percentage of Indonesian Agricultural Workers at Different Monthly Wage Rates<sup>311</sup>

Province	West Kalimantan		East Kalimantan		Riau	
	Rp.	£	Rp.	£	Rp.	£
2006 Minimum Wage per Month <sup>312</sup>	Rp. 512,000	£27.85	Rp. 684,000	£37.14	Rp. 760,000	£41.26
2007 Minimum Wage per month <sup>313</sup>	Rp. 560,000	£30.40	Rp. 766,500	£41.62	Rp. 805,000	£43.70
Percentage increase from 2006 to 2007	9.5 per cent		12 per cent		5.9 per cent	
2007 Acceptable for Meeting Basic Needs <sup>314</sup> 2007 <sup>315</sup>	Rp. 721,564	£39.18	Rp. 882,797	£47.93	Rp. 774,122	£42.04
Minimum Wage 2007 as percentage of Basic Needs.	78 per cent		87 per cent		103.9 per cent	

Table 9: Minimum wages and percentage of minimum needs met in 3 Indonesian Provinces

The table above shows that in 2007, the minimum monthly wages for the three main provinces referred to in this report were respectively: West Kalimantan, £30.40; East Kalimantan, £41.62; and Riau, £43.70. In other words, almost 84 per cent of Indonesian agricultural workers earn less than the minimum wage set for these provinces.

<sup>311</sup> From data found at: <http://www.nakertrans.go.id/ENGLISHVERSION/workers.php#h>

<sup>312</sup> [http://www.nakertrans.go.id/pusdatinnaker/upah/ump\\_2007.php](http://www.nakertrans.go.id/pusdatinnaker/upah/ump_2007.php)

<sup>313</sup> [http://www.nakertrans.go.id/pusdatinnaker/upah/ump\\_2007.php](http://www.nakertrans.go.id/pusdatinnaker/upah/ump_2007.php)

<sup>314</sup> Kebutuhan Hidup Layak (KHL)

<sup>315</sup> [http://www.nakertrans.go.id/pusdatinnaker/upah/khl\\_2007.php](http://www.nakertrans.go.id/pusdatinnaker/upah/khl_2007.php)

Plantation workers with a fixed term contract interviewed in the course of field work in these provinces in 2006 and 2007 confirmed that their wages were set almost exactly at minimum wage level.<sup>316</sup>

Aside from setting the minimum wage the government also sets a level for meeting basic needs for a decent life (KHL – Kebutuhan Hidup Layak). While the minimum wage for Riau is set just over this level, minimum wages in East Kalimantan only attain 87 per cent of basic needs and in West Kalimantan only 78 per cent. As a result the monthly salaries obtained by many plantation workers do not meet basic living requirements as set by the Indonesian government.<sup>317</sup>

Undeniably the plantation industry creates jobs, but these are barely subsistence level jobs. It is also interesting to note that while the increase in wage levels was between 5.9-12 per cent from 2006 to 2007, this relatively high increase was tempered by the fact that inflation at consumer prices was of 13.2 per cent in 2006,<sup>318</sup> and that the increase in world market price of CPO was of the order of 30 per cent.

Payment of wages less than the minimum wage leads periodically to strikes or demonstrations. On 30 May 2007 for example, members of a farmers' union reportedly demonstrated in Medan, North Sumatra, because plantation workers were receiving wages of between Rp.395,000 and Rp.537,000, although the minimum wage for the province at the time was set at Rp.821,000 per month.<sup>319</sup>

In a well-documented case, condemned by numerous trade unions and human rights groups, payment of less than the minimum wage was one of the issues which led to a strike by workers of the Kahutindo trade union in September 2005. The union was also angry at the refusal of PT Musim Mas to negotiate on issues such as menstruation leave and maternity leave. Six trade union leaders were arrested following the strike and were sentenced to prison terms of between 14 months and two years in February and March 2006 after being convicted of "openly committing violence against persons or property" although there was no proof that they had committed any violence. The sentence was confirmed on appeal by Riau High Court in April and June 2006.<sup>320</sup>

The Indonesian press has also reported on the failure of companies to pay the minimum wage. In March 2004 the Jakarta post reported that three state-owned plantation companies in North Sumatra – PTP Nusantara IV, PTP Nusantara II and PTP Nusantara III – were not paying workers the minimum wage, that the majority of the companies' 100,000 workers were not covered by the statutory basic insurance plan, and that workers lived in substandard company housing. Some workers were reportedly paid only Rp.315,000 (US\$37) a month despite working for the company for between 15 and 25 years, while others were paid on a daily basis far below the minimum wage.<sup>321</sup>

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<sup>316</sup> Interviews conducted with plantation labourers in East Kalimantan, West Kalimantan and Riau, 2006/07

<sup>317</sup> See previous table: Minimum wages and percentage of minimum needs met in 3 Indonesian Provinces

<sup>318</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/id.html#Econ>

<sup>319</sup> Demo Buruh Minta Gaji Disesuaikan Dengan Umk, Word Press, May 30 2007.

<http://kennortonhs.wordpress.com/2007/05/30/demo-buruh-minta-gaji-disesuaikan-dengan-umk/>

<sup>320</sup> Amnesty International, Indonesia: Prisoners of Conscience Action 2006: Case Sheet – Six trade union leaders imprisoned (AI Index: ASA 21/009/2006, 1 August 2006), [www.amnesty.org](http://www.amnesty.org)

<sup>321</sup> Jakarta Post, 2 March 2004 quoted in Sustainable Palm Oil: Mission Impossible?, Down to Earth, No. 63, November 2004, <http://dte.gn.apc.org/63OP1.HTM>



### **4.3.3 Casual Labourers**

Of particular concern is the use of casual labourers on oil palm plantations. Casual labourers generally have to meet the same targets as permanent workers, but they have none of the protections or benefits (such as maternity leave,<sup>322</sup> rice, housing or healthcare) that permanent workers enjoy and are particularly vulnerable to being paid below the minimum wage.

Data for casual labourers is difficult to come by since companies allegedly keep only partial records of the practice.<sup>323</sup> There are some indications that the proportion of casual labourers on Indonesian oil palm plantations is increasing. In 1984 in North Sumatra for example, 67 per cent of workers had permanent status whereas by 1999 only about 50 per cent still had permanent worker status, with the reduced number suspected to be a strategy for reducing costs.<sup>324</sup> Furthermore since the introduction of a new labour law in 2003 (UU Ketenagakerjaan no.13/2003), which gave more “flexibility” to employers, workers have expressed concern that outsourcing of work has been legalised, that workers rights have been weakened, including rights to unionise, and that the payment of cheap wages has been legitimised.<sup>325</sup>

A wide variety of reports suggest that casual labourers are sometimes paid far below the levels set by the state. For example:

- On one plantation run by PT SOCFINDO, a company belonging to the SOCFIN group, casual workers reportedly received Rp. 10,000 per day worked; far below the minimum wages received by permanent workers, notwithstanding the fact that the casual workers were supposed to reach the same targets.<sup>326</sup> Communities reported wages for casual labourers of only Rp.8,000 per day in the Parindu area, Sanggau District, West Kalimantan.<sup>327</sup>
- In North Sumatra, a worker reported getting Rp.300.000 per month but also having to pay to rent his equipment and debt to the tune of Rp. 100.000.<sup>328</sup>
- Another worker on a PT Socfindo plantation in Sei Rampah sub-district, North Sumatra, allegedly had to buy his tools to start working as oil palm harvester at a cost of Rp. 300,000. His income was reported to be about Rp. 400,000 per month. However salary deductions were allegedly imposed when a fruit bunch was picked that was green or rotten, there was no work on rainy days, and no company responsibility in case of illness. In this case it was reported that of 30 staff working under a field supervisor only seven

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<sup>322</sup> p.29, “Just our husbands’ helpers” Gendered labour market segmentation in large estates in North Sumatra, Indonesia, Karin Astrid Siegmann, Sustainable Development Policy Institute (SDPI), Islamabad, 2003 Draft.

<sup>323</sup> Communication from Sawit Watch Staff, December 2007.

<sup>324</sup> P.11, Siegmann K. and Blin, M., The Best of Two Worlds: Between Method Triangulation in Feminist Economic Research, School of Oriental and African Studies Department of Economics Working Paper No.146, 2006. <http://www.soas.ac.uk/economicworkingpapers>

<sup>325</sup> IV-30, Laporan Akhir, Keterpaduan Kebijakan Antar Sektor dalam Peningkatan Daya Saing Kawasan Andal dan Percepatan Pembangunan Daerah Tertinggal, Direktorat Kewilayahan II Kementerian Negara Perencanaan Pembangunan Nasional / BAPPENAS, 2006.

<sup>326</sup> Information provided by 11.11.11, Belgium

<sup>327</sup> Interview with community leader, Parindu, Bodok, Sanggau, West Kalimantan.

<sup>328</sup> Beberapa Kisah Kehidupan Buruh Harian Lepas di Perkebunan–Perkebunan Sumatera Utara, Kelompok Pelita Sejahtera, 2006. [http://www.kpsmedan.org/kisah\\_buruh.html](http://www.kpsmedan.org/kisah_buruh.html) (accessed 20 September 2007)

had contracts. Labourers further alleged that in order to become a fixed worker bribes needed to be paid.<sup>329</sup>

- In September 2007 several cases of workers receiving well under the minimum wage were reported in the Indonesian press. One casual worker, on the PT Socfindo plantation mentioned above, allegedly received a wage of Rp. 8,500 a day, coming to a total of Rp.90,000 over a two week period; another was reportedly only paid 4,500 per day and her husband, a maximum of Rp.250,000 per month; while a fourth worker, was allegedly paid only Rp.300,000 a month for working with PT. Bakrie Sumatera Plantation (BSP).<sup>330</sup>
- The Indonesian press has reported that on some plantations men are paid between Rp.300,000 and Rp.750,000 per month as casual labourers, while women are only paid between Rp.90,000 to Rp.200,000 per month.<sup>331</sup>

For local communities who have lost their land to oil palm, the precarious nature of casual labour compounds their economic difficulties. A member of an indigenous community in Sintang district, whose customary land had entirely been occupied by an oil palm plantation, remarked:

*“There are no positions that we can apply for. They had promised us jobs but there aren't that many. Basically, the only prospect we have is as casual labourers. And even then, they have their hidden ways to always make sure that we do not prosper. Maybe one day you are quite successful and manage to earn just a little more than what you need to buy the day's food [for the family] and then they make sure that you do not make that much over the next days. How are we ever going to be able to send our children to school?”<sup>332</sup>*

Commentators suggest that once the land has been taken over by plantation estates, many local people have little choice but to work as casual labourers on oil palm estates.<sup>333</sup> As one academic puts it, “because the chronic unemployment of landless labourers makes them insecure and fearful, the privilege of belonging to work-teams makes them value these jobs greatly, thus ensuring not only an adequate labour force but also a hardworking and docile one”.<sup>334</sup>

There are indications that many of the casual labourers are paid less than they are entitled, which estates can get away with since the transformation of the landscapes to oil palm monoculture means there are few other employment options to compete for in a given area. This may not be accidental. Some academics have claimed that: “inherent in the plantation system is the tendency toward monopolisation of land by plantation owners as a device to

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<sup>329</sup> Beberapa Kisah Kehidupan Buruh Harian Lepas di Perkebunan–Perkebunan Sumatera Utara, Kelompok Pelita Sejahtera, 2006. [http://www.kpsmedan.org/kisah\\_buruh.html](http://www.kpsmedan.org/kisah_buruh.html) (accessed 20 September 2007)

<sup>330</sup> Kennorton Hutasoit, Buruh Kebun, Penonton Di Negeri Sendiri, 2007  
<http://kennortonhs.wordpress.com/2007/05/31/buruh-kebun-penonton-di-negeri-sendiri/>

<sup>331</sup> Nadapdap G., Apa yang dimaksud dengan BHL?, Tabloid Protes Edisi 59/Mei-Juni/2007.

<sup>332</sup> Recorded Interview, Sintang district, West Kalimantan, December 2005.

<sup>333</sup> Nadapdap G., Apa yang dimaksud dengan BHL?, Tabloid Protes Edisi 59/Mei-Juni/2007, p.17, “Just our husbands’ helpers” Gendered labour market segmentation in large estates in North Sumatra, Indonesia, Karin Astrid Siegmann, Sustainable Development Policy Institute (SDPI), Islamabad, 2003 Draft..

<sup>334</sup> Kapadia, 1996, quoted in p.27 “Just our husbands’ helpers” Gendered labour market segmentation in large estates in North Sumatra, Indonesia, Karin Astrid Siegmann, Sustainable Development Policy Institute (SDPI), Islamabad, 2003 Draft.

deprive the majority of people access to an independent livelihood and therefore to ensure the plantation of labour supplies”.<sup>335</sup>

#### **4.3.4 Women workers**

Although this report does not explore the economic and other impacts of oil palm plantation establishment on women in detail, it is important to note that particular issues relating to women workers and women in communities affected by plantation establishment have been identified. They include a preference by companies for using women workers to apply pesticides and fertilizers because they are considered to be more precise. They are thus exposed to the dangers of working with pesticides, dangers which are seriously aggravated in the Indonesian oil palm industry by a lack of appropriate protective clothing and health and safety training. Workers involved in spraying are reported to have health problems including shortness of breath, vomiting, and skin and eye complaints.<sup>336</sup> Women in the early stages of pregnancy can be exposed to harmful chemicals. Women and children, who are more likely to be illiterate, are at increased risk from pesticides and fertilizers stored in peoples homes as they are unable to read the labels on containers.<sup>337</sup> Women are reportedly paid less because the work they largely do on plantations is perceived by companies as easier,<sup>338</sup> and because there is no bonus system for the many of the tasks generally allocated to women.<sup>339</sup> Some women, the wives of casual labourers, work unpaid to help their husbands reach their targets while there may be a preference to employ women as casual workers rather than permanent workers to avoid costs associated for regular time off for menstrual leave.<sup>340</sup>

Plantation establishment also forces women to go further to find firewood for cooking and to find clean drinking water, both of which must be carried home.<sup>341</sup>

#### **4.3.5 Indonesia – a low-wage, low-skill future?**

Malaysia is often held up as the model to follow for Indonesia’s palm oil industry. However, Malaysian oil palm plantations are no longer able to source Malaysian labourers. Malaysia’s Plantation industries minister Chin Fah Kui said that 473,081 foreigners work on Malaysian plantations, as opposed to 300,000 locals.<sup>342</sup> Many of these foreigners are Indonesians.

Most oil palm work is unrelentingly hard, low-paid, low-skilled, and strongly tied to estates (low mobility). With the country’s recent rise in living standards, Malaysian workers are increasingly “unwilling to accept low-level employment positions”.<sup>343</sup>

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<sup>335</sup> p.177, George L. Beckford, *Persistent Poverty: Underdevelopment in Plantation Economies of the Third World*, Zed Books, 1983.

<sup>336</sup> Information provided by 11.11.1, Belgium

<sup>337</sup> The impacts of oil palm plantations on women, Down to Earth No 74, August 2007, <http://dte.gn.apc.org/74eim.htm>

<sup>338</sup> The impacts of oil palm plantations on women, Down to Earth No 74, August 2007, <http://dte.gn.apc.org/74eim.htm>

<sup>339</sup> Information provided by 11.11.11, Belgium

<sup>340</sup> Just our husbands’ helpers” Gendered labour market segmentation in large estates in North Sumatra, Indonesia, Karin Astrid Siegmann, Sustainable Development Policy Institute (SDPI), Islamabad, 2003 quoted in p40, Wakker, E., *Greasy Palms – The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia*, Friends of the Earth, 2005

<sup>341</sup> Down to Earth No 74, August 2007, <http://dte.gn.apc.org/74eim.htm>

<sup>342</sup> Foreign workers outnumber locals in commodities and plantation sector: The Star, Friday November 10, 2006.

<sup>343</sup> p.20-21, Article 37, Ninth Malaysia Plan 2006-2010, Speech by the Prime Minister in the Dewan Rakyat, 31 March 2006 (Official Translation).

There are also reports of Indonesian plantation workers in Malaysia being paid less than minimum wage. In 2006 the Indonesian Consul General to Malaysia, Didik Eko Pujianto, stated that “Indonesian plantation workers are paid a daily wage of RM8 (Malaysian Ringgit) per day which amounts to RM240 per month”.<sup>344</sup> This is substantially less than the wages of RM800 to RM1,000 a month claimed by the Malaysian Minister of Plantations in 2005.<sup>345</sup>

Indonesia’s rapidly developing oil palm estate requires ever more contracted and casual labourers. It is unclear whether Indonesia’s policy-makers intend to keep a large labouring class in low-paid, low-skill jobs as the rest of the country develops, or whether the country anticipates inviting millions of workers from even less fortunate countries to work on their plantations in future.

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<sup>344</sup> Gunsika, A., The Indonesian Consulate General here claimed that underpaid Indonesian workers especially in the plantation sectors are absconding and ending up as illegal immigrants without any valid papers to account for themselves, *Borneo Bulletin*, 4 December 2006.

<sup>345</sup> Then, S., Muguntan Vanar, Higher pay, but locals still shun estate jobs, *The Star*, Saturday June 11, 2005



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## 6. CULTURAL IMPACTS OF OIL PALM PLANTATION EXPANSION

*“Our territories and forests are to us more than an economic resource. For us, they are life itself and have an integral and spiritual value for our communities. They are fundamental to our social, cultural, spiritual, economic and political survival as distinct peoples.”<sup>346</sup>*

There is strong circumstantial evidence that the establishment of Indonesian oil palm estates is leading to cultural change in a way that is often damaging to indigenous communities. This was pointed out by indigenous leaders during the fieldwork for this report:

*“When we still had the forest it was easy to find one's way. There were big trees that we could use as orientation. Now there are only oil palms – how is one supposed to find one's way there! They are planted in straight lines, they are planted at a regular distance from each other, their trunks all look the same, and the oil palms all look very similar...We are forest people, we cannot get lost in the forest. It is in this oil palm plantation that we get lost.”<sup>347</sup>*

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<sup>346</sup> Article 3, Charter of the Indigenous-Tribal Peoples of the Tropical Forests (in p.10, Bengwayan, M, Intellectual and Cultural Property Rights of Indigenous and Tribal Peoples in Asia, Minority Rights Group International, 2003

<sup>347</sup> Recorded interview, Talang Mamak Indigenous People, Indragiri Hulu District, Riau Province, July 2006

*“This is the sacred area of our ancestral leaders. This used to be covered by primary forest. From here to there, and all around, there was only thick forest with big trees, trunks as thick as barrels. The place was called ‘rimba batu bernyanyi’ [the forest of the singing rocks] – this has been handed down from generation to generation. Now there are no big trees anymore, it is all surrounded by oil palms.”<sup>348</sup>*

Cultural changes are complicated to measure and analyse, sparsely researched, and attributable to multiple phenomena such as wider socio-political contexts, levels of education, road access, television or mobile phone availability. It is also important to recall that cultures constantly change, and that indigenous peoples’ cultures are both adaptable and resilient. Nonetheless there is a body of evidence showing that the non-recognition of the special and profound relationship that indigenous peoples have with the land and its resources is the root cause of the erosion of indigenous culture,<sup>349</sup> and that the loss of land through colonisation, nationalisation and privatisation – and the plantation system itself – has had a profound effect on indigenous cultures across the world.<sup>350</sup>

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions states: “Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations”.<sup>351</sup>

The UN Declaration on the Rights of Indigenous Peoples further recognises “that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment”.

Article 8(j) of the Convention on Biological Diversity spells out specific obligations of Signatories to: “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote the wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices”.

Yet, as this chapter shows, indigenous peoples across the Indonesian archipelago claim that the transformation of their lands to oil palm monocultures is resulting in significant negative cultural impacts. Indeed in May 2007 Rodolfo Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, identified

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<sup>348</sup> Recorded interview with Indigenous leader, Talang Mamak area, Riau Province, July 2006.

<sup>349</sup> Daes, E., Prevention of Discrimination and Protection of Indigenous Peoples and Minorities: Indigenous Peoples and their Relationship to Land. Final working paper prepared by the Special Rapporteur, UN Economic and Social Council – Commission on Human Rights, E/CN.4/Sub.2/2001/21, 11 June 2001.

<sup>350</sup> Page 4, para. 11 Oil Palm and Other Commercial Tree Plantations, Monocropping: Impacts on Indigenous Peoples’ Land Tenure and Resource Management Systems and Livelihoods, Victoria Tauli-Corpuz and Parshuram Tamang, UN Doc. E/C.19/2007/CRP.6, 7 May 2007.

<sup>351</sup> Article 2.6, Convention on the Protection and Promotion of the Diversity of Cultural Expressions UNESCO, <http://www.unesco.org/culture/ich/index.php?pg=00006>

plantations in Indonesia as placing indigenous peoples “on the verge of completely losing their traditional territories and thus of disappearing as distinct peoples”.<sup>352</sup>

This concern was also highlighted in a recent submission to the UN Committee on the Elimination of Racial Discrimination, referring specifically to the planned 1.8 million hectare Kalimantan Border Oil Palm Mega-Project, which states that “the project will cause irreparable harm to indigenous peoples’ territories, their traditional means of subsistence, and their cultural, territorial and physical integrity. Indeed, it is no exaggeration to say that an intrusion of this magnitude threatens indigenous peoples’ very survival”.<sup>353</sup>

This chapter examines testimonies and evidence that suggest that the failure to respect indigenous peoples’ land rights, and the transformation of land use to oil palm is leading to the destruction of culturally significant sites, the loss of the material basis of indigenous cultures, the co-option and corruption of customary institutions and is negatively impacting on social cohesion and morality.

## **5.1 The loss of the intangible cultural heritage**

One of the most striking aspects of oil palm plantation development is the complete transformation from existing land uses to monoculture. Much plantation expansion takes place on indigenous peoples’ lands, which they have managed over generations as landscape mosaics consisting of fields for annual crops, community managed cash-crops such as rubber or damar in complex agroforest systems, and community protected areas of primary and secondary forest.

Since many indigenous cultures are transmitted orally rather than through writing, and wooden architecture decays rapidly in the humid tropics, writing and architecture do not generally act as repositories of material culture. Instead, the land and forests themselves are often the places where knowledge is gained and cultural memory is stored.

Much of this cultural knowledge is referred to by the UN as the ‘intangible cultural heritage’: “the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.”<sup>354</sup>

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<sup>352</sup> Rodolfo Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Oral Statement to the UN Permanent Forum on Indigenous Issues, 21 May 2007 available at [http://www.un.org/esa/socdev/unpfii/documents/6session\\_SR\\_statement\\_asia\\_en.doc](http://www.un.org/esa/socdev/unpfii/documents/6session_SR_statement_asia_en.doc)

<sup>353</sup> p.1, Executive Summary, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>354</sup> Article 2, Convention for the Safeguarding of the Intangible Cultural Heritage, UNESCO, <http://www.unesco.org/culture/ich/index.php?pg=00006>

When the landscape is transformed into oil palm monoculture, and communities lose rights over their customary lands to companies, it becomes impossible to transmit much of the knowledge held in the landscape and in the management of that landscape. The transformation to monoculture and the change in work roles – from agroforestry farmer to plantation labourer or oil palm smallholder – all contribute to the rapid erosion of traditional knowledge.

A CIFOR report which explores the conditions under which forest based income creates incentives to conserve or exploit the forest, explains that in communities in East Kalimantan:

*“...villagers have depended on the forest for centuries for nearly all their needs, with the result that the forest and its products are integral parts of their culture. Hundreds of forest products are utilised, with knowledge about their use and management varying among groups. The forest is a source of wild pig, several kinds of deer, fruits, spices, vegetables, medicinal items, timber, rattan and fuelwood. Even the swidden fields depend on the regrowth of forest to restore their fertility...Many aspects of daily life – from names of people, to decorative symbols and staple foods – come from the forest. Villagers said ‘if the forest goes, we are gone’”.*<sup>355</sup>

## **5.2 Desecration of Indigenous Peoples’ Ancestral Graves**

A frequently reported cultural impact of oil palm expansion is the destruction of ancestral graves during the process of land clearance for plantation establishment – an act considered under certain local customary laws as equivalent to murder<sup>356</sup> – despite agreements to protect these sacred areas. The graves are generally located in forested groves that are of cultural and ceremonial significance to indigenous peoples. The reported process of desecration is often roughly similar. Local indigenous people negotiate enclaves to protect these sacred sites from land clearance during the plantation establishment phase but the agreements are not respected, and, despite these precautions, the burial sites, along with the sacred groves meant to protect them, are bulldozed.

The destruction of ancestral graves has been documented over a number of years and includes the following cases:

- In 1996 in West Kalimantan, Sedawak community complained that graveyards were being bulldozed by PT Golden Hope.<sup>357</sup>
- In 1999, in East Kalimantan communities from Jempang, Muara Pahu and Bongan complained of grave destruction by the London Sumatra company.<sup>358</sup>

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<sup>355</sup> p.21, Wollenberg, E., Nawir, A.A., Uluk A. and Pramono, H., Income is Not Enough, The Effect of Economic Incentives on Forest Product Conservation, CIFOR, Bogor, 2001

<sup>356</sup> Conflicts between community and British-owned plantation company in Kalimantan, Down to Earth No. 55, November 2002, (<http://dte.gn.apc.org/55OP.htm>)

<sup>357</sup> p.66, Oil Palm: comparing Chocó (Colombia) with West Kalimantan (Indonesia), Jan Wybe Oosterkamp, Cordaid, 2007.

<sup>358</sup> Rudi Ranaq, Sawitansi di Kalimantan Timur, a paper presented during an Australia National University in Canberra, 11-13 March 2001. Also p.47, Casson, A., The Hesitant Boom, CIFOR, 2000.



- In 2000, Pak Buhari from the Samihim community in South Kalimantan, made a presentation to high ranking officials, stating “from 1994 oil-palm companies started to develop their plantations on Samihim land. The community was promised that their forest gardens would be safe. The company lied: the ancestors’ graves were desecrated by bulldozers in four locations in the Samihim area”.<sup>359</sup>
- In 2002 in West Kalimantan, contractors working for PT Harapan Sawit Lestari (at this time owned by the Commonwealth Development Corporation, which in turn was 100% owned by the UK Department for International Development (DFID)), reportedly desecrated ancestors’ graves.<sup>360</sup>
- In 2006 in West Kalimantan: PT Airlangga Sawit Jaya bulldozed 150 ancestors’ graves in Engkadik Pade village in the course of land clearance.<sup>361</sup>

The fieldwork for this report uncovered several further allegations of grave desecrations and destruction of cultural sites. Communities reported grave desecrations in two separate neighbouring villages in 1999-2000, in Sintang district, West Kalimantan:

*“I said this tengkawang [Shorea spp. - illipe nut trees] grove is customary land, graves, our ancestors who must not be disturbed. They said we should mark the trees that mustn't be cut ... So we marked all the trees or areas that were dear to us. Once we had finished we told them we had already marked the important places. "OK", they said. The next day, everything had been chopped down. Nothing was left standing. This is when the problems started.”<sup>362</sup>*

Similar stories were repeated in an indigenous community in Riau, Sumatra, where several burial sites and surrounding sacred groves were destroyed by oil palm contractors against the community’s wishes. A community leader, standing surrounded by oil palm in a burial site, voiced his feelings:

*“Of course I am sad. How could I not be? Our graves used to be sheltered by old primary forest with large trees - now all they have is oil palm! It makes me sad just to look at it - everything is destroyed. But all we can do with our sadness is pray to the Almighty. He who balances everything, who knows how he will help us to overcome this sadness? That is all I can say about it.”<sup>363</sup>*

Once the trees have been felled and the land turned over little remains to show that the graves were there. Members of some indigenous communities regard this systematic destruction as a company tactic for erasing cultural memory from the land. The Samihim community told this report’s researcher that this approach helped weaken community claims in land, since the destruction of cultural sites helped to remove proof of long-term community occupation of the land.<sup>364</sup>

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<sup>359</sup> Pak Buhari, The Destruction of Samihim Dayak Livelihoods by Oil-Palm Plantations, Presentation to South Kalimantan forestry officials and a visiting DFID delegation, Banjarmasin 2000.

<sup>360</sup> Conflicts between community and British-owned plantation company in Kalimantan, Down to Earth No. 55, November 2002, (<http://dte.gn.apc.org/55OP.htm>)

<sup>361</sup> Dayak villagers succeed in fining oil palm company, Down to Earth No. 72, March 2007, (<http://dte.gn.apc.org/72op6.htm>)

<sup>362</sup> Recorded testimony with Dayak leader, Sintang District, West Kalimantan, 2006.

<sup>363</sup> Recorded interview, Indigenous community leader, Riau province, Sumatra, 2006.

<sup>364</sup> Personal communication from Dayak leaders from Samihim community, South Kalimantan. 2000.

### **5.3 Language loss**

Language loss is one expression of the cultural shift that can occur with the imposition of monoculture, as the director of a Dayak cultural institute explains:

*“If the communities have to abandon their swidden agriculture systems, there are many - probably several hundreds of - words related to their traditional agricultural practices that are no longer used and will eventually disappear. The same applies to their traditional mixed fruit gardens: if these are replaced by oil palm plantations and the community stops celebrating the rituals and ceremonies associated with the different fruits, then another several hundred words will disappear. It affects all other aspects of their natural resources management system, such as hunting, fishing - if these activities disappear, the words related to them become obsolete and are lost. Eventually, foreign terminology related to the oil palm plantations, such as ‘kapling’ [smallholder's plot] and so forth, replaces the local language.”<sup>365</sup>*

### **5.4 Social practices, rituals and festive events**

The transformation to oil palm also means that resources and materials used in ceremonies and traditional cultural expressions become more difficult to find, which in turn threatens the continuity of these ceremonies:

*“The diversity of plants in the area has a direct impact on local rituals and customs. As long as the different forest products used in customary ceremonies can be found in the forest, the cultural and spiritual customs can still be honoured. If the forest disappears and is replaced by a monoculture plantation, such as oil palm, then automatically the way of life and the traditions of the local people change.”<sup>366</sup>*

The change in the nature of work is again closely linked with the cultural shift:

*“For us Dayak people, and I presume for all other indigenous peoples, our land is not just where we grow agricultural crops like rice and vegetables as food. Working the land also has a cultural dimension for us. Our customary ceremonies and rituals are an expression of this - they are closely linked to our agricultural activities and are also our way to honour our ancestors. Once the agricultural cycle is disrupted, e.g. because people now work on oil palm plantations, all these ceremonies, feasts, and other cultural and spiritual activities are discontinued and will eventually be lost.”<sup>367</sup>*

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<sup>365</sup> Bamba, J., Director of Institut Dayakologi in West Kalimantan. Recorded interview, Pontianak, 2006.

<sup>366</sup> Bamba, J., Director of Institut Dayakologi in West Kalimantan. Recorded interview, Pontianak, 2006.

<sup>367</sup> Bamba, J., Director of Institut Dayakologi in West Kalimantan. Recorded interview, Pontianak, 2006.

Traditional rites can no longer take place at forest-based sacred sites when such sites are destroyed when the land is cleared for plantations.<sup>368</sup>

## **5.5 Other traditional ecological knowledge**

The advent of monoculture also leads to a loss of other forms of traditional knowledge. Medicinal plants and the knowledge surrounding their use are lost in the sudden transformation as a woman who works on an oil palm smallholding explains:

*“It used to be easy for us to find tree roots used for traditional medicine in the forest. But now the forest is gone, all of that has disappeared. We also used to grow all sorts of crops. Now it has become impossible. The oil palm roots are everywhere and nothing grows.”*<sup>369</sup>

The loss of medicinal plants leads to a loss in knowledge of how to use these plants, and a loss of available options for low-cost, locally accessed plant-based remedies. Traditional handicrafts are also hampered by a loss of availability of plants used in their preparation as weaving materials or dyes.

## **5.6 Co-option of customary institutions**

The vitality of customary laws and institutions are often key to ensuring the cultural survival of indigenous communities in the face of rapid change. The co-option of customary leaders by companies and local government officials to ensure their support in convincing communities to hand over land for plantation cultivation is reported by many observers. It can lead communities to lose trust in these leaders and by association in these laws and institutions, which as a result are weakened over time. The Director of a Dayak cultural institute explains the process as follows:

*“If a company wants to take over an indigenous community's land for their purposes, they first approach the indigenous leaders and other members of the community whom they perceive to be influential in the village. They approach them and even give them "incentives" such as gifts, either in money or in kind, to encourage them to influence the people of their community into accepting the establishment of an oil palm plantation on their land. This is a quite a common practice and happens in nearly all plantations.”*<sup>370</sup>

A human rights lawyer in Riau related a specific case of this taking place:

*“The oil palm companies, like the ones operating in the area of the Talang Mamak people, in the district of Indragiri Hulu, managed to get hold of the local communities' customary land by giving money to the indigenous leaders and village elders. The company paid a certain amount of money to the*

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<sup>368</sup> p.10, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN, other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>369</sup> Woman oil palm smallholder, Paser, East Kalimantan, Recorded interview, July 2006.

<sup>370</sup> Bamba, J., Director of Institut Dayakologi in West Kalimantan. Recorded interview, Pontianak, 2006.

*indigenous leaders, making use of the fact that the Talang Mamak have great respect for their customary leaders, so that just with the leaders' signatures they got hold of the whole community's land.”<sup>371</sup>*

## **5.7 Negative impacts on community well-being, cohesion and morality**

Many community members and NGO representatives also allege that oil palm plantation development contributes negatively to community well-being, cohesion and morality. Declarations from indigenous peoples across West Kalimantan rejecting oil palm plantations have stated: “oil palm does not suit our way of life and culture”;<sup>372</sup> “oil palm will destroy our traditional agricultural practices”;<sup>373</sup> “the [oil palm] company divides cohesion amongst community members”;<sup>374</sup> “restore the pride of those villagers who were intimidated by the company”;<sup>375</sup> “don't allow companies undermine the traditional indigenous practices” and “stop the entry of oil palm plantations as they will only bring disaster to the traditional indigenous communities”.<sup>376</sup>

In short, alleged negative impacts on social cohesion include:

- The nature of oil palm as an economic system leads to a shift from group and consensus-based decision-making to individualism.
- As already described above there may be a loss of respect for customary law (particularly in cases where customary leaders are co-opted by companies).
- There is a marked shift from self-sufficiency and independence, to marked dependency (arising from debt; company control over land, roads, prices, and markets; new needs to purchase food and medicines).
- Communities lose their self-respect, pride and identity.
- Communities lose their resilience to change in case of extreme weather or market shift – they are dependent on one commodity only.

Another complaint frequently heard in the case of smallholders is that the reduction in land holdings to two-hectare plots of oil palm, means there is no work available to young people. As a result community members claim that young people lose have no choice but to migrate to the cities and young rural women sometimes become prostitutes on the estates. Communities have reported that some women leave for better paid work in Malaysia but return home as unmarried mothers, and become prostitutes in their own communities.<sup>377</sup>

Few people speak about openly about prostitution. However, an increase in prostitution, and a linked increase in sexually transmitted diseases around the development of plantations has

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<sup>371</sup> Ali, Human Rights Lawyer, Riau, Recorded interview, Pekan Baru, 2006.

<sup>372</sup> Semunying Jaya Indigenous People declaration, February 2006, Bengkayan District, West Kalimantan. Quoted in pp.58-61, Request for Consideration of the Situation of Indigenous Peoples in Kalimantan, Indonesia, under the UN Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedures, submitted by Sawit Watch, AMAN and other Indonesian organisations and Forest Peoples Programme, 6 July 2007.

<sup>373</sup> Sungai Antu Indigenous People declaration, October 2005, Sintang District, West Kalimantan. Ibid.

<sup>374</sup> Sungai Bala Indigenous People declaration, Sekadau District, West Kalimantan. Ibid.

<sup>375</sup> Sanjan Emberas Indigenous People declaration, Sanggau District, West Kalimantan, Ibid.

<sup>376</sup> Muakan Indigenous People declaration, Sintang District, West Kalimantan, 2005. Ibid.

<sup>377</sup> Down to Earth No 74, August 2007, <http://dte.gn.apc.org/74eim.htm>

been generally noted.<sup>378</sup> Near every plantation visited during this field-work there were ‘night markets’, a phenomena explained by a farmer from Sekadau, West Kalimantan:

*“Once the palm oil is harvested, the company pays the different small holders their share of the yield. On payday, the company sets up a so-called night market with stalls offering karaoke, drinks and also gambling. The company pays local women to work as waitresses at the stalls. With the karaoke and people getting drunk, it is the women who get harmed.<sup>379</sup> For instance, we recently saw a case in Sambas district where eight women have become pregnant as a result of such night markets. [The problem with oil palm] is not just the land issue but also that it erodes the communities' moral values.”<sup>380</sup>*

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<sup>378</sup> Oil Palm and Other Commercial Tree Plantations, Monocropping: Impacts on Indigenous Peoples' Land Tenure and Resource Management Systems and Livelihoods (UN Doc. E/C.19/2007/CRP.6, 7 May 2007), Victoria Tauli-Corpuz and Pashuram Tamang, Special Rapporteurs charged with preparing a report on palm oil development, commercial tree plantations and mono-cropping and on their impacts on indigenous peoples' land tenure and resource management systems and livelihoods.

<sup>379</sup> In Indonesia karaoke is often used as a euphemism for prostitution.

<sup>380</sup> Recorded interview with rubber farmer, Sekadau, West Kalimantan, 2006.



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## **8. WATER**

*“...the community does not have any drinking water anymore...The water quality of the river that originally provided them with drinking water is even worse now. In my opinion, this is a violation of the community’s human rights, because the company is neglecting their responsibility to minimise the environmental impacts of their operations. They are not respecting the community’s right to live. It is as if the company wanted to kill this community slowly with this effluent.”<sup>381</sup>*

The impact of oil palm plantations on water supply and quality has received only limited attention to date. However, indigenous peoples and local communities across Indonesia report reduced access to water and increased water pollution as a result of oil palm plantations and palm oil mills (POMs). In one community survey, 74 per cent of respondents mentioned that their water source had become worse (more polluted or drier) after oil palm was planted.<sup>382</sup>

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<sup>381</sup> Recorded interview with teacher on oil palm estate, Sanggau district, West Kalimantan, June 2006.

<sup>382</sup> p.11, Hubendick, L., Richer or Poorer? – An economic analysis of forest conversion into oil-palm plantations in Indonesia, Unpublished Paper, 2005.

In this chapter, analysis of available research, coupled with community testimonies, indicates that plantation establishment and management, together with poor practice in the treatment of palm oil mill effluent, is leading to a number of negative outcomes:

- A loss of physical access to water resources as a result of company control over land.
- Water shortages and increased flooding associated with plantation establishment.
- Pesticides and herbicides used in oil palm cultivation are leached into rivers and contribute to water pollution.
- Water pollution is worsened by the frequent release of untreated palm oil mill effluent (POME) into waterways, which threatens community health and reduces aquatic diversity.

These negative impacts are not just serious detractors from the quality of life of local Indonesian communities, but also represent a serious breach in Indonesia's international obligations to guarantee the right to water.

### **Water access and international law**

While the impact of the Indonesian oil palm industry on water is an environmental concern, it is equally a question of human rights and environmental justice. The right to water is recognised and guaranteed by a number of international standards, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child, all of which have been ratified by Indonesia.

In its general comment on the right to water, the UN Committee on Economic, Social and Cultural Rights, declares that water is a "limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights". Furthermore, it states that "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses".

The general comment recognises that water is required to realise rights such as the right to adequate food, to health, to gain a living by work and the right to take part in a cultural life. It states that water should be treated as a social and cultural good, and not primarily as an economic good, and provides that the right to water must be realized in way that is sustainable for present and future generations. It specifically emphasizes that the right to water includes the need to protect indigenous peoples' access to water resources on their ancestral lands from encroachment and unlawful pollution.<sup>383</sup>

Draft guidelines on the Realization of the right to drinking water and sanitation, prepared by the UN sub-commission on the promotion and protection of human rights, and intended to assist government policy makers and others to implement the right to drinking water, expand upon the General Comment. They require, inter alia, States to prevent and progressively reduce contamination of watersheds and aquatic ecosystems by substances such as chemical pollutants, affirm the right of everyone to participate in decision making processes that affect

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<sup>383</sup> General Comment No. 15 (2002), The Right to Water, (UN Doc. E/C.12/2002/11, 20 January 2003), [www.unhcr.ch](http://www.unhcr.ch)

their right to water and sanitation and to have equal access to full and transparent information concerning water, sanitation and the environment held by public authorities or third parties.<sup>384</sup>

## **6.1 Reduced Water Availability**

Community access to water may be lost when rivers become part of company run plantations. In addition access is lost because water resources are severely depleted or polluted after plantation establishment.

### **6.1.1 Loss of Physical Access to Water**

When community land is taken over by companies for the purpose of establishing oil palm estates, this land becomes a private resource. The land no longer produces a variety of goods and services for the benefit of the community, but instead becomes an agro-industrial concern dedicated to producing revenue for shareholders. A recently published manual designed to be a comprehensive reference source for managers and executives in the oil palm agri-business, recognises that the conversion of land to oil palm plantations leads to negative impacts for local people including a loss of access to rivers.<sup>385</sup> As Abetnego Tarian, Deputy Director of Sawit Watch, explains:

*“The plantation law defines large scale plantations as "private property", which means that nobody can enter the area without permission. It is quite obvious that if, for instance, there are water sources within the vast area covered by the plantation, and given the fact that large companies are very powerful, the local communities will have no chance to access those water resources.”*

### **6.1.2 Drying Rivers and Floods**

Although Indonesia is situated within the humid tropics, and oil palm plantations are planted in areas of relatively high rainfall, every community visited during the course of the fieldwork for this report reported the drying out of local rivers after the establishment of oil palm plantations, as well as an increase in the incidence of flooding.

M. lives in a plantation in Sanggau district in West Kalimantan. She explains the impacts of the plantation on local rivers:

*“In the past when there was no oil palm plantation here, water in the river was very deep, but now it's very shallow. We run out of water, it is difficult for people to find clean water in the dry season, not every one has a drilled well. In the past in the forest, after a month and a half of dry season we would still find many small rivers. Nowadays after a month or so of dry season they have all dried up.”<sup>386</sup>*

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<sup>384</sup> Economic, Social and Cultural Rights: Realization of the right to drinking water and sanitation, Report of the Special Rapporteur, El Hadji Guissé, UN Doc: E/CN.4/Sub.2/2005/25, 11 July 2005

<sup>385</sup> p.58, Pahan, I., Panduan Lengkap Kelapa Sawit, Penebar Swadaya, Jakarta 2006.

<sup>386</sup> Recorded interview with smallholder, Sanggau, West Kalimantan, 2006.



Father Fritz is a European priest who has been based in the same parish in Sanggau district, West Kalimantan, since before the first oil palm plantations were established in the 1980's. Here he describes changes that have occurred since the advent of oil palm locally:

*“Two or three years after kelapa sawit [oil palm] started, during the dry season the rivers went dry, completely dry. Over there is a small river and before it never dried up but after kelapa sawit [oil palm] started during the dry season, completely dry, completely dry, not a single drop anymore.”<sup>387</sup>*

Over a 25-year period, Father Fritz measured the water level in a dozen or so parish wells that he had personally helped to establish. The measurements showed that before 1983 – the year of plantation establishment – the water-table was near the surface, but that it dropped by 2.5 metres immediately after plantation establishment, then rose 1.5 metres, finally stabilising one metre lower than the original level.

In addition to observing the change in water levels, Father Fritz noted the increased incidence of floods.<sup>388</sup> Before 1983 he had not experienced a single flood in his parish. Since plantation establishment floods have been an annually recurrent feature.

Tamiang, eastern Aceh, has also been annually affected by floods since the early 1990s when oil palm plantations began to be established. In December 2006 widespread flooding affected eastern and central Aceh as well as parts of North Sumatra. During the flooding, some 70 people were reportedly killed, over 10,000 houses were severely damaged, over 20,000 others partially damaged and over 360,000 people displaced from their homes. Tamiang Aceh was reported to be the worst affected area.<sup>389</sup>

The Head of the Aceh Tamiang Department of Food Crop Agriculture and Horticulture is reported to have acknowledged the link between plantation establishment and flooding, stating that “palm plantations are one of the main reasons for the floods in Aceh Tamiang” and suggesting converting some plantations into forests to prevent further flooding.<sup>390</sup>

During oil palm plantation establishment, the land is cleared of all of its vegetation, and the permeability of the land is reduced by an increased build-up of roads and paths, the loss of soil faunal activity, and compaction from heavy machinery. Some of the world's leading tropical hydrologists acknowledge that under such circumstances there can be increased run-off and that as a result stormflows tend to increase in the rainy season, while water flows tend to be reduced in the dry season<sup>391</sup>

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<sup>387</sup> Recorded Interview, Father Fritz, Sanggau, West Kalimantan, 2006.

<sup>388</sup> “Flood” is used here to describe high water events where rivers burst their banks, causing damage to crops and property that can affect people's livelihoods. The scientific literature may describe some of these events as storm-flows, and reserve the word flood for even more dramatic occurrences. The distinction is important since scientists agree that storm-flows can be increased by loss of land filtration characteristics but that in extreme precipitation floods are as likely whether deforestation has taken place or not.

<sup>389</sup> p.22, The ‘Golden’ Crop? Palm Oil in Post-Tsunami Aceh, Eye on Aceh, September 2007. [www.aceh-eye.org](http://www.aceh-eye.org); The World Bank Group, Aceh Flood, Damage and Loss Assessment, 24 July 2007, accessed at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/SJHG-75E9UH?OpenDocument>.

<sup>390</sup> Pak Sunaryo, quoted in p.23, The ‘Golden’ Crop? Palm Oil in Post-Tsunami Aceh, Eye on Aceh, September 2007. [www.aceh-eye.org](http://www.aceh-eye.org)

<sup>391</sup> p.910-915, Bruijnzeel, L.A., Bonell M., et.al, *Conclusion: Forests, Water and People in the Humid Tropics: An Emerging View*, in Bonell, M. and Bruinjzell, L.A., *Forests Water and People in the Humid Tropics*, UNESCO, Cambridge, 2004

Another practical reason local communities experience the drying up of rivers is the digging of drainage canals on the plantations. These are dug to ensure that palm trees are not subject to flooding. But drainage canals often cut through rivers and streams, interrupting the flow of water previously available for communities. As one community leader explained:

“The river, the forest, they have become dry like that because of the drainage trenches built in the oil palm plantation. There are drainage trenches at the end of rivers...The river has just disappeared.”<sup>392</sup>

## **6.2 Deteriorating Water Quality**

A paper prepared for the RSPO by oil palm industry and environmental NGO representatives acknowledges that “leaching of pesticides and other agrochemicals, runoff, sedimentation, pollution by effluent discharge and hydrocarbon contamination all affect water and can be significant impacts of oil palm cultivation.”<sup>393</sup> A fisherman from the Siak River in Riau, whose banks are lined with dozens of palm oil estates and mills along its banks, gives a stark description of the industry’s impacts on aquatic life:

*“There are hardly any fish left...Some days we do not find any fish at all. It is not only the liquid waste of the CPO plant, but the actual oil palm plantation pollutes the water, too. During the dry season the plantation is sprayed with pesticides, herbicides and fertilizers, and as soon as the rainy season comes, the rain washes them into the river. These substances are poisonous for the fish and kill them. It is not just the waste from the CPO plant, but also all these agrochemicals.”*<sup>394</sup>

### **6.2.1 Impacts of Pollution on Communities**

Palm oil mills allegedly release an enormous amount of liquid waste into surrounding waters. This liquid waste supports a proliferation of microorganisms that consume increasing amounts of dissolved oxygen as their populations grow. This “biological oxygen demand” (BOD) – the amount of oxygen consumed by the respiring microorganisms - is a characteristic used to measure the organic pollution load of water. High BOD figures indicate water in which the dissolved oxygen could rapidly be used up by microorganisms feeding on the pollution, possibly leading to foul smelling water and mass fish death from lack of oxygen.

A palm oil mill with a capacity of 60 tonnes of fresh fruit bunches per hour (60t FFB/hr) can produce 1,200 cubic metres of liquid waste per day. This is equivalent to a BOD of

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<sup>392</sup> Recorded interview, community leader, Sintang, West Kalimantan, 2006.

<sup>393</sup> p.25, S. Lord, J. Clay, Environmental Impacts of Oil Palm – Practical Considerations in Defining Sustainability for Impacts on the Air, Land and Water, Paper Prepared for RSPO [http://www.rspo.org/resource\\_centre/Environmental%20impact%20of%20oil%20palm%20\(Simon%20Lord\).pdf](http://www.rspo.org/resource_centre/Environmental%20impact%20of%20oil%20palm%20(Simon%20Lord).pdf)

<sup>394</sup> Recorded interview with Siak River fisherman, Pekanbaru, Riau Province, July 2006.

15,000kg/day, equivalent to the sewage produced by a city of 75,000 people.”<sup>395</sup> As a result Palm Oil Mill Effluent (POME) is highly polluting to waterways and has significant negative effects on aquatic life downriver.<sup>396</sup>

In 1998 Indonesia had 204 POMs with a capacity of 8074 t FFB/hr.<sup>397</sup> Given that the number of Indonesia’s oil palm estates has more than doubled since this time it is reasonable to assume that the number of POMs has also increased significantly.

A submission to the RSPO admits “most [mill operations] discharge effluent into natural water ways.”<sup>398</sup> This admission was borne out by the field investigations for this report. In Riau, West Kalimantan and East Kalimantan, communities were routinely affected by water contamination from illegal effluent discharges into local rivers. Here interviewees from three different locations corroborate each other’s experiences:

*“The problem with this waste is that up to a distance of approximately seven km it kills all the fish in the river. We cannot even use it for washing ourselves. If we do, we get skin diseases, ulcers and itching.”*<sup>399</sup>

*“It didn't used to look like that. The local people would still use the water for bathing, washing, drinking. Now, since it has been polluted with refuse from the CPO plant, the water cannot be used anymore. This has been like that for the last ten years and the company has still not responded [to the communities' demands] as to how the water quality can be restored again.”*<sup>400</sup>

*“Every day during the rainy season, the dam holding back the liquid waste leaks waste into the river. The water is not fit for consumption when this happens. The waste spills into the river and kills the fish and other larger animals, such as fresh water turtles. That is what happens because of the waste that [the mill] discharges into the river.”*<sup>401</sup>

## **6.2.2 Obstacles to Better Effluent Management / Implementation**

POMs generate considerable volumes of liquid waste that necessitate large and costly facilities for its removal and processing. By avoiding costs associated with proper waste water treatment facilities a POM financier can expect to break even after two to three years and earn considerably greater profits thereafter. One study quoted a factory engineer

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<sup>395</sup> p.26, Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005.

<sup>396</sup> See, for example, Ahmed, AL, Ismail, S. and Bhatia, S. 2003. Water recycling from palm oil mill effluent (POME) using membrane technology. School of chemical engineering, Universiti Sains Malaysia. <http://www.desline.com/articoli/5068.pdf>

<sup>397</sup> p.26, Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005.

<sup>398</sup> p.25, S. Lord, J. Clay, *Environmental Impacts of Oil Palm – Practical Considerations in Defining Sustainability for Impacts on the Air, Land and Water*, Paper Prepared for RSPO [http://www.rspo.org/resource\\_centre/Environmental%20impact%20of%20oil%20palm%20\(Simon%20Lord\).pdf](http://www.rspo.org/resource_centre/Environmental%20impact%20of%20oil%20palm%20(Simon%20Lord).pdf)

<sup>399</sup> Recorded interview with community leader in Riau, July 2006.

<sup>400</sup> Recorded interview with NGO activist in Paser district, East Kalimantan, July 2006.

<sup>401</sup> Recorded interview with local teacher in oil palm area in Sanggau district, West Kalimantan, June 2006.

reporting that his factory management considered investing in better waste management technology as “extravagant”.<sup>402</sup>

Despite the existence of laws and government agencies purporting to regulate pollution, a lack of implementation of these laws, an inadequate supervisory regime and legal system, lack of political support and systemic and ingrained corruption all lead to a situation where company profit is put before effective pollution control to the detriment of local communities and the environment.

The failure to implement effective Environmental Impact Assessments (EIAs) impacts directly on communities as they encourage and condone poor company practices. Waste management is not taken seriously and for example:

- There is no follow up to the EIAs and once a permit has been issued, planned waste management procedures are not implemented.
- Other corrupt practices and mutual favours lead to a situation of negotiated compliance rather than regulation enforcement.
- Factories find it cheaper to bribe inspectors than to invest in proper waste management.
- Allegedly, “a comparison of AMDAL (EIA) documents produced by commissions for different factories demonstrates many to be almost the same, despite the entirely different environmental characteristics of locations.” In fact “consultants writing AMDAL’s have been known to forget to change the name of the factory on the document they are using as a template.”<sup>403</sup>
- EIA commission members frequently lack expertise or experience, and the NGO component of the commissions, designed to reflect NGO and community interests, are often selected from compliant groups unlikely to provide any counterbalance to government interests.
- Factories bribe commission members to obtain desirable EIAs.
- Provincial or district level Environmental Impact Management Agency offices reportedly are under resourced, under staffed by inadequately trained staff. In 2005, in North Sumatra less than 40 of approximately 200 staff had reportedly been trained in environmental matters.
- Factories mobilise workers against pollution controls portraying it as a threat to jobs.
- Workers are disillusioned with the system and believe that complaints only lead to inspectors being bought off.
- It is extremely difficult for communities affected by pollution to seek redress in the courts due to, but not limited to factors such as costs, access to courts, and the difficulty of providing scientific evidence. Although Law 27, passed in 1997, provides that the burden of proof in allegations of POM pollution should lie with the company responsible for the waste, rather than with the communities who are suffering the impacts, its effect is extremely limited as there are no associated implemented regulations.<sup>404</sup>

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<sup>402</sup> p.28-29, Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005

<sup>403</sup> p.27, Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005.

<sup>404</sup> p.27-28, Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005

A particularly illustrative example of the use of corruption and obfuscation to avoid pollution control was recorded in interview with a mill employee in Riau during the research for this report:

*“I used to be in charge of the company's liquid waste management. Since I was their employee, I always defended the company, after all they paid my salary... When the rainy season starts, the liquid waste pond fills up and I had to discharge some of the waste into the river. I did that in the middle of the night, so that nobody would know. That was my job...At the time the Regional Planning & Economic Development Agency (Badan Perencanaan Pembangunan Daerah, BAPPEDA) used to come quite often. The company people would then make sure that everything looked fine. If the pollution was to the right, I took the government people to the left. Apart from that, the company used to give money to the government officials who came - and so they would just disappear and the problem was never solved. So one could say that the local communities have been poisoned by the company.”<sup>405</sup>*

To the best of this report's knowledge, the Environmental Impact Management Agency (Bapedalda) though vested with the power to close POMs, has not yet closed any for infringing the pollution laws.<sup>406</sup>

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<sup>405</sup> Recorded interview with mill employee in charge of effluent, Riau, July 2006

<sup>406</sup> Communication from Sawit Watch Staff, December 2007; Also in Zen, Z, McCarthy, J. and C. Barlow, *Environmental Issues in an Age of Regional Autonomy: The Case of Pollution in the Plantation Sector of North Sumatra*, in *Oil Palm Industry Economic Journal*, Vol. 5 (2), 2005



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## **9. CONCLUSION AND RECOMMENDATIONS**

*“Oil palm expansion has major implications for rural Indonesians. It implies a major reallocation of land and resources, dramatic changes to vegetation and local ecosystems, substantial investment and new infrastructures, movements of people and settlements, major transformations of local and international trade and requires the intervention of multiple government agencies. Done right, palm oil should generate wealth and employment for local communities. Done wrong, oil palm estates can lead to land alienation, loss of livelihoods, social conflicts, exploitative labour relations and degraded ecosystems.”<sup>407</sup>*

Rapid plantation development is leaving indigenous communities impoverished and indebted, undermining their culture and institutions, and destroying Indonesia’s forests and biodiversity. This report makes clear that oil palm plantations in Indonesia continue to be established in violation of indigenous communities’ rights – in particular the rights to participate, rights to culture, water and health, the right to work, and the right to be protected from ill-treatment and arbitrary arrest and the right to life. These violations breach not only

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<sup>407</sup> p.11, Colchester, M., et al., *Promised Land*, Forest Peoples Programme, Sawit Watch, HuMA and World Agroforestry Centre, 2006.

international human rights standards to which Indonesia is party, but the principles at the heart of the RSPO. The organisations which have collaborated together on this report firmly believe that the abusive practices contained within this report are replicated in plantations across Indonesia.

Until now international advocacy around oil palm has largely focused on the environmental destruction caused by oil plantation development. It is increasingly obvious that any efforts to develop sustainable oil palm must also urgently address the multiple human rights violations which are associated with the industry. This need is all the more critical given Indonesian and global expansion plans for oil palm.

Much of the responsibility for this situation rests with successive Indonesian governments which have passed legislation which discriminates against indigenous peoples, put forest conversion above sustainable development, and which have allowed companies and others to destroy large areas of Indonesia's forests. Reform attempts have neither been sustained enough nor substantial enough to sufficiently change this situation.

Poor governance has also enabled companies operating in Indonesia to disregard the law and the rights of those on the lands which they occupy.

Corrupt, abusive law enforcement, together with a weak and corrupt judiciary, have left communities – faced with the duplicity of companies and denied ways to effectively participate in decisions over their land, livelihoods and future – with few courses of redress. This continues to fuel resentment and conflict as indigenous culture and rights, as well as the environment, are irrevocably damaged by unsustainable practices.

Substantial reform will be needed if this situation is to change. At the heart must be increased recognition of the rights of indigenous peoples, including their right to participate meaningfully in decisions over their land use.

This report calls on the Indonesian government, other governments and companies to undertake the necessary steps and reforms to ensure that the principle of free, prior and informed consent is respected. The current failure to do so, demonstrated in this report, negates any possibility of respecting the right of indigenous peoples to own and manage their lands, which is crucial if indigenous culture is to be respected and survive, if oil palm is to be sustainable and if further conflict is to be avoided.

## **7.1 Recommendations**

### **7.1.2 General Principles**

In general, for palm oil to be sustainable its production must fulfil the following minimum criteria:

1. Companies must uphold the principle of free, prior and informed consent and withdraw operations from areas where local communities refuse oil palm development, or set conditions that the company does not intend to meet.
2. Companies engaged in oil palm production, investment or processing must obey the UN Norms for Multinationals on human rights and labour

- conditions, and obey national and international human rights and labour laws.
3. Where oil palm has not been planted, conflicts with local communities must be resolved in a way that respects their rights before any expansion of oil palm plantations can take place.
  4. Conflicts with local communities on existing plantations must be resolved and the rights of those communities must be respected.
  5. In consultation with impacted communities, workers and other affected people, companies must establish a mechanism for airing the complaints and addressing the problems of those stakeholders.
  6. The role of women must be fully acknowledged and particular attention must be paid to respecting their rights, ensuring the participation of women in decision making processes and protecting women from discrimination.
  7. No forest conversion for oil palm.
  8. No use of fire for land-clearing.
  9. Companies operating oil palm plantations must minimise their impact on the environment through good management practices, these should include (but not be limited to):
    - implementation of all relevant government legislations and regulations;
    - increasing productivity of land already under oil palm;
    - use of integrated pest management;
    - significant reduction in the use of pesticides and transparency in the amount of pesticides used; and
    - recycling of POME

## **7.2 Recommendations to Specific Bodies**

### **7.2.1 To the Government of Indonesia**

- Uphold its obligations under international law by respecting the international conventions to which it is party, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women.
- Prohibit and prevent further oil palm plantation expansion until the issues raised in this report are addressed.

### **Respect indigenous peoples rights**

- Uphold the UN Declaration on the Rights of Indigenous Peoples.
- Withdraw all licenses for plantations issued on customary lands without indigenous peoples' consent.
- Carry out a judicial review of legislation on spatial planning and large scale plantations;
- Revise laws, regulations and practices which discriminate against, and override the rights of indigenous peoples.
- Respect the way in which indigenous peoples perceive and define themselves.



### **Ensure better regulation and implementation**

- Ensure that an independent evaluation of all permits given for oil palm is undertaken, to look at:
  - How EIAs are carried out and take the appropriate steps to remedy any poor practices and institutional failings which are identified.
  - Whether companies have used land to develop plantations or have just logged the area.
  - Whether or not companies have expanded outside the boundaries of the concession areas they were granted with a view to suspending or revoking the licences and permits of companies found to be wanting.

### **Improve law enforcement, accountability and justice**

- Undertake the necessary reforms to ensure that the Indonesian security forces respect human rights, and that all allegations of human rights violations and other crimes by members of the security forces are investigated, and those responsible brought to justice.
- Investigate and eradicate corruption in the security forces, judiciary, and local and national government.

### **Resolve and prevent conflict**

Facilitate the resolution of conflicts on oil palm plantations, and seek to prevent further conflicts by, in particular:

- Taking immediate remedial action to redress past violations.
- Ensuring that the free, prior, and informed consent of local communities must genuinely be given before further land conversion takes place.
- Provide local communities in oil palm expansion areas with an explanation of their rights during the licensing process, including when and how they should be consulted and how to ask for land to be excised from proposed plantations should this be the community's choice.
- Ensuring that communities impacted by oil palm have open access to company and government representatives in order to negotiate their position.
- Ensuring that communities impacted by palm oil or likely to be so have open access to the necessary – independent - information about the impacts and future expansion plans of oil palm companies.
- Ensure that further oil palm development is stopped until conflicts are resolved

### **Respect land rights, and the rights of smallholders and oil palm workers**

- Revise laws such as Investment Law No25/2007, and Presidential Regulation 65/2006 to ensure that communities obtain the right to free, prior and informed consent, to ensure that communities and individuals who oppose oil palm are able to have their lands excised out of the areas proposed for plantation licensing, and to ensure there is a clear procedure to rescind HGU permits if problems arise.
- Ensure that the permit process for developing new plantations respects customary rights and enshrines the principles of free, prior and informed consent of communities at every stage of the process.
- Local government and civil society groups should help build the capacity of small growers to form independent organisations and trading cooperatives of their own in order to ensure that they can secure a fair price and that they do not become overly dependent on oil palm plantation estates to purchase their production for processing.

- National and local government should support the development of other livelihood options and alternatives to large scale oil palm plantations.
- Ensure that salary levels for oil palm workers should meet at least the minimum wage standard and the employment rights of all employees should be respected.

### **Respect the right to water**

- Pay particular attention to ensuring that the right to water of local communities is protected, and that the right to water is exercised in a manner which protects the rights of future generations.
- Guarantee communities' right to participate in decision making processes affecting their right to water and sanitation.
- Enact and implement legislation to protect the access by indigenous peoples and local communities to existing water sources.
- Introduce stronger and effective independent implementation and monitoring mechanisms to ensure that oil palm industry adheres to the regulations in place, and that waste management does not damage the environment or negatively impact on communities' rights to drinking water and sanitation.
- Ensure that oil palm plantations and factories reduce the use of chemicals in the growing and processing cycle.
- Company and government schemes establishing oil palm plantations must ensure that all workers and smallholders are trained in health and safety, and that appropriate protective equipment is provided for all workers.

### **7.2.2 To Companies Operating in Indonesia**

- Uphold the principle of free, prior and informed consent and withdraw operations from areas where local communities refuse oil palm development or set conditions that the company does not intend to meet.
- Provide compensation for damages to land and the resources on it in a form that is acceptable to affected communities.
- Respect the customary rights and culture of indigenous peoples and other communities.
- Allow independent verification and monitoring of company practice to ensure that all claimed standards are met.

### **7.2.3 To European Governments**

- Adopt legally binding restrictions on investment in and subsidies for the use and marketing of edible oils and palm oil-derived energy sources (including agrofuels) from unsustainable sources.
- Ban imports of palm oil for agrofuel and energy until safeguards addressing all the issues can be introduced.
- Abandon targets (for example in the Fuel Quality Directive or the Renewable Energy Sources Directive) for agrofuel use in their countries, as this will inevitably lead to oil palm expansion resulting in exacerbation of and increase in the problems detailed in this report.

- Strongly support actions by the governments of producer countries to ensure that member-state companies obey the national law in those countries, and those which do not do so are prosecuted.
- Introduce tighter regulations on companies to ensure they take their social and environmental responsibilities into account.

This report was a collaborative project between the following organisations:



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- The UK's most influential national environmental network in the world, with around 1 million supporters across five continents and more than 70 national organisations worldwide
- A unique network of campaigning local groups, working in more than 200 communities throughout England, Wales and Northern Ireland
- Dependent on individuals for 90 per cent of its income.

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[www.lifemosaic.net](http://www.lifemosaic.net)

**LifeMosaic** is a not-for profit organisation which addresses the problem of information shortage experienced by indigenous peoples affected by large-scale developments. We do this by producing and co-ordinating the distribution of educational resources, which are based on the testimonies of communities who have already experienced the impacts of such developments.

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**SAWIT WATCH**

[www.sawitwatch.or.id](http://www.sawitwatch.or.id)

**Sawit Watch** is an Indonesian Non-Government Organisation concerned with adverse negative social and environmental impacts of oil palm plantation developments in Indonesia. Sawit Watch seeks to promote sustainable social justice mandates through human rights based approaches in its activities and interventions in the issues. It has been active in 17 provinces and networks in related districts where oil palm plantations are now being developed in Indonesia.

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*Friends of the Earth, LifeMosaic and Sawit Watch*