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Environmental Peace- building Processes

There are several initiatives in progress to support peace-building processes to address problems between IPs and oil palm companies. The processes are interrelated to each other and are taking place at various levels to support peaceful resolution of land conflicts.

8.1 The Roundtable on Sustainable Palm Oil (RSPO) Initiatives

Land conflict in the concessions of RSPO members should not happen if the land acquisition process follows the RSPO criteria. Sinar Mas, which is in conflict with *Jangkang Junggur Tanjung* IP and the *Javanese* Transmigrants, Sime Darby (Synergy Drive) which is in conflict with the *Hibun* and *Sami* IPs, and PTPN XIII which is in conflict with the *Pompang* IP are all members of the RSPO. All these companies are violating the RSPO standard, as highlighted in a Sawit Watch-World Agroforestry-Forest Peoples Programme study released in November 2006. During the November 2007 RSPO V meeting, farmer delegates demanded a stop to all oil palm plantation expansion in Indonesia until land conflicts on existing plantations are resolved.

The intent of the RSPO is to promote sustainable palm oil production through the adoption of eight principles and 39 criteria. Achieving sustainable development in the sector implies a balanced interaction between people, planet and profit (3P) or the economic, social and environmental spheres. It means that profit-making can be achieved only when it follows the imperatives of respecting the well-being of affected people and addressing environmental impacts. The RSPO criteria (in particular criteria 2.2, 2.3, 7.5, and 7.6) require resolution of conflicts in operations of plantations in particular where lands are legitimately contested by local peoples with demonstrable rights. Companies are obliged to build respectful relationships through verifiable implementation of Free, Prior and Informed Consent (FPIC) agreements with indigenous communities in areas where their lands overlap with oil palm plantation development. The RSPO Criteria Working Group (2008) included the newly adopted United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as one of key references of international law for the RSPO.

The Indonesian oil palm sector is still facing serious challenges and unresolved environmental problems, in particular expansion into remaining natural forests, destroying habitats of endangered and rare species such as orangutan, elephant and tiger; and annual haze and fire problems contributing to global warming. There are more than 500 social conflicts in the Indonesian oil palm sector, mainly over lands, labour disputes, disharmony of corporate-community partnerships, criminalization of villagers, and high profile political scandals involving illegal issuance of permits for natural forest conversion, and for oil palm concessions within protected areas and national parks. In short, the Indonesian oil palm industry is involved in the same legal, social and environmental problems with all the implications for local communities and indigenous peoples, as is seen in other palm oil producing countries such as Malaysia, Papua New Guinea, Colombia and Brazil.

The RSPO has set up a Grievance Procedure to (1) provide a platform to address complaints against RSPO Members, (2) ensure that any alleged breaches of RSPO Statutes, By-laws, Principles & Criteria for Sustainable Palm Oil Production and Code of Conduct are impartially and transparently addressed, and (3) in cases where it is deemed necessary and appropriate,

provide recommendations for action through forming of a Grievance Panel⁶⁸. In the case of a joint venture oil plantation company group named Wilmar's (see 8.2), which is in conflict with several indigenous communities in West Kalimantan and IFC-World Bank, complaints are the first to be channeled through the Grievance Procedure of the RSPO⁶⁹. The case is under consideration by the panel and is looking into Wilmar's official responses and corrective statements as well as actions of IFC-World Bank as an investor. The case of the *Jangkang Junggur Tanjung* IP as well as the Javanese Transmigrants against the PT CNIS, the *Hibun* and *Sami* IP against the PT MAS, the *Pompang* IP against the PTPN XIII may also be brought to the RSPO following the use of the Grievance Procedure to resolve the Wilmar case.

Some argue that in a conflict-manifest situation, especially conflict over land between communities and an oil palm plantation, sustainable development is impossible because it requires company activities that are not legally contested, are environmentally sound, and socially acceptable. The RSPO as a global business-to-business initiative with its voluntary market approach will be challenged in promoting and imposing resolution of conflicts but it also provides incentives to develop broader networks of production chains between producers and consumers. The RSPO credibility requires a strong market chain which can guarantee the quality of the product or prevent palm oil derived from plantations with bad practices from entering into the certified market. It remains to be seen if RSPO will certify plantations with unresolved social conflicts, such as those elaborated in the case study and whether the RSPO complaints mechanism can be responsive to civil society concerns.

8.2 IFC-World Bank Ombudsman process

The Wilmar group has been under investigation by the IFC's ombudsman. It took some time for the IFC to agree to take up the case which includes field work and direct negotiation. Investigations by Lembaga Gemawan, Kontak Rakyat Borneo and FoE England, Wales, and Northern Ireland (FoE EWNI) helped to reveal social and environmental issues in the case. Subsequently, based on the investigation findings, a joint complaint was sent to the IFC-World Bank under the CAO (Compliance Advisor Ombudsman) process and RSPO under its *grievance procedure*. The main target is the code of conduct of Wilmar, which violates the WB standard as well as the RSPO principles, criteria and indicators in its operations in Sambas, Landak, Sanggau as well as in Riau, Jambi, Central Kalimantan and West Sumatra. If the company refuses to resolve the conflicts, it could be blacklisted from membership of RSPO and their credit could be frozen. SPKS, Sawit Watch, FPP, Ombudsman IFC-WB and Wilmar are involved in this process.

Some violations and allegations considered critical to environmental issues in this case are: use of fire to clear land, clearance of primary forests, clearance of areas of high conservation value, takeover of indigenous peoples' customary lands without due process, failure to carry

68 RSPO's existing 5-member Arbitration Panel will form the core Grievance Panel. Additional RSPO Ordinary or Affiliate Members may be called-upon to participate in the Grievance Panel as deemed appropriate by the core Grievance Panel. The proposed composition of the core Grievance Panel is as follows (current representatives) are Head of Grievance Panel – RSPO President (Unilever), EB member – environment (WWF Switzerland), EB member – social (Oxfam), EB member – producer (Malaysian Palm Oil Association), and an Affiliate Member (Dato' Henry Barlow)

69 Both formal complaints on 18th of July 2007, under the Arbitration Panel/Grievance Procedure exposed allegations and violations against RSPO standards, policies, statute, by laws, code of conduct in particular its members, Wilmar and IFC-World Bank

out or wait for approval of legally required environmental impact assessments, and clearance of tropical peat forests without the legally required permits. Such violations are common in Indonesia and have not previously stopped the oil palm industry expanding into new regions. However, the involvement of the CAO has made this a high profile case of environmental peace-building, contestation and negotiation. For the IFC, this was the first complaint received after it changed its internal procedures in handling complaints and grievances against its oil palm investment policy. It has also had to review whether its oil palm investment is significantly contributing to economic improvement and well-being of affected people, and whether it is socially responsible and environmentally friendly. The IFC-World Bank may well have to reconsider future investments in the oil palm industry.

The mediation process in Sambas district (West Kalimantan) concerned the Wilmar group and the Senujuh and Sanjinang Kecil IPs whose ancestral lands were damaged by the activities of subsidiaries of Wilmar. The outcome of a year-long process of mediation was that in December 2008, Wilmar acknowledged in a written agreement with the Senujuh and Sanjinang Kecil communities that the lands in dispute are under the administration of each community, that Wilmar had cleared forest and planted oil palm without their consent, and that Wilmar would provide restitution to these IPs for damages. Wilmar and the communities also agreed on the rents and fees that Wilmar will pay to continue to use part of each community's lands for oil palm. Wilmar accepted that the land it leases from the communities will revert to the community after the lease expires, and that it must renegotiate all contracts before replanting. The company and communities agreed to establish a joint monitoring process to ensure adherence to the agreements.

The case is a precedent in solving other IPs cases through the complaints mechanism which is embedded in the code of conduct of the financial institution and the standard of the RSPO.

8.3 Complaint Mechanism using the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

In July 2007, a group of civil society organizations⁷⁰ filed a submission to the UN body under the United Nations Convention on the Elimination of All Forms Racial Discrimination Committee's Early Warning and Urgent Procedures, against the Government of Indonesia's plan to develop the largest oil palm plantation in the world along the border between Indonesia and Malaysia. As the member of the UN that had ratified the convention, Indonesia is obliged to follow the conditions of the Convention.

The submitting organizations raised concerns against the project by referring to past, ongoing and potential impacts of oil palm plantation development on tropical rainforests (Heart of Borneo), and economic, social and cultural impacts on indigenous peoples. The submission

⁷⁰ (1) *Perkumpulan Sawit Watch*, (2) *Aliansi Masyarakat Adat Nusantara/AMAN (Indigenous People Alliance of the Archipelago)*, (3) *Aliansi Masyarakat Adat Kalimantan Barat (Indigenous People Alliance of West Kalimantan)*, (4) *Lembaga Studi dan Advokasi Masyarakat/ELSAM (Center for Community Study and Advocacy)*, (5) *Wahana Lingkungan Hidup Indonesia/WALHI (Friends of the Earth Indonesia)*, (6) *Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis/HuMA (Association for Community and Ecologically based Law Reform)*, (7) *Yayasan Padi Indonesia*, (8) *Lembaga Bela Banua Talino*, (9) *Lembaga Gemawan (Lembaga Pengembangan Masyarakat Swandiri/The Institution of Swandiri Society Empowerment)*, (10) *Institut Dayakologi*, and (11) *Forest Peoples Programme*

mentioned that most oil palm plantation development in Indonesia requires the clear-cutting of indigenous peoples' forests in order to establish monoculture crop plantations, thereby destroying the ecosystems that indigenous peoples have depended on for millennia. Furthermore, the submission stated the experience of extensive oil palm plantations in other parts of Indonesia, conclusively demonstrating that indigenous peoples' property and other rights are disregarded, their right to give or withhold their consent is not respected, some are displaced, and they are often left with no alternative but to become *de facto* bonded laborers gathering oil palm fruit for the companies that manage the plantations. The submission is the first ever complaint on an oil palm issue submitted to the CERD Committee by NGOs and indigenous peoples' groups. It exposes how Indonesian law discriminates against indigenous peoples through systematic and persistent regulations and policies in particular the 1945 amended Constitution, the Basic Agrarian Law, the 1999 Forestry Act, and the Plantation Act.

During the 71st CERD Committee meeting, the delegates of submitting organizations (the civil society organization listed in footnote 71) had the chance to make a brief presentation before 11 of the 15 CERD Committee members explaining the submission and its relevance to the convention, prior to meeting the government of Indonesia delegation and listening to reports from the delegation, as a state party to the Convention, officially reporting progresses on the implementation of the Convention. Indeed, the committee concluded:

The Committee, while noting that land, water and natural resources shall be controlled by the State party and exploited for the greatest benefit of the people under Indonesian law, recalls that such a principle must be exercised consistently with the rights of indigenous peoples. The State party should review its laws, in particular Law No. 18 of 2004 on Plantations, as well as the way they are interpreted and implemented in practice, to ensure that they respect the rights of indigenous peoples to possess, develop, control and use their communal lands. While noting that the Kalimantan Border Oil Palm Mega-project is being subjected to further studies, the Committee recommends that the State party secure the possession and ownership rights of local communities before proceeding further with this Plan. The State party should also ensure that meaningful consultations are undertaken with the concerned communities, with a view to obtaining their consent and participation in the Plan.

The committee's conclusions order the Government of Indonesia within one year to provide information on the way it has followed up the Committee's recommendations contained in paragraphs 17, 20 and 25, pursuant to paragraph 1 of rule 65 of the Committee's rules of procedures. The recommendations provide an obvious direction for future advocacy on indigenous peoples' rights in Indonesia, however it has not yet clear to whom the follow up actions must be channeled at the national level. There are concerns, however, that the recommendations raised by the Committee will be left behind by the authorities and remain concerns without an effective solution. According to the submitting organizations, the border oil palm project will have serious impacts on indigenous peoples, which is why the situation in the border area fulfills the condition of *early warning and urgent action procedures* under the Committee.⁷¹

71 *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 organizations and Forest Peoples Programme, 30 July – 18 August 2007.*

Following strong international pressure, including the inception of a trilateral conservation-agreement between Indonesia, Malaysia and Brunei Darussalam to adopt the Heart of Borneo under the auspice of Convention on Biological Diversity promoted by WWF Indonesia, the Indonesian government, in particular the Ministry of Agriculture revised the plan for 1.8 million hectares of oil palm plantations along 2000 kilometer Indonesia-Malaysia border, claiming that only 400,000 ha. is suitable for oil palm plantation development. Even these reduced plans ignore the right to give or withhold consent of *Dayak* peoples who have been living along the border since time immemorial.

If in the coming years the 2004 Plantations Estate Law (PEL) is revised and the rights of IPs over land are recognized and respected, this will provide an important way to protect the rights of IPs over the land. Revising the law to support IPs rights, however, will require strong engagement from civil society. This might start from the formulation of an Indigenous Peoples Right's Law such as happened in Philippines (see chapter 4) in a process that created a basis for rights of the IPs over the land and natural resources to be accommodated in the sectoral laws. The policy reform approach is not the only solution being sought by Indonesian civil society, it is also engaged in empowering IPs institutions so that they are better able to decide whether to engage or not engage with oil palm schemes and are aware of alternatives to oil palm plantations.

8.4 SPKS Engagement in the Oil Palm District Taskforces (TP3KS)

In response to several demonstrations and unrest by SPKS Sanggau members, the district government of Sanggau established a new Task Force (TP3KS) to address the conflicts between local communities and the oil palm companies PTPN XIII, PT MAS and PT KGP. This Task Force was established in July 2007 and is different than the TP3K (The District Land Acquisition Task Force). It is mandated to: collect and verify the data on conflict; recommend to the district government a process to resolve the problems, including the harmonization of actions by government offices; prevent further conflict; and resolve problems related to land conflict. The SPKS is helping to increase transparency of *plasma-inti* schemes as well as KKPA schemes, by asking: what is the current value of credits in the oil palm schemes; when will the land be redistributed to the beneficiaries; and which ancestral lands were taken by the company without consent of the owners? SPKS is seeking to put on the table the normative rights of the beneficiaries which have been mentioned in written documents. It is hoped that community lands will be returned, that the communities will be able to manage their oil palm plantations independently of the companies, and that the farmers will be able to sell their product to the cooperative for a reasonable price.

The biggest outstanding issue of land conflict between companies and communities concerns the right of indigenous communities to give or withhold their Free and Prior Informed Consent (FPIC) to developments on their customary lands. A genuine FPIC process can only work if the IPs have a solid institution that is separate from the state as well as the company. FPIC could not take place in the case of the *Hibun*, *Pompang* and *Jangkang* IPs, as the company had already co-opted the village and IPs leaders through the Land Acquisition Task Force at the village and sub-village level (*Satlak*). The condition for FPIC exists in the case of the *Sami* IP of the Terusan village, where the IP chiefs rejected the oil palm plantation proposal before the *Satlak* was developed by the company in the area.

8.5 SPKS and District Adat Board and a Mechanism for FPIC

SPKS Sanggau, with the facilitation of Sanggau District Adat Board, has suggested to the Sanggau district government a mechanism for determining Free, Prior and Informed Consent from the owner of the land, especially when dealing with ancestral communal lands. The District Adat Board is a newly created body facilitated by the local government with the task to recommend to the local government how to deal with IP institutions and help the local government to solve inter *adat* community disputes. The members of the Adat Board consist of respected persons from several ethnic groups in the Sanggau district. As a newly created institution, there are challenges to solving oil palm land conflicts. Some members of the Adat Board are well known and have a good reputation among adat communities but others have a mixed reputation or have a political agenda to run for legislative or executive positions in the district government.

The Forest Peoples Programme, Sawit Watch and AMAN, in collaboration with several effected groups as well as the companies, are developing guidance for the application of FPIC in the palm oil sector. In short, the communities have the right to say ‘yes’ or ‘no’ to proposed developments which they must be informed about prior to development decisions are made, with full information about potential impacts and without coercion or intimidation. Moreover, in deciding to say ‘yes’, they can negotiate the terms under which they may agree to a proposal⁷². The guidelines operationalize the concept of FPIC for plantation companies as follows:

- (1) Identifying customary land
- (2) Engaging with representative organizations
- (3) Providing information to allow fair participation and informed consent
- (4) Ensuring Consent is Freely Give
- (5) Ensuring Consent is Prior
- (6) Ensuring there is Consent
- (7) Resolving Conflict

If this process is standardized and accepted by stakeholders including the RSPO, it would be a tool to minimize land conflicts between IPs and oil palm companies. But again, the precondition for this is that the company land acquisition process does not involve co-opting IP leaders. There is a need to involve the government to ensure that a fair process has been followed.

8.6 SPKS efforts to gain back their control over the Company Cooperatives

Most oil palm farmer cooperatives are established by the oil palm company, and use the names of the members to get access to credit from national Banks. The cooperatives control data on price and products of oil palm, and are responsible for the credit deductions as well as other fees charged to the members. SPKS in Sanggau and other regions (*Sekadau*, East Kalimantan, Riau etc) are working through its members to gain back control of the cooperatives. This effort has been helpful in creating a better bargaining position for cooperative members towards the oil palm company. SPKS members from the *Hibun* IP are members of the Cooperative *Mayting Hija* (in the area of a PT MAS concession), SPKS members from the *Pompang* IP are members of

72 Free, Prior and Informed Consent and Plantations in Indonesia, A Guide for Companies Working Draft March 2008, FPP

the Cooperative *Rindu Sawit* (in the area of PTPN XIII), SPKS members from the *Jangkang* IP and the Javanese transmigrants are active of the cooperative *Tut Wuri Handayani* (in the area of PT CNIS concession). The organizational leadership and principles that they learn from the SPKS as a farmers union which is independent from company influence are brought to their own cooperatives. This is a healthy transformation that supports peace building processes in the cooperatives, but it is limited to the basic rights of the beneficiaries of the *plasma-inti*, KKPA, and Akuan schemes, such as a fair price for oil palm fruit bunches, transparency of the credit scheme, etc. The cooperative do not address the issue of ownership and control of ancestral land, and violation of the rights of IPs. These issues must be dealt with directly with the company and local government.

8.7 AMAN, AMA Kalbar & PILNET support the court case

AMAN, AMA Kalbar and the Public Interest Lawyers Network (PILNET) are also actively involved as lawyers for local communities charged in criminal cases brought by oil palm plantation companies. Mr. Sulistiono, AMAN secretariat lawyer based in Jakarta, and Mrs. Agatha, a Pontianak-based lawyer represent the case of the five SPKS members in Sanggau district court, facing criminal charges associated with their demonstration at the PT MAS office to demand the company to return their ancestral lands.

There is great value in supporting defendants with qualified lawyers. Showing that the cases are represented by Jakarta-based lawyers helps the cases to be taken seriously by the prosecutors, the police, the company, as well as the local government. The PT MAS demonstration court case is still in process. The criminal charges against the SPKS members for entering the company complex by breaking a gate have been brought together with other charges of insulting and harassing the *Satlak* members. As the *Satlak* is made up of their own village leaders and *adat* chiefs, this part of the case can be solved through the *adat* court (IPs court) that still exists in the villages of the *Hibun* IP as well as in other IPs. AMAN, AMA-Kalbar as well as PILNET and SPKS have requested that the trial separates the cases, with the criminal charges being solved through the National Court, and the other charges solved in the IPs court. The structural issue of IPs against an oil palm company is classified as an issue to be resolved through the national courts while the horizontal conflict between the *Hibun* IPs, such as harassment of the *Satlak* members (a *Hibun* IP chief and village head) should be resolved through the *Hibun* IPs court. The court case could not be brought to the village level due to the conflict of interest between the IP chiefs and its IP members. Instead the case was brought to the higher level in the structure of the *Hibun* IP court. The *Hibun* IP structure for conflict resolution, named *Poyo Tono Hibun*, is headed by a *Kembayan*, has five *Tumenggung* and consists of 94 *Hibun* villages.

In the process, the *Satlak* member refused to bring the case to the IP court and registered the case with the national court which added to the charges against the defendants. The national court case has been going for almost one year and meanwhile the defendants are being detained at the district police office. This shows how the company uses the case to mix horizontal and vertical conflict and uses the momentum to discourage the defendants and other SPKS members from engaging in activities to resist or contest oil palm company expansion. AMAN, AMA Kalbar and PILNET are engaged in other court cases in West Kalimantan in which IPs are accused of occupying state forest areas.

8.8 Revitalization of Adat by ID and AMA Kalbar

The Institute of Dayakology (ID) and AMA Kalbar play an important role in revitalizing the *adat* community through their publications and active involvement in promoting revitalized *adat* norms. To promote knowledge and wisdom and highlight various problems faced by the Dayak community, ID began publishing Kalimantan Review (KR) magazine in 1992. Kalimantan Review is an alternative media outlet for empowerment of the *Dayak* IPs and also functions as a means of communication of experiences between the *Dayak* sub-ethnic groups in Kalimantan. Today the magazine has many correspondents all over Kalimantan. Since 1996 KR is published every month for the Indonesian language edition; and twice a year in English. Kalimantan Review has received the ISAI Award three times. This is an Indonesian award for alternative media. It acknowledges KR's efforts to empower Indigenous Peoples with the spirit of peaceful reconciliation⁷³.

The Kalimantan Review publishes the words of *Dayak* IPs and also shares international policy issues relevant to the wider community. The church, NGOs, people's organizations, credit unions and local government as well as political party members in West Kalimantan all use the KR to express their opinions regarding issues in the hinterland. Oil palm has been a major issue in the local media since the 1990s. The KR helps to strengthen the understanding of the readership, which are mostly IPs in remote areas, to be aware of the process surrounding oil palm development, e.g. land acquisition processes, the establishment of the SPKS, the promises of the oil palm companies, court decisions that favour oil palm companies, as well as the development of the RSPO. The articles in KR are often used by independent community radio. Besides publishing the magazine, ID has also conducted several oral tradition studies as well as anthropological studies on the existence and the distribution of ethnic groups in Borneo. KR recently published a book and maps on a demographic study of ethnic groups in West Kalimantan based on language groups⁷⁴.

AMA Kalbar is the IPs organization of West Kalimantan which uses KR's research results. This organization is a member of AMAN (The alliance of Indigenous Peoples of the Archipelago, which is based in Jakarta). It promotes members (village IPs institutions) to take a clear position towards oil palm plantations. Most of their members are solid in their opposition to oil palm plantations such as the *Sami* IP.

8.9 The role of the church in passing on the message

The church in the interior of Kalimantan, especially in West Kalimantan, has a dominant role in society and is always respected by rural communities. It has its own governance structure from the priest/bishops to the *Stacy/kring*⁷⁵. In relation to community dilemmas over whether or not to engage with oil palm plantations, the church, especially local Catholic priests, often help communities in dealing with these issues. Sometimes a local priest is accused of being anti oil palm by a company and the local government. The church's role is important in helping the community gain moral support from the religious society. Bringing the problems of oil palm

73 ISAI is an institute for free flow of information, democratization, human right established by senior journalists in Jakarta

74 See Institute Dayakology. 2008.

75 The term *Kring*, which is brought by Dutch priests during the colonial time, means the neighbourhood.

development into communal prayers is one of the important signs that the church is committed to the issue together with the IPs.

In the last several years the Catholic church of West Kalimantan through the Shepherd Letter (*Surat Gembala*), usually sent out just before Easter or Christmas, has given clear signs to the community regarding the issues of oil palm expansion and illegal logging. The Shepherd Letter for Kalimantan in Easter 2008, prepared by Mgr. Hieronymus Bumbun, OFM Cap, urged the community to be responsible to nature and act fairly and justly to all humankind and use the opportunity to reconcile with nature. This shepherd letter was translated and interpreted by the bishop, the local priests as well as the social economic commission (PSE) into day-to-day messages that the church advised communities to be extra careful in engaging with oil palm companies and to reconcile with nature.

FIGURE 31. JOINT STATEMENT EXPRESSED IN POSTER



The Shepherd Letter for Christmas 2007 for the whole of Kalimantan has the title “Kalimantan the Lost Eden”. It has a strong message to the private sector to act with justice and fairness towards people and nature, and a similar message to the government, to develop just and fair policies towards the welfare of the people without hidden agendas and to be aware of ecological disasters.

The 2006 poster for Easter prepared by PSE visualized a strong message about Justice and Fairness. Are we just and fair enough to be called human kind? The three pictures of Kalimantan show exploitation in oil palm plantations, mining and logging operations as well as gambling and not being responsible to one’s family. Three pictures represent bad acts and habits that have brought Kalimantan to disaster, and the text urges a reorientation of acts to develop welfare and sustainability in Kalimantan, see Figure 29 Joint statement expressed in Poster (left).

The poster prepared in 2005 by the joint coalition of NGOs and the Catholic church in Kalimantan brought a strong and clear message against oil palm company land acquisition:

“Land is our Breath, Blood and Soul, Oil Palm is our Enemy. Defeat the Enemy in our Family. Without Water and Land we will Die!” as seen in the Figure 31 Joint statement expressed in Poster (right).

The Catholic Church functions well in communicating the consequences to communities of engaging in oil palm concession schemes. During 2003, some Protestant churches promoted KKPA oil palm schemes. They compared the KKPA scheme, under which IPs will not lose their lands, as compared to *Plasma-Inti* schemes where IPs must release 7.5 hectares in return for 2 hectares in credit. Some of the Protestant churches did not realize the context of the KKPA scheme, that it was being used by the company for its expansion strategy, and is not comparable to the *Plasma-Inti* scheme. Several of the communities that had been engaged in the KKPA scheme currently are indeed followers of the Protestant church. Recently these Protestant churches have pulled their support for the KKPA scheme after learning about the problems that have occurred for communities that have joined KKPA. This shows how influential the church is on the ground in shaping the decisions of the community towards engaging or not with oil palm and which scheme to choose.

8.10 Multi-media in Support of Peace-building Processes

Besides the several initiatives mentioned above, there are other efforts that have been established prior to oil palm expansion to support community understanding and empowerment. Participatory Community Mapping (PPSDAK) has been used since 1992 in West Kalimantan to support the IPs control over their lands. Currently almost two million hectares of IPs territory in West Kalimantan has been mapped by communities, and the maps have been used in negotiations with the state and the private sector. In *Jangkang*, *Pompang* and *Hibun* territories, community mapping has not taken place, but the *Sami* IPs territories were sketch mapped⁷⁶ in the 2000s during the tension with the *Hibun* IP regarding the expansion of the PT MAS oil palm plantation. Community mapping in the *Sami* IP was postponed to avoid the escalation of the conflict between the two IPs groups. Now that agreement and consent has reached, the oil palm company will not enter *Sami* ancestral lands.

Other media such as comics, films and radio are used in IPs institutional empowerment, assisted by GRPK (*Gerakan Rakyat Pemberdayaan Kampung*), a Pancur Kasih affiliated Sanggau based NGO, ID (Institute Dayakology) and LBBT (*Lembaga Bela Banua Talino*, a legal empowerment, Pontianak based NGO) and HuMa (Hukum dan Masyarakat, a Jakarta-based membership NGO on ecological law reform). These institutions develop their research and publish results in the form of comics and books. Several publications and training materials have been used to empower local institutions by documenting how IPs judicial systems work, as well as how the IP court could deal with land related issues⁷⁷. HuMa has published several comics for training on critical legal studies as well as comics for beginners to understand national law and critical legal interpretation. These materials have been used by LBBT as well as GRPK in the field for their IP institution trainings (see Figure 32. Multimedia Publication in Indonesian language that support the IPs understanding of their rights and efforts in negotiation).

76 A sketch Map is a hand made map which is used to express the spatial position of a village with natural signs used as markers. Sketch maps document the extent of the ancestral land as well the land use inside the ancestral land. Sketch maps become the bases for further community mapping.

77 See forthcoming, *Mengenal Sistem Peradilan Adat, 25 Sub Suku di Kabupaten Sanggau*.

FIGURE 32. MULTIMEDIA PUBLICATION IN INDOONESIAN LANGUAGE THAT SUPPORT THE IPS UNDERSTANDING OF THEIR RIGHTS AND EFFORTS IN NEGOTIATION.



ICRAF, FPP (Forest People Programme-UK) and AMAN have also published a booklet for IPs to explore the challenges raised by the demand of recognition and how indigenous communities can find their own solutions in line with their right to self-determination. This also relates to how they negotiate with outsiders, and how IPs select and give mandates to their representatives for negotiations with third parties⁷⁸. This booklet has been printed and is also available in pdf format on their web site. AMAN and FPP have also published several booklets on the issue of FPIC (Free, Prior and Informed Consent) in a broader sense as well as in relation to the oil palm sector. There is a trend to have similar books, films and booklets published in Indonesian and English versions which allow access to the same information at the same time by different language users, for example the Sawit Watch-ICRAF-FPP book on oil palm, the AMAN-FPP booklet on FPIC, the oil palm film by Life Mosaic-FoE, and the Wilmar case report by Milieu Defensie-Gemawan-Kontak Borneo. See Figure 33 Multimedia Publications that share knowledge of IPs in English as well as Indonesian languages.

78 See ICRAF-FPP-AMAN, 2001

FIGURE 33. MULTIMEDIA PUBLICATIONS THAT SHARE THE KNOWLEDGE OF THE IPS IN ENGLISH AS WELL AS INDIONESIAN LANGUAGE



Films in DVD/VCD format are also used by government, companies and NGO's to promote or critique community engagement with oil palm. The film *Maju atau Mundur* (literally: forwards or backwards, but titled *Palmed Off* in its English version) is a one hour educational film made with 20 indigenous communities who have experienced the impacts of oil palm plantations. The film aims to help community members in oil palm plantations or plantation expansion areas to make informed decisions on the future uses of their ancestral lands. *Maju atau Mundur* was made through collaboration of FoE, Life Mosaic and Sawit Watch. This film is now being distributed to thousands of communities in oil palm expansion areas across Indonesia. Sawit Watch and WALHI West Kalimantan and the Institute of Dayakology have also produced short films in DVD format that share the experiences of oil palm engagement in Manis Mata Ketapang district (West Kalimantan), to be shared with other areas and watched by the local communities with their house DVD players. A film on oil palm is being prepared by the Dayak local TV (RUAI-TV) in Pontianak⁷⁹, which is accessible in the main cities of West Kalimantan. This will provide a balance to government and company information to the wider public and the Dayak elites in the main cities of Pontianak, Siantan, Sanggau, Sekadau, Sintang etc.

⁷⁹ Ruai TV is a local TV station in West Kalimantan, established August 2006. Soon the station will be accessible through parabola or cable. It uses three languages in its new broadcasts: Dayak, Malay and Chinese.

8.11 Alternatives to Oil Palm

In reaction to the coverage in mainstream media in Europe about environmental and social problems in the palm oil sector in Indonesia, the National Department of Agriculture as well as the private sector prepared a budget of one million euro to form a counter campaign targeting audiences in Europe. The Department of Agriculture has sought to counter information on environmental problems, claiming that forests are not damaged by the oil palm industry. But it has not attempted to counter criticisms of the extensive social problems caused by oil palm plantations⁸⁰. The government has not attempted to address the problems in the field that critics have raised, but appears to be only interested in promoting a good image for oil palm “business as usual”.

The government of Riau reacted to falling palm oil prices by claiming that the price of rubber is lower than the price of oil palm. It seeks to support oil palm plantations while neglecting that rubber trees only need to be harvested when latex is needed. Oil palm trees produce fruit bunches continuously and need to be harvested even when the price is not good.

In seeking for alternatives to oil palm, it seems there is a need to rely on civil society efforts. East Kalimantan LP3M Malinau, supported by the Non Timber Forest Product (NTFP) exchange program, ended a seminar in 2006 with a joint recommendation by its participants addressed to relevant national and district government officials. The recommendation stated that the undersigned local communities oppose the development of large-scale oil palm plantations and seek the support of the state to develop both product and markets of presently practiced swidden cultivation and NTFP production⁸¹. Similar statements were expressed in the Mansalong local parish in East Kalimantan, where Sawit Watch and the NTFP-Exchange program organized a seminar on the impacts of large-scale oil palm plantations.⁸²

There are three “traditional” alternatives to oil palm well known to IPs in Kalimantan: Rattan, Rubber and Honey. Earlier this year, the Government of Indonesia through the Ministry of Trade and Industry finally lifted the ban on the export of raw and semi-processed rattan. The ban, in place for four years, had drastically lowered the price of rattan from the interior of Kalimantan, and meant that rattan managers (IPs) were no longer interested in managing it. Planted rattan is a potential alternative development to oil palm to improve the livelihoods of IPs. The NTFP exchange network, together with Sawit Watch, SHK and other partners – is now looking into ways to ensure that the expected higher prices will be passed on to the rattan collectors and farmers⁸³. Hopefully this will strengthen the spirit of the rattan farmers to revitalize their production, products and product chain.

80 See *Kompas Daily*, 23 January 2008, *Kelapa Sawit: Kerjasama Hadapi Isu Lingkungan*, p15. The film elaborates only the biophysical problem of the environment and neglects the social problem. Similar notion also occur from the interview with Dr. Delima Azahari from Department of Finance, member of the Plantation Estate Revitalization that engage in the campaign (pers. Comm., 18 December 2008, Den Haag)

81 *Oil palm in Malinau, East Kalimantan, Indonesia: New Sky, New Earth, A New Kalimantan*, by Joanna de Rozario, NTFP-EP, see <http://www.ntfp.org/sub.php?gosub=exchangenews-art&page=15&year=2006>

82 see *A Follow Up in Patal Village*, by JOHANIS JOHN VIRIUS, Secretary, LP3M, <http://www.ntfp.org/sub.php?gosub=exchangenews-art&page=22&year=2006>

83 *Voice from the forest*, No 14, March 2008 NTFP exchange Program

Rubber has a good record for its stable value; the price has increased consistently with the price of other products such as rice and gasoline. Rubber also has an advantage in price (see table 3) and processing time compared to oil palm. Oil palm fruit bunches mature on the palm all through the year, and must be processed within 48 hours of harvesting. Rubber doesn't have these limits. Currently several credit unions (CU Keling Kumang in Sekadau district, CU Pancur Kasih in Bengkayang as well as CU Lantang Tipo in Sanggau), in collaboration with rubber farmers have developed the Entres Rubber seedling propagation technique. The Entres system can produce as many seedlings as needed from reliable sources at a low cost. The former ICRAF-SEA program office in Sanggau provided technical assistance to develop this seedling propagation technology. This intervention with low input and investment to develop productive mixed rubber gardens has proven to be a good alternative to oil palm plantations and may encourage communities to prevent the further expansion of oil palm. The involvement of Credit Unions in funding the rejuvenation of old rubber gardens and expansion of new rubber gardens, has prevented oil palm plantation from entering further into ancestral lands in several places. To progress further, the rubber farmer associations such as KPD (Koperasi Pancur Dangeri, in West Kalimantan) urgently need to strengthen the bargaining position of rubber farmers in relation to the latex market.

The Association of Periaus of Danau Sentarum, West Kalimantan (APDS) is a people's organization of 89 forest honey collectors from five Periaus IPs. APDS production meets the standard for its Internal Control System (ICS) and can assure the production of 4.3 tons good quality honey each year. BIOCert has certified APDS's honey as organic, which increased the price the collectors receive. The honey is sold to Dian Niaga and Riak Bumi through the cooperation of the Forest Honey Network at Rp. 28.000/kg (US\$3/kg) at local sites.⁸⁴

These export oriented commodities that are produced by IPs in Kalimantan are growing and, where successful, preventing the further expansion of oil palm plantations. These export oriented commodities are developed in accordance with the knowledge and customs of the IPs to improve their fallow management. Eagle Wood (*Gaharu*) has been produced by the IPs in other parts of Kalimantan, *Hamijon* for incense has been produced by IPs in North Sumatra, as well as *Damar Mata Kucing* (damar resin) produced by IPs in the southern part of Sumatra.

84 Voice from the forest, No 13, October 2007 NTFP exchange Program



9

Conclusions & Recommendations

The study collected a substantial amount of data, mostly from interviewing informants from a number of social and economic backgrounds as well as secondary data from reliable sources to address the questions laid out in the first chapter:

5. Will oil palm estate expansion contribute to the sustainable livelihood strategies of indigenous peoples especially for the *Hibun, Pompang, Jangkang* ethnic groups as well as the *Javanese* transmigrants?

The trends are clear that few IPs, and mostly only their elites, benefit from engagement in oil palm plantations. Most ordinary members of indigenous communities end up nearly landless and must pursue livelihoods through off farm activities, temporary or permanent migration, often leaving behind their children and elder generations in the village.

6. Will indigenous peoples become detached from their environment as policies, institutions and markets that reinforce oil palm plantations influence their livelihood strategies?

A consequence of being engaged in oil palm plantation activities is that IPs become more detached from their environments and their customary systems of natural resource management. Individuals also become detached from their customs and culture due to the individualization of ancestral lands, individualization of descendant group lands and individualization of household lands. This process of land acquisition through the Task Force creates conflict and bad feeling among families, person to person etc, which damages the solidarity and local institutions as a foundation for resolution of horizontal conflict. Plantation companies capitalize on horizontal conflict to continue expanding their operations.

In the near future due to the alienation of IPs from their indigenous management practices and their ancestral lands, the IPs living amongst company oil palm plantations, as well as their members who migrate elsewhere to find livelihoods, will only be bound by ethnic identity rather than by the solidarity of swidden cultivators who produce multiple products from communal forests and farms, and have rich traditions in managing and worshipping natural resources.

7. Will it be possible for local communities to remain committed to traditional livelihoods and local practices of ecosystem maintenance, or will their efforts be swamped by oil palm plantation expansion?

From the sites visited, it seems that once an IP joins an oil palm scheme, either *KKPA, Plasma-Inti* and *Akuan* it is hard for them to pull out even if there are great hardships, due to the attachment of individuals, families and communities to their ancestral lands. The study shows that it is easier for Javanese transmigrants to pull out from an oil palm scheme and cultivate rubber and mixed farming on their remaining piece of land. The IPs from the sites studied have shown that they go further in engagement with the oil palm companies, firstly through giving up some of land, and then their capital (as credit) and their labor. This usually starts with land which is far from the village and later they may even have to contribute the land in front of their house. The study also shows that nearly landless IPs or those who only have a few pieces of land have no bargaining position to reject oil palm plantations. Only a few well off IPs can contribute a small proportion of their land (up to

half), and therefore keep the rest for traditional economies and activities. This phenomenon indicates that it is hard for IPs in West Kalimantan to be committed both to traditional livelihood practices and concomitant ecosystem management and at the same time run oil palm businesses. There is a tendency over time to invest more and more land, labor and capital in oil palm plantations, especially to have plots of palms with different ages, to guarantee the sustainability of the product when the older sites need to be replanted. Commitment to maintain their traditional knowledge and systems of ecosystem management as well as to learn about improved fallow management is mainly shown by IPs who are not engaged in oil palm plantations.

8. What kind of conflict resolution needs to be undertaken to support IPs during the transformation process?

There is a variety of conflict resolution approaches that have been used and are further needed by IPs to assist them in their efforts to retain part of their land, labor and capital from absorption into the oil palm sector. Conflict resolution efforts should take place along with three other strategies to assist IPs:

- d. Strengthening government policies at local, provincial and national level that could protect IPs from further deprivation.
- e. Supporting IPs engaged with oil palm concessions to strengthen their bargaining position through highlighting their basic rights and the rights of indigenous women, so as to slow down the process of loss of livelihood options for women and marginalized members of IPs that often follows from oil palm expansion.
- f. Develop alternatives to oil palm plantations that could assist IPs to maintain economic livelihoods on their ancestral land. Alternatives could include rubber mix gardens and producing other non-timber forest products that maintain and improve the IPs fallow management.

Recommendations to stakeholders

General Recommendations

The planned five million hectare expansion of oil palm in West Kalimantan is so vast that there is a need to reflect on what kind of rural society will be created as a consequence. Sharpening differentiation in land holdings within and between ethnic groups in the interior of West Kalimantan is creating a situation that can easily deteriorate into violent conflict. There are strong justifications to delay further expansion of the oil palm industry until the negative consequences of existing operations are addressed, and policies are adopted that will mitigate these problems in future expansion. The effort should not only focus on the policy level but also on continuous support for the IPs organization and the rural community to address their concern to further develop alternatives to oil palm plantations which are environmentally and socially as well as economically sustainable.

Specific Recommendations

1. *National and local policies*
 - 1.1 Develop and implement national, provincial and district government policies that recognize and regularize the rights of IPs, as set out in the UNDRIP, including support for an Indigenous People's Rights Act and revision of the national sectoral laws such as the Plantation Estate Law (UU 18 2004).
 - 1.2 Revise government regulation no 24/1997 on HGU/HGB permits to allow IPs to maintain ownership of land issued as HGU, to communally own HGU and to allow women's groups and other associations to manage a HGU. Revise the sectoral laws such as Forestry Law and Plantation Estate Law to be consistent with the spirit of UNDRIP and the Constitution (amendment) 1945.
 - 1.3 To regulate the procedure for FPIC with clear implementation guideline and position the role of the State to guarantee the fairness of the FPIC process
 - 1.4 To create systems for transparency and accountability for civil servants, private sector companies and consultants involved in planning and decisions concerning oil palm plantation development.
2. *Recommendations regarding IPs institutions*
 - 2.1 Abandon the current form of the Task Force on Land Acquisition as it is clearly against the principle of Free Prior and Informed Consent as well as against the principles of good governance. The Task Force of Land Acquisition should be replaced by a system based on IPs institutions and guided by implementation the FPIC.
 - 2.2 Each IP faced with offers or threats of land acquisition by companies should create their own independent negotiation team with a clear mandate from their whole community. This team should be financially independent from the state and from the company to allow the IP to freely decide yes or no to the oil palm proposal on their customary land.
3. *Recommendation for the RSPO process*
 - 3.1 The RSPO mechanism is not the only way to protect the rights of IPs, but its standard can be used by communities as a basis for engaging in negotiations. The RSPO principles, criteria, indicators and grievance procedure could be used to assist communities and companies in resolving conflicts.
 - 3.2 RSPO should take action against member companies that violate its principles and procedures and must make sure that no product certified by the RSPO enters the market if the principles, criteria and indicators are not followed by the relevant company.
4. *Recommendations for Alternatives to Oil Palm Plantations*
 - 4.1 There is need to find more alternatives to oil palm plantations that address the issues of sustainability and equity in rural areas. The problems with oil palm are associated with land acquisition for plantations and the way this process usually damages the economies, cultures and welfare of IPs and other groups in rural society.
 - 4.2 Alternatives to oil palm plantations should be based on the integration of conservation and production and at the same time be acceptable socially, economically, environmentally and culturally to IPs. This approach is not found in oil palm plantations, which segregate conservation and production, and the RSPO criteria and indicators do not address this problem.

5. *Recommendations to IPs support groups*

5.1 There is a need to continue to support the struggles of IPs to protect, fulfill and progress their rights as IPs and at the same time be critically engaged in multi-stakeholder global economic standard setting processes such as the RSPO and the trend of further differentiation of the society, internally as well as externally.

5.2 Share findings through multiple media in languages that are familiar to IPs.

6. *Recommendations to Lending Institutions*

6.1 Lending institutions should have codes of conduct for lending to the oil palm sector that follow, at the least, the RSPO principles and criteria

6.2 Lending institutions should be transparent in loaning funds to the oil palm sector and should develop grievance processes.

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