

Palm Oil Industry and Human Rights:

A Case Study on Oil Palm Corporations in Central Kalimantan

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1. Forword

The intersection of business and human rights is a relatively new phenomenon worldwide. It is newer still in Indonesia. Yet it is a matter that cannot be ignored by any country, still less one of such geo-political importance and potential as Indonesia. Indonesia's rapid rise as a major emerging economy and its growing role as a leader in the region, not only expose the country to the ever-increasing pressures of global integration, they also carry heavy responsibilities and expectations. None of these are more onerous than how to ensure a fuller and fairer distribution of the wealth and benefits of the nation's economic growth; how to deliver on the *Pancasila* promises of civilized humanity, democracy and social justice, and thereby maintain its national unity. In short, how to ensure that business and commerce are best used as means to secure the human rights of the peoples of Indonesia. It is within this broad framework that the project upon which this report is based was undertaken.

Globally, palm oil is now big business, and Indonesia is the world's largest producer of the commodity. The industry has expanded exponentially over the past 15 years with some 9 million hectares of former rainforest and peatland now under palm oil cultivation (a figure projected to increase to approximately 13 million hectares by 2020). Indonesia produced more than 31 million tonnes of palm oil in 2013, mostly for export, constituting the country's most important foreign exchange earner outside the extractives sector. The industry is crucial to the country's economy employing, or otherwise providing income for, millions of Indonesians and providing a vital revenue source for local and central government.

Enabled by the breakneck speed with which the sector has grown - acquiring and clearing huge tracts of land, then planting and cultivating the crop as quickly as possible - the changes wrought in Kalimantan and Sumatra have been dramatic. Thus, in Central Kalimantan (in which province this present project was situated), palm oil has supplanted almost all other commercial endeavours, effectively rendering it a mono-crop economy. This has led to significant knock-on effects in social, environmental, economic, and political terms.

In nearly all these respects the impact on human rights has been significant, even if unrecognised. One of the most valuable contributions that Institute for ECOSOC Rights has made in conducting this project and in publishing this report has been to make known what these impacts are and why they are important. The empirical basis of this project is its undoubted strength. The wealth of data collected from all the key actors in the field - government officials, corporations and the affected communities - provides the authors of this report with ample evidence with which to formulate their opinions and draw their conclusions. The methodology employed throughout the project was as rigorous as it was impressive. It was also unique. Few such thorough studies of the human rights impacts of a single business sector exist in Indonesia, and none using the (relatively) newly minted UN Guiding Principles on Business and Human Rights (2011) as their metric of measurement and analysis.

The human rights abuses revealed in this report are substantial and varied, ranging from the rights of palm oil workers - to occupational health and safety; association and trade union rights; freedom of movement; fair trial and the right to remedy; freedom of speech and access to information; right to family and various children's rights), to wider community-related rights - to property; adequate standard of living (especially regarding right to water); access to health care and to education facilities; right to livelihood (affected by loss of habitat or environmental damage to land and/or waterways); and the right to physical safety (threatened by the widespread (and illegal) use of *preman*. These abuses occurred throughout the surveyed areas and affected both migrant and indigenous Dayak communities, though the fundamental issue of property rights was especially significant for Dayaks. This alarming catalogue of abuses at the hands of government authorities and palm oil corporations is significant in itself as indication of their joint and several failures to abide by the respective human rights responsibilities of governments and corporations. But what is just as significant as this effect, is its cause. The prospect of financial gain that drives the actions of corporations and governments is, as this report makes clear, so overwhelming that the negative impacts of palm oil on human rights are simply ignored, or are not seen as sufficient to warrant any significant changes of behaviour.

This is precisely the point at which the fast developing notion of how human rights duties intersect with economic incentives becomes pertinent and instructive. It is now widely recognised that alongside states' "duty to protect human rights", corporations also have a "responsibility to protect human rights", and that both are expected to provide adequate "access to remedy" for victims of human rights abuses involving business. These are the terms used by the UN's Guiding Principles and as such provide the frame of reference for the Report's analysis the respective obligations of states and corporations. The Report rightly concludes that in respect of the palm oil industry in Indonesia it is the state that directly bears the obligations under international law to protect and promote human rights affected by the activities of palm oil companies through national and provincial governments. However - and crucially - it also notes that the palm oil companies are obliged to abide by the human rights standards set by relevant national and provincial laws. That is the fundamental nature of the obligations states place themselves under when they accede (as Indonesia does) to various international human rights laws - namely, that they transform them into obligations imposed by national laws on public as well as private actors.

Thus, where abuses of human rights occur as a consequence of corporate activities, such as those documented in this report, liability is shared between state and corporations, as is the responsibility to remedy the abuse. Where corporations have breached existing laws, then it is the state's responsibility to enforce the law against them, and where no or inadequate laws exist, then it is the responsibility of the state to repair or introduce appropriate laws to protect human rights. In any case, even in the absence of the necessary hard-law regimes, corporations are expected to abide by relevant soft-law standards (whether national, industry or even company codes of conduct - such as the RSPO principles, or the REDD program as piloted in Central Kalimantan) in order to protect relevant international human rights standards.

This is another of the great strengths of this Report. The presentation of the data in the form of the legal as well as non-legal responsibilities owed by states and palm oil corporations to the individuals and communities in Central Kalimantan is both assured and convincing. Thereby, it provides a template for governments (both national and provincial) and corporations as to how (and why) they must act to arrest and remedy the human rights abuses caused by palm oil. Importantly, and at the same time, it also persuasively argues for a wider and fairer distribution of the economic and social benefits that the industry can bring to Indonesia and its people.

The skill, dedication and, indeed, bravery that the authors have shown in compiling this report is reflected in the quality of the data collected, its careful analysis, and the strength of the arguments drawn therefrom. As such, I can say with confidence, that the hopes the authors themselves expressed of this Report (in their Introduction, below) – that it “will strengthen the discourse on the human rights responsibilities of non-state [as well as state] actors”, and thereby “help realise the application of human rights standards in the business sector at large” - are not only entirely warranted, but most welcome and timely.

Professor David Kinley
Chair in Human Rights Law
University of Sydney

October 2014

2. Preface

This research on the impact of oil palm plantations on human rights conditions started as human rights monitoring and advocacy training activities conducted by the Institute for Ecosoc Rights, for Dayak customary communities (*komunitas adat*) and the transmigrant communities in Central Kalimantan. During the training, many villagers who lived nearby oil palm plantations shared their stories of how life has changed ever since the oil palm plantations began operating in their villages. These villagers' testimonies reaffirm many issues raised by national media with regard to oil palm plantations. Since 2001 national media have been reporting numerous conflicts and cases of violence involving oil palm corporations in many regions in Indonesia.

Villagers' testimonies as well as the reported conflicts and cases of violence in the central producing areas of oil palm plantation in Indonesia moved us to better understand the discourse of corporate responsibility to respect human rights as stipulated in the UN Guiding Principles on Business and Human Rights. The Guiding Principles then motivated us to conduct a review on their application in the oil palm industry.

We selected Central Kalimantan as the location for our case study because of several considerations, among others: Central Kalimantan has been declared by the Indonesian government as a pilot province for a joint deforestation mitigation effort by the Indonesian government and the international community through the REDD+ (Reduced Emissions from Deforestation and Forest Degradation) program. Another is that Central Kalimantan is the target province for investments in the development of oil palm plantations. Also, Central Kalimantan is recorded as the province with the highest number of conflicts over land and natural resources in Indonesia.

We thank those who have been giving tremendous support for our research. In particular we would like to express our deepest gratitude to the Norwegian Centre for Human Rights (NCHR) for funding support and for serving as experts on business and human rights. In particular we would like to thank Aksel Tømte, an NCHR staff focused on business and human rights, who acted as a friend for discussion, and gave his opinions and inputs during the design of the research, the discussions about the research's findings, and the writing of this report.

While we were planning the research, we benefited greatly from the involvement of Professor David Kinley, a prominent expert on business and human rights, especially in selecting research materials, methodologies, instruments, and the direction of the report. Despite his busy schedule, Professor Kinley flew to Central Kalimantan to read and critique our research and provide valuable input for our researchers. We would like to convey our highest appreciation to him.

Any faults found in this report remain fully our responsibility.

This research was conducted together by researchers from the Institute for Ecosoc Rights, Dayak Culture Institute (*Lembaga Kebudayaan Dayak*, LKD), and the Commission for Justice, Peace, and Integrity of Creation (JPIC) SVD Central Kalimantan. We would like to thank Mr. Kusni Sulang, director of LKD, and Father Frans Sani Lake, director of JPIC SVD Central Kalimantan. We also thank our researchers greatly: Andriani S. Kusni, Kusni Sulang, Johanes Jenito, Dudik Warnadi, PD. Prasetyohadi, and Marianus Marchelus for their

dedication throughout all the stages of this research. The report was edited by Sri Palupi, based on draft reports written by the field researchers.

During the field data collection process, members of indigenous communities helped significantly by acting as interpreters, guides, and discussion partners, and by facilitating discussions with local communities. Without their help we couldn't have collected the data presented here. We would like to acknowledge Ms. Mardiana Dehen, Mr. Dominicus D. Fernandez, Riku Mudiyo, Mr. Soropino, the head of the Pariyei village Mr. Wanto, Father Dominikus, Damang Puja Guntara, Mantir Adat Ruslam, the Dayak Council of Kotawaringan Timur (Hamidhan J. Bring, H. Arifandi, M. Jaiz, Andi, Suriansyah, Safril, Sutikno, Hasan), and all other members of the customary and migrant communities who have helped us with our research. Their assistance enabled the researchers to access the customary and migrant communities living in remote areas.

We also thank all our sources from the Dayak customary communities, the migrant communities in Central Kalimantan, the plantation workers, the district government of East Barito, Katingan, and East Kotawaringin, the government of Central Kalimantan province, as well as the management of the oil palm plantations of PT Sawit Graha Manunggal (SGM), PT Ketapang Sumber Lestari (KSL), PT Karya Dewi Putra (KDP), and PT Katingan Indah Utama (KIU). All information volunteered by our sources, whether openly or anonymously, even information that they couldn't relate for various reasons, have given us such deep insight into understanding the issue of business and human rights.

Finally, we dedicate this report with love to the customary communities, the migrant communities, and the workers of oil palm plantations, wherever they are. The various problems that they faced have inspired and pushed us to better understand the interconnections between business and human rights. We hope this report will be useful in encouraging and realising the application of human rights standards in the business sector.

Jakarta, October 2013

The Institute for Ecosoc Rights

3. Introduction

3.1 Objectives

Human rights cannot be separated from the duties and responsibilities of the state. The state has authority to regulate individuals and communities. Under international law, the state has inherent duty to respect, protect, and to fulfill human rights. However, one should note that the discourse on human rights keeps on evolving. The state is no longer seen as the only actor with duties and responsibilities to respect of human rights. Non-state actors such as corporations also have significant influence on individuals and communities. The increased power of corporations may influence the state in performing its human rights duties, especially in the era of economic liberalisation. Because of that, corporations can be held accountable, to domestic legislation and to internationally acknowledged human rights. The human rights responsibilities of corporations are enumerated in the UN Guiding Principles on Business and Human Rights, which deem that corporations have an array of responsibilities to respect human rights.

Economic liberalisation has increased the impact of local, national, and multinational corporations on the lives of individuals and the community. The growth of corporate influence has directly and indirectly impacted the administration of state power in the field of human rights. One business sector that plays a considerable role for Indonesia's economy and therefore has affected the human rights conditions in Indonesia is the palm oil industry.

According to Sawit Watch, the size of the combined areas of oil palm plantations in Indonesia has increased sharply over the last two decades, from several thousand hectares in 1989 to 9.4 million hectares in 2011. The size was expected to reach 10 million hectares in March 2012. Twenty years ago, oil palm plantations in Indonesia were confined to North Sumatra, and they very limited in size. Now, plantations cover the east coast of Sumatra, a small part of the west coast of Sumatra, the island of Kalimantan (especially West Kalimantan, Central Kalimantan, and along the border area with East Malaysia), the island of Sulawesi (West and Central), and recently also the southern part of Papua.¹

Indonesia is the world's largest producer of palm oil and the second biggest exporter of palm oil after Malaysia. Oil palm contributes significantly to Indonesia's economic growth. The growing global demand for palm oil has encouraged the Indonesian government to provide more land for the oil palm industry. This is further exacerbated by the ever-increasing investment and number of players in the oil palm industry.

One of the consequences of this expansion is an increase in conflicts over land and natural resources. A number of civil society organisations—for instance the Association for Community- and Environment-Based Legal Reform (*Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis*, HUMA), the Consortium for Agrarian Reform (*Konsorsium Pembaharuan Agraria*, KPA), and the Indonesian Farmers Union (*Serikat Petani Indonesia*, SPI)—has noted that the most frequent cause of disputes over land and natural resources in Indonesia is the oil palm industry. According to HUMA, Central Kalimantan is the region with the highest intensity of such conflicts.

¹ Raja Limbung, *Seabad Perjalanan Sawit di Indonesia* (The Wobbly King: A Century of Oil Palm in Indonesia), Sawit Watch and Tempo Institute, 2012.

The expansion of the oil palm industry has not been followed by a fiercer state commitment to protect human rights, and this called for a stronger corporate commitment to fulfil their human rights responsibilities. This demand is even more relevant in this era of economic liberalisation, where corporations play larger roles in the lives of individuals and communities. To address the questions related to business and human rights, this research has the following aims:

1. To understand the practical impact of oil palm industries on the human rights conditions of individuals and communities;
2. To investigate the implementation of the oil palm corporations' human rights responsibilities;
3. To examine the implementation of the state's human rights obligations in relation to the oil palm industry;
4. To identify alternative ways of resolving disputes, which involve communities, the government, and corporations, in order to mitigate human rights violations and to generate remedies;
5. To recommend alternative efforts and schemes to provide remedies for human rights violations due to oil palm business practices, as well as schemes for human rights-based natural resources management as a preventive measure.

3.2 Methodology

3.2.1 Selection of location

This research is conducted in three districts: East Kotawaringin, Katingan, and East Barito. These three districts were selected based on the following considerations:

1. East Kotawaringin has the highest number of oil palm corporations with large capital and the highest number of conflicts over land and natural resources;
2. Katingan is classified as a conservation area and has the lowest number of large-scale oil palm plantations;
3. East Barito is one of the districts with the highest rate of poverty; it is a rice producing district with many mining activities; oil palm plantations only have established themselves there fairly recently.

By selecting three different areas where the oil palm industries have different characters, we expect to see a variety of human rights impacts on individuals and communities. By covering a variety of oil palm business practices, we intend to show various forms of actions taken by corporations and local governments in their attempts to fulfil their responsibilities in implementing human rights.

3.2.2 Selection of respondents

Respondents were systematically selected from:

1. Members of customary communities and migrant communities who live around oil palm plantations, both those who have experienced problems with the presence of oil palm corporations as well as those who have not experienced any problems;
2. Individuals who work at oil palm plantations;
3. Indigenous communities and migrant communities around oil palm plantations (as groups);
4. Office and plantation managers, as well as the corporations' security personnel;

5. Provincial and district government officials, who are directly or indirectly involved with oil palm industries.

Oil palm corporations were selected based on the following criteria:

1. Both members and non-members of the Roundtable on Sustainable Palm Oil (RSPO);
2. Corporations that have operated for a relatively long time and corporations whose operations are relatively new;

By thus selecting oil palm corporations with different characteristics, we plan to examine the diversity of impacts of oil palm plantations on human rights.

3.2.3. Data collection

Data collection was conducted through a number of approaches:

1. Focus Group Discussions (FGD) with customary communities and transmigrant communities who live around oil palm plantations;
2. Open-ended interviews with customary community members, transmigrant community members, and oil palm plantation workers;
3. Open-ended interviews with office and plantation managers from selected companies;
4. Open-ended interviews with local government officials at provincial and district levels, from areas that are directly or indirectly affected by oil palm business practices;
5. Observations (to verify some of the claims made by respondents);
6. Secondary data analysis.

3.2.4. Primary resource materials

This assessment on the impact of oil palm plantations on human rights uses the following primary resource materials:

1. International Covenant on Economic, Social, and Cultural Rights;
2. International Covenant on Civil and Political Rights;
3. International Labour Organization (ILO) Conventions;
4. National legislations related to oil palm plantations, including:
 - i. Law no.32/2009 on Environmental Protection and Management,
 - ii. Law no.18/2004 on Plantations,
 - iii. Law no.41/1999 on Forestry;
5. UN Guiding Principles on Business and Human Rights;
6. ISPO² and RSPO Principles and Criteria for Sustainable Palm Oil Production.

This assessment of the impact of oil palm plantations on human rights focuses on the following aspects:

1. Land rights and cultural rights;
2. Workers' rights, including wage, working conditions, the right to form unions, and the right to social security;

² Indonesian Sustainable Palm Oil System

3. The right to health, the right to education, and the right to an adequate standard of living, including the right to water, the right to food, the right to housing, sanitation, etc.;
4. Civil rights, including freedom of expression, the right to security, freedom from discrimination, and rights to participation.

3.2.5. *Constraints and obstacles*

The research team faced some constraints during the data collection process.

First, constraints in obtaining information from the oil palm corporations concerned. Not all corporations contacted were willing to be interviewed. Some did not even respond to the repeated requests for interviews. Some corporations were only willing to respond in writing, and this created a problem for the research team to further confirm the information relayed by such corporations. The corporations willing to be interviewed face-to-face refused to allow the researchers to interview those with decision-making authority. The corporations only allowed the research team to interview their public relations staff. In consequence, the low-rank staffs were not able to answer important questions related to companies' decisions and human rights.

Second, constraints in obtaining information from the oil palm plantation workers and the communities living in and around plantation areas. We were not able to conduct officially authorized interviews with workers of the oil palm corporations, since no corporation granted such interview permits. The research team was only allowed to interview workers in the presence of a company representative. Some interviews with the plantation workers had to be conducted in secret, without the knowledge of the corporation. The workers were afraid to speak openly to outsiders. They worried they might get into trouble with the corporation. As a result, we obtained only limited information about the workers' living conditions in the plantations. Interviews with members of customary communities were also constrained. Conflicts between community members, conflicts between the local people and the local government, as well as conflicts between people and the corporations have created an atmosphere of insecurity and made it difficult for people to speak openly to outsiders about oil palm plantations. Some communities and individuals even refused to be interviewed within the borders of their village. They only agreed to be interviewed and to have a discussion outside their village, because they were afraid that the so-called '*preman*' (thugs) hired by the corporations would terrorize them if it was found out that they were speaking to outsiders.

Third, the district officials were not sufficiently open. The district officials—particularly those who work in offices directly related to oil palm plantations—tended to be reluctant to give the information and documents that were requested. Information on licensing policies issued by the district government, including environmental impact assessments, conflict resolutions, and other problems related to oil palm plantations could not be accessed fully.

Fourth, physical obstacles caused by the vastness of the areas covered, difficult terrain, and the lack of transportation facilities, as well as security and safety risks. Many customary and transmigrant communities dwelled in remote areas near oil palm plantations, far from any main road. There were no available transportation facilities, and the roads were in too poor condition to be used by vehicles. Motorcycles could only be used during the dry season.

During the rainy season we could not reach these places except on foot. In certain areas, such as Katingan, some villages could only be reached through the river, and such journey is very risky. These conditions made the data collection a lengthy process.

3.2.6. Summary

The findings of this study show that business practices in the oil palm sector in Central Kalimantan bring significant negative impacts on the lives of individuals and communities. The presence of oil palm plantations has worsened their quality of life. Citizens and communities, both migrant and indigenous Dayaks, are subject to human rights violations, including violations of economic, social, and cultural rights, as well as violations of civil rights.

Our findings show that the palm oil business is run without regard to the rights of the people and communities. This neglect of human rights may start as early as the processing of operating licences. Some corporations start operating without first obtaining a complete set of the licences that are legally required. There are regulations and obligations found in the Law on Forestry, the Law on Plantations, the Law on Environmental Protection and Management, and the Law on Manpower that are not followed or fulfilled by these corporations.

When there are human rights violations that involve oil palm corporations, the corporations concerned do not provide any mechanisms for complaint or for finding solutions and remedies, including providing compensation for the victims.

Related to the rights of workers, oil palm plantation companies tend to manage their relationship with the workers in a very loose manner, for example: keeping their status as temporary daily workers (without employment contracts), giving them low wages, long working hours, heavy workload, strict supervision, and exposing them to high risk without social security.

The violations of economic, social, cultural, and civil rights are made possible because the state does not fully fulfil its obligations to protect the rights of citizens and communities. This study finds the state to have failed in fulfilling its obligations to prevent human rights abuse by the oil palm plantations and palm oil companies.

Concerning the oil palm plantation industry, the government has made several laws and regulations, among others: the Law on Plantations, the Law on Forestry, and the Law on Environmental Protection and Management. Nevertheless, those laws do not adequately acknowledge the rights of citizens and communities. The laws only minimally guarantees the rights of citizens and communities, and do not regulate sanctions for any third party who violates those rights. This condition is exacerbated by the government's weak commitment in fulfilling its duties specified in those laws, such as:

1. create a plan for the management and protection of plantations, forests, and the environment;
2. create zoning regulations that effectively guarantee the rights of communities and their access to natural resources;
3. follow through the licensing process systematically;
4. perform oversight on operating oil palm corporations, and perform investigations into corporations that are found to violate the abovementioned rights;
5. in collaboration with law enforcement agencies, instigate legal inquiry and process.

When a human rights violation occurs, we find the government tends to do nothing but pass blame. There is no mechanism for complaint and finding effective resolutions, no mechanism for rehabilitation and providing compensation for the victims. The victims also have no access to pursue a fair resolution, inside or outside of the courtroom.

We hope that this study on the oil palm industry's corporate responsibility will strengthen the discourse on the human rights responsibilities of non-state actors, in particular corporations. In addition, we hope this study will be useful to all stakeholders, particularly the government, business agencies, international institutions, and Indonesian civil society, in order to help realise the application of human rights standards in the business sector at large.

4 Company Profiles and Surrounding Communities

4.1 Introduction: Central Kalimantan Province in Brief

Central Kalimantan has a surface area of 153,564 square kilometres or 15,356,400 hectares (roughly 21,5 million soccer fields). It is the third largest province in Indonesia after Papua and East Kalimantan. Based on the 2010 Population Census, Central Kalimantan has a population of 2,212,089 people and 572,849 households. The capital city of Central Kalimantan is Palangkaraya. The province is divided into 14 districts/cities (*kabupaten*, headed by a regent or *bupati*), 125 subdistricts (*kecamatan*), and 1511 villages/wards. Fifty three per cent of these villages are located by riverbanks.³ Rivers are the source of livelihood for many individuals and communities in Central Kalimantan.

The region has eleven large rivers and thousands of smaller rivers and canals, most can be sailed upon. These rivers provide electricity, water for agriculture, drinking water, transportation, touristic attraction, etc. These big and small rivers are the habitats of approximately 270 varieties of fresh water fish, 92 of them are considered 'aquarium fish', and the rest are consumable.⁴ However, almost all watersheds in Central Kalimantan suffer from heavy pollution and degradation. The main sources of pollution are oil palm industry waste, mining companies, domestic waste, and organic waste.⁵



Left: Mentaya River, Sampit, East Kotawaringin district (photo: Ecosoc Institute)

Right: Katingan River, and logs from the uplands areas being transported (photo: Ecosoc Institute)

³ Central Kalimantan in Figures (*Kalimantan Tengah dalam Angka*), 2011.

⁴ *Palangka Pos*, 27th April 2010.

⁵ *Kalteng Pos*, 19th April 2010.

Central Kalimantan is rich in natural resources, which attracts corporations to seek licenses to exploit them. From the total size of Central Kalimantan, 12.7 million hectares (87 per cent) are controlled by corporations, especially those in the plantation, forestry, and mining sectors.⁶ This is in contrast to the Local Regulation of Central Kalimantan no. 8/2003 on Zone Planning, which states that Central Kalimantan is divided into two areas: 15 per cent conservation forests and 85 per cent agricultural areas.⁷ At least 30 per cent of the land in Kalimantan is peatland⁸, and there are many risks related to the conversion of peatland to oil palm plantations. Peatland and tropical forests in Central Kalimantan are indispensable for flood prevention, ground water retention, and the maintenance of biodiversity.

In 2010 President Susilo Bambang Yudhoyono appointed Central Kalimantan as a pilot province for REDD+ (*Reduced Emissions From Deforestation and forest Degradation*) based on one of the provisions in the Letter of Intent (LOI) between the Indonesian and Norwegian governments, signed the same year. This program aims to reduce emissions from deforestation, forest degradation, and land use, which constitute the highest sources of greenhouse gas emissions in Indonesia. Central Kalimantan itself is the province with the highest deforestation rate in Indonesia. In 2006-2009 the province's deforestation rate reached 128,648 hectares per year⁹.

To reduce this deforestation rate, the governor of Central Kalimantan has announced a moratorium for the province. The policy was also meant to address the issue of overlapping licenses. The moratorium has been effective since March 2012 in eight districts in Central Kalimantan for mining, plantation, special port, etc. These eight districts are: South Barito, East Barito, Murung Raya, East Kotawaringin, Seruyan, Kapuas, Pulpis, and North Barito. With this moratorium, it is expected that the district government would audit all permits that have been issued.

WALHI (Friends of the Earth Indonesia) Central Kalimantan noted that forest clearing is still happening in spite of the moratorium policy. Furthermore, licenses and permits for corporations are still being issued by district heads (regents). The governor of Central Kalimantan has even issued a recommendation to release or convert forests in areas protected by the moratorium and in peat land areas. The Directorate-General for Forest Protection and Natural Resources Conservation (*Dirjen Perlindungan Hutan dan Konservasi Sumber Daya Alam*) recorded that up until 2010 there was 960,000 hectares of forest in Central Kalimantan that have been converted into non-forest areas without a permit.¹⁰

The exploitation of vast natural resources has contributed significantly to Central Kalimantan's economy. The Regional Investment Board (*Badan Penanaman Modal Daerah*,

⁶ Presentation by WALHI for the research team in Palangkaraya, March 2013.

⁷ The Office of Mining and Energy of Central Kalimantan (*Dinas Pertambangan dan Energi Provinsi Kalteng*) recorded that approximately 55 per cent of the total size of Central Kalimantan is mining area (*Wilayah Usaha Pertambangan*, WUP). Eighty per cent of the total WUP area is inside forests. (*Kalteng Pos*, April 30, 2010).

⁸ Central Kalimantan's Agricultural Profile (*Profil Pertanian Kalimantan Tengah*), 2007.

⁹ Forestry Planning Statistics, 2011 (*Statistik Bidang Planologi Kehutanan tahun 2011*), Planning Agency of the Ministry of Forestry, in "Report on Forestry-Related Crimes in Moratorium Areas in Central Kalimantan", WALHI Central Kalimantan.

¹⁰ *Kalteng Pos*, March 24, 2010.

BPMD) recorded that in 2008 approximately IDR 6.2 trillion (USD 500 million) was invested in Central Kalimantan¹¹, seventy per cent of that foreign investment. The economic growth of Central Kalimantan is above the national average.¹² Agriculture has a major role in expanding the region's economy.

The agricultural sector provides almost 40 per cent of the Regional Gross Domestic Product (RGDP) and absorbs around 60 per cent of available manpower. It also provides food, raw materials for industries, and a source of foreign currency¹³. The agricultural sector can be divided into five subsectors: crops cultivation, plantations, stockbreeding, forestry, and fishery. The subsector that contributes the most is plantations, particularly oil palm and rubber plantations. Teras Narang, the governor of Central Kalimantan, has said that plantation business is the main driver for economic growth in Central Kalimantan. Thus, it can be understood why the size of land allocated for plantation business keeps on growing every year.

Table 1. Recapitulation of area size and the level of production of plantation crops

Commodity/ Business actor	Year 1998		Year 2008		Year 2011	
	Size (ha)	Production (ton)	Size (ha)	Production (ton)	Size (ha)	Production (ton)
Community plantation:						
- Rubber	298,212	146,026	402,646	243,209	469,808	251,574
- Oil palm	20,359	4,360	92,715	195,049	128,547	380,573
Corporation/ PBS:						
- Rubber	8,494	1,874	4,319	2,167	7,910	2,214
- Oil palm	130,012	141,944	783,502	1,254,253	1,064,937	5,654,724

Source: Central Kalimantan Plantation Statistics

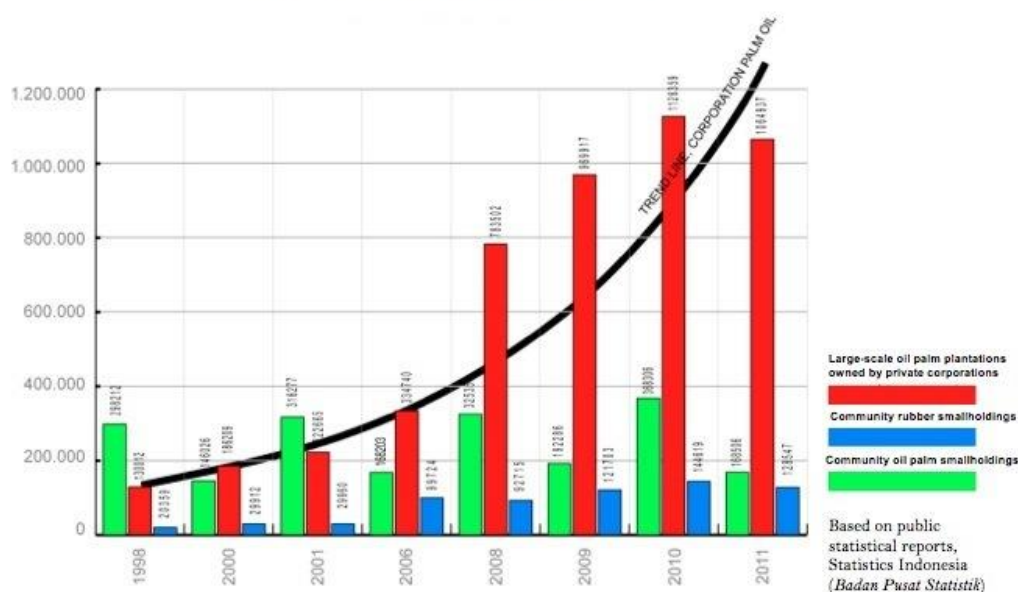
Below is a diagram of the size of oil palm plantations in Central Kalimantan.

¹¹ *Kalimantan Pos*, February 6, 2009.

¹² *Tabengan*, April 6, 2010. The comparison of Central Kalimantan's economic growth and national economic growth for five consecutive years: 5,9 (5,69) in 2005; 5,84 (5,5) in 2006; 6,06 (6,28) in 2007; (6,16 (6,06) in 2008; and 5,48 (4,5) in 2009.

¹³ Central Kalimantan's Agricultural Profile, 2007.

**Area Size (in hectares) of Private Oil Palm Plantations
Compared to that of Community Oil Palm and Rubber Smallholdings
in Central Kalimantan from 2006-2010**



The size of land controlled by oil palm companies (large private estates) has been increasing rapidly. Between 1998 and 2008 this increase was 500%. In those ten years, an average of 65,349 hectares of forest in Central Kalimantan were converted into oil palm plantations every year. At the same time, the size of community-owned oil palm plantations increased 355 per cent, with an average expansion of 7,235 hectares per year. Oil palm plantations can now be found in all of the province's 14 districts/cities; the largest estate is located in the district of East Kotawaringin (Kotim), its area is about 33.92 per cent from the total area of oil palm plantations in the province. The second and third largest are located in the districts of West Kotawaringin (Kobar) and Seruyan.¹⁴ The government of Central Kalimantan has initially allocated around four million hectares of land for plantations. From this total size, 23.45 per cent has already been cultivated. There are 496 large plantation estates in Central Kalimantan, and among those 300 estates have been operating in a total area of around 1.7 million hectares. Meanwhile, 196 other large plantation estates with a total area of around 2.3 million hectares are yet to start their activities.¹⁵

Another important commodity for the economy of Central Kalimantan is rubber; it is a traditional crop that has been cultivated for generations. This crop has long been the main business commodity and source of income for the local people. The Agricultural Census in 2006 showed that almost 52.26 per cent of the population of Central Kalimantan were cultivating rubber. The rapid growth of oil palm investment has caused the areas designated as rubber cultivation areas to decline, due to conversion into oil palm plantations.

Oil palm corporations started operating in Central Kalimantan in 1992. Local Regulation no. 3/1993 on Central Kalimantan's Zone Planning made it easy for oil palm investors to invest

¹⁴ Central Kalimantan's Agricultural Profile, 2007.

¹⁵ The speech of the governor of Central Kalimantan in the inauguration of PT Astra Agro Lestari Tbk projects at Runtu Pangkalan Bun, 8th January 2007, *in* the collection of speeches made by the Governor of Central Kalimantan, 2007, the Government of Central Kalimantan.

in Central Kalimantan¹⁶. Since then, the areas used for oil palm cultivation has expanded massively every year, due to conversion of forests and other agricultural areas. Permits were even issued to convert areas that contained more than three meters of peat. Central Kalimantan is the province with the fourth largest area used for plantations, after Riau, North Sumatera and Jambi. It is estimated that Central Kalimantan has risen to be the province with the third largest area used for plantations.¹⁷

The issuance of permits lacks control, as evidenced by several districts that issued permits for plantation and mining that cover an area of land almost equal in size to the districts themselves. There are even two districts that issued permits covering an area of land larger than the districts themselves, that is North Barito and Kapuas districts, which issued permits for 1,452,468 and 1,761,579 hectares, although the size of the districts are only 830,000 and 1,499,900 hectares, respectively. The district of Gunung Mas covers 1,080,400 hectare, and issued permits for a total area of 996,251 hectares. The district of East Barito covers 383,400 hectares, and has issued permits for an area of 359,043 hectares. The district of Lamandau covers 641,400 hectares of land, and has issued permits for a total area of 530,526 hectares.¹⁸

The rapid increase of investment in the oil palm sector has caused dramatic changes in Central Kalimantan. The most apparent change is in the landscape: the lush tropical rainforests of the past have become a monocultural landscape with only a single variety of vegetation: the oil palm trees. In the past forests covered 80 per cent of Central Kalimantan.¹⁹

The disappearance of forest increases the size of ‘critical land’—land that has been so severely degraded that it is no longer productive. Based on the 2010 data of the Central Kalimantan Bureau of Forestry (*Dinas Kehutanan*), the total size of critical land in the province is more than 7 million hectares. According to the data of the Kahayan Watershed Management Agency (*Badan Pengelola Daerah Aliran Sungai*, BP DAS), out of the remaining forests in Central Kalimantan, about 7.27 million hectares have been degraded, with a degradation rate of 150,000 hectares per year.²⁰

Central Kalimantan has become a conflict-prone area. Many conflicts arose involving corporations, in particular oil palm corporations. The Team on Prevention and Settlement of Land Disputes in Central Kalimantan (*Tim Pencegahan dan Penyelesaian Sengketa Tanah/Lahan di Provinsi Kalimantan Tengah*) documented 278 cases of land disputes as per December 2012, the majority of them related to plantations²¹. Meanwhile, the Central Kalimantan Bureau of Plantation (*Dinas Perkebunan*) noted 118 conflicts in 14 districts/cities

¹⁶ *The History of Oil Palm Plantation in Central Kalimantan*, the Plantation Office of Central Kalimantan (*Sejarah Perkebunan Kelapa Sawit di Kalimantan Tengah*, Dinas Perkebunan Provinsi Kalimantan Tengah), 2009.

¹⁷ *Republik*, 12th December 2011

¹⁸ *Palangka Post*, 1st June 2011.

¹⁹ *The Promotion of Potential Investment and Investment Opportunities in Central Kalimantan (Promosi Potensi dan Peluang Investasi Kalimantan Tengah)*, Bureau for Economic and Natural Resources Administration, the Regional Secretariat of Central Kalimantan (*Biro Administrasi Perekonomian dan Sumberdaya Alam, Sekretariat Daerah Provinsi Kalimantan Tengah*), fiscal year 2012.

²⁰ *Kalimantan Pos*, 27th April 2010

²¹ Yando Zakaria, *The Institutionalization of the Settlement Mechanism of Land Disputes in Central Kalimantan – A Baseline Study (Pelembagaan Mekanisme Sengketa Agraria di Kalimantan Tengah – Kajian Awal)*.

as per March 2013 involving plantation companies. Most of the conflicts (70.3 per cent) are related to land-grabbing and compensation. The increased investment in the oil palm sector also increases conflict intensity. These conflicts happened between local communities and corporations, between communities and local government, between individuals and family members in local communities, as well as between corporations.

The conversion of forest areas that used to function as ground water retention areas and 'ecosystem buffer zones' has transformed Central Kalimantan into a disaster-prone area: floods in the rainy season, fire and haze in the dry season. Every year now, Central Kalimantan suffers from flooding that carries away houses and submerges inhabited areas, schools, healthcare facilities, etc. Floods also cause harvest failures as they submerge and destroy hundreds of hectares of crops and rice fields, causing losses to farmers. Floods also disturb social and economic activities. After the water subsides, suffering continues — people suffer from health problems such as diarrhoea, malaria, respiration problems, coughing, and skin problems.²² The Meteorological, Climatology, and Geophysics Agency of Central Kalimantan (*Badan Meteorologi, Klimatologi, dan Geofisika provinsi Kalimantan Tengah*) stated in 2010 that flooding in Central Kalimantan is getting worse and more frequent, not only because of the high level of rain drops, but also because of the sedimentation of rivers and the loss of forests as ground water retention areas.²³

Deforestation leads to increased vulnerability to malaria. A study conducted by the Bureau of Health (*Dinas Kesehatan*) of Palangkaraya, the capital city of Central Kalimantan, states that large-scale deforestation caused by oil palm plantations is considered to lead to increased population of malaria mosquitoes. This study also notes an increase of attacks by malaria mosquitoes. Every month hundreds of people in Palangkaraya suffer from malaria, although Palangkaraya previously was declared to be malaria-free. As for the province as a whole, there were 9,619 malaria patients for the period of January-March 2011. Data from the Central Kalimantan Bureau of Health (*Dinas Kesehatan*) show that the prevalence of malaria is increasing. There were 34,863 cases found in 2008, 36,362 cases in 2009, and 44,464 malaria cases in 2010. Most of these patients were found in the district of West Kotawaringin (10,947 patients).²⁴ The increased population of malaria mosquitoes may be attributed to more frequent flooding, which together with deforestation, made better living conditions for mosquitoes in residential areas.

The expansion of the oil palm industry also affects the amount of available land for rice and other crops cultivation. The head of Central Kalimantan Bureau of Agriculture and Stockbreeding (*Dinas Pertanian dan Peternakan*), Ir. Tute Lelo, claims that available land for rice cultivation is under pressure from oil palm plantations in three districts in the southern part of the province, the districts of Seruyan, East Kotawaringin and West Kotawaringin. Most of arable land in those three districts has been converted to oil palm plantations. The expansion of land used for oil palm cultivation is conducted in a large-scale manner every year, by converting agricultural lands as well as forests²⁵.

²² Study on public issues, news from print media in Central Kalimantan, for the period of September 2008, Bureau for Public Relations and Protocol (*Biro Hubungan Masyarakat dan Protokol*), Central Kalimantan Province.

²³ *Banjarmasin Post*, 21st September 2010

²⁴ *Tabengan*, 10th May 2011

²⁵ *Dayak Pos*, 12th August 2008

The governor of Central Kalimantan has admitted that the province's vast natural resources have not been optimally used to increase the people's welfare. The districts that are rich in natural resources have high poverty rates, for instance East Barito (12.34 per cent poverty level), East Kotawaringin (11.33 per cent poverty level), and Seruyan (11.25 per cent poverty level). East Barito is rich in mining and rubber, and one of the main rice providers for Central Kalimantan. East Kotawaringin and Seruyan have a lot of oil palm plantations. The economic growth of Central Kalimantan is above the national average, but ironically 62 per cent of villages in that province can be categorized as underdeveloped.²⁶ The governor himself has complained that the oil palm and mining industries bring very little welfare to local communities.²⁷

4.2 Palm Oil Corporations

4.2.1 PT Sawit Graha Manunggal (PT SGM)

PT SGM is part of the large group Bumi Borneo Prima–AEP Indonesia (Anglo-Eastern Plantations) and a member of RSPO. In Kalimantan AEP started its investment in December 2007 in the district of East Barito, in an area covering 26,000 hectares. In 2009 AEP managed to obtain an important conversion permit from the Indonesian Ministry of Forestry for a project in Central Kalimantan. In 2010 AEP acquired PT Kahayan with its initial concession area of 17,500 hectares (as per their location permit or *izin lokasi*).

Also in 2010 AEP set out to plant 5,000 hectares of land in Central Kalimantan with oil palm trees, with a target of planting another 10,900 hectares the same year, and an additional 10,000 hectares per year for the next five years. By 2014 AEP will have expanded the size of its plantation to almost 100,000 hectares.

In 2011 AEP planted another 4,800 hectares of oil palm trees, which increased its plantation area by 9 per cent to 57,100 hectares (in 2010 its plantation area was only 52,300 hectares). This planting effort goes hand in hand with AEP's effort to obtain a Timber Utilization Permit (*Izin Pemanfaatan Kayu*, IPK), which is a permit issued by the regional Bureau of Forestry, allowing companies to make use of available timber after land clearing has been conducted. Usually IPK would contain information about the volume of logs, species of trees, and intended use of the logs by the company concerned.

In 2011 and 2012 AEP's planting activities were delayed due to negotiations that dragged on with villagers about land compensation, and delays in getting a Forest Conversion Permit (*Izin Pelepasan Kawasan Hutan*) from the Ministry of Forestry. At the end of 2012 PT SGM received the necessary permit and would continue converting forest for their plantation.

The conglomerate Bumi Borneo Prima does not only operate in Central Kalimantan, but it also has oil palm business in South Sumatera, North Sumatera, and Riau. As part of the Anglo-Eastern Plantation Plc., it has been listed on the London Stock Exchange since 1985.

²⁶ *Tabengan*, 28th September 2010

²⁷ *Dayak Pos*, 18 Februari 2009



PT SGM's plantation (photo : Ecosoc Institite)



PT SGM's business operation in the district of East Barito can be found in 17 villages and five subdistricts: Dusun Timur, Paju Epat, Karusen Janang, Dayu, and Paku. Information from the Central Kalimantan Bureau of Plantations shows that as per December 2012 PT SGM fulfils the criteria for being considered 'clear and clean'. It means that PT SGM has finalised its obligations to obtain a Forest Conversion Permit (*Pelepasan Kawasan Hutan*) from the Indonesian Ministry of Forestry. This permit is subsequently used as one of the requirements to obtain a Letter of Cultivation Rights (*Surat Keputusan Hak Guna Usaha*, SK HGU) from the National Land Management Agency (*Badan Pertanahan Nasional*, BPN).

Even though PT SGM has fulfilled the criteria for being considered 'clear and clean', Central Kalimantan Environmental Agency (*Badan Lingkungan Hidup*, BLH) finds the company lacking a satisfying Environmental Impact Assessment (*Analisa Mengenai Dampak Lingkungan*, AMDAL) document. The AMDAL document that the company holds has been approved by the environmental commission of East Barito district, but according to BLH, the district body does not have the authority to approve an AMDAL, which is an important factor in protecting the environment and human rights.

4.2.2 PT Ketapang Sumber Lestari (PT KSL)

PT KSL is part of the Cilliandry Anky Abadi Group (CAA Group), which has operated since 1996. This group is not an RSPO member. In Indonesia the CAA group has businesses in Bintan Island, Riau; the district of East Barito, Central Kalimantan; and in the district of Pulang Pisau, Central Kalimantan.

Within East Barito, plantations owned by PT KSL can be found in 11 villages (Simpang Neneng, Dayu, Trans Lagan, Putu Tawuluh, Kupang Baru, Tampa, Runggu Raya, Loa Jawuk, Taringsing, Simpang Bangkuang, and Mampahe), which administratively are part of three subdistricts (Karusan Janang, Paku, and Dayu).



a part of PT KSL's plantation, by a small hill (photo: Ecosoc Institue)

With regard to the permits obtained by PT KSL, the Central Kalimantan Bureau of Plantations stated that as per December 2012 PT KSL has not fulfilled all the criteria for being categorised as ‘clean and clear’. In order to achieve that categorisation, the company still needed to obtain:

1. a principal permit (*Izin Prinsip/Izin Arahkan Lokasi*);
2. a location permit (*Izin Lokasi*);
3. a Plantation Business Permit (*Izin Usaha Perkebunan, IUP*);
4. a Forest Conversion Permit from the Ministry of Forestry, if the land that would be used for plantation is classified as forest;
5. a Letter of Cultivation Rights from the National Land Management Agency.

This means that PT KSL does not yet possess a complete set of permit to operate. Nevertheless, PT KSL is already operating in the district of East Barito.

4.2.3 PT Karya Dewi Putra (PT KDP)

Based on written information from the managers of PT KDP, the company was established on 24th March 1995 and has operated in Katingan since 2003. In Central Kalimantan its plantations are located in the villages of Mira Kalanaman, Tumbang Marak, Tumbang Kalamei, and Tumbang Hangei, in the subdistrict of Central Katingan, Katingan district. Its concession areas cover 17,500 hectares, and have borders with the concession areas of PT Bumi Hutan Lestari (PT BHL), PT Bangkit Usaha Mandiri (PT BUM), and the gold mining company PT Kasongan Bumi Kencana (KBK).

PT KDP is a subsidiary of PT Agrindo Kalteng. Its sister companies include PT Archipelago Timur Abadi (ATA), which operates in the district of Gunung Mas, and PT Kalimantan Ria Sejahtera (KRS) and PT BBR, which operate in the district of North Barito. All companies operate in the oil palm sector.

PT KDP was established in the district of Katingan with a vision of becoming the largest and the most profitable oil palm corporation in the world with the best and the most sustainable management, the preferred supplier, and a source of pride for employees and communities. PT KDP’s mission is to bring profit to the company’s owners and management, to contribute to the nation and country, and to implement the best and most sustainable oil palm production practices.

PT KDP is a corporation with national investment modalities. It is not yet listed on any stock exchange. It is not yet a member of RSPO or ISPO. However, according to the information provided by the managers, they have applied to RSPO and ISPO since 2013.

PT KDP claims to possess an AMDAL document; the process of finalising the environmental study took approximately one year, the study was presented before an AMDAL committee, and obtained the approval of the district head (regent). The company also states that it submits its Plantation Business Assessment report (*Penilaian Usaha Perkebunan, PUP*) to the government annually.

In addition to AMDAL, PT KDP has also fulfilled the requirements for other permits as required by the government, such as the principal permit, location permit, plantation business permit, and land-clearing permit. All steps have been taken by following the government’s guidance and directives. The licensing process started with application, technical

consideration by relevant offices, and finally approval from the authorities. PT KDP emphasises that the company always refers to the prevailing Indonesian regulations and legislations in running its plantation business; and that each step of obtaining permits and carrying out business activities always is in coordination with the relevant offices or authorities.

PT KDP claims to employ 1,500 workers, 70 per cent male and 30 per cent female. Their workers identify as Javanese, Floresians, Bataks, Dayaks, and belonging to other ethnic groups. They are recruited through AKAT at the transmigration office (*Dinas Tenaga Kerja and Transmigrasi*) and by their own human resources team. In addition, local workers are welcome to apply directly to the company. The status of workers in PT KDP is divided as follows: temporary daily workers, regular daily workers, regular monthly workers, and assistant-level staff. PT KDP states that most of the workers (90 per cent) are regular workers and only 10 per cent are temporary workers.

The company also claims that their workers' wage is in accordance with the prescribed Regional Minimum Wage (*Upah Minimum Propinsi*, UMP) of IDR 58,000 (USD 5.8) per working day plus premium or overtime and staple (rice) allowance based on the number of family members; the company also provides mandatory social security (Jamsostek) for all workers registered as regular daily workers and regular monthly workers; in addition, there are many other facilities provided by PT KDP for workers and their families, such healthcare, childcare, housing, education, sports facilities, and place of worship, as well as clean water transported by a water tank truck, transportation out of the plantation area, etc.

PT KDP states that they guarantee workers' rights to form unions. When interviewed in 2013, the company claimed a labour union would be formed that year. The company also claims to prioritise the health and safety of workers by always recommending the workers to use protective gears, such as boots, gloves, masks, and helmets. These are given to the workers on their first day at work.

The minimum age of workers in PT KDP is, according to the company, 17 years, or the worker must be married and be the head of a household. Women workers have the same working hours as male workers, yet they are given tasks that are considered lighter. There is no discrimination against workers, the company asserts, migrant and local workers are treated equally according to applicable laws and company policies; there is no difference in status between local workers and workers from outside Kalimantan.

With regard to its environmental responsibilities, PT KDP claims to have a high conservation value area located in Betang Sangkuwung with the size of 9 hectares that they preserve. Besides that, there are other conservation areas as well as important sites that they preserve. The company also has policies that prohibits of hunting or shooting protected animals.

PT KDP also asserts to have fulfilled its obligation towards the community. In this regard, PT KDP acknowledges customary land rights that are recognized by a letter from a *Damang* (customary leader) and other statements that identify an area as a hunting site for the local people. The corporation also implements a Corporate Social Responsibility (CSR) programme by giving donations to villages and by improving village infrastructures (roads, bridges, clean water facilities, lighting, village offices, etc.). Additionally, the corporation also provides an alternative livelihood for the community, for example by cultivating seasonal vegetables. PT KDP has conducted free medical check-up and mass circumcision.

There are also many other CSR programmes implemented in the socio-cultural and religious sectors, via improvement of education quality, donations, and sponsorships. Concerning human rights, the company's CSR programme reaches out to mothers and children and sponsors elementary education in a school they have built; it also provides healthcare and housing facilities for workers, and others. PT KDP also claims that they have a "plasma" plantation program for the local community—the size of the plasma plantation is 20 per cent of the total main plantation area, and the programme has been implemented well.

According to the company, their policy towards local communities is stipulated in their AMDAL document: they don't discriminate between workers, they have always opened their doors to local workers, and they announced job opportunities at surrounding villages. However, many local workers eventually could not compete with newcomers, and then chose to stop working for PT KDP.

In conflict resolution, PT KDP claims to have a Standard Operational Procedure (SOP). Conflicts are most frequently about land; there are often overlapping claims to land ownership in areas where the company have already given crops compensation to the owner. PT KDP emphasises that the first approach they take to settle such disputes is persuasion. If that fails, the dispute will be discussed with the village apparatus, the Regional Land Management Agency (*Badan Pertanahan Daerah*, BPD), *kedamangan* (a customary institution), or with the subdistrict leadership and its apparatus.

In their experience in the settlement of land disputes, PT KDP claims that it has taken part as witness and mediation facilitator between the company and the people concerned; PT KDP also gave input to the community and the company concerned; PT KDP may also supervise the implementation of the agreement once reached. If an agreement cannot be reached, the case will usually be reported to the authorities (the police) and can be settled at *kedamangan* level or in a courtroom. This claim that the company acts as a facilitator may give the impression that the company is not one of the conflicting parties, although it is involved in many land disputes.

Concerning the operations of PT KDP, villagers from Mirah Kalanaman village, Tumbang Marak village, Tumbang Kalamei village and Tumbang Hangei village said that they were never informed about the presence of PT KDP. When the company came to the villages, they started clearing land immediately. The people didn't know of PT KDP, only that there was a company that cleared and destroyed forests in preparation for oil palm plantations. The brand name of PT KDP was only known later.

In 2003 PT KDP started to clear thousands of hectares of forest. According to local citizens, this constituted the beginning of the destruction of their environment, especially in the villages of Kalamei, Tumbang Marak, and Mirah Kalamanan, which were bordering the plantation. Since 2005 until now, cases between local communities versus PT KDP have continued to emerge. Most of them were land disputes. The villagers accused PT KDP of deliberately taking over their land and converting it to oil palm plantations—there are still many areas that have not been compensated for by PT KDP; in obtaining land PT. KDP uses the *garap selonong* strategy (clear the land first and deal with problems later); without the people's knowledge PT KDP cleared their lands. The protests conveyed by the people felt useless since their land had already been cleared.

In 2009 PT KDP was audited by the National Audit Board (*Badan Pemeriksa Keuangan*, BPK). The audit shows that PT KDP's plantations encroach on conservation areas²⁸. BPK found that PT KDP had no permit from the Ministry of Forestry. Based on this information, in 2011 the local community and civil society organisations filed a civil lawsuit against the company, which was accused of establishing a plantation covering 10,000 hectares in a conservation area without permission from the Ministry of Forestry.

The land-clearing in conservation area conducted by PT KDP was only based on a principal permit, location permit, a Plantation Business Permit, a Land Clearing Permit (*Izin Pembukaan Lahan*, IPL), and a Timber Utilization Permit, as well as a recommendation to convert the forest area concerned, issued by the regent (head district) of Katingan.

Information from the Central Kalimantan Bureau of Forestry also states that PT KDP is one of the many corporations in Central Kalimantan that has problems concerning permits. The company cleared forest areas without a permit and then started their operation before obtaining a Forest Conversion Permit from the Ministry of Forestry.



A part of PT KPD's plantation in Central Katingan district (photo: Ecosoc Institute)

Another problem with PT KDP concerns water pollution. The river and streams previously used by the community as a source of potable water and sanitation are now polluted and can no longer be used. The villagers who bathe in the river would later suffer from skin irritation. The river used to be clear, but the water is now murky, and dead fish have been floating on the surface. According to the local citizens, many rivers and streams around Tumbang Mira

²⁸ Based on recommendations from the National Audit Board (*Badan Pemeriksa Keuangan*, BPK) on February 23, 2009, the Ministry of Forestry has been requested to stop the operations of oil palm corporations in Barito Utara, Katingan, and Seruyan. The oil palm corporations named in the BPK report are: PT Antang Ganda Utama, PT Sumber Inu Forestry, PT Berjaya Agro, and Koperasi Sekunder Mitra Ganda Perdana Sawit; also six corporations in Katingan: PT Karya Dewi Putra, PT Giri Rejeki Mukti, PT Krida Dharma Kahuripan, PT Kereng Pangi Pratama, PT Katingan Hijau Lestari, and a unit of Koperasi Karya Abadi; in Seruyan: PT Agro Karya Prima Lestari, PT Agro Mandiri Perdana, PT Buana Artha Sejahtera, PT Harapan Mas Sawit BP, PT Kerry Sawit Indonesia, PT Menthobi Sawit Jaya, PT Mitra Agroindo, PT Mitratama Abadi Makmur, PT Mitra Unggul Tama Prakasa, PT Sarana Titian Permata, PT Sawitmas Nugraha Perdana, PT Sumur Pandanwangi (*Tabengan*, 29 Maret 2011).

village and Tumbang Kalamei village became polluted since PT KDP developed its oil palm mills. During rainy seasons, the water level in the river would rise and flood houses in the village.

In 2006-07, citizens from the community reported PT KDP to the district government for using fire for land-clearing. The government did not handle the complaint seriously. The government only sent a guidance letter to PT KDP without taking any disciplinary measures.

In 2011 the community submitted another complaint against PT KDP, this time for water pollution. The company's waste had polluted the small rivers that had always been a source of drinking water and sanitation for the local community. The Katingan Environmental Agency (*Badan Lingkungan Hidup*) checked the water quality and performed laboratory tests on all rivers used by the community around PT KDP's plantations. However, the community has not been informed about the results of this testing, and there has been no follow-up on the complaint from neither the government nor the company.

In mid 2013 the villagers from Tumbang Marak and Tumbang Kalamei villages staged a protest by conducting a traditional *hinting* ritual in the plantation area. This ritual forced the company to stop operating for a few days. Through this ritual, the community asked the company to take responsibility for land-grabbing and water pollution.

Concerning village development, the villagers allowed that PT KDP provided an electricity generator for Tumbang Marak village, and helped build a multipurpose building in Tumbang Kalamei village. The company also helped repair the road in Tumbang Marak village. With the road repaired, it becomes easier for the company to transport oil palm fruits. The company also implemented a plasma plantation program with a system of loan and profit-sharing for villagers in the two villages. Approximately 15 per cent of the villagers participate in PT KDP's plasma program. But the villagers feel that the program is not transparent, because they do not know the total loan they have to pay, which is deducted from their share of the plasma plantation yields.

The villagers are also excluded from the management of the cooperative responsible for managing the plasma plantation. The management of the cooperative is appointed by PT KDP and consists of PT KDP's staff.

4.2.4 *PT Katingan Indah Utama (PT KIU)*

PT KIU is a subsidiary of Makin Group, a company of domestic investment.

On its official website Makin Group states the company's vision: "To become a world class national company in the management of natural resources recognized for its concern and efforts to improve the quality of natural environment." And the company's mission: "to create and conduct a natural resource management business in an economical and responsible fashion, capable of increasing value for the stakeholders by building and utilizing national potentialities intelligently and ethically". The company's motto is "the more we care, the more we shine". According to Makin Group's Head of Community Development Division, Hieronimus Tumimomor, Makin Group will be affiliated with ISPO in line with the company's nationalistic spirit.

In East Kotawaringin district, Makin Group has five subsidiaries: PT Katingan Indah Utama, PT Intiga Prabhakara Kahuripan, PT Mukti Sawit Kahuripan, PT Surya Inti Sawit Kahuripan, and PT Wanayasa Kahuripan. The five companies operate in Parenggean subdistrict with a total concession area of around 26,210 hectares.



one part of PT KIU's plantation located by the edge of the swamp(photo: Ecosoc Institute)

PT KIU has a palm oil processing mill with the capacity of 90-ton fresh clusters per hour (TBS [*Tandan Buah Segar*]/jam). The company holds Plantation Business License (IUP) no. 634/Kpts/HK.350/Dj.Bun/VIII/2001 from the Directorate-General for Plantations, and a total concession area of around 6000 hectares in Kabuau, Tehang, Parenggean, Paharingan, Tanjung Batur, Penda Durian, and Santilik villages. The company cleared 11,311.87 hectares of land for core plantation areas, and 7,596 hectares for plasma plantation areas.

PT Intiga Prabhakara Kahuripan is already operational with IUP no. 525.26/451/V/Ekbang/2005 from the regent of East Kotawaringin and a total concession area of around 12,000 hectares in Parenggean village.

PT Mukti Sawit Kahuripan has a plantation in Pelantaran village and IUP no. 525.26/035XII/Ekbang/2006 from the regent of East Kotawaringin granting a total concession area of 4,210 hectares.

PT Surya Inti Sawit Kahuripan is operational, has a total concession area of around 2,500 hectares, and has an oil palm mill with a capacity of 60-ton fresh clusters per hour. They are operating in Berunang Miri village, and have IUP no. 525.26/034/X/Ekbang/2006 from the regent of East Kotawaringin.

PT Wanayasa Kahuripan has IUP no. 525.26/033/XEkbang/2004 from the regent of East Kotawaringin and a total concession area of around 1,500 hectares in Hanjilipan village.

PT KIU was established on 3rd June 1997, and has been operational since 1998. This company has six Principal Licenses (*Izin Prinsip*, IP):

1. IP no. 525.26/164/Ek from the National Land Management Agency (BPN) in Kotawaringin Timur with an area of around 6,163 hectares;
2. IP no. 525.26/393/IX/Ekbang/2003 from the regent of East Kotawaringin with an area of around 4,000 hectares;
3. IP no. 525.2/471/X/Ekbang/2004 from the regent of East Kotawaringin with a total area of core plantation of around 500 hectares and a plasma area around 500 hectares;
4. IP no. 525.26/468/X/Ekbang/2004 from the regent of East Kotawaringin with a total core plantation area of around 1,000 hectares and a plasma area around 1,000 hectares;

5. IP no. 525.26/473/X/Ekbang/2004 from the regent of East Kotawaringin with a total core plantation area of around 750 hectares and a plasma area around 750 hectares;
6. IP no. 525.26/469/X/Ekbang/2004 from the regent of East Kotawaringin with a core plantation area of around 1,000 hectares and a plasma area around 1,000 hectares.

PT KIU has the following Location Permits (*Izin Lokasi*, IL):

1. IL no. 19.460.2 of 27th December 2001 from the National Land Management Agency (BPN) with an area around 8,473 hectares;
2. IL no. 720A.460.42 of 30th July 2005 from the regent of East Kotawaringin with a concession area around 1,500 hectares;
3. IL no. 720B.460.42 of 30th July 2005 from the regent of East Kotawaringin with an area around 500 hectares;
4. IL no. 720C.460.42 of 30th July 2005 from the regent of East Kotawaringin;
5. IL no. 720D.460.42 of 30th July 2005 from the regent of East Kotawaringin with an area around 500 hectares;
6. IL no. 720E.460.42 of 30th July 2005 from the regent of East Kotawaringin with an area around 500 hectares.



harvested fresh fruit bunches from one part of PT KIU's plantation (photo: Ecosoc Institute)

According to information from the company, PT KIU employs 3,492 people, which consist of 2,519 regular daily workers, 452 monthly employees, and 521 temporary daily workers. The number of workers protected by Jamsostek, which provides pension, life insurance, and work-related accident insurance, is 1,667 people. The company also claims that it has a policy of not employing foreigners and to give employment priority to communities around the plantation areas.

One of the founders of Makin Group, Antonius Kurniawan, remarks: "There is a way to conduct business humanely." He further maintains that company's philosophy is applied internally by getting all levels of management to arrive at a uniform understanding of the company's vision and mission. Heironimus Tumimomor, the Head of Makin Group Community Development Division, says that one of the difficulties faced by the company at the present is a disparity of understanding between upper management and lower management, which affects decisions and actions taken in the field. He continues: externally the company's philosophy is realised through the Community Development Division with its Community-Based Forest Management program and a partnership scheme in land ownership. Makin Group's community development model follows their mapping of community potentialities so that empowerment programs can concretely address community needs and yield long-term results.

Furthermore, Tumimomor claims that Makin Group is the only [oil palm] company in Indonesia that applies a 100-percent partnership scheme, meaning that the company does not

buy people's lands, instead these lands are managed through a cooperative together with the owners. The cooperative established by PT KIU includes KUD Sawit Kabuau Indah in Kabuau village and KUD Tunas Harapan in Parenggean village.

The people of Kabuau claim that they have not received the amount of *plasma* land they were promised. The people have surrendered land of 5,014 hectares, and according to the agreed 50:50 division, they should have received plasma lands of at least 2,500 hectares. While in fact, the land they have received is less than 1,000 hectares. Until now, the community members are still complaining about the reminding land they were promised.



plasma land related to the PT KIU plantation (photo: Ecosoc Institute)

According to Makin Group, the biggest problem they are facing in the partnership scheme is members selling their memberships to people from outside their village, so that there are people in Bali, Java, Sulawesi, and Sumatra holding Makin's partnership cooperative membership cards. It is these people who then benefit from the shared plasma proceeds every month, which, according to Makin Group, is around IDR 4-6 million. Meanwhile, the original members, the local people, no longer receive anything.

According to the company's investigation, the practice of selling cooperative membership is facilitated by collaboration between the cooperative staff and the heads of villages and subdistricts. Tumimomor says that from the 105 cooperative members, 103 are outsiders. In East Kotawaringin, 100 out of 100 memberships of the cooperative have been sold. In our meeting with Antonius Kurniawan, he said that the company is still trying to find a solution to return the memberships to the local people, so that the company can achieve its intention to share proceeds with the local communities. The company holds a total core area around 25,000 hectares and a partnership area around 7,000 hectares.

According to Heri Bertus, staff of PT KIU's Community Empowerment Division, in their Mentaya Estate there are around 1,200 workers. There is no union. If there are complaints from workers, they would be related to the workers' immediate superior, the foreman. If the foreman cannot resolve the matter, it would be forwarded to the PGA, and then to area manager. The response time for complaints depends on the nature of the complaint. If the foreman is able to resolve the matter, it would not be forwarded to the PGA or area manager.

According to PT KIU, workers get a rice allowance of IDR 4,000 per day, and this rice allowance is prioritised for harvest and maintenance workers. The rice allowance is the only allowance that is converted into a nominal amount besides the premiums and overtime that are calculated in proportion to work achievement. Other benefits, such as healthcare, is guaranteed directly by the company, not converted into money as is the practice common in other companies. Regarding housing for workers, Heri continued, not yet everyone can be

accommodated because the company is still developing facilities and infrastructure; housing priority is given to regular workers, because they work from morning to evening.

Regarding developing community potential, PT KIU said that recently a team from the company spent three days staying with the community at Tanjung Bantur village, exploring and trying to formulate community potentials. However, according to Heri, 80 per cent of the villagers still preferred short-term direct assistance from the company and are not yet thinking of developing themselves in the long term, such as by entrepreneurship.

The company's policy regarding buying oil palm fruits from community plantations is still not in line with what the farmers want. The company wants the farmers to establish groups divided per regions so that harvest time can be arranged weekly or fortnightly, and payments can also be made weekly or fortnightly. Whereas the farmers want the pick-transport-sell-pay scheme.

Concerning the environment, the company claims to have a strong commitment to conservation by preserving forest areas within company concession areas. The conservation area is around 1.5 hectares per estate and it contains various protected animals and plants. The conservation area is open to the public, and there is a prohibition to hunt or remove species. However, the company does not seem to have a conservation policy for rivers and water; the company plants oil palm in riparian areas, and thus fails to implement the regulation set by the government about planting around rivers.

Local community members claim that, in reality all the forest has been converted to oil palm. Whenever they refer to an area as 'forest', what they actually mean is the communities rubber or ratten plantations, that have not yet been sold to the company.

People also claim that the company had promised to help the community by providing various facilities, including village lights, improved roads, clean water and health facilities. Besides that, the company also promised to employ local population. When research was conducted, the promised facilities had yet to be provided.

With respect to communities, PT KIU says that it has assisted in the rehabilitation of the primary school building in Kabuau Village. When Kabuau Primary School was seeking additional teachers, the company offered to pay the teachers' monthly salary. The pupils of Kabuau Primary School are children of the villagers working at the company, both those living in the village and inside plantation estates. The company provides school buses for children who live in plantation estates. PT KIU also built a multi-purpose building in the village in exchange for three hectares of land owned by the villagers. This land-swap system was agreed by the villagers to avoid problems that might arise between villagers if the land had been compensated with money. The company also helped provide electricity for a local junior high school by purchasing a generator set so that the students could have computer classes. The company says it is currently studying new partnership models and trying to find out if they can apply in Kalimantan programs that are already implemented in Sumatra, such as the employee group land ownership program and the employee group livestock ownership program.

With reference to conflict resolution, no information is available about whether the company already has a Standard Operating Procedure. The company says that most conflicts are caused by land disputes and mill waste, and the resolution is conducted through mediation involving

the community, the government apparatus from village, subdistrict, and district levels, the subdistrict military command, and the subdistrict police. The majority of conflicts are still handled the way a “fireman puts out fire”, matters are only handled when they appear.

In terms of damages caused by company operations, the company settles by paying compensation according to the people’s demands, in the form of money, jobs, or assistance for the village or individuals. The company says they have not yet established a comprehensive policy as regards damages, such as in the case of a waste spill from the company’s mill.



waste from a PT KIU’s mill I Kabuau village (photo: Ecosoc Institute)

Waste from PT KIU creates problems. Waste from the factory and from the plantation is managed at a location that is very close to the village compounds. Pollution of water and air is inevitable. During periods of heavy rain, the waste overflows, runs into the rivers and pollute it. Besides that, the rotten smell of the waste is really disturbing the villagers, and attracting lots of flies. Community members had on numerous occasions complained and protested, to the company as well as to the regional government, but so far, without getting any meaningful response.



Palm oil waste lays scattered around the surroundings of Kabuau village (photo: Ecosoc Institute)

4.3 Community life within the oil palm plantations and their surroundings

The presence of the oil palm plantation industry has brought changes to the lives of the customary and migrant communities in the three districts that are the focus of this study: East Barito, Katingan, and East Kotawaringin. This report will describe the characteristics of the three districts concerned before describing the living conditions of communities around oil palm plantations.

4.3.1 East Barito District

East Barito produces rice and rubber. Almost 70 per cent of the people in this district are rubber farmers. The mining industry, especially coal, is also present in this district. Even though rich with rubber and minerals, the poverty rate in this district is the highest in Central Kalimantan.

East Barito has an area of 3,834 square kilometres or 384,000 hectares comprising 10 subdistricts, 100 villages, and 3 wards, with a population of 101,054 people living in 26,623 households. This district is located in the southern-most part of the Barito catchment area in Central Kalimantan²⁹. The river Barito stretches from the central mountains of Kalimantan to the south towards the Java Sea, from Central Kalimantan to South Kalimantan. With a length of 600 kilometres, this river discharges in Banjarmasin, the capital of South Kalimantan. East Barito was formerly a part of the South Barito district. Along with several other districts in Central Kalimantan, since 2002 East Barito has officially become an autonomous district.

As in other districts, the local government also relies on natural resources to increase regional income. The government issues a lot of mining and plantation concession permits. According to WALHI of Central Kalimantan, the government has issued plantation permits for a total area of 246,940 hectares (64.41 per cent from the total district area), and mining permits for a total area of 112,094 hectares (29.24 percent). Only 6.36 per cent remains of the district's area. Mining businesses have obtained their concessions before plantation businesses began to set foot on the district. However, according to kaltengmining.com, the total area of mining operations has expanded to 228,547.07 hectares. The total area conceded to mining and oil palm industries has now exceeded the total area of East Barito itself!

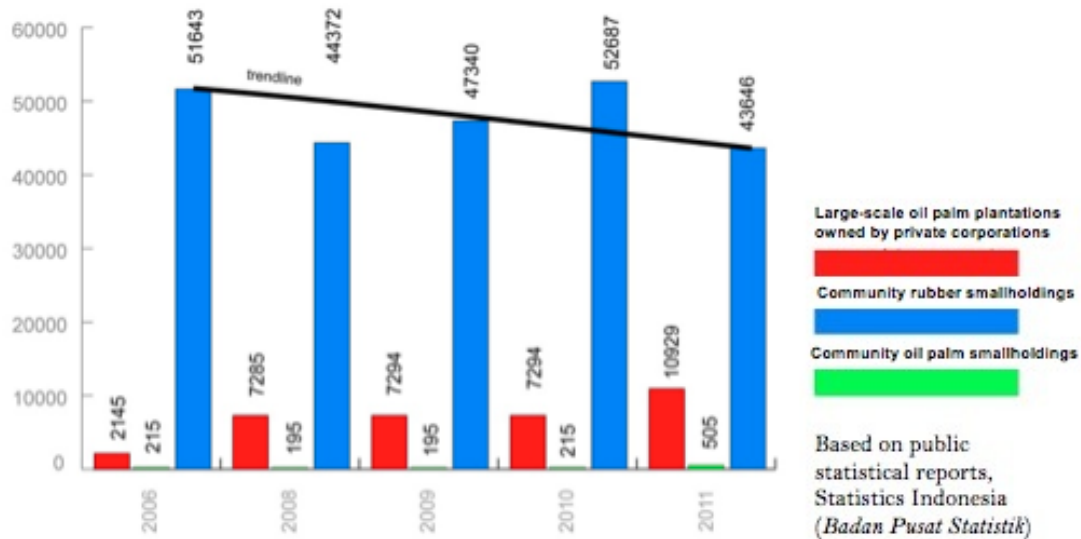
The district has no more land for local communities, because they have been taken over by big corporations. The damage to the forests has reached a critical level. The government of Central Kalimantan admits that there are forests destroyed in the Barito catchment area, which is around 1.2 million hectares and includes the East Barito district.³⁰

Even though the total area of mining concessions reaches 30 per cent of East Barito's total area, the mining industry only contributes 1.02 per cent of the district's total economic value (BTDA 2013). Conversely, the agricultural sector contributes an average of 49.3 per cent in the period of 2008-2012 (BTDA 2013). Even though in this district not many large-scale plantations have started oil palm business (see diagram), community plantations play an important role because it contributes an economic value of around 38.82 per cent in 2008 and 35.49 per cent in 2012.

²⁹ East Barito Figures (*Barito Timur dalam Angka*, BTDA), 2013

³⁰ <http://www.tribunnews.com>, accessed 25th May 2010.

**Area Size (in hectares) of Private Oil Palm Plantations
Compared to that of Community Oil Palm and Rubber Smallholdings
in East Barito District from 2006-2010**



The living conditions of the people in this district seem to be as bad as the condition of the surrounding forests and environment. According to 2011 statistical records of Central Kalimantan, the percentage of poor families in this district (10.51 per cent) was the highest compared to other districts in the province; the number of poor families reached around 11,700³¹. From 2010 until 2012 an average of 1,282 families in this district were categorised as poor or *pra-sejahtera* (BTDA 2013). More than half of the workforce in this district (67.47 per cent) at most only possesses a junior high school diploma (East Barito Statistics, 2013).

4.3.2 Katingan District

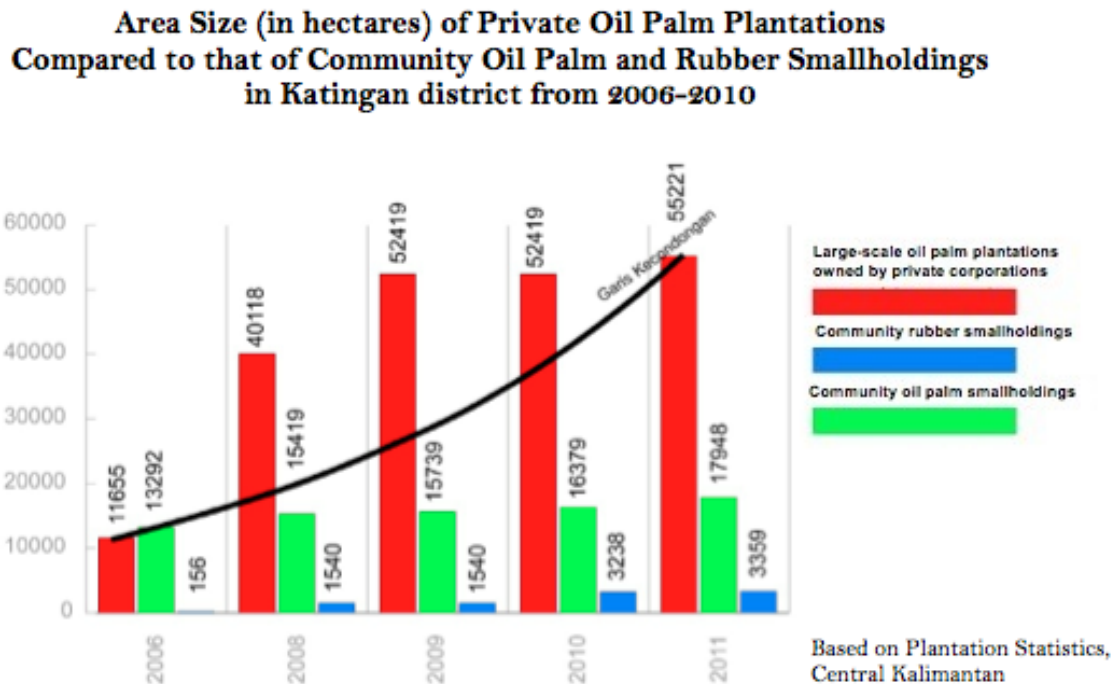
Katingan District. Katingan district, with an area of approximately 17,500km² (1.75 million hectares), is a newly created district passed into law in 2002. As the second largest district in Central Kalimantan after Murung Raya district, in 2008 Katingan was inhabited by 36,928 families, consisting of 144,836 inhabitants. Administratively it is composed of 13 districts, 154 villages, and 7 villages. The majority of the villages (87 percent) are at the edge of the river and thus the district's residents are referred to as "river people". More than all the other districts in the province of Central Kalimantan, the Katingan people are very much dependant on the river for their living, particularly the Katingan river.

Rivers are a major part of the life and culture of Katingan. The Katingan river is the main river of the district, the second longest river (650 miles) after the Barito river (900 kilometers). Katingan River has four tributaries; Kalanaman, Samba, Hiran and Bemban. Almost the entire district is actually classified as "forest" by the Forestry Office of Katingan. In contrast to all other districts in the province, Katingan is endowed with special natural resources, including protected forest in the form of two conversation areas, Sebangau

³¹ Central Kalimantan Figures (*Kalimantan Tengah dalam Angka*, KTDA), 2011.

National Park which is 348,170 hectares (19.9% of the entire area is categorised as forest) and Bukit Raya National Park which is 17,709 hectares (6.3%)

Katingan district government utilizes the natural resources in this district to increase local revenue. In recent years, thousands of acres of rain forest have been cleared for oil palm plantations and mining. Central Kalimantan Agriculture Department data 2011 shows that 55,221 hectares of rainforest in Katingan will be and/or has been cleared for oil palm plantations owned by corporations or largescale private companies (PBS), as shown in the diagram below.



While other sources (kaltengmining.com) state, the 2011 data indicates more than 173,000 hectares of forest has been demolished for various mining activities, particularly coal (91,000 hectares), zircon (61,572 hectares), iron-ore (16,650 hectares), and gold (250 hectares). There was 25,352 hectares of private plantations in 2011. In fact, based on Walhi's records, large estates - especially oil palm plantations in Katingan have already taken over 22 percent (344,095 hectares) of the entire district, mining has reached 29 percent (453,386 hectares) and managed protected forest areas is closer to 50 percent (791,636 hectares).

BPS (Central Bureau of Statistics) data for 2006 -2012 shows, the plantation sector contributes 14.52 to 16.23 percent of the total regional income and is worth Rp258.16 billion. However this value is not comparable with the total value of income from other agricultural sectors: crops, livestock, forestry and fisheries, which ranged from 16.23 to 17.01 percent, or Rp260.63 billion, although the contribution from the cropping, livestock, forestry, and fishery sectors has been declining.

Former Regent of Katingan, Duwel Rawing, admitted that the government has not been fully able to handle the problem of poverty experienced by nearly 7.56 percent of the population in this District. Rawing admitted that some 40 percent of all Katingan residents still do not have access to mains electricity. Access to clean water is still minimal. Similarly, access to

education. In 2010, more than half of those of working age in Katingan (52.05 percent) had only graduated from elementary school (33.68 percent), never graduated/dropped-out from elementary school (16.79 percent) or never attended school at all (1.58 percent).

Expansion of oil palm plantations has brought drastic changes to environmental conditions and to the lives of individuals and communities. If you go to Katingan district, you might still be lucky enough to see protected forest, although it is not as easy as it used to be because protected forests are upstream of the Katingan river. This district is composed of three main parts in terms of the ecosystem; peatlands in the southern part, land suitable for cultivation in the middle section, and protected forests in the northern part of this district. Palm plantations encroaching into these districts are concentrated in the central part of the district, in the location where most residents live and are dependant on the land for their livelihood. In the central and southern region destruction of the forest continues. This has brought drastic changes in the lives of citizens at the individual and community level.

Katingan district is one of five rice-producing districts in Central Kalimantan, along with Kapuas, Pulang Pisau, East Barito, and Lamandau. The expansion of areas designated for oil palm plantation and other exploitative industries, if not checked will certainly lead to the weakening of food security in Katingan and in Central Kalimantan as a whole.

4.3.3 *East Kotawaringin*

East Kotawaringin is the district that contributes the largest regional income for Central Kalimantan. This district is dense with oil palm plantations and has the highest conflict intensity. Here the expansion of oil palm plantations is conducted on a massive scale each year, both by converting agricultural land as well as forests. This district also has the largest area of severely degraded land in Central Kalimantan, and the highest poverty rate after East Barito³². The government of Central Kalimantan is trying to boost rice production so that the region would have more than enough rice for local consumption and trade³³. Ironically, Tute Lelo, the head of Central Kalimantan Bureau for Agriculture and Stockbreeding, states that East Kotawaringin, along with Seruyan and West Kotawaringin, has converted most of its arable land into oil palm plantations.³⁴ If the expansion is not immediately checked, there are concerns that it will disrupt local food security.

East Kotawaringin has an area around 16,796 square kilometers (1.68 million hectares), comprising 17 subdistricts, 17 villages (village heads are elected by communities), and 161 wards (the ward chief or *lurah* is appointed by the regent). The district was established as a consequence and part of the establishment of Central Kalimantan province in 1953. The people of East Kotawaringin (Kotim, as it is called) rely on the Mentaya river basin. The district was the mother of two other districts that were carved out of it in 2002; the other two districts are Seruyan and Katingan.

The population in 2012 reached 380,443, which comprised 101,628 households. In 2012 more than 53 per cent of the workforce (total 162,479 people) only had an elementary education at most. So far, records show that the average number of poor families in the last

³² *Dayak Pos*, 29th February 2009

³³ *Banjarmasin Pos*, 5th August 2008

³⁴ *Dayak Pos*, 12th August 2008

five years is 10,500 families. Three villages are considered to have the largest poor population: Antang Kalang, Cempaga, and Mentawa Baru or Ketapang (Sampit). This last one is also the village with the highest population (78,183 people; 21,031 households).

Like other districts in Central Kalimantan, Kotim relies on natural resource exploitation to increase its regional income (*Pendapatan Asli Daerah*, PAD). According to WALHI's records, from Kotim's total area, 440,295 hectares (26.69 per cent) are already controlled by forestry concession companies; 13,183 hectares (0.8 per cent) are controlled by mining companies; and 437,325 hectares (26.51 per cent) are controlled by oil palm plantations. This means that 46 per cent of the total district area has not been conceded. However, the status of this remaining area is "pending clearing". Indonesian Statistics (BPS) 2013 data show that almost the entire area of this district is categorised as "production forest", both permanent production forest (35.05 per cent of total district area) and limited production forest (64.80 per cent of total district area). In other words, the entire forest area in this district has been consecrated to generate regional income. Not even one hectare is allocated as conservation area to ensure environmental sustainability.

Before oil palm plantations expanded, Kotim relied on forest resources to generate regional income (PAD). Since the district was granted regional autonomy, the local government has been issuing small-scale Forest Concession Permits (*Hak Pengelolaan Hutan*, HPH), also known as 100-hectare HPHH, to boost regional income. This HPHH system was initially considered to provide the local communities with better access to forest resources. In the short term, the local community—especially its affluent members—enjoyed profits from harvesting timber. In the long term, however, the 100-hectare HPHH has brought more negative impacts: forest degradation, marginalisation of communities, and the increase of illegal logging activities due to weak law enforcement (some community members also take part in illegal logging activities). The system has also muddled matters of tenurial rights, and is threatening the livelihood of local communities.

The development of industries in Central Kalimantan in general, and in Kotim in particular, has seen a transition from forestry to large-scale plantation industry. Even though the forestry industry still contributes to regional income, the disappearing forests have caused the government to seek alternative sources of regional income, such as palm oil. Between 2008 and 2010, the size of the combined areas used for palm oil plantations in Kotim increased from 292,531 hectares to 469,120 hectares.

In the records of East Kotawaringan's Bureau of Forestry and Plantation, there are 47 oil palm plantation companies. Recently the Kotim government has launched the "One Million Hectare Oil Palm Land" program, but according to staff of Kotim's Bureau of Forestry and Plantation there is no more land left. In Parenggean subdistrict alone—which we've selected as a location for our study—almost 20 companies are operating, among others: PT Sapta Karya Damai, PT Karya Makmur Bahagia, PT Unggul Lestari, PT Uni Primacom, PT Katingan Indah Utama, PT Surya Inti Sawit Kahuripan, PT Mukti Sawit Kahuripan, PT Wana Yasa Kahuripan Indonesia, PT Swadaya Sapta Putra, PT NSP, PT Tumas Agro Subur Kencana I, PT Tunas Agro Subur Kencana 2, PT Tunas Agro Subur Kencana 3, PT Sarana Prima Multi Niaga, PT Bina Hutan Lestari, PT Hutan Sawit Lestari, PT Windo Nabatindo Lestari, PT Bangkit Giat Usaha Mandiri. Eight of those companies already have their own Crude Palm Oil (CPO) mill—they are: PT Uni Primacom, PT Karya Makmur Bahagia, PT

Katingan Indah Utama, PT Surya Inti Sawit Kahuripan, PT Tunas Agro Subur Kencana, PT Bangkit Giat Usaha Mandiri, PT Sarana Prima Multi Niaga, and PT Swadaya Sapta Putra.³⁵ All of these companies operate in areas formerly conceded to the forestry industry (with HPH).

Parenggean subdistrict has an area of 1,584 square kilometres³⁶, populated by around 11,000 households or almost 38,000 people. Around 30 per cent of its residents are indigenous Dayak, and half of the indigenous Dayak are categorised as poor.

The distance between Parenggean subdistrict and Sampit, the capital of Kotim, is merely 105 kilometres and can easily be covered in 1-2 hours by car. In reality, though, the journey from Sampit to Parenggean may take up to 5 hours, because the roads are severely damaged, potholed, bumpy, and muddy.

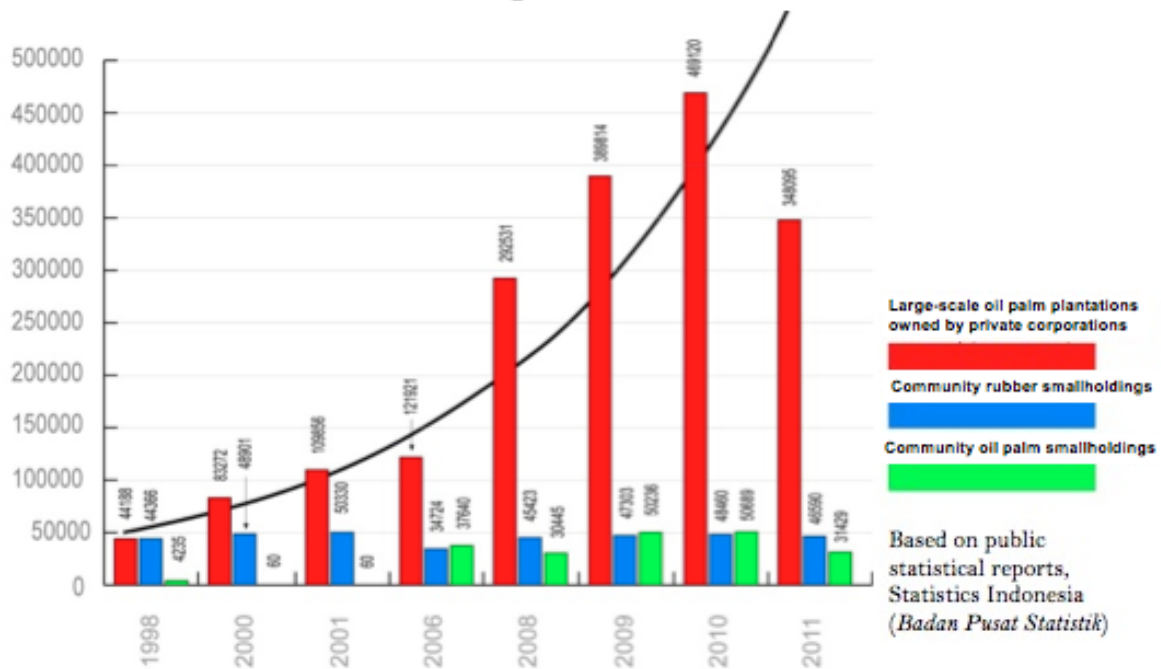
The roads' condition is largely caused by the constant passing of numerous heavy-duty trucks, now belonging to oil palm plantation companies. In the past, these trucks belonged to logging companies. They did not only transport logs along the river Tualan, but also by land.

The first oil palm company that established itself in Parenggean was the Korea-owned PT Trasindo. Since 2001 this company is no longer operational; in the middle of riots, the Trasindo office was torched. The company was then liquidated by banks. The Trasindo land was actually certified for use by the migrant communities (certificates SP 1, SP 2, SP 3G, and SP 4 G attach to the land). On that land 770 hectares had been planted with oil palm. After Trasindo had ceased operations, entered PT Uni Primacom, and then PT Makin, and then others. The increase in oil palm plantation area in Kotim is illustrated in the following graph.

³⁵ Progress of Oil Palm and Rubber Plantations Development in East Kotawaringin 2013 (*Perkembangan Pembangunan Perkebunan Kelapa Sawit dan Karet kabupaten Kotawaringin Timur tahun 2013*), East Kotawaringin Regional Bureau of Forestry and Plantation (*Dinas Kehutanan dan Perkebunan Pemerintah Daerah Kabupaten Kotawaringin Timur*).

³⁶ East Kotawaringin Figures (*Kotawaringin Timur dalam Angka*) 2012, East Kotawaringin Statistics (Badan Pusat Statistik Kabupaten Kotawaringin Timur).

Area Size of Private Oil Palm Plantations Compared to that of Community Oil Palm and Rubber Smallholdings in East Kotawaringin District from 2006-2010



The expansion of oil palm plantations in Kotim has brought consequences.

First, it increased the region's vulnerability to conflict. There are many unresolved cases of land disputes. In Telawang subdistrict, for instance, by 2012 there has been a backlog of 115 land dispute cases.³⁷ The head of the Integrated Team (*Tim Terpadu*), Putu Sudarsana, stated that since its formation in 2009 the Integrated Team has received around 200 land-dispute cases. People believe that there are more land dispute cases taking place in Kotim than reported.

Second, the expansion of oil palm plantations has made the region more vulnerable to flooding. After forests were cleared, rivers overflow more easily, especially when there is high volume of rainfall. Kotim is particularly vulnerable because most of its areas are lowlands, the district's highest point is only 60 meters above sea level. Sampit, the district's capital, and even the regent's office, is regularly flooded³⁸.

The life of riparian communities is increasingly under threat due to environmental degradation. In this district there are four main tributaries of Mentaya river: Cempaga, Tualan, Sampit and Seranau. These rivers are increasingly polluted by the intensification of forest clearing and operation of oil palm plantations. According to a local health personnel, the communities that rely on these rivers for drinking water are more vulnerable, especially to diarrhoea and nutritional problems, which mainly affect children. In mid 2011 the

³⁷ <http://www.jpnn.com>, accessed 8th January 2012.

³⁸ <http://www.jpnn.com>, accessed 12th July 2012.

government announced a “Diarrhoea Emergency”³⁹. Children suffering from malnutrition are predominantly found in villages in remote areas⁴⁰.

From an economic perspective, Kotim has advantage due to the presence of Haji Asan airport and Ketapang port in Sampit. The Ketapang port is the loading and unloading point for the province; it plays a role as the gateway for the trading of goods, which will generate income for the regional budget. Forest, plantation, and mining products are also transported to domestic and foreign destinations through the port Sampit. The two dominant export destination countries are Malaysia and China. The main export materials are iron ore, zircon, crude palm oil (CPO), and rattan (up to 2010). The speed with which oil palm plantations have expanded is also evident in the continuous increase in export value of crude palm oil that leaves this district. Throughout the 2007-2011 period as much as 251.71 thousand tons of crude palm oil were brought out of this district with an exchange value of USD 196.43 million. The plantation sector, more than other agricultural sectors, has contributed between 13-16 per cent of the entire value circulation in recent years. Unfortunately, thus far the entire value circulation has been absorbed out of this district.

Below are descriptions of the living conditions of local communities in the three selected districts, before and after the establishment of oil palm industries.

4.3.4 *The community of Sarapat Village*

Sarapat Village is located in Dusun Timur subdistrict, East Barito district. Before oil palm companies began operating in 2007, life in this community was quiet and peaceful. The villagers relied on surrounding forests and rivers for their livelihood and joys.

The river flowing behind their village provided them with water for drinking, cooking, bathing, and washing. The water was clear and unpolluted. The river was also an abundant source of protein for the Sarapat villagers. Various fishes such as *Baung*, *Puyau*, *Pahiau*, *Patin*, and *Lais* could be easily captured. The villagers usually fished using fishing poles or a *rengge*, a traditional fishing net made of rattan. The river flowing through the village is called the Sarapat river, with two tributaries called the Raum Kemang and the Benanta.

Forests flanked both sides of the river. The river that flows through the village is called Ranu Lembang or Hungai Sarapat, with two tributary rivers, Tabu Kuyut and Luau/Benawa river. The forests regulated the water flow, so that the Sarapat Village was never flooded.

The forest was also an abundant source of food for the Sarapat villagers. In the forest the villagers gathered food and planted rice once a year. They hunted to obtain animal protein, and gathered wild leaves and roots for vitamins. Large trees they climbed and brought down combs of golden forest

When the forest and the rivers were still wholesome, the Sarapat villagers had various occupations. They were farmers, food gatherers, and hunters. In exploiting the forests and the rivers to meet their daily needs, the Sarapat Village community obeyed the limits set by the

³⁹ <http://www.jpnn.com>, accessed, 2nd August 2011.

⁴⁰ <http://www.jpnn.com>, accessed 30th December 2012.

customary rules that had been agreed upon at community level. Customs and tradition taught them to take in moderation, not to hoard, and not to destroy. The forests and the rivers were kept pristine since their lives depended entirely on them.

The forest also constituted a part of the identity of their customary community. The forest became a means to acknowledge the existence of customary laws and culture for the Sarapat Village community. The villagers acknowledged the existence of their ancestors, who they believed were living in the forest, and thus they sanctified certain spots such as large trees, the burial places of their ancestors, and others. Certain plants were also used in various rites, such as the Sawang Tree.

The family was the main entity in the social life of the customary society in Sarapat Village. The majority of the community members were closely knit to one another. Thus a consensus was relatively easily obtained in the community whenever a social problem arose between villagers. They also lived harmoniously with the migrants. The migrants were openly accepted.

In the times before the oil palm plantations, the rights of the villagers to education were not yet fulfilled. There was no school in their village. To go to school the children had to travel to the district capital, which was located around 25 kilometres from the village. Only the children who had relatives in the district capital could access education. While attending school, those children stayed with their relatives in the district capital.

Kamnitah Nyadam is a village elder, 90 years of age, who knows the history of the village throughout many decades. According to her, everyone used to feel appreciated, and there was no discrimination between people, everyone was living side by side, and was free to move and live where they pleased. Customary norms were used as community law to guarantee order. All members of society had to submit to the same norms. Traditional community meetings were regularly held to discuss various issues faced by the community, from when to start sowing seeds to how to resolve problems between community members.

The villagers gained an income from farming. Rice was only planted once a year. On average each household would produce 80-100 cans of rice grain each year, with the average field being around 3-4 hectares. One can of rice grain equals 14-15 kilograms. After milling, those grains would yield 10-11 kilograms of ready-to-cook rice. As such, the farming efforts of the Sarapat villagers would yield 1000-1100 kilograms of rice per year for each family. At the time, each family consisted on average of 4-5 people.

If everybody in the family consumed as much as 2,000-2,500 grams of rice per day, then each family required 730-912 kg of rice per year. In this period, the population of Sarapat Village was around 100-120 families or 500-550 persons. Thus, every year there would be a surplus of about 100-400 kg of milled rice, or 150-600 kg of rice grain. This remainder was used to fulfil other social needs, such as donations to families and neighbours who were having a party, and the rest was saved. If in this period the average price of rice was around IDR 5000-6000 (USD 5-6) per kg, then the Sarapat villagers could on average save IDR 500,000–2,400,000 (USD 50-240) per year.

Besides farming, the Sarapat villagers also planted rubber. The villagers obtained on average 10 kg of rubber sap every day. This was obtained from 400–500 rubber trees per hectare during the dry season. During the wet season, on average only 3–4 kg of sap were obtained.

The high rainfall would make the sap overflow from the collector attached to the trees. As a result, the sap collected was only 30 per cent of the normal result during dry season.

If before 2007 the price of rubber sap was between IDR 20,000–22,000 (USD 2–2.2) per kg, then the Sarapat villagers could obtain around IDR 6–6.6 million (USD 600–660) per month during the dry season, and IDR 2–2.2 million (USD 200–220) per month during the wet season. The living expenses of each person in Saparat village were on average not more than IDR 1 million (USD 100) each month. These expenses were mostly incurred by the children's school fees at Tamiyang Layang, the district capital of East Barito, and a small part was used to purchase fuel for motorcycles and simple lighting.

Life in this tranquil and peaceful community of Sarapat Village changed drastically in 2007, when the oil palm industry entered their village. In 2006 the villagers had already heard of rumours about the oil palm industry intending to establish themselves in their village. This caused the local figures, the customary leaders, and the *pangulu adat* to gather and discuss the situation. They agreed to reject any oil palm plantations in their area. However, the oil palm company PT SGM simply started clearing land, without the villagers' consent, by cutting down parts of the forests and the villagers' farmland. Only in the middle of 2007, after clearing the forests and the villagers' farmland, did PT SGM announce their plan of opening an oil palm plantation in the villagers' territory.

The villagers had made it clear that they were against the presence of any oil palm company, but PT SGM paid no heed to the villagers' opinions. . They kept on clearing the forests and the villagers' farmland. On 6th August 2007, the company unilaterally measured the area of the village and paid compensations to those whose land had been measured. The compensations offered were IDR 1 million (USD 100) per hectare for swamp land, IDR 2 million (USD 200) per hectare for dry land, and IDR 3 million (USD 300) per hectare for farmland. Many villagers had no other choice but to accept the compensation because the company had already cleared their lands.

The community of Sarapat Village was finally powerless to resist the establishment of oil palm companies. They were afraid because PT SGM possessed a number of written permits from local governments and the Forestry and Plantation Bureau. By contrast, the villagers did not possess any legal acknowledgements from the state concerning the land they lived off whatsoever. On top of it, the PT SGM was also supported by every local political power at the district and village levels. Even in facing the protest of the villagers, the PT SGM had no qualms in involving the state apparatus (the police force) in resolving it. When informing the villagers about their plans, the company also brought the police along. The citizens of the village claim that during this information forum, the police asked the villagers to approve the presence of the company. Besides that, the community's complaint against the land-grabbing has not been addressed. On the other hand, when the company reports that there are disturbances from community-members conducting demonstrations, the police always follows-up by capturing and arresting villagers, and accuse them of criminal actions.

The existence of PT SGM threatens the civil and political rights of the villagers of Sarapat who refuse to give up their land. The village [administrative level] does not allow them to assemble, they are afraid to voice their protests, threatened to be criminalized and imprisoned, and they live in constant fear. The villagers who protested against the seizing of their land were arrested and imprisoned. Persuasions and intimidations force the villagers to give up their land.

Even the *Damang* (a customary leader and decision maker at district level) himself could do anything when his signature was falsified by a certain person who declared that there was no indigenous forest in Sarapat Village. The *Damang* made a letter stating that his signature has been falsified, However, shortly thereafter the same *Damang* stated that he did not object to the falsification of his signature. According to the villagers, the *Damang* stated this that after being approached by PT SGM. This signature falsification was only known by certain people dealing with the company and by the villagers fighting for their land. The same is the case with the statement that the *Damang* did not object to his signature being falsified.

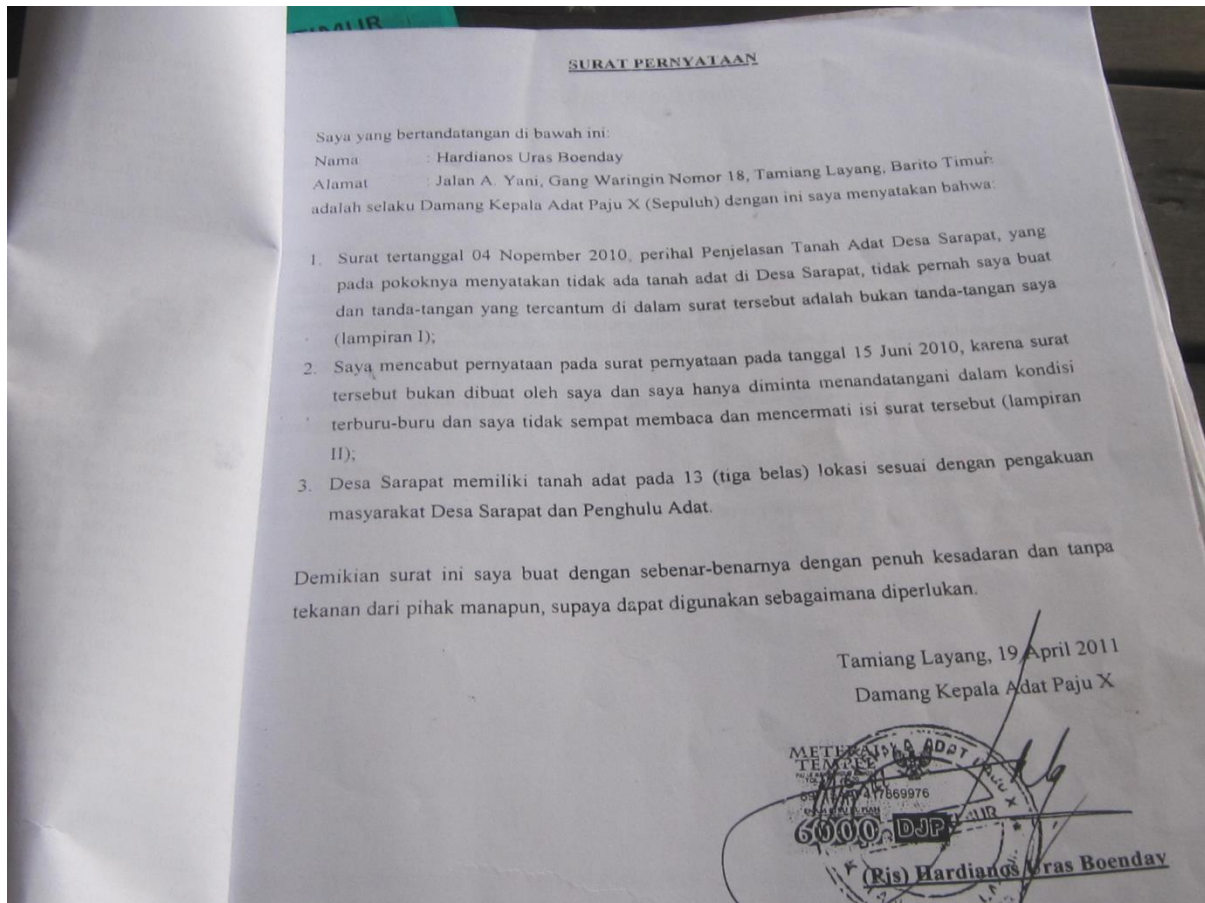


Photo: a written statement from the *Damang* customary leader) which assert that he has not made any statements concerning the existence of customary land in Sarapa village (or lack thereof).

After they failed to defend their family and private land, the villagers requested PT SGM and the local government to exclude the indigenous forest/land from the concession area of the palm oil plantation. They would let the company take over their private and family plot. However this request was not heeded by the company or the local government. Gone were the indigenous forest, individual plots, and the family plots. The palm oil company had taken everything. The PT SGM even had expanded their plantation to the back of the villagers' house and closed in on the bank of the river. The boundary between the plantation and the river bank is no more than fifty meter.

Lamp 11

A circular library stamp from the University of Toronto Libraries. The text "UNIVERSITY OF TORONTO" is curved along the top inner edge, and "LIBRARIES" is curved along the bottom inner edge. The center of the stamp contains the year "1927".

Photo: location of customary land in Sarapat village

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With the clearing of the land for palm oil plantation by PT SGM, the forest was cleared and the villagers' farmland was gone. Black orchids and various other medicinal plants were cut down. The disappearance of this forest and plantation brought great effect. The Sarapat villagers lost their source of food due to the decrease of their farmland, and the forest used for hunting and collecting vegetables and medical plants. The disappearance of the forest canopy also affects the river and water management system.



Left: customary forest in Sarapat, before it was cleared away by PT SGM (photo: Ecosoc Institute)
Right: customary forest that has been converted to palm oil in Sarapat(photo: Ecosoc Institute)

The water flow of the river decreases slowly during the dry season and suddenly increases during the wet season. The erosion level in the river increases, and this reduces the water quality. The water that was used to be clear becomes murky. This reduces the amount of fish in the river as well as the protein intake for the villagers. During the wet season, mud from the palm oil plantation flows not only to the river but also floods the villagers' rubber trees.

The health of the environment worsened in 2009 when PT SGM started to plant palm trees. The residues from the fertilizer started to seep into the ground water that eventually flows into the river. The villagers can no longer use the river for daily consumption. Bathing in the river results in skin irritation. The water from the river cannot be used for drinking and cooking, because it smells. Water springs have also been covered by PT SGM. There is no more water at what used to be the tributary to the Sarapat River. The villagers faced difficulties in obtaining clean water.

The villagers then dug wells in their yards. However not everybody can obtain clean water from their wells. The water from the wells is not always drinkable. Often, it is black and smells. Only half of the villagers who lost their land managed to obtain clean water from the well they dug. Half of them must retrieve water from the neighbouring village and have to walk at for least 9 km.

The disappearance of the forest and farmland, as well as the decrease of the number of fishes in the river, forced the majority of villagers to switch jobs from farmers, gatherers, and hunters to day labourers for the plantation owned by PT SGM. From being food subsistent to become dependent of the wage in order to buy food.. As freelance day labourers at PT SGM, their working rights are not guaranteed. The PT SGM can easily dismiss them since they are unskilled, freelance day labourers. They are hired to plant palm trees, clear land, and

maintenance, with a wage of IDR 68 thousand (USD 6.8) per day, with working hours from 6.00 – 14.00. Often they have to work longer when the pickup truck transporting them is late, or when there is heavy rain.

They work for the PT SGM with daily wage without any work contract. Their rights as labourers are not guaranteed. They do not have labour unions, neither healthcare nor work safety. They are also not provided with working tools. They have to buy it themselves. There is a worker whose whole body was stung by bees when he was working, and he forced himself out of the hospital because the company refused to pay for the hospital. He was sick and the company even fired him. The labourers are susceptible lose their work. When they are considered to oppose the plantation, then they can be easily dismissed. That is why the labourers do not dare to talk openly to outsiders about the company. They worry that they will run into trouble.

The disappearance of the forest and land for the Sarapat villagers also means a loss of culture. Cultural practices decline because there are no more forest, land, area, law, institutions, traditions, rituals, educational system and institutions, language, knowledge, medicines, and local food. No more regular traditional meeting on the management of natural resources. The disappearance of such routine meetings thickens the suspicious feelings between members of the community

PT SGM has a role in giving children a chance for education. They provide school buses for children who go to middle and high school outside the village. That is the only contribution given by PT SGM to the villagers. So far the Sarapat villagers do not feel that any contribution is given by the plantation company in developing the village or its educational facilities. They feel that as a community they have lost everything. Their powerlessness in facing the plantation company made an old man, a local figure, to one day pick up his *mandau* (a traditional machete) and desperately intended to attack PT SGM all by himself. Fortunately the old man's anger was quelled by the villagers. The villagers promised the old man that they will keep struggling to have their forest and land returned.

According to this old man, the appearance of the oil palm plantation company has made the life of the villagers far worse than during the Dutch colonial era. During colonial times, the people who wanted to plant rubbers would receive incentives. Now, if they want to plant rubber they will be opposed, their plantation and land will be taken over, the villagers are forced to live very compactly, and becomes slaves in their own land.

During the public information session, the PT SGM promised to provide a partnership scheme to members of the community who gave up their land. With this partnership scheme, the villagers were promised that each month they would receive incentives through the saving accounts of each family. PT SGM described this partnership scheme as the ``plasma-core partnership''. With this scheme, the villagers who gave up their land would receive a certain area of plasma plots managed by the company. After harvesting then the villagers would just have to receive the results. However these promises have never been realised until now.

In 2012, the Sarapat Village was populated by 167 families which consisted of 646 individuals. From this number, 80% of the villagers have lost their land and are now working as day labourers for the plantation company. With a daily wage of IDR 68 thousand (USD 6.8), a villager can receive almost IDR 1.76 million (USD 176) per month. If in one family

there are two person who work for PT SGM, then the family's income is IDR 3.5 million (USD 350) each month.

With IDR 3.5 million per month they have to fulfill the family's needs. To buy rice, for example, they have to spend IDR 600—750 thousand (USD 60 – 75) per month at a price of IDR 10 thousand (USD 1) per kilogram of rice. In respect of expenditure besides rice, the villagers claims to have spent an average of IDR 50 thousand per day or IDR 1.5 million (USD 5 – 150) per month. The costs of education and fuel is not less than IDR 1 million (USD 100) pr month.. There are also healthcare costs and the costs of involvement in various traditional parties and rituals, and other unexpected costs. The villagers estimate this to account for between IDR 250 – 400 thousand (USD 25 – 40) per month. This is assuming that in one family there are two people working. Otherwise, the villagers have even smaller possibilities of fulfilling their daily needs. The loss of livelihood from the forest, river and farmland makes the citizens increasingly dependent on the market economy to fulfill their needs. Many daily necessities have to be bought with money. For this reason, the expenses of the villagers are far higher now than they were before palm oil.

4.3.5 Dayu Village Community

Dayu Village is the capital of the Karusen Jenang Sub-district, East Barito District. Before 2011, the Dayu Village community lived of natural resources. They planted rice once a year. They were also hunting and installing nets to capture forest animals for protein. They used the Karusen River as a source of clean water and a place to catch fish. The Karusen River is the only source of drinking water for the community of Dayu Village and the surrounding area.

The Karusen River and its forest constituted the source of life for the Dayu villagers. Along the banks of the Karusen are swamplands covering an area of around 1000 hectares. This swampland is an important habitat for various species of fish such as *lais*, *baung*, *jelawat*, and others. The up-stream areas are forested. This forest was a primary, unexploited forest area reserved for water absorption. The area is the source of the Karusen River.



The Karusen river in Dayu village (photo: Ecosoc Institute)

In this primary forest the Dayu villagers hunted for animals and searched for medicinal plants. With an area of around 75 hectares, the forest was supported by the communal rubber plantation with an area of around 50 hectares. According to traditional customs which the locals held in high esteem, nobody was allowed to take woods from the forest for trading purposes. The primary forest was always kept pristine by the traditional community.

Along the Karusen River are many subsidiary rivers. With an inclination angle that can reach 35 degrees, these streams come from the forested swampland area. The water flow is

relatively stable because the water cache area in the form of the forest is still kept pristine. This swamp land and the streams supply water for the Karusen River. If these streams and swampland are disturbed, then there is a big possibility that the river flow will decrease and the river may even dry out.

The forest, swampland, and the river are part of the identity of the traditional community and are a mean to acknowledge the existence of the traditional customs and culture of the Dayu Village community. They acknowledge the existence of their ancestors who live in the forest, by sanctifying certain places such as big trees, locations considered as the house of the fishes, and several other places. The spring is one of the sanctified places.

In the Karusen River there is a water installation of a local water company worth billions of Rupiah and meant for the consumption of Dayu Village, Simpang Neneng Village, Kandris, and Tampa Village, Paku District. However the river on the west of the Karusen River has been polluted. According to the villagers, the area along the river that is polluted the area of PT SGMs palm oil plantations. Previously, the water here was as clear as the water up stream. Now, this part of the river is very opaque and the villagers complain that there are no more fish in the river.

Unlike the Sarapat Village, the educational facilities in Dayu Village are relatively adequate. At least there are two elementary schools and one middle school. There are six teachers for around 130 students. The school building was built by the local government.

There was also a health clinic. Once a week doctors from the public hospital at Tamiyang Layang, the capital of the Barito Timur District, came to be consulted. Daily, a village midwife and nurse kept regular hours. All the medicines came from the hospital.

In 2011, the palm oil plantation company PT. Ketapang Subur Lestari (KSL) cleared the land. First they cleared several areas to cultivate palm trees. The clearing closed down several swampland areas: the Mipa Swamp, the Putut Nanakan Swamp, and the Wakung Swamp. These swamps were considered sacred by the villagers.



Community forests before they were taken over by the oil palm company (photo: Ecosoc Institute)

The closing of the swamps made the fish supply decrease. These swamps were known as breeding ground of fish. That is why the swamps were considered sacred. Aside from that, the closing of the swamps has affected the water level of the Karusen River, even though it has not caused any flooding yet. In the surrounding areas, the ground inclination can reach more than 30 degrees. The Dayu villagers were worried. They learned from the experiences of other communities who have become victims of the PT SGM. Since the PT SGM began operations, many villagers are having difficulties in obtaining clean water and they were often flooded. The anxiety of the villagers grew as two subsidiary rivers were closed down by the company to make roads. This will decrease the water supply to the Karusen River.

Another anxiety of the Dayu villagers are the possibility of the disappearance of the primary forest upstream the Karusen River and tens of hectares of community farmland by the edge of the forest. This anxiety is not without reason. If we look at the map of the concession area given to the PT KSL, the forest and the community farmland is included in the concession area. Besides, they have already seen the fates of the villagers living around palm oil plantations: clean water and food is scarce, and they are prone to flood and conflicts.

In 1997, the transmigrants households each obtained 1 hectare of land for 'production unit 2'. The plot for the house and the yard was meant for housing and backyard. The whole transmigrant community used the yard to plant vegetables, while the first plot was used for farming rice.

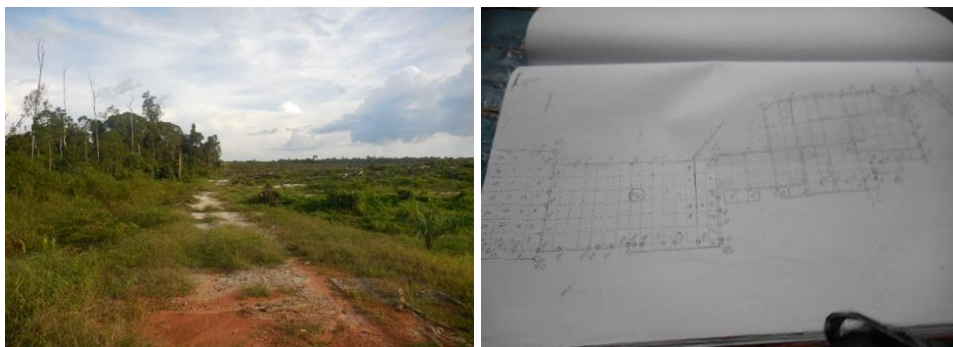
Based on their farming experience in Java, the transmigrants made an irrigation system to support their farmland. They dammed and flowed parts of one of the subsidiary rivers of the Paku. The village government budgeted the building of the irrigation in 2003, and was realised the following year. The transmigrants also formed farmer's unions. Five such unions were formed; each consisting of between 15 – 20 members who live in the neighbourhood administrative area (RT – Rukun Tetangga). One of the objectives these unions is easier access to fertilizers and other farming tools provided by the district government of the East Barito. Assistance in the form of fertilizers and farming equipment is provided by the government to farmers producing rice and vegetables. All villages are entitled to such assistance, both transmigrant villages and Dayak villages.

The relations between the transmigrants and the local Dayak community are good. They live together harmoniously, and there are even several young men from the transmigrant community have married Dayak women.

In the transmigrant community, an elementary school is built by the government. There are five teachers and around seventy students. For further, higher education, the children must go to the sub-district capital, or the district capital. In order to do this, PT SGM provides school buses to bring and pick up the children who go to school outside the Luau Jawuk Village. This school bus prioritise the children of the plantation workers, but the children of villagers that do not work at the plantation, are often able to get a lift as well.

Unfortunately, the village does not have sufficient healthcare facilities. There is a Community Health Centre (Puskesmas), but it is only manned by the village midwife. There is no doctor and the facilities are inadequate. If the midwife cannot provide service or if there is an illness that cannot be treated, the transmigrants must go to the clinic located at the capital of the District which is around 5 km from the village.

Since 2011 the transmigrant community has had difficulties with PT SGM. The company intended to take over their second working plots owned by the transmigrants, even though they already possessed certificates of ownership of all the land they had received from the government, including the second working plot. Their certificates were issued by the Labour and Transmigration Service and by the National Land Agency. However they never knew where the second working plot was located. All this time they had only work on their own yards and their first working plot. It is this ignorance that made PT SGM intends to take over the second working plot of the transmigrants.

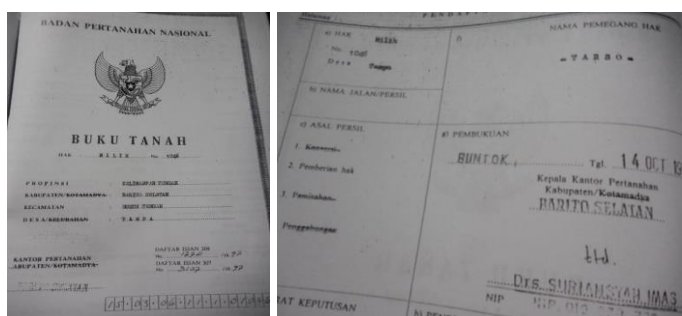


Left: '*lahan usaha dua*' (the second working plot), taken over by a palm oil company
 Right: map of the division of land between transmigrants of Luawu Jawuk (photos: Ecosoc Institute)

The transmigrants had attempted to find out where their land was located by asking the government, i.e. the Unit for Technical Implementation of Transmigration at the Agency for Manpower and Transmigration in the District of East Barito. They were only given a general explanation about their land being located in one area that was reserved for all the transmigrants of the village of Luau Jawuk. There was no more specific information given, so the individual families couldn't know the exact location of their land within the general area referred to.

The transmigrants opposed their second working plot being taken over by PT SGM. However the PT SGM then managed to win over the majority of the village leaders. The leaders then persuaded the transmigrants to accept the offer given by the PT SGM. The offer constituted of money and was considered *tali asih* (charity). The village leaders stated that the PT SGM will never sell their land, they only buy the certificates.

In the beginning the community insisted on not giving up their certificates to the PT SGM. However a number of local Dayak people claimed that the second working plots owned by the transmigrants were a part of their traditional land. PT SGM said that a number of citizens had handed over their second working plots to the company, and the company had given compensation.



Certificates of land ownership held by transmigrants (Photo: Ecosoc Institute)

This claim from local people is actually rather strange, because according to the transmigrants, they had never heard about any local (indigenous) people claiming that the transmigrants second working plot constituted community land. The local (indigenous) people had acknowledged that transmigrants owned their second working plot. But after the palm oil industry entered the transmigration area, there were suddenly local (indigenous) people claiming that the transmigrants second working plot was their customary land. This

claim made the transmigrants hand over their certificates to PT SGM. They were afraid to confront the indigenous people who claimed ownership to the land.

In the end several transmigrants received the “charity money” given by the PT SGM, which amounted to IDR 12 million (USD 1200) at the beginning of 2012. This amount was then reduced by 3.5% for administration costs. Initially, the transmigrants demanded a compensation of IDR 15 million (USD 1500) per hectare. The usage of the term “charity money” indicates that the transmigrants were not considered to own the land that is now taken over by PT SGM, and that the company gave money to them merely out of its own kindness.

The transmigrants land rights are abused. Even though they possessed certificates of ownership of the land concerned, which are legally valid, they were forced to give up their land to PT SGM. They did this in order to avoid horizontal conflict with the indigenous people.

Not all of the transmigrants were willing to give up their certificates and receive the “charity money” offered by PT SGM. Some insisted to hold on to their certificates. They demand that PT SGM should give back their land, however this demand is unheeded by the PT SGM. To fight for their right for the land, the transmigrant community sent letters and held audiences with the governor. They hoped that local government could help them regain their land. However the local government only took notes of their report and their complaints. There are no reactions or efforts from the local government to solve this problem of takeover by the PT SGM.

4.3.7. The Transmigrant Community of the Lagan Village

The Lagan Village is situated in Karusen Jenang sub-district, East Barito District. Like other transmigrant communities in this district, the transmigrant community of the Lagan Village originated from Java. In 1990, 250 families left their village in Java and moved to the transmigration area at the Lagan Village. This village is located to the west of Dayu Village, the capital of Karusen Jenang sub-district. By becoming transmigrants they have the right to a plot of land with a house and yard with an area of 0.25 hectare, a first working plot with an area of 0.75 hectare, and a second working plot with an area of 1 hectare. The rights were given by the local Manpower and Transmigration Service. The house and yard plot become their home. In the yard they plant vegetables and tuberous crops. Some of the villagers also raised chickens and cows. The first working plot was used for farming. The farmland is based on irrigations. The tools and irrigation canals had already been built by the local government. The irrigation canals are located at the southern side of the Lagan Village. The land of ‘production unit 1’ is used for growing rice.

Like in Luau Jawuk Village, the transmigrants of Lagan Village also formed farmer unions. There are three unions with 15 – 20 members each. Joining the union enabled them to access fertilizer aid and other farming tools provided by the local government.

The relation between the transmigrant community and the local Dayaks are harmonious. This is apparent from marriages between young transmigrant men and Dayak women. There is solidarity between the transmigrants and the locals because they are threatened with environmental damage made by the palm oil plantation company PT KSL and the mining

company operating in their area. The transmigrant community and several local communities from several villages, including the Dayu Village, unite to fight for the intactness of the environment where they live.



transmigrant compound in Lagan village (photo: Ecosoc Institute)

In the transmigrant village there is a school built by the government. In the school there are 4 teachers and around 50 students. There is no healthcare facility such as a public clinic. There is only a midwife. To access healthcare, villagers have to go to the clinic in the sub-district capital, which is 3 km away.

In 2011 the appearance of the palm oil company PT KSL affected the lives of the transmigrant community of Lagan Village. PT KSL opened a palm tree seeding area and since then the community was affected. The opening of the seeding area made several swamplands shut off, which are the Mipa Swamp, Putut Nanakan Swamp, and the Wakung Swamp. The shutting of the three swamps decreased the supply of clean water for the villagers. The swamp was a source of clean water for the Lagan villagers. As a result, the transmigrants have had to get additional clean water from the neighbouring villages, such as the Dayu Village, Simpang Neneng Village, and the Kandris Village, since 2012. The water supply in these three villages is relatively good due to a clean water installation provided by the local State Water Company (PDAM).



PT KSL's palm oil plantation in Lagan village (photo: Ecosoc Institute)

The shutting of the swamp by the PT KSL also decreased the fish supply, making it more difficult to obtain protein. If the villagers want to consume fish they now have to buy it.

Just like the transmigrants of other villages, the transmigrant community of Lagan Village is also facing the problem of land being taken over by plantation companies. PT KSL has taken over the transmigrants' second working plot. In the beginning the villagers opposed this. However the PT KSL used the village leaders to persuade them to hand over the land to the company and receive compensation. In the end the villagers accepted the compensation given by the PT KSL, which amounted to IDR 15 million (USD 1500) per hectare. They argued

that it would be better to sell the second working plot to the PT KSL than to hold the certificate but not know where the plot is located and thus be unable to work on the plot.

4.3.8 *The Riverbank Community at Katingan District*

The majority of the customary community in Katingan District live on the river banks, along the Katingan River and its subsidiaries. Among them are the communities of villages Mirah Kalanaman, Tumbang Marak, Tumbang Kalemei, Tumbang Hange, and Tumbang Pariyei, which is in the area of the Central Katingan Sub-district.

The Mirah Kalanaman Village is the village located closest to the palm oil plantation companies, almost in-between them. The other three villages, Tumbang Marak, Tumbang Kalemei, and Tumbang Hange - are not located in the operation areas of the palm oil companies nor any other companies, although they are close. Tumbang Pariyei is the farthest away from the companies.

Until the end of the 1990s, before big palm oil plantations were allowed to be established, the community of the villages in the Central Katingan sub-district had depended on the forest and all it produced for food, drinks, clothing, medicines, and ritual necessities.

Plants from the forest, such as various kinds of lichens, various tuber plants (*walatung*, *singkat*, *paikat*, *manau*, etc.), wild bamboo and various wild mushrooms – all of them grew without being planted. So were also various other plants, such as wild palm trees and various kinds of leaves from different bushes in the forest and peat land. The villagers could easily obtain these plants by their gardens/farmland, and the forest. When they could not obtain them from the forest or their gardens themselves, they could buy it at low cost from children selling the plants.

They could also hunt the various wild animals of the forest. Animals that they usually hunted include various kinds of birds (wild chickens, the *kukulai* owl, *punai*, *peragam*, *belibis*, *bubut*, the Kalimantan *kuntul*, *serindit*, *buburak*, *bantiungan*, etc.), the Kalimantan honey bear, lizards, *bingkaruan*, the big squirrel *tangkarawak*, etc.

There were many fish and aquatic animals in the river that could be consumed and easily captured, such as the patin (*Pangasius*) fish, gabus or *haruan* (Snakehead) fish, *saluang* fish, *lais* fish, *belida* fish, shrimps, eels, freshwater clams (*kijing*), aquatic snails (*haliling*), etc. The villagers never thought of putting the fishes in captivity and farm them in pools, since the river provided an abundance of fish and freshwater animals.

The Katingan River, which is 300 km long, is not only a source of food for the community but also a source of clean water and a means of transportation. Once they could just drink the water from the river and its subsidiaries streams and the smaller creeks passing through their plantations, without having to boil it first. The water was very clear then. The villagers also never experienced any problems with flooding. During the wet season, the water level did raise but it soon decreased after the rain stopped.

The life of the community passed peacefully. They could perform and enjoy all of the local traditions without any disturbances. The fields, the river, and the forest constituted the cultural identity and the livelihood of the Dayaks. The social, economic, and political ties between villagers in the community was regulated and managed through customs. The field

was also managed communally based on customary rules obeyed by the villagers. They trusted each other and respected the villagers' right of ownership over their land even though none of them possessed any certificate of ownership.

However the life of the community changed drastically after the palm oil industry started to operate in their area. After most the forest and peat land were cleared and transformed into plantations, the vegetables that used to grow wild in the forest and the fields were getting more difficult to obtain.. For the villagers who had lost their land, it was impossible to obtain vegetables in their living area as they did before, without spending money.

Game became more difficult to hunt. Also disappeared was the access to medicinal herbs from the forest. Wood, used for example to build houses and furniture, became more difficult to obtain.

The people can no longer freely consume the fish of Katingan River. The water is polluted by waste from the palm oil industry as well as the gold mining along the riverbank, to the extent that it hazardous to consume fish from the river. Besides that, the fish population has decreased.

The condition of the subsidiaries of Katingan River located in the palm oil plantation area is very worrying due to the chemical waste from the palm oil industry, such as pesticides, herbicides, various chemical fertilizers – both those who are added directly to the soil as well those that are sprayed into the air – as well as the waste-products of the palm oil processing.

Since three years ago, when the palm oil processing factory owned by PT KDP started operating, the rivers around the palm oil plantation have become increasingly polluted. The Tumbang Marak villagers, for example, once found that the river water turned black, smelled bad, dead fish floating on the surface were surrounded by flies. Access to fish protein has now decreased. The villagers also complain about the increase of flies. Flies have now spread to the villages.

It is getting increasingly difficult for the Tumbang Marak villagers to obtain clean water. Some of the villagers started to drill wells, while some still depend on the Katingan River and rainfall. Drilling wells is quite expensive. The families who do not have wells use the Katingan River for bathing and washing, while for drinking water they are forced to buy bottled water and making use of rainfall. Trouble comes when dry season is coming. Some villagers are forced to consume the water from the river by first waiting for pollutants to sediment.

The Tumbang Marak villagers have reported the conditions of the polluted rivers to the village officials and the customary *adat*-institution, hoping that the village will forward their report to the local government, so that their problems can be addressed and the polluted river can be returned to its pristine condition. Clean water is a pressing need for the villagers. The Tumbang Marak villagers have protested against PT KDP many times related to the damage of their indigenous forest and the pollution of the rivers that constituted the source of clean water for the villagers. In response to the protests, the PT KDP promised to address these issues. However up to now the company has not done anything and the rivers are still polluted.

Due to the disappearance of the forest and its transformation into palm oil plantation, the villages are prone to flooding during the wet season. Nowadays flooding is caused by overflowing of the Katingan River. The floods now can last for days, even up to a week. Previously the flood would recede as soon as the rain stopped. Now, the flooding that lasts for days very much disrupts the economic life of the society. Besides, many of the plants grown for food die during flooding, especially the vegetables and rice. This disaster is especially bad for the customary people who live in Tumbang Hange village.

The Katingan River and all of its subsidiaries constituted a natural heritage supporting a unique culture that has become a unique part of village life in this District. With the declining condition of the Katingan River system, the cultural identity and life of society is shaken and its existence threatened. The deterioration of the landscape, the ecosystem, and the culture of the Katingan River is very much felt by the people.

Before there were palm oil plantations in their area, the field and the forest were managed according to custom. Now there is a rapid change, where lands that used to be used and cultivated by customary communities are taken over by palm oil plantation companies or other companies which exploit natural resources. Previously, planting rice in the field constituted a part of the activities of the customary people and was performed communally every year, as a part of the traditional shifting cultivation. This tradition is nowadays getting more difficult to carry out due to the decrease of available forest. The traditional way of managing the field and the forest communally is disappearing. The fields that are still owned by customary people is every day under increased threat of being taken over by corporations. It is difficult for local people to have any say or involvement in this, because the takeover of land ownership by the companies is not planned in a transparent manner.

Since PT. KDP started operating around the Tumbang Marak village, the company has disturbed the villagers' management of their rubber trees and rice fields. Pt KDP clear-cutted their customary forest. Some villagers' land was also sized by the company.

The company does not seek the consent of the local community prior to starting operations. The customary community members are often confronted with attempts of persuasion, often involving money. The people who live close to the concession area of the companies face social pressure to hand over their land to the company. Thus far, the company has not prioritized to get the approval of the community before cutting down the forest or clearing their farmland, but rather they have held a kind of information-event in order to clear the land as soon as possible. The attitudes and opinions of the local people are not respected by the company. The local citizens claim that that the company tends to use a strategy of “*garap selonong*” which means that the forest is cleared before the company speaks with the local residents. As a result, they will not have any other choice than to surrender their land to the company.

Mirah Kalanaman is the one of the villages affected most by the presence of the palm oil industry. This is because the village is situated in-between the operational area of several palm oil companies, and also other companies. Therefore it is considered important to describe how this affects the Mirah Kalanaman village community.

4.3.9 *The Community of Mirah Kalanaman Village*

Mirah Kalanaman is a small and isolated village located in Central Katingan sub-district, Katingan district. The location of this village is bordering with the district of East Kotawaringin. The location is a bit far from the sub-district capital and the road condition is poor, thus it is difficult to access this village. No regular transportation is available. To leave the village, the community members have to use a motorcycle taxi and the cost of IDR 100,000 (USD 10) for one-way trip.

Most villagers in Mirah Kalanaman are rubber farmers. Household needs can be met by the income from rubber fields. Sapping is their main activity in addition to hunting and rattan collection. Food is obtained from crop fields and paddy fields as well as variety of fruits trees such as durian, cempedak (a kind of jackfruit), etc.

Before the presence of the palm oil industry, the village people were able to meet their needs relatively well. Each community member owned a rubber plantation, and plant, fruits and rattan. The economic needs such as those related to food, education, healthcare, and social life – including traditional rituals, could be met by the income from rubber, fruits, rattan and paddy fields. The people did not only plant rattan, they also developed rattan handicraft. The skill to knit rattan has been passed on from generation to generation.

The thick natural forest enabled the people to hunt and utilize forest products. Wild animals such as wild boar, deer, monkey and birds could be easily found. Hunting was a part of the tradition of Mirah Kalanaman village, conducted in groups or individually. The game collected would be partially consumed and partially sold. Hunting skills were passed from generation to generation, for example the skill of how to make and use a blowpipe. Besides, the rivers were still clear and there was an abundance of fish.

Water could be found many places, the water sources were easily accessible and never stopped flowing even during dry season. The villagers were used to drinking water from the river. Some people even believed that drinking water directly from the river had healing properties, because the river water contained nutrients from the various roots.

The Mirah Kalanaman community had a tradition of rotating agriculture, used for rice and rubber, fruits and rattan plantations. Hundreds of thousands of rubber trees, fruit trees and rattan once grew alongside the forest vegetation. This showed that the forest was once cultivated fields. Although the people conducted rotating agriculture, there were no examples of former agricultural land becoming dry, it always returned to its initial green. It was forest management of the people, management that had been on-going for generations based on customary values.

For decades the people lived in harmony, working together in all aspects of life from birth to death. This harmony can be seen from how new fields were opened. Everyone was involved in such activities. The spirit of helping each other could also be seen from the way houses were built.

The life of the village started to change around the beginning of 1996, when many sources of livelihood started to disappear. At that time, the local government of Katingan and PT. Bumi Hutan Lestari (BHL) Palm Oil Corporation visited Mirah Kalanaman village for a public consultation concerning the presence of PT. BHL. However, the community said that the government was not transparently asking for their opinion or their approval regarding the presence of the oil palm corporation.

PT. BHL promised to develop the village, to improve people's welfare, help repairing the road, school and healthcare facilities. The community welcomed the corporation after listening to these promises. The people had wanted to have roads and access to school, healthcare and electricity for decades. In the public consultation event, the corporation did not explain the negative impacts of the palm oil plantation.

PT. BHL started to operate in 1997. Tens of hectares of forest were instantly changed to open land, and smoke arose every day because the corporation used fire to clear land. Many people from Mirah Kalanaman were involved in the clearing and burning activities with a very low wage of less than IDR 15,000 (USD 1.5) per day.

Initially, the people did not consider the negative impact of the diminished forest. They were only thinking of the road that was going to be built, the school building, the healthcare facilities and electricity. But then, the forest disappeared, and the water sources got polluted. The river water that used to be clear became muddy and dark in colour. The fish died. Other animals, like birds, were also found dead by the river. According to the villagers, there are several kinds of birds that used to live by the river. These birds ate fish and worms found in the river.

Before PT. BLH operated, the villagers of Kalanaman used river water for drinking and daily hygiene. Now, the water is no longer suited for drinking and bathing. Those villagers who insisted on bathing in the river, found that their bodies starting to itch. To fulfill their need for drinking water, the villagers were forced to buy bottled water or use rainwater.

In 2003 PT. Karya Dewi Putra (KDP) started operating, and clears tens of hectares of forest. The presence of PT. KDP was established without any consultation with the people of Mirah Kalanaman. The oil palm corporation of PT KDP is located side by side with PT. BHL and PT. Kasongan Bumi kencana (KBK), a mining company started operating in 2005. In addition, in 2007 PT. Bangkit Usaha Mandiri (BUM) and PT Katingan Mitra Sejati (KMS) destroyed a traditional forest that has been maintained for ages.

From the cases experienced by the people from Mirah Kalanaman village, there are four oil palm plantations that have grabbed people's lands. Since 1997, 75 percent of Mirah Kalanaman's villagers had experienced land grabbing, by PT. BHL, PT. KDP or PT. BUM. This land grabbing was committed without just and fair compensation. Some people did not receive compensation at all.

Since the palm oil plantations started operating, the social relations between villagers have been disturbed. The corporations deliberately use a tactic of divide and rule.. The corporations maintain a strong relation with one group of villagers, especially the village chief and some other villagers. These groups of people are utilized by the company to terrorise and confront people who are protesting. The company also involved the police to stop protesters.

The division among the villagers was increased when the corporation started to grab their traditional forest and personal lands. The majority of people started to feel that the corporation's presence was disadvantageous for them, and began protesting by reporting the company's actions to the customary *adat*-functionary of the village, to the village government, the sub-district government and the local police. However, the corporation hired

preman as their ‘defenders’. These hired people often terrorize, threaten and spy on the activities of the people opposing the company. So far there is no report on cases of physical violence committed by these hired thugs. Yet, they often intimidate, terrorize, and threaten to kill people. Those villagers whose lands have been taken over by the corporation now live under intimidation. They do not feel safe when working in their fields or doing other social activities.

4.3.10 A Self-Sufficient Village Community that Does Not Rely on Oil Palm

Among the many communities that cannot restrain the presence of palm oil plantations, there are still villages where the inhabitants, either partially or as a whole, can defend their lands. Among them are Tumbang Pariyei village community, Tewang Panjang village community, and Tumbang Lahang village community.

Tumbang Pariyei village is located relatively far from any oil palm plantation and has not been affected by oil palm plantation to the same extent as other villages. Their forest and cultivated fields are still intact. Yet, they have started to experience the impact of oil palm plantation, particularly through pollution of Katingan river by waste from the oil palm corporations. They can no longer get clean water from Katingan river like before. In the past, they could drink the river water directly without having to boil it first. Now, most villagers do no longer consume water from the river. Those who are well off, have made ground water wells to get clean water. Those who cannot afford it, use drinkwater from the subsidiary rivers, but they still use Katingan river for bathing and washing. There are also those who still use Katingan river water for drinking. But before drinking it, they first have to separate the water from various sediments, and then boil it.

In addition to the pollution of Katingan River, the villagers also experience the effect of weather change. The weather has become hotter during the dry season after many oil palm plantations started to operate in Katingan. Not only is it hotter, people also suffer from dust. This thick dust during dry season makes the people from Pariyei unable to travel other villages or to the city without wearing a mask.

The village chief of Tumbang Pariyei claims that oil palm plantation has started to target his village to being converted to oil palm plantation. The corporation has approached the local government and offered a plasma program for the villagers. However, the people still defend their lands and refuse to sell it to the oil palm plantation. This defensive mode can be credited to the village chief – Wanto, who is determined to defend his village from corporate invasion. He often talks and gives his opinion to the community and convinces the community not to sell their lands to the corporation. There are more villagers now who do not want to sell their lands to the oil palm plantation. In the past, the majority of Pariyei villagers were persuaded by the oil palm corporation that promised to give plasma plantation to the people if they would hand over their lands.

Similar things happened to the community of Tewang Panjang village. Many village people had to sell their land due to economic pressure. Since palm oil corporations started operating in Central Katingan region, people’s lives have been changing drastically. Clean water sources used to be abundant and easy to reach, and the rivers were clean. Now, the water sources are dry, the rivers murky and many people have to buy bottled water to drink. It is similar concerning agriculture. In the past, the people could gain a lot of crops from their fields. Nowadays, these paddy fields often cannot yield anything because of pest infestation. This situation makes many families suffer economic crisis. Meanwhile, corporations exert

strong influence and persuade many people to sell their land. Many villagers in Tewang Panjang have lost their cultivated lands due to economic difficulties and pressure from the palm oil companies. Some have sold their land because of increased living costs, other have sold it due to pressure from the oil palm corporation.

In 2010, Tupis Tandu, a figure from the local community, was appointed *Mantir* (customary leader) for the Tewang Panjang village. Since then, the villagers have been encouraged not to sell their land to corporations. According to Tupis Tandu, cultivated land is the main source of livelihood that needs to be taken care of and maintained. This belief is the basis for his decision not to hand over land to the company, even though he has been offered a high price. For him, land is central to the self-confidence of indigenous people. He stated firmly that “This is a matter of dignity. If I sell the land that has been my source of livelihood all this time, it would be the same as if I sold myself.”

Not only had he asked the people in his village not to sell their lands to corporation, this *mantir* of Tewang Panjang also encouraged the neighbouring village, Tumbang Lahang, to unite in defending their traditional land from corporations. Before that, there were a number of villagers who sold their lands to the oil palm cooperative. At present, almost all villagers in Tumbang Lahang village refuse the oil palm investment. This refusal is caused by the fact that they are witnessing many cases of land grabbing, deceit, forest destruction, and loss of clean water sources due to palm oil and mining investment.

Tupis Tandu is convinced that if the people take care of their land and rubber plantations well, it can sustain their families’ needs. Although the rubber price is declining, it can still give people a reliable monthly income. Rubber trees provide money over a long time, as the sap can be relied on for decades. In the long run, rubber trees are more profitable than selling the land or planting oil palm trees. Tupis Tandu, the traditional counsel, has proven it.

He owns seven hectares of land. Two hectares for rubber trees, the remaining land is for fruits, rattan, and vegetables. With that arrangement, he has sustained the economic needs of his family and paid for his six children’s education all the way to university level. Four of his children have obtained their undergraduate degrees, two others are still studying at the university. He taps rubber trees in the morning and afternoon, takes care of his vegetable plants and sell the harvest to the market. During the rattan season, he would go to collect rattan. From tapping rubber trees, he could earn at least IDR 3 million per month (USD 300). With vegetables and rattan, he could earn IDR 4.5 million per month (USD 450). This excludes his income from fruits, that could yield high income during harvest season. One durian tree, for example, could yield hundreds of durian in one season, with the price being IDR 10 – 40 thousand (USD 1-4) per piece of fruit.

The village chief Tumbang Pariyei elaborated on what the villagers would own by maintaining their forest, gardens and fields. He claimed they would have everything they needed to live.

The presence of the palm oil industry and other corporations takes away things used to be valuable for the people. According to him, if people were to calculate the value of everything they have, they would realise that those who have sold away their land to the corporation are to lose. In addition, there are the ‘non-economic losses’ that cannot be counted in money. The following are the list of riches that the people could get from an intact forest, river, garden/crops plantation and crops fields:

1. Paddy field harvest:
 - Crops, rice paddy field

- Maize, banana, sweet potato, cassava
- Nuts
- 2. Forest vegetation:
 - Timbers: ironwood, *benuas*, *bengkiran*, red shorea, white shorea, etc.
 - Aloes
 - Forest rattan
- 3. Fruits:
 - For sale: durian, cempedak (a kind of jackfruit), lanzone, mangosteen
 - Not for sale: rambutan, *mengkawai*, *rambai*, sapodilla, guava, *paken*, bell fruit, banana, etc.
- 4. Cultivated plants:
 - Rubber, rattan
 - Betel, areca nut, *tanggu*, dogfruit, stinky bean, coconut
 - Different kind of woods, e.g. ironwood, *benuas*, etc.
 - Different kind of bamboos, e.g. *manis*, *tawah*, *betung*, *palingkan*, etc.
- 5. Vegetables:
 - Spinach, field cabbage, garden cabbage, tubers (*walatung*, *singkat*, *paikat*, *manau*, *bakung*, etc.), fiddleheads, cucumber, wild mushrooms, a kind of fern, forest cabbage, many leaves from the shrub, forest, and peat land, young bamboo, etc.
- 6. Animals:
 - Aves (partridge, birds – *kukulai* owl, pigeon, rock dove, grouse, crow pheasant or greater coucal, the Kalimantan great white heron, parrot, *buburak*, *bantiungan*, etc.),
 - Honey bear, lizard, *bingkarungan*, *tangkarawak* squirrel, boar, deer, monkey, etc.
- 7. Fresh water fishes and animals:
 - Fishes: catfish, snakehead, anchovy, *lais*, featherback (*belida*), river carp, *bantak*, *kelawau*, *salap*, *sapan*, *lele* (*petet*), *baning* (*ikan jungkung*), *behau*, *makari*, *baurung*, *acak*, etc.
 - Animals: shrimp, crab, eel, *kelep*, turtle, fresh water clams, aquatic snail (*hailing*), etc.
- 8. Material for medicine and health:
 - Honey
 - Medicine from trees
 - medicine from leaves
 - medicine from roots
- 9. Sources of clean water, food, transportation means, recreation, traditional ritual, and the guardian of ecosystem:
 - Clear rivers and streams
 - An abundant forest
 - Carefully maintained swamps
- 10. A peaceful and calm community and family live in harmony (non material), due to these conditions:
 - Customary law regulating common life
 - Communal management of forests and indigenous land, rivers and swamps, based on the teaching from ancestors

- The continued application of traditional communal work, cooperation, consensus, and participation in community activities
- The continued application of tradition, and strong relation between individuals and community and the ancestors
- The indigenous land/traditional forest is maintained, as a food reserve for the future that ensures food security
- No natural disaster causing suffering, for instance flooding, landslide, plague, diseases, etc.

According to the village chief Pariyei, the villagers could harvest at least 25 kg rice per month from their paddy fields. And there were also other crops, for example maize, banana, sweet potato, nuts, etc. With such abundant harvest, the people could meet their needs independently. If they needed to purchase something, they could trade with other locals and get a very affordable price. Material needed to build a house could be provided from the forest or their own gardens.

By not depending on the market to fulfill their needs, the villagers do not need a lot of money. Cash is only needed for education, medical expenses, clothing, and some other expenditures. Cash could be obtained from selling their harvests, such as the rubber, rattan, and fruits – especially durian, lanzone and cempedak (a kind of jackfruit); as well as game and timber. Before the government prohibited timber trade, they could earn a lot from it. However, since 2008 the people were no longer allowed to sell timber, even when it came from their own gardens.

From their gardens, the villagers could generate around 20 – 60 kg of rubber every day with the selling price of IDR 9,000/kg (USD 9). The rubber trees in this village are of good size, so each tree can generate a large portion of tree sap. By sapping rubber trees, the villagers could earn IDR 5 – 12 million (USD 500 – 1200) per month, depending on the size of their plantations, the number and size of their trees. One hectare of rubber plantation consists of 150 - 250 trees, and these trees can be sapped every day for six months a year.

From rattan, the villagers could generate 10 – 20 tons every harvest, with the trade value of IDR 1,300 (USD 1.3) per kg. The villagers could harvest rattan twice a year. They could also earn some cash from selling fruits, especially cempedak (a kind of jackfruit) and durian. During durian season (once a year), the villagers could earn millions of Rupiah. Since 1 durian tree could bear 300 – 1000 durian fruits, and sold with a minimum price of IDR 10,000 – 45,000 (USD 1 – 4.5) for one fruit. In Central Kalimantan, durian from Katingan is highly popular and sought after.

According to the village chief, the corporation operates in traditional lands by making all kind of promises, persuasions, and even intimidations that makes the people value less what they have had so far. That is why he is so determined to defend his village from the invasion of oil palm corporation, especially after witnessing the difficult life experienced by other village affected by palm oil.

4.3.11 The communities of the plantation workers of PT KDP

A single company often employs thousands of workers, and PT KDP is no exception in this regard. According to the company's headquarters in Palangkaraya, they have 1,500 people employed, whereas the field office claims that there are more than 3,000 workers on their

four estates (plantations), that is: the Eastern Estate, the Western Estate, the Central Estate, and the Plasma Estate. Each estate employs 800-1,000 workers. If we count the children, then the number of inhabitants on these estates reaches 4,000-5,000. All PT KDP's workers—regardless of their status—work without signing any employment contract.

There are three groups of workers at PT KDP: temporary daily workers, regular daily workers ('daily' referring to the workers being paid per day of work), and regular monthly workers ('monthly' referring to the workers being paid per month).

All the workers claim that the majority of workers are temporary daily workers. These daily workers performed menial work on the plantations, from clearing land, planting, fertilizing, spraying, harvesting, transporting the harvest, as well as factory work. The workers estimate that more than 50 per cent of PT KDP's workers are temporary daily workers, because the temporary daily workers perform most of the tasks in the plantation.

Temporary daily workers do not get any health insurance or insurance against work-related accidents, even though they perform dangerous tasks at the plantation, and thus are at high risk for accidents at the workplace. There is one health clinic provided by the company at every plantation area, but this clinic is considered to have insufficient facilities, medical personnel, and medicines. Temporary daily workers have to cover their own medical bills should they become sick or have to be hospitalised. There was a temporary daily worker who died at the plantation due to an illness. He was from Atambua in East Nusa Tenggara. PT KDP paid for his body to be returned to Atambua. According to the company's public relations officer, the company had no obligation to pay for the transportation of the body, because the deceased person was a temporary daily worker. However, the company still paid due to humanitarian considerations.

According to the company, temporary daily workers may be promoted to regular daily workers if they have worked for more than 6 months and are considered to have proven their loyalty. The promotion depends fully on the foreman. There are workers that have worked for more than a year, who still are considered daily workers.

Those who are promoted to regular daily workers would enjoy benefits, such as health insurance, paid sick leave, and staple (rice) allowance. They would also get a Jamsostek (*Jaminan Sosial Tenaga Kerja*) membership card, a social insurance scheme for workers. The Jamsostek card holder has to pay IDR 168,000 (USD 16.8) per month, where IDR 140,000 is paid by the company and IDR 28,000 is deducted from the worker's wage. Regular daily workers receive health benefits in the form of free medical consultations at the company's clinic, and the company would cover the costs of outpatient care and hospitalisation. Such benefits are not extended to temporary daily workers. While they can get consultations at the company's clinic, the costs of outpatient care and hospitalisation are not covered.

Both permanent and temporary daily workers work from 04.30 a.m. to 11.00 a.m. Those working hours correspond to one workday (WD), and each worker will be entitled to IDR 48,000 (USD 4.8) as daily wage. If workers continue to work from 1 p.m. to 5 p.m., they will earn an additional IDR 24,000 (USD 2.4).

Different rules apply to temporary daily workers and regular daily workers who cannot show up to work due to an illness. Temporary daily workers who are sick and do not show up for work will not get paid. Regular daily workers will still get paid, on the condition that they

show a doctor's note to the foreman. Such note can be obtained from the company's health clinic.

Female workers classified as temporary daily workers are not entitled to take days off to deal with difficult menstruation or to take maternity leave. The company allows them to take a day off work during menstruation and to take 40 days off work in total before and after giving birth, but the company will not pay their wages during those days. Female workers classified as regular daily workers are entitled to two days off monthly during menstruation and 20 days of paid maternity leave before giving birth and 20 days of paid maternity leave after. However if they are absent for a longer period, then their pay will be cut in accordance with the number of extra days of absence.

The wages of regular daily workers is not very different from that of the temporary daily workers, as the former's wage is cut to pay for insurance. For example, the wage of regular daily workers who transport crops is IDR 55,000 (USD 5.5) per day. In addition they earn a bonus proportional to the volume of crops transported. If the harvest is plentiful, then the workers' wages will increase. Within a month a worker transporting crops may earn between IDR 1.4 and 2 million (between USD 140 and 200), in addition to an allowance of rice of 39 kg per month. This allowance is set based on the number of working days. Per day the regular daily worker is entitled to an allowance of one kilogram of rice. For workers with a family, the allowance is readjusted to factor in a spouse, if he or she is not working, and a maximum of two children. If the regular daily worker does not show up at work, then he or she loses the day's rice allowance. Temporary daily workers are not entitled to rice allowance.

In reality, the rice allowance often arrives late, thus workers have to borrow rice from elsewhere to fulfil their daily needs. According to one medical staff at the company's clinic, the quality of the workers' food is not satisfactory because of its low nutritional value. This medical staff claimed that the workers and their kids too often consumed instant noodles and energy drinks, and that this was the cause for their many health problems. Data about the number of patients at the Central Estate clinic show that on average 10-15 persons per day visited the clinic with various symptoms, such as fever, heartburn, typhoid, diarrhoea, and as a result of work-related accidents.

The workers themselves realise the poor quality of their diet. It is difficult for them to get vegetables. Vegetables can only be purchased at high prices from vendors who visit their barracks. If the vendors do not come, especially during rainy season, then the workers will not be able to consume vegetables. The company often prohibits workers from planting vegetables in the plantation area.

The company allows workers to bring their spouses and children to live with them on the plantation. Often, both husband and wife would work at the plantation. The men mainly work with harvesting, transporting crops, pruning the trees, or they work at the palm oil processing plant. The women are mainly spraying the oil palm trees or fertilizing the soil, but they may also perform other tasks. Workers live in the company's barracks. Those who are married with children get a barrack of 20 square meters, with two bedrooms and one living room. Those who are single, or who don't bring their family to live with them, are placed together with two or three other workers. Their barracks have electricity between 5.30 p.m. and 8 p.m.



Photos above: the barracks of the workers at PT KDP (photo: Ecosoc Institute)

Not all workers' barracks are suitable to be lived in. The best barracks are reserved for the foremen, administrative staff, or the supervisors. Daily workers live in shabby barracks, quite a few of them are leaking. The workers also complain about the lack of clean water. The company sends water tanks only four times a week, and this is far from sufficient. In order to

have enough drinking water, the workers have to cover quite a long distance to reach the place provided by the company. For daily hygiene (showering, washing, etc.), they use water from a small river in the plantation area.

The health and safety of the workers are not well guaranteed. According to the workers, the company does not provide health and safety equipment on a regular basis. Gloves, helmets, masks, and boots, for example, were only provided on the worker's first day of work. Once the gears have been worn out, workers have to purchase new ones if they want to keep wearing them. As a result, the women workers often spray pesticides without wearing masks; instead they wrap a cloth around their nose and mouth. Also, pregnant women are still tasked with spraying pesticides. According to the company, they always provide workers spraying pesticides with masks, and once a week they provide those workers with mung bean porridge and milk. However, the workers could not confirm this claim, as the company did not allow the researchers to meet with the workers spraying pesticides.

Never mind safety gears, the company does not even provide regular work equipment, according to the workers. Tools such as machetes, hoes, shovels, workers have to buy themselves, and those can be quite expensive. Often workers would borrow such tools from other workers that are away on leave or from workers that have more than one set of tools.

Workers' safety is further threatened by the presence of cobras. According to the workers, the cobra population at the plantation has increased, and they claim that the company intentionally released cobras in order to fight mice. They maintained that the company released a hundred snakes per a hundred hectares of plantation, and many of the workers were not made aware of such policy. Almost every day workers encounter cobras. One worker was bitten, he was from East Nusa Tenggara—a cobra bit him in the eye when he was trimming the branches of an oil palm tree. He was rushed to the hospital and the doctors saved his life. The company denied releasing cobras on the plantation; they argued that cobras have lived in the forests that predated the plantation and have simply continued to breed naturally.

There are much public whispers about the use of cobras by oil palm plantations in Central Kalimantan. Companies generally deny any role in spreading cobras, whereas communities are convinced that before the plantations existed, the cobra population had been much lower, and that the cobras had been of a different variety. The government is still investigating, and there is yet no certainty whether the cobras found on the plantations are local, or whether they have been introduced from elsewhere.

In order to provide education for the workers' children, PT KDP has built a school, and has provided elementary education for the last three years. This school is located on the Central Estate. There are nine teachers holding associate or bachelor degrees that were brought in. There are 210 workers' children that attend this school. This school remains under the elementary school in the village of Tumbang Marak. The children study from 07.30 to 11.30 a.m. PT KDP provides a school bus to transport the children. However, this bus cannot transport all the children from the four estates, thus many children had no choice but to board company trucks to get to school. To cover the distance between the school and the barracks would take approximately 2-3 hours. The school building itself is satisfactory enough, but there is no schoolbooks provided for the pupils. The pupils can only write down what the teacher tells them during lessons. Not all of the teachers have textbooks either. For some topics the teachers can only share what they know on top of their heads.

The teachers have the same status as daily workers. Teachers that have worked under a year earn IDR 58,000 (USD 5.8) per day, and an allowance of 15 kg of rice per month for those who are single, or 30-40 kg per month for those who are married. The teachers live in the barracks together with the workers. Teachers that have served 1.5 or more years are registered for Jamsostek and entitled to free medical treatment. Six of the nine teachers hold a Jamsostek card. The lack of access to clean water is also felt by the teachers, and they also use the small river on the plantation for daily hygiene.

4.3.12 Kabuau Village Community

Kabuau Village administratively is a part of Parenggean sub-district, Kotawaringin Timur district. The people of Parenggean sub-district say that the Kabuau village is the most troublesome village in Parenggean sub-district aside from Kuala Kuayan village. Kabuau village is located about 500 meters from the CPO mill owned by PT Katingan Indah Utama (KIU), a subsidiary of Makin Group.

Kabuau village is flanked by two rivers, Tualan river and Mentaya river. These rivers provide residents with clean water for daily needs.

Kabuau village can be reached in one hour from Parenggean town, the capital of Parenggean sub-district. The road towards Kabuau village is only a hardened dirt road that goes through transportation routes used by the company to transport oil palm fruits. During dry season, the road dust flies about as thick as a fog. When it rains, the road is wet and muddy with red soil. Kabuau village is located precisely on the banks of Tualan River, a tributary of Mentaya. Surrounded by oil palm plantations, Kabuau village does not present itself as a prosperous village. The main village road is dirt. People's houses, mostly wooden, are scattered in disarray. Along the edges of people's houses and the main road one can see empty casings of oil palm fruits scattered about. There are no trees to shade the road.



Clouds of dust along the road in the plantation area (photo: Ecosoc Institute)

According to 2012 BPS data of Kotawaringin Timur district, the area of Kabuau Village is 78 km², around 4.5 percent of Parenggean sub-district area. However, according to the residents of Kabuau village, seen from the area of former cultivated lands of Kabuau villages, Kabuau has the largest area, covering the current area of Kabuau village added with the area of the “original village” and former cultivated lands on one of the banks of Tualan River that is currently still empty.

Currently there are 800 families (Heads of Families) registered as residents of Kabuau village. Based on the voter data in the last elections of the regional head, there are 2,000 voters in Kabuau Village. Half of the families live in the village and the other half in the

plantation area. Almost all of the residents of Kabuau Village are ethnic Dayak who are descendants of the “original village” of Kabuau located further upstream northward. The “original village” is the term for populated centers of old times. The population distribution, both in the “original village” as well as Kabuau village is now concentrated along the banks of Tualan River.

From old times until now, Kabuau village has never had a PLN (state electric utility company) connection. Clean water pipe from PDAM (regional water utility company) also has not reached this village. Oil lamps were still used for lighting until the 1980's. After that people began using electricity from generators and *petromax* lamps. There are no ditches in the village. Before oil palm companies came, the need for clean water for consumption and bathing-washing-toilet was taken from the river. River water was still clear and not polluted. Toilets above the Tualan River were next to washing and bathing.

People lived off vegetable gardening, rice cultivation, or fishing in the river. Aside from that, people also had side jobs finding logs – both legally or illegally, or finding gold. Fish was entirely obtained from Tualan river and its tributaries. Villagers did not farm fish. They only needed to take fish from the river whose population was still high.

Except in formal education, the daily living needs were minimal because the goods and natural resources of the village – including land, forest as well as river, could fulfill the food and housing needs of the people, including traditional medicine that was still easy to obtain. In short, economically the people were still dependent on the riches provided by nature. The desire for modern industrial goods like television, radio, mobile phones and motorized vehicles, were not dominant at the time.

Like other *adat* communities, members of Kabuau village community conducted shifting cultivation. It shows why the lands formerly cultivated by the villagers could reach thousands of hectares. This way of production required sufficient land areas. Land and water in this village used to be abundant.

The village life was full of mutual cooperation and communal values, as seen from the various economic and social activities within the community: 1) when disasters or misfortunes happen, such as deaths, sickness of accidents; 2) in family life, such as building and fixing houses, digging wells, and others; 3) in holding festivities, such as weddings, commemorations, and others; 4) in *adat* meetings to discuss and resolve *adat* issues or problems that pertain to common interest.

One can still see the traces of the communal living system based on kinship, both in the household or in economic activities, such as working to open and cultivate fields or finding logs in the forest. This can be seen from the number of family/household members. It is common that children and grandchildren live with their parents and grandparents in one house that impacts on the amount of spending of one household borne by the head of the family owning the house.

The social ties are strengthened by working relations in the field, relations in *adat* matters, and in the water regions by activities in the water conducted together such as bathing and washing. The people of Kabuau Village were still homogeneous in terms of tradition and customs. Before large private companies arrived, *adat* disputes were still about issues of conduct in social relations such as infidelity, theft, and so forth. But there were not many

such disputes. Conflicts regarding land disputes and claims were rare, because land management was regulated by *adat* and the people respected adat rules.

After oil palm companies entered this village, the life of the people and the Kabuau village community changed drastically. In 2000, an oil palm company (PT Katingan Indah Utama, KIU) came to the village with sub-district government apparatus to conduct socialization. At the time of socialization the company promised to prioritize local workers rather than workers from outside the region. It was also promised that the presence of plantation companies would bring welfare to the villagers. According to local residents, the socialization process went smoothly, it is just that the expectations for prosperity it created has not been realized.

It was the promises made by the company during socialization that made the Kabuau village community willing to follow the partnership scheme offered by the company. People gave up their lands to be turned into *plasma* land managed with the scheme “partnership cooperative”. People’s status changed from independent farmers to now fully dependent on the company. People were owners of the *plasma* plantations and at the same time workers at PT KIU. Only a few became civil servants such as teachers or staff at the village office.

Ninety-nine percent of the people in Kabuau Village work for PT Katingan Indah Utama. From that number eighty percent have the status of temporary daily workers, with a pay of Rp 68,000 per day without social insurance or other assurances. The number of working days in a month set by the company is only 12 days, so that in one month the people work as temporary daily labourers will only earn around Rp 800,000. This wage level is considered very insufficient by the villagers. There is no explanation from the company to the villagers why the number of working days is limited to only 12 days a month.

As temporary daily workers, people work from 07.00 until 13.00. The workers who harvest oil palm fruits are paid Rp 72,000 per day with rice allowance given in the form of cash of Rp 3,000 per day. After cuts by the company, the net remainder is Rp 70,000. It is not very clear what cuts that are applied. The temporary daily workers get holiday allowances of half their salary, that is, Rp 400,000. The people say that income from working as workers is hardly sufficient to meet their life’s needs. They are under constant pressure to make ends meet. As a result, people then seek additional income by working as fishermen, carpenters or motor taxi drivers in the sub-district town. Meanwhile, based on the reports received from the *Mantir* of Kabuau *adat* village, permanent daily workers of PT KIU have not received any bonus since December 2012⁴¹. The bonus amount received by the workers are not fixed. Some are one time the salary amount, while others receive half the salary. There is no explanation from the management and no questions from the workers as to why the bonuses are different. The bonuses for workers are paid every year, usually one month after their holiday allowance.

The majority of people become plantation workers for PT KIU because there are no other work options in their villages. The lands for cultivating have disappeared so that there is no more land for *ladang* and vegetable gardening. Tualan River is no longer suitable for fishing, as the water is polluted with chemical fertilizer waste from the plantation. PT KIU plants oil palm by the edges of the rivers. Whereas according to regional bylaws, the distance between oil palms and the river banks must be at minimum 300 meters for small rivers and 500 meters

⁴¹ This reports was received on September 2013

for large rivers. The condition of the river water has been very murky especially during the dry season. Some people still try to find fish in the small rivers and branches of the tributaries to meet their household needs but only get very little, or nothing at all. Vegetables can no longer be produced independently. Villagers get vegetables by buying them in the market or in small stalls. There is no independent agricultural or fishing activity by the villagers. There is also no *bina desa* (village patronage) programs, neither from the company nor from the government.

In Kabuau Village, the village vendor comes once a week, that is, every Tuesday. People feel that prices have gone up while the wage of plantation workers remains low. In Kabuau village market, the lowest price of rice is rp 8,000/kg, cheapest fish like *gabus* fish is rp 20,000/kg, chicken rp 35,000/kg, free-range chicken rp 50,000/kg, chicken eggs rp 1,500/egg, local sugar is rp 13,000/kg, vegetables such as sprouts can be bought with at least Rp 2,000, watercress and spinach rp 5,000 for two bunches. While fuel is rp 8,000/liter for gasoline and rp 9,000/liter for kerosene.

With the increasing dependence on the market to meet their needs, the expenses for daily needs cannot be met with just rp 50,000 per day. That money is only enough for food. According to residents, with the current price conditions, to meet their daily needs that include food and drinks, fuel, and other needs like medicine, pocket money for children, etc, they need at least rp 75,000-80,000 per day.

Currently people see their economy in crisis, as it is rather difficult to meet daily needs. When sick, the village community clinic (*Puskesmas*) does not help much. *Puskesmas* staff is often present only 3-4 hours a day, before they return to Parenggean. There is no village doctor. Last October, when representatives of the community went to meet the sub-district government and file their grievance about the lack of health services in the village, the *camat* told them not to press the company anymore because there is already health services from the government.

The company provides a polyclinic located inside the plantation. However, plantation workers – and even more the general public – are reluctant to use the plantation polyclinic. They complain about the quality of services. Medicines are lacking, there is no doctor, only a nurse and a midwife, and when they seek treatment in the end the workers are referred to *Puskesmas* in the town. It is useless to seek treatment to the plantation polyclinic. Meanwhile, the service of *Puskesmas* in the sub-district and the hospital in the district capital do not want to serve the referrals with company guarantee. People who come to seek treatment are not served at all when they only rely on company guarantee. According to the people, this is because the company often does not pay the health insurance in the form of treatment expenses to the hospital or the community health clinic. As a result, when seeking treatment or needing health services, whether in normal circumstances or emergencies, plantation workers spend their own money first to cover for health services and medication. The receipts are collected by the people to then become proof for reimbursement by the company. This method goes on until now. Regarding medicine, people also complain about the high prices. For getting medicine in the pharmacy once, they have to spend at least Rp 400,000-600,000. Some even spend up to Rp 2,000,000.

Since the operations of oil palm plantations in Kabuau village, residents say they have become more vulnerable to illnesses. Many people get sick often. The people of Kabuau have collected their own data, coordinated by the village *adat* institution. They recorded the type

of illnesses suffered by the people in February 2013. They conducted this data collection as they believe that there is a new illness appearing after the operation of CPO mill belonging to PT KIU near their village. The people say that the illness they suffer was never seen before. The various types of illnesses recorded in the data include upper respiratory tract infections, skin allergies, coughs, colds, uric acids, cholesterol, anemia, ulcers, and dental illnesses. The list of village residents experiencing health disturbances has been submitted to the company.

PT KIU respond to the strong demands that they help with the provision of medicine for the sick village people, by stating that this is not the company's responsibility because the government has provided free medication. People know that there is free medication, but it is the company that makes people sick, therefore they demand that the company must also be responsible. The demands that the company provide a complete range of medicine for the sick villages has two backgrounds. First, the expensive price of drugs that the people must pay for in pharmacies. Second, people consider it is reasonable to demand the company to help provide medicine, because some of the illnesses that often appear lately like respiratory illnesses, itching, and other skin allergies, only have appeared since the operation of the palm oil mill that is only 500 meters from the village.

The people of Kabuau village say that the promise of PT KIU to make the people prosperous has not been fulfilled to this day. People actually feel that life has become more difficult. As oil palm plantation workers their wage is hardly sufficient to cover their daily needs, whereas the proceeds from the *plasma* plantations are disappointing. The low wage, expensive price of basic goods, and unreliable proceeds from *plasma* plantations, have forced around 25-30 percent of the people to sell their *plasma* gardens to meet their basic economic needs. Not just *plasma* gardens have they sold, also fields covering an area of 5,000 hectares that was originally intended for *plasma* garden has been sold by the people with an average price of Rp 2 million per hectare. As a result, the land the products of which can be enjoyed by the village people today is only [the remaining] 970.76 hectares. This is not counting the community lands with the status of being contracted by the company (*pinjam pakai*, lent for use) through partnership scheme because the contact period has not expired.

The total area of partnership land today is around 1,407 hectares, but almost half of the total partnership plantation land is owned by the company with the status of *pinjam pakai* contract for thirty years. With the partnership scheme of 50:50, currently, the area of partnership lands owned by the people is only 970.76 hectares. The partnership cooperative that involves banks in the financing for processing and management of the partnership plantation land of the community in 2010 still owe rp 24 billion that is due by March 2015. According to people's prediction that currently receive the proceeds from the partnership gardens, when the debt to the bank is repaid the proceeds from the profits can reach rp 500,000 (five hundred thousand rupiah) per hectare, based on latest calculations of garden proceeds (September 2013).

People do not get 100 percent of the 50 percent portion of garden proceeds. Before partnering with the bank, the proceeds sharing of partnership plantation from the sale of fresh fruit bunches received by the people was 25 percent. The deductions of the proceeds happen because the people must repay the costs that have been spent by the company which includes transportation and harvesting costs, 5 percent management cost, 30 percent maintenance cost, and company's credit installments of 40 percent. On the 15th of every month, the cooperative stewards sign minutes of proceedings that specifies the details of the proceeds from the management and sale of palm oil bunches from the partnership gardens belonging to the community. The minutes of the proceedings specify the price of the fresh fruit bunches that

applied at the time according to the ruling of the Directorate General of Plantations. However, the payment of sale proceeds of the palm oil fruits are sometimes not timely. People do not know where to ask about this. There is also no explanation from the company. The delay of payments of the proceeds is two weeks on average. Usually, the company's excuse for this delay is that the person with the authority to sign the minutes of sale is not present.

In Kabuau Village there is one primary school and one junior high school that was built by the government. According to the former headmaster of SD Kabuau, PT KIU had assisted in the renovation of the school building, added furniture, and helped to pay the honorarium of the school security guard. The company also helps provide school buses for the school children to serve children of the workers living in plantation estates. The bus is medium in size, a bit decrepit, speeds, and the children dangle out of bus doors. The bus' capacity does not match the number of children.



Photo: a schoolbus transports the children of PT KIU's plantation workers (photo: Ecosoc Institute)

To get lighting, the people of Kabuau Village strived to provide their own electricity. Each family has their own personal genset with an average price of Rp 1.5-2 million. To operate the genset, every day around 2-3 liters of fuel is needed so that in one month their expense for genset fuel can reach Rp 480,000-720,000. The fuel cost must be added to the cost to buy lubricants for genset maintenance. In one month an average of 3 liters of lubricants are needed. The price of one liter of lubricant is Rp 30,000. The cost to buy lubricant for one month is Rp 90,000. Total expenses to get electric lighting in one month is Rp 570,000-810,000 on average.

In order to meet clean water needs, people dig wells on their house premises. Around 30 percent of the people of Kabuau Village have wells. Despite this, according to the *mantir adat* of Kabuau Village, there are still people who use river water for consumption and their bathing-washing-toilet needs. They are people who live on *lanting* (raft houses) and along the river banks. To make the river water clearer and kill the germs, they add chemicals into the river water they use for consumption.



The 'raft homes' of people living in Kabuau village (photo: Ecosoc Institute)

The Kabuau Village community to this day have not received clean water services from PDAM (regional water utility company), PLN electric grid, and proper road infrastructure. All village roads are of red soil that becomes wet and muddy during rain. Also there are no ditches to channel household wastewater.

In October 2013, the village community coordinated by the *adat* village institution conducted a protest to the oil palm company. They closed the road to PT KIU's CPO mill. The people demanded that PT KIU must pay attention to the minimal conditions of the village facilities and infrastructure. People put five demands to the company, namely 1) the company to help connect electricity to the village, especially for people who are really poor such as those who are unemployed and the widows; 2) help provide clean water; 3) help improve the village road infrastructure – including the damaged road towards the public cemetery located near the mill; 4) resolve the problem of barge loading in a special terminal; 5) realisation of corporate social responsibility (CSR) funds of 1.5 percent of the company profits according to applicable government regulations.

Facing the people's protest, the sub-district government conducted a mediation between the people of the village and PT KIU. In that mediation process, the representative of the company, the Community Empowerment Division Manager of PT KIU stated that the 1.5 percent CSR fund has been used for the management of partnership plantation lands owned by the people. That statement was rejected by villagers because as owners of the partnership plantations, people know that no CSR funds have been channeled to manage their plantations. This refutation of the people was affirmed by the statement of the cooperative head who said there are no CSR funds channeled through the cooperative for the management of partnership gardens belonging to the residents.

Regarding provision of clean water, the *camat* of Parenggean directed that the company pays attention to the people's demand by providing wells for the people. PT KIU agreed with the proposal for the well so that the people can access clean water. With respect to the demand that the company help provide electricity for village lighting, the company said that they had provided gensets for the village's electricity needs. But according to the people, the genset was broken and cannot function. And according to them, the genset that was given to the people was not a voluntary contribution from the company. In order to get that genset, the village community had to surrender 150 hectares of land used for partnership land for 75 families that have not received their *plasma* garden allocation. The company then agreed to pay for fixing the genset.

Today the genset has been fixed but cannot yet be used because some of the parts such as cables and others are still unavailable and waiting for the company to buy it in Banjarmasin. The company also agreed to facilitating the electricity connection to Kabuau village by using CSR funds. But the realisation will wait for road to the village to be fixed and road fixing inside the village that has been planned by the district government. This is intended so that the installation will be done as the road will be constructed, which is planned to be realised at the end of 2013.

People say that nothing that PT KIU has given to the village community was free. People have paid or exchanged by giving up land to the oil palm company. The building of multi-purpose hall, for instance, was paid by the people by giving their land to PT KIU to build the

pier to transport CPO products from the mill. The five demands related by the people by closing the road to the mill have actually been voiced since early 2009.

Before the demonstration was conducted in October 2013, the people of Kabuau village have several times raised demands to PT KIU. First, the demand in the case of the waste spill from the CPO mill as well as the composting plant waste of PT Katingan Indah Utama on 3 July 2013. The waste that spilled caused a sharp smell, a proliferation of flies, and a boiler dust pollution. As a result of this waste pollution many people complained of respiratory illnesses and itching. With respect to this pollution case the village *adat* institution demanded a compensation of an *adat* fine in the amount of Rp 30,000,000 (thirty million rupiah).

Second, the demand for the case of the unmet promise of PT KIU management to provide clean water and electricity to the Kabuau village community. The village *adat* institution demanded the company to pay an *adat* fine of Rp 1,000,000,000 (one billion rupiah). The people's demand that the company provide clean water and electricity as promised has been officially related since 2009.

Third, the demand and rejection to PT KIU composting mill. The people demand a halt to the activities of the mill until there is further agreement with the community. According to the people, PT KIU established the composting mill without socialization and the mill location was very close to where people live. This demand is compromistic in nature, meaning that the people still open a room for discussion where people ask to be involved in the company's activities.



palm oil waste is composted (photo: Ecosoc Institute)

Fourth, the demand on the activity of PT Katingan Indah Utama's CPO port. The people demanded that every CPO barge that loads/anchors are required to give a compensation/assistance for the empowerment of *adat* institution and the community of Rp 2,500,000 (two million five hundred thousand rupiah) per barge. This compensation is to be used as village income allocated for the empowerment of the *adat* institution, empowerment of *adat* community, for medicinal purposes, and scholarships. The Governor of Central Kalimantan, Agustin Teras Narang, has also instructed a halt to the operations of the special CPO barge terminal of PT Katingan Indah Utama that is used to ship the production, special terminal not having an operational permit from the Ministry of Transportation.

All of the demands and charges related by the Kabuau village community have been ignored by the company. The villagers' anger was uncontained after the waste from the CPO mill spilled and caused pollution. They then conducted a demonstration by closing the road to the CPO mill in October 2013. The company is seen to ignore and disobey government regulations.

The government itself too is seen as not transparent and did not take any actions that are its responsibility. Even though PT Katingan Indah Utama itself has admitted that there really was a waste leakage on 22 February 2013⁴² and the mill was shut down for one day to clean the spilled waste, but the government did not take any strict action. A mediation meeting was conducted in the office of PT Katingan Indah Utama mill on 8 March 2013 where people brought their demands to be given work, electricity and clean water assistance for the village as compensation for the impacts caused by the mill's waste spill into people's lands and the river. The Environmental Bureau that was present, gave ten days to the company to respond to people's demands. However, these demands were not responded to by the company until the ten days expired.⁴³ People's disappointment increased. Because when the people came to the Environmental Bureau (BLH), the BLH asked to report this problem to the *Camat* of Parenggean.⁴⁴ It is this CPO mill waste spill into the river that is the basis for people's demands until this day. The people are only demanding that the company provides clean water for the people because the water of Tualan river is felt to be unsafe for consumption.

After receiving the people's report regarding the pollution to land and water by the spilled waste of PT KIU's CPO mill, the Environmental did not conduct any checks or take samples of Taluan river water.. Even though they have come down to the village on 13 March 2013, the BLH did not take any river water sample thought to have been polluted by the waste of PT KIU's CPO mill.⁴⁵



Waste from PT KIU's palm oil mill in Kabuau village spills into the river during rainy seasons (photo: Ecosoc Institute)

The CSR fund promised by the company for Kabuau Village community, can be said to be non-existent and has never been received to this day. Some people did not protest because they work for the company so that among the village community there is the expression "wallet is in the company." In the end people cannot do anything because their lives are fully dependent on the oil palm company. In order to explain wholly what the people's lives are like after the presence of the oil palm company, it must also be explained what is the actual *plasma* scheme run by PT KIU for the people who have surrendered their lands to PT KIU.

5. Impact of Palm Oil Plantations on Human Rights

5.1 Human Rights Standards

The Human Rights that are referred to in this report are human rights that are guaranteed under international human right instruments, namely 1) the International Covenant on

⁴² Harian Radar Sampit, Kamis, 14 Maret 2013

⁴³ Harian Radar Sampit, Rabu, 3 April 2013

⁴⁴ Harian Radar Sampit, Sabtu 6 April 2013

⁴⁵ Harian Radar Sampit, Senin, 15 April 2013

Economic, Social, and Cultural Rights, 2) the International Covenant on Civil and Political Rights, and 3) ILO Conventions on fundamental rights of workers.

Indonesia has ratified two international conventions, namely, the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) and the *International Covenant on Civil and Political Rights* (ICCPR) on 30 September 2005. On 28 October 2005, the Government of Indonesia adopted ICESCR as Law Number 11 of 2005 and ICCPR as Law Number 12 of 2005.

The ratification of the two covenants has brought about consequences in the implementation of Human Rights as Indonesia has bound itself legally. In this regard, the government exercises several duties, including, *first*, to adopt the ratified agreement into law. *Second*, the duty to take actions and apply policies in exercising the duty to respect, protect, and fulfill human rights. The duty to respect means that the state may not conduct interventions that negatively affect the human rights of individuals and communities. The duty to protect means that the state must make sure that third parties (individuals or other entities – such as corporations) do not abuse human rights, must make rules to protect human rights, and give sanctions to third parties that violate human rights. The duty to fulfill means that the state must take positive action, to the maximum of its available resources, to guarantee that realisation of every individual's rights. *Third*, in regard to economic, social, and cultural rights, the government's duty to fulfill is subject to progressive realisation, and the government has an obligation to make sure that its interventions in this regards are effective.

In carrying out the obligation to protect human rights, governments are dealing with powerful corporations that have an increasingly big influence on the lives of individuals and communities. Faced with these powerful corporations, the UN Guiding Principles on Business and Human Rights asserts that the state - in this case the government - has two obligations on human rights. First, the government is obliged to protect every individual from infringement by third parties, including corporations. This obligation requires taking appropriate steps to prevent, investigate, punish, and handle violations that occur through effective policy, legislation, regulation, and justice. The government is also obliged to clearly establish provisions that make corporations respect human rights in all their operations in the state's jurisdiction. Secondly, as part of the state's responsibility to protect individuals from human right abuses by corporations, government should take appropriate measures to ensure that those affected by human rights violations by corporations can access effective remediation through judicial, administrative, legislative, and other appropriate means.

The enactment of Law Number 11 of 2005 and Law Number 12 of 2005 does not necessarily mean that Civil and Political Rights, as well as Economic, Social and Cultural Rights have been fully implemented and that the government has fulfilled its duty to respect, protect and fulfill. The ratification of international human rights instruments will never be adequate without its widespread and fundamental application in policy, programs, and the various provisions of national law, both at the national and subnational levels.

The following are details of civil and political, as well as economic, social and cultural rights.

Table 2 Civil and Political Rights that are protected by Law Number 12 of 2005

Number	Article	Civil and Political Rights
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1.	Article 6	The right to life
2.	Article 7	The right to be free from torture, cruel, inhuman or degrading treatment or punishment
3.	Article 8	The right not to be enslaved (prohibition of all forms of slavery, trading of human, and forced or compulsory labour)
4.	Article 9	The right to liberty and security of person
5.	Article 10	The right of accused and defendants
6.	Article 11	The right not to be imprisoned merely on the ground of inability to fulfill a contractual obligation
7.	Article 12	The right to liberty of movement and freedom to choose his residence
8.	Article 13	The right as an alien to not be expelled arbitrarily
9.	Article 14	The right to be equal before the courts and tribunals
10.	Article 15	The right not to be prosecuted based on retroactive law
11.	Article 16	The right to recognition before the law
12.	Article 17	The right to privacy
13.	Article 18	The right to freedom of thought, conscience and religion
14.	Article 19	The right to hold opinions without interference
15.	Article 20	The right to be free from war propaganda and racial incitement
16.	Article 21	The right of peaceful assembly
17.	Article 22	The right to freedom of association
18.	Article 23	The right to marry and form a family
19.	Article 24	The rights of the child to protection
20.	Article 25	The right and opportunity to participate in politic
21.	Article 26	The right to be free from discrimination in law
22.	Article 27	The rights for minority group

Table 3 Economic, Social and Cultural Rights prptected by to Law Number 11 of 2005

Number	Table	Economic, Social and Cultural Rights
1.	Article 3	Equal rights for men and women
2.	Article 6	The right to work
3.	Article 7	The right to have just and favourable conditions of work
4.	Article 8	The right to form trade unions
5.	Article 9	The right to social security
6.	Article 10	The right to form a family and protection for children and women
7.	Article 11	The right to adequate standard of living (food, clothing, and housing)
8.	Article 12	The right to the highest attainable standard for physical and mental health
9.	Article 13 and 14	The right to education
10.	Article 15	The cultural rights and the right to obtain benefits from the advancement of science and technology

Regarding the right to work, this report also refers to fundamental rights of workers guaranteed in the ILO convention that has been ratified by Indonesia, including: 1) Convention Number 29 regarding Abolition of Forced Labour, 2) Convention Number 87 regarding Freedom of Association and Protection of the Rights to Organise, 3) Convention Number 98 regarding Right to Organise and Collective Bargaining, 4) Convention Number 100 regarding Equal Remuneration for Men and Women, 5) Convention Number 105 regarding Abolition of All Forms of Forced Labour, 6) Convention Number 111 regarding Discrimination in Employment and Occupation, 7) Convention Number 138 regarding Minimum Age, 8) Convention Number 182 regarding Abolition of Worst Forms of Child Labour.

The assessment on the impact of oil palm industry to human rights is focused on the following:

- i. Land and right to culture
- ii. Labour rights
- iii. Health, education and proper livelihoods, including food, housing, water, and sanitation
- iv. Civil Rights: freedom of expression, the right to security of person, freedom from discrimination, and the right to participation

5.2 Impact of Oil Palm Plantation on Human Rights

5.2.1 To Land and Culture

The grabbing of land, as sources of life and culture

The direct impact of the presence and expansion of oil palm in Central Kalimantan is the loss of forest, customary/traditional land (*ulayat/adat*), marshland, farmland, paddies, and gardens of the people that are later transformed into monoculture oil palm plantations. *Adat* communities have lost their right to their *adat/ulayat* land, which they have managed communally. Many people have also lost the “ownership rights” of their farmland and gardens. In certain villages, like Mirah Kalanaman village, 75 percent of the people have lost their farmlands, with the area of between 40 to 74 percent of the total area before these lands were appropriated by oil palm plantations. The loss of arable land is the most common fact faced by people and communities around oil palm plantation areas.

Corporate grabbing of community land can happen with or without compensation, on a voluntary basis, or through coercion. The term ‘landgrabbing’ (*Pengambilalihan tanah*) is used in this report without distinguishing between cases where compensation has been given and cases where compensation has not been given, or between cases where lands have been voluntarily given to the companies, and cases where the land takeover happens by force. The reason for this is that, even those who have received compensation will eventually also face unjust conditions. Those that have received compensation feel that the value of the compensation received is less than the value of the loss of land, plants and trees. They have a weak negotiating position to demand appropriate of a scale that reflects the real value of the land as well as the productive plants growing on it. They are forced to receive the compensation set by the company. While the people or communities that give or sell their lands to companies also experience injustice: Persuaded by lofty but unkept promises and one-sided information, they will finally have to face hard conditions that do not resemble anything they were foretold. This research found no examples of local communities that

received honest and objective information about the impact of palm oil plantations would have on their life and environment. So, for these reasons, the word ‘land-grabbing’ is used. In the situations described above, people and communities faces situations where they are unable to

Case 1: Experienced land-grabbing four times

“Since 2009 I have had my land appropriated four times by oil palm plantation companies. Twice my land was taken away by PT Bangkit Usaha Mandiri (BUM), 27 hectares and another 5 hectares of rubber gardens each time. The other two landgrabs were by PT Bumi Hutan Lestari (BHL), each 4 hectares of orchard which had rubber trees and 9 hectares of ricefields. Without my knowledge, the company burned and destroyed my garden and fields. I have repeatedly lodged my protest to the company and reported to the adat institution, village government, the subdistrict, and the police to ask that my land be returned. My protests were not heeded. The company paid thugs to threaten and terrorize me. I was forced to accept a compensation of Rp 13.5 million for 27 hectares of gardens with thousands of rubber trees and Rp 20 million for 4 hectares of orchard. The 13.5 million rupiah that I got from PT BUM does not compare to the amount of money I spent to plant rubber. Just to clean the land cost me 500 thousand rupiah per hectare, not counting the cost for seedlings, planting and maintenance. It can cost 3 million rupiah for each hectare.” (Sulya, resident of Mirah Kalanaman, Katingan Tengah Subdistrict, Katingan District)

The business practice of oil palm plantations destroys the [existing/traditional] land ownership/control/management structures. Previously there were *ulayat/adat* lands controlled and managed communally, private lands, and forests. Ownership/control/management of land is now dominated by corporations. The flow of cash from corporations to communities has encouraged a growing consumerist culture and individualistic ways of living. This condition has led to a change in the way people see land management. Land that used to be managed communally has now shifted to individual management. Land that used to be a source of livelihood has now been transformed into a commodity to be bought and sold.

Corporations take over the control/management of land with various approaches. From soft ways, coaxing, making promises, bribing, partnership schemes or so-called *plasma* gardens, to using violence, such as destruction and burning of land, paying thugs, using divide-and-conquer tactics, and others. To expedite the process of landgrab, companies like to use the so-called ‘*garap slonong* strategy’, which basically is first raze and destroy people’s lands and the *ulayat* lands without the permission and knowledge of the people and communities. This way companies get twice the benefit in one go. First, it expedites the landgrab process. After the land is razed and destroyed, the people would in the end let go of their land to be taken by corporations. Second, expedites the process of compensation. Considering that their lands have already been razed and destroyed, people would in the end choose [any] compensation rather than not get paid anything. When people make demands and protest the companies’ actions, companies tend to use ‘pressure’ to stop people’s protests by various means, such as divide-and-conquer, using paid thugs, using security apparatus, and so forth. Pressure makes people frightened and in the end they would choose to surrender and give up their land to companies rather than having to constantly face individuals paid by the company.

Case 2: Promise to Give *Plasma* Not Fulfilled

“People of Ipumea village, including me, [had their] lands taken over by PT SGM oil palm company with a compensation of Rp 1.5 million per hectare. At the time the company promised to provide plasma gardens to the people who hand over their lands to the company. Plasma was to be given with an agreement, 80 percent of the proceeds for land owners, and 20 percent for the company. The company also promised that people would be employed according to ability. What the people complain about, is that to this day the promise to have plasma has not been fulfilled. Only 5 percent of people have received plasma. And even this 5 percent was not given according to promise. There is someone whose plasma is 1.8 hectares but from the proceeds of this plasma he only gets proceeds given by the company via ATM of Rp 50,000. There are even those who only get Rp 35,000. It is not clear if this amount of money is the proceeds per harvest or per month. The company gives promises to people and encourages people to give up their lands. They say, the more land they give, the more profit they can get from plasma. But after the people give up their land, the company reneges on its promises.” (Anita, Ipumea village resident, Karusen Janang sub-district [previously Dusun Tengah sub-district], Barito Timur district)

The lack of clarity in regulation regarding *plasma* implementation established by the government has turned the *plasma* partnership scheme offered by the company to the people as a new and legal *modus operandi* for landgrab. People are promised that they will get *plasma* gardens. With that, according to companies, people can get their “retirement money” or money that they obtain regularly without having to work. People are only asked to surrender their lands and after harvests the people just get the proceeds. There is no partnership agreement on paper between companies and the people/communities that the people can hold on to. In the implementation, promises of *plasma* plantations are never met or [perhaps] fulfilled but not as promised. As there is no agreement on paper, the position of the people/communities is very weak and they have no power to put forward demands when companies fail to honor their promises. Neither companies nor the government gives any transparent economic calculation to communities about the *plasma* partnership scheme and there is no economic calculation that enables communities to compare the profits economically between oil palm plantations and rubber, for instance. The companies’ interests with this *plasma* scheme is ultimately to secure additional land from the people to expand their oil palm plantations.

Case 3: Unclear Oil palm Revenue Sharing

"Since SGM started planting in 2008 and began harvesting palm oil at the end of 2012, the members of the plasma cooperative, KSU Bartim Sawit Sejahtera, have not understood exactly how the revenue from the oil palm has been distributed. Residents who surrendered their land to SGM in 2008, were deeply disappointed with the profits distributed by the oil palm companies. They only received Rp25,000 – Rp50,000 per month for land an average 4-6 hectares in size. "But the people also do not want SGM to close because the people have already lost their land and are now working on the oil palm plantations. Unfortunately the company is not concerned with the welfare of the workers.
(Winetha, resident of Murutuwu village, Paju Empat district, Barito Timur)

By securing permits from the government, the companies have full power over forests, *ulayat* land, and people's lands. Companies tend to not honor the system of control of land, regions, and natural resources of local communities. Community management area is ignored. The people and communities are considered to not have the right over individual lands and *ulayat* land because they do not have "proof" of ownership. As a result, it is not compensation that the companies give for people's lands that they take over, but '*tali kasih*' (lit. ties of love, charity). *Tali kasih* means that a company would give a sum of money to the people not because the people are entitled to compensation but merely because of the compassion of the company. Even people who clearly have certificates recognized by the law do not have their rights recognized, moreover the majority of people do not have official "proof" of land ownership. Many people do not get any compensation for the lands taken over by the companies.

Case 4: Graveyards and Transmigrant Land Are Also Taken Over

"PT SGM oil palm plantation not only razes lands and rice fields, but also people's gardens. Even new graveyards are also razed to be planted with oil palm. There is no sense of humanity at all. Those who suffer most are transmigrant communities because they do not dare speak up as they feel they are comers. Transmigrant communities here are mostly from Central Java and East Java. Their lands are in zone 2 and this land was coopted by the oil palm company in 2010. There are around 300 hectares owned by 300 transmigrant families taken over by the oil palm company. This, despite documents certifying ownership of the land. [despite the fact] that the land is ownership-right certified. There are 250 families who were forced to accept compensation of Rp 12 million. There are still 50 families who are unwilling to accept compensation and they want their lands returned. But the company ignored the demands of the people. These transmigrants have been living in Bartim since the 1970s. They now depend on the remaining lands around their house. In zone 2 there was even a school and a mosque, but they were razed by the company. These transmigrants are hurt but they are powerless because they are incomers."

(Fernandes – resident of Tampa village, Paku sub-district, Barito Timur district)



a graveyard in Luak Jawuk village taken over by a oil plam company (photo: Ecosoc Institute)

Data of the Central Kalimantan Office of the National Land Management Bureau states that 57.43 percent of Central Kalimantan residents do not have land certificates.⁴⁶ This means that the majority of Central Kalimantan people have a weak position vis-a-vis companies. Companies can use any means to take over people's lands.

It has not occurred to Indigenous people to arrange land titles up to now because in the lives of indigenous people proof of ownership is not necessary. Indigenous peoples have their own way of determining land boundaries, for example using a durian tree or other markers. Residents trust and respect each other, not interfering or quarreling with each other. All issues - including land, can be solved by customary law.

The people's positions are very weak before oil palm companies, not only the majority of them not having land ownership proof, but also because of also due to the system of pitting one against another applied by the companies. Companies use state apparatus (especially village apparatus and the police) and traditional leaders to help companies secure people's lands. They become agents of the companies in securing land, and persuade or even pressure people to be willing to surrender their land. They also find locals who can be recruited by the company to be turned into *preman* and help companies to exert 'pressure' on people who protest or reject.

In many cases, to make it easy to get consent from the communities and expedite the process of land takeover from the communities by the companies, village apparatus would approach

⁴⁶ Tabengan, 12 October 2010

and use several people acting on behalf of the extended family in the process of the issuance of a Land Certificate Letter⁴⁷ by the village apparatus. This way, some people can be easily made to surrender their family land to companies because lands that were previously owned by the family have now been transferred to individual ownership. With time, other family members would begin to state their objections after learning that their inherited lands owned collectively have been certified in the name of individuals and transferred to companies. Internal family and community conflicts then become unavoidable.

Violations of the right to culture. The loss of forests, *ulayat* land, and people's lands results in the loss of people's rights to participate in cultural activities. For *adat* communities, culture is a result of interaction between humans and other humans, plants, animals, and the land.⁴⁸ It is this relation between *adat* communities and their environment that distinguishes *adat* communities from other communities. For *adat* communities in Central Kalimantan, the forest, fields, rivers, and marshes are part of *adat* community identity. The culture of *adat* community is inherent to the presence of forest, fields, marshes, and rivers. Many people losing land at the same time also lose places for their religious rituals, the places they call as 'keramat' in the Hindu Kaharingan religion as well as their ancestral burial grounds. Land clearing for oil palm plantations does not respect the *keramat* land and ancestral graves. *Keramat* land and ancestors' graves are lost with the loss of forest and people's lands.

These two cultural artefacts, the *keramat* land and ancestral graves, are now inside oil palm plantation areas. Because oil palm companies impose a very strict security policy, people who originally had *keramat* places and ancestral graves are now prohibited from entering these places. Even if there are *keramat* places that are not destroyed and eliminated, people can no longer access those.

There is also no protection of cultural objects, such as *sandung*, *patahu*, and *sapundu*. *Sandung* is a site where the skeletal remains of Dayak people are placed after *tiwah* burial ritual. *Tiwah* is the death ritual to bring the soul to *lewu liau* (the heavens). *Sapundu* is the pole for the sacrifice ritual, especially *tiwah*. *Patahu* is the house effigy to place offerings. Local plants that are usually used in traditional rituals are also razed. There are also other violations to the right of *adat* communities to preserve and strengthen the spiritual relations with the land, the area, and other natural resources. Culturally, people have been weakened. There is no longer development of cultural activities and involvement of people in cultural activities.

Case 5: The Forest is Gone, Gone Too Are Sacred Lands

"In addition to rubber grives, I also lost 1 hectare of keramat (sacred) land that is often used for Kaharingan Hindu rituals that I have practiced since I was little. This keramat land and Kaharingan Hindu tradition is a unity. The rituals in Hindu Kaharingan require keramat land that are usually in the forest. This keramat forest is protected by the guardian of the keramat, the trees are not cut. The keramat forests that have been razed clean have now been planted with hundreds of rubber trees since the place was grabbed by the oil palm company

⁴⁷ This is different from the Land Certificate Letter (Surat Keterangan Tanah) issued by The National Land Agency

⁴⁸ A Xanthaki *Indigenous rights and the United Nations standards: Self-determination, culture and land* (2007) 204

in 2011.”

(Sulya, resident of Mirah Kalanaman village, Katingan Tengah sub-district, Katingan district)

The shifting cultivation system – *adat* communities call it the *gilir balik* (alternating/revolving) farming system (not shifting cultivation as outsiders call it) – cannot be separated from the existence of Dayak *adat* communities. Berladang activity is a cultural activity that involves collaboration and collective work among community members from clearing, burning, planting, to harvesting. Before a *ladang* is left behind for a new *ladang* in a different location, there is an *adat* rule that obligates them to first plant rubber, rattan, resin and other plants on the land that they are going to leave. Such perladangan system of the *adat* community holds ritualistic and religious values that are rich in local wisdom about maintaining the balance of ecosystem. In using the forest for *ladang*, people are not doing so as they wish. There are a number of *adat* rules that they abide by to ensure that the forest, which is part of their life, is preserved. The forest is inherent to the religious life of *adat* community. Before people clear land for *ladang*, they would conduct rituals to ask permissions from the spirits that guard the forest because they believe that the forest is the resting place for the spirits of their ancestors who keep the forest for their offspring. Even in deciding which forest location to turn into *ladang* they would conduct a ritual to seek guidance from the spirits. This way *adat* communities maintain the balance of relations between humans and nature. Those who destroy the forest and land by burning arbitrarily will be imposed *adat* sanctions, *pati pamali*, compensation or social sanctions that would shame the perpetrator of the destruction.

Adat communities can no longer engage in *berladang* as a cultural activity because forests have disappeared, along with a range of other economic activities, like hunting, gardening, fishing in rivers and marshes, and gathering forest products either together or individually. The expansion of oil palm plantations that have taken over the forest, lands, rivers, and marshes, have made *adat* communities unable to lead the way of life they have been practicing for decades, even centuries. Their access to land, forest, and natural resources, which is the basis of their culture, has disappeared.

There is no protection of their traditional knowledge taught and passed over many generations, such as medicine, weaving skills, hunting, farming, fishing, and others. The traditional knowledge to manage natural resources communally is slowly disappearing. The physical change to the environment has changed their way of life.

The loss of access of people and communities to cultural activities has fundamentally changed the economic, social, and political lives of individuals and communities. In this regard, the expansion of oil palm plantation industry has brought a new culture that has changed the people into individualists and materially oriented. Life as a community is fading. Cultural practices are disappearing, as there is no more forest, land, territory, law, institutions, traditions, rituals, systems and local education institutions, language, knowledge, medicine, and food. There is no more regular *adat* meetings regarding natural resource management. The disappearance of such regular meetings also means the disappearance of a space for dialogue and communication between members within a community. People are now boxed in groups of pro-oil palm, contra-oil palm, and the ignorant. There is no longer the tradition of cooperation, *gotong royong*, and participation that used to be so prominent in the life of communities. *Adat* institutions, laws, and values are abandoned. Individuals compete to gain profit for themselves. Today in the communities a new group has emerged

known as '*Orang Kaya Baru*' (OKB, the nouveau riche), or they who have close relations with oil palm companies and act as 'brokers' for the oil palm companies to get people's land. It is these people that oil palm companies also use to face those in the community who oppose the presence of oil palm companies. Ironically, these OKB are mostly the village leaders/apparatus and *adat* leaders (guardians) who have a great role and responsibility in the life of the community. The values and wisdoms inherited from ancestors are no longer upheld in the life of the community. As a result, conflicts within families, among people, between people and companies, between people and the government and *adat* leaders become unavoidable.

Shifting cultivation is an integral part of Dayak communities. Shifting cultivation as practiced by the indigenous people in this area does not ruin the soil because, before leaving an area, they re-sow these fields with a variety of plants, fruits, rubber, rattan, and so on. Thus former agricultural land will return to forest and then in turn be used for farming again.

Farming activities are cultural activities, involving collaboration and cooperation between people in all stages from slashing, burning, planting, to harvesting. Before a field is left and another opened in a different location there are customary provisions that require them to first plant rubber, rattan, resin and so on. The shifting indigenous community system contains values and religious rituals loaded with local wisdom related to the maintenance of ecological balance. In utilizing forests for farming, people cannot act at random. There are a number of customary rules that they obey in order to maintain the sustainability of the forest that is part of their lives. Forest is embedded in the religious life of indigenous communities. Before the people clear land for farming, they perform a ritual to ask permission from guardian spirits of the forest because they believe the forest is the dwelling place of ancestral spirits who protect the forests for their grandchildren. In determining the location of forests that will be used as fields they also perform a ritual to seek the guidance of spirits. In this way indigenous communities maintain a balance between humans and nature. Those who destroy forests and land by burning indiscriminately are punished by customary sanctions in the form of fines, replacement of loss, or social punishment.

Farming as a cultural activity cannot be done any longer by the indigenous community because the forests have disappeared. Similarly, other economic activities, such as hunting, cropping, fishing in rivers and swamps, and collecting forest products either together or individually. Expansion of palm oil plantations are taking over forests, land, rivers, and swamps, meaning that indigenous people can no longer carry on living the way they have been for hundreds of years. Their access to land, forests, and natural resources which are the basis of their culture has been lost. Those who succeed in retaining their land for farming find it difficult to access their fields because they are located in the middle of oil palm plantations.

Case 6: Unable to cultivate fields located in the middle of palm plantations

"There are community fields located in the middle of oil palm plantations. These community fields are owned by the people of Morodayung, Pematang Karau subdistrict. Residents have difficulty working in their fields because the company does not allow them to enter the plantation area even though their fields are in the middle of the oil palm plantations. "

(Fernandes – Transmigrant in Luau Jawuk village, Tamak district, East Barito regency)

There is no protection of traditional knowledge that is passed on from generation to generation, such as traditional medicines, weaving skills, hunting, farming, fishing, and so on. Traditional knowledge in communal management of natural resources is slowly disappearing. Changes in the physical environment have also changed the way people live.

Loss of access to cultural activities brings fundamental economic, social, and political changes to the individual and community. And vice versa, economic, social and political changes have brought changes in the cultural life of the community. The expansion of the oil palm industry has brought a new culture that makes people more individualistic and focussed on material things. Community life is fading. Cultural practices are diminishing, because there is no longer any forest, land, territories, laws, institutions, traditions, rituals, educational institutions and systems, languages, sciences, treatments, and local foods. There are no more regular meetings on indigenous natural resource management. The loss of the regular meetings also means the loss of a meeting space for dialogue and communication between residents in the community. Even when meetings are still held, residents who reject the presence of oil palm plantations are no longer invited. Residents are divided into those that are for and against oil palm plantations and those that don't care. The tradition of mutual cooperation, assistance and participation that used to be so important in people's lives is no longer visible.

Institutions, rules and traditional values are abandoned. Individuals compete to gain advantage for themselves. Among the members of the community there is now a group known as the 'New Rich', ie those who are closely related to the oil companies and act as 'brokers' for oil companies in obtaining community lands. They are also often used by companies to deal with residents who oppose the presence of oil palm plantations. Ironically, the New Rich are mostly leaders and village officials (ranging from local community leaders to village heads) and indigenous stakeholders, who have important roles and responsibilities in community life. Values and wisdom passed down from the ancestors are no longer important in community life. As a result, conflict within the family, between residents, between residents and companies, between citizens and the government and indigenous stakeholders become inevitable.

Case 7: Oil Palm Industry Destroys Traditional Order

"People take care of the forest, catch fish and forest animals, fell trees, collect wood and clear fields, all following the traditional rules. There are rules about all these things that have been followed for generations. But now this traditional order has been destroyed. This is felt very deeply. Usually cultural arts activities are closely related to nature and forests. We carry out rituals in the forest, large trees, and near springs. In addition to believing in God, we also believe in the existence of invisible spirits. In times of joy and sorrow as well as in strife the people always call on them for help. When they clear fields, people also hold rituals to request permission from the big trees. Now the traditional order has been lost. There is a split in the family, also in the community. Those who fight for indigenous land are threatened by local people that are close to the company. "(Mardiana, founder of Sanggar Dance "Rirung Munge", East Barito)

Conclusion. Oil palm corporations have violated the rights of citizens and communities to forests, communal land, and fields. Corporations have taken over the forest, communal land,

and fields and turned them into oil palm plantations. Forests and communal and individually owned land that have formed the identity and been a source of livelihood for individuals and communities have been transferred into the hands of corporations. Oil palm corporations do not respect and unfairly take over the rights of citizens and communities to forests, communal land, and land owned by individuals. Expropriation of land by corporations is carried out with the support of the state. Attached to land, either directly or indirectly, is the right of citizens and communities to live and sustain themselves. Violations of right to land as a source of livelihood and the basis of culture by oil palm companies and also by the government has a big impact, an important part of which is the violation of the right to culture. Land is the basis of identity and cultural activities and land confiscation is also a violation of the right to culture .

5.2.2 *to Labour Rights*

Rights that pertain to labour can be grouped into four categories⁴⁹, namely:

1. Rights that pertain to employment: right to work, right to choose work freely, right to be free from slavery, right to be free from forced labour, right to get protection in work (right to not be arbitrarily terminated)
2. Rights derived from work: right to fair working conditions (working hours, breaks, annual paid leave, and others), right to healthy and comfortable working conditions, right to fair wage, right to social security, rights of women/juvenile/children for protection in work, and others
3. Right pertaining to fair and non-discriminative treatment
4. Instrumental rights: right to association, right to organize, right to collective bargaining, right to strike.

Regarding labour, the plantation sector – oil palm plantation is without exception the sector that absorbs the most labour. In Central Kalimantan, the oil palm industry has absorbed tens and even hundreds of thousands of workers from Central Kalimantan, from the rest of Kalimantan, outside Kalimantan, as well as from outside Indonesia or foreign workers. A prominent feature in the oil palm industry in Central Kalimantan is the dominance of loose employment patterns. This can be seen in the practice of temporary daily worker (BHL) and the non-implementation of contracts even for workers who have the status of permanent employees.

Generally, workers who work in oil palm plantations are grouped into several categories/status, including, including temporary daily workers (BHL), permanent daily workers (General Working Provisions - SKU), and permanent monthly workers (staff). Temporary daily worker are non-permanent workers whose pay is determined by the number of working days. Permanent daily workers are permanent workers who are paid per day. While permanent monthly workers are permanent workers who are paid per month. There are also those who separate the category of permanent monthly workers (managers and security) with staff. Too repetitious, refer to early description.

It is not easy to obtain information regarding labour conditions in oil palm plantations in Central Kalimantan. Companies tend to be not so open or even close themselves [when solicited] about the information on their labour policies and conditions. Meanwhile, the

⁴⁹ Krzysztof Drzewicki, The Right to Work and Rights in Work, in Asbjørn Eide et.al, Economic, Social, and Cultural Rights, page 241-255

workers themselves do not have the freedom to convey information regarding working rules and conditions in their workplace. There is a concern among workers that they will get difficulties from the company if they speak to outsiders regarding labour conditions in their workplace. Even if companies provide information regarding labour policies that they apply, these policies cannot be easily confirmed with the real conditions faced by the workers, as it is not easy to gain access to speak freely with workers. In East Barito district companies were even totally unwilling to provide any information. The information was obtained by indirect means from people who have close relations with workers who work in oil palm plantations around their village. .

Case 1: Workers Do Not Have Freedom to Speak and State Opinion

“Regarding problems in plantations, there is no place to report. Where to go? When auditors come, we are prohibited from going out by the foremen or head assistants so that there is no opportunity to speak to the auditor. They say we are stupid. What do we know about speaking with auditors. However stupid we are, we know what is being spoken about, unless we’re drunk.”

(Mansyur – not a real name – temporary daily worker of PT Katingan Indah Utama)

The oil palm plantation industry relies on the role of daily workers, both temporary daily worker (BHL) and permanent daily worker (SKU). Both temporary as well as permanent daily worker work in all sectors of work, from clearing land, planting, spraying, fertilizing, trimming, harvesting, transporting to production process in factories. Aside from temporary daily worker, work in oil palm plantations also rely on the role of workers who have the status of permanent daily worker (General Working Provisions – SKU). Even though they do the same work, BHL and SKU workers have different rights. The following is the condition of labour rights implementation in oil palm plantation.

5.2.2.1 Rights Related to Work

Violations of the right to work. The presence of oil palm plantations in *adat* and transmigrant village communities has caused the loss of the right to work. On the one hand, the presence of oil palm plantations has brought new jobs for locals and comers alike. In addition to recruiting local workers, companies also recruit and bring in workers from other regions. On the other hand, oil palm companies that take over forests, lands, rivers, and marshes have also brought the impact of the loss to work for *adat* and transmigrant communities. People whose day-to-day occupation included *ladang* farming, rubber sapping, fishing, and others, now have lost their work

The right to choose work freely is not respected. The expansion of oil palm plantation industry has abused the right of people to choose work freely. The loss of forest, *ladang*, gardens, and marshes have made people unable to choose jobs freely anymore. They can no longer work as farmers like they were used to because there is no more land. They have no options anymore. The only work that they can do after their villages are surrounded by oil palm plantations is to be oil palm plantation workers. Such as what happened to the community of Kabuau village, Parenggean subdistrict, Kotawaringin Timur district, where 90 percent of the community work as oil palm plantation workers with the status of temporary

daily worker. Even though they have been working for years, their status remains temporary daily worker.

Case 2: Land Taken, Residents Forced to become Labourers in Oil Palm Plantations

"Of transmigrants in RP2 (Selawah village), 90 percent already work in Sawit Graha Manunggal (SGM) company because they no longer have any land. The land has been taken by the company." (Rata, villager from Belawa village, Paju Empat, East Barito)

Plantation workers lack protection. Workers who work in plantations, no matter their status, never sign any work agreement. Companies would unilaterally determine all of the terms and conditions and workers are forced to accept all of these terms and conditions. The lack of any work agreement makes workers vulnerable to unfair treatment, as they never know their rights with certainty. Even more so, the working conditions and the geographic isolation of plantation locations puts them away from the reach of government oversight and protection.

Oil palm companies tend to minimise their responsibility over workers by applying a loose employment system through the practice of temporary daily worker. With the status of temporary daily worker, workers do not get protection in their work. Companies can easily cut off working relations when companies no longer need their labour or if the company unilaterally would deem them as 'disloyal' to the company and 'in violation of company rules'. Job security, therefore, is not guaranteed. In order for workers to remain employed, they must meet all of the terms and conditions required unilaterally by the company and carry on despite the bad working conditions.

Case 3: Workers are not aware of their status as casual/day labourers

"I have only worked here one and a half years and I've arranged the funerals of eight labourers from KDP company; two workers and six workers' children. They died due to illness and did not get adequate treatment. They were day labourers. They did not know this even though they had worked for more than a year at KDP. The workers only found out they were casual when their children died and they asked for help from the company to bring their bodies to the village. The company only gave Rp 250 thousand with the excuse that they were casual workers."

(Father Dominikus, Telok parish, Katingan Tenga, Katingan regency)



Photo: a oil palm plantation worker with status as 'day labourer' died due to disease and lack of proper treatment. Hard working conditions, and bad quality of food and lodging makes workers susceptible to diseases, and those workers who become ill do not have access to proper medical services. (photo: Ecosoc Institute)

Workers potentially face forced labour. ILO Convention refers to forced labour as all work or services conducted involuntarily or under threat of punishment. The employment practice of temporary daily worker applied widely in the oil palm plantation industry potentially undermines the right of workers to be free from forced labour. With the status of temporary daily worker, they only receive wages and extras, such as rice and premium. Wages and extras are obtained when workers show up for work. When they are sick, unable to work or take leave, they do not get paid. Forced labour happens when workers are forced to work to get additional pay whereas actually they do not want it or are unable to do it. [sic] Female workers who are having periods, for instance, although they do not want to come in to work they still force themselves to show up so they can get paid. Similarly with pregnant female workers, forcing themselves to work to get paid, because with the status of temporary daily worker they do not get days off for menstrual periods and maternal leave.

The isolated geographic condition of plantations presents a greater opportunity for companies to apply the forced labour system without any oversight, as does the abundance of temporary daily worker coming from poor regions like NTT, NTB, and others. The temporary daily worker that come from these regions are fully dependent for their livelihood on companies. No matter how bad their working conditions, workers persevere for years as temporary daily worker in bad working conditions to earn a living.

The potential for the loss of the right to work free from forced labour becomes greater when the only job opportunity in the region depends solely on the presence of plantation companies and the isolated geographic condition of the oil palm plantations. As workers they do not have other job alternatives but to be temporary daily worker with a low wage willing to take any occupational risk. Conversely, for the businesses such geographic conditions are clearly advantageous because the supply of manpower will remain cheap and abundant, so the businesses continue to strengthen their position to dictate the working agreements with their workers. This is proven by the lack of written work contract agreed and signed by workers and the companies.

5.2.2.2 Rights Derived from Work

Workers face bad/unfair working conditions. Companies set 7 hours of work per day for daily workers – both temporary and permanent daily. Companies also set additional working hours (overtime) and premium (bonus) for workers who achieve a certain working target. In order to get additional pay, daily workers have to work overtime up to 4 hours a day. Workers who do harvesting and transporting work, for instance, tend to exceed working hours to achieve targets in order to get their premiums (additional pay). The system of work and pay that companies apply ultimately becomes a means to force workers to work up to 11 hours a day and bear a high workload leading to an increased risk of job accidents just to earn additional pay.

Working hours that prevail in the plantation sector do not consider the different working conditions. The [normal] working hours for workers in oil palm plantations are 7 hours per day. Working 7 hours per day in plantation is certainly different from the work in the manufacturing industry sector. In this regard, workers in the plantation sector are disadvantaged because in the manufacturing industry sector workers work in relatively comfortable conditions, sheltered from the heat of the sun, cold weather, and the high risks of job accidents. Whereas in oil palm plantations the workers are vulnerable to heat from the sun during dry seasons and cold weather during rainy seasons as well as difficult terrain, shrubs and certainly all this affects the body's fitness during work. The determination of working hours that does not consider working conditions clearly disadvantages plantation workers.

Temporary daily workers are not entitled to paid sick leave or paid maternal leave. Permanent daily workers can still get paid with a permission of their foremen and a sick letter from the medical staff at the company's polyclinics. When permanent daily worker's absence exceeds the number of days allowed, their wage will be cut according to the number of days they do not come to work without permission.

Neither temporary daily workers nor permanent daily workers get their leave entitlements of 12 days per year. When permanent daily workers take their leave, they will not be paid their wage or will be temporarily terminated. When they return to work, companies will still take them.

High occupational risk, low health and job safety safeguards. Workers in oil palm plantations conduct high risk work, due to work accidents as well as illness. Most high-risk are harvesting, land clearing, pesticide spraying and fertilizing. Frequent work accidents among oil palm plantation workers include damages done by falling palm leaves and fruits, exposure of eyes to pollen or palmoil fruit bunches, snake bites, exposure to and inhalation of chemical toxins, and others. These types of accidents can lead to bodily injury or physical

disability such as blindness, and even death. High oil palm trees, bushes and uneven surfaces increase the risk for job accidents faced by workers.

The companies' attention to health conditions and work safety is seen as inadequate. Various work accidents take place in oil palm plantations because the company tends to neglect the health and safety of its workers. This is indicated by several conditions, as follows: 1) lack of socialization by the company regarding health risks and work safety causing low awareness among workers about health and work safety – as seen, for example, workers spray without masks, 2) companies rarely or never train workers to be skilled in maintaining health and work safety, 3) minimal supporting health and work safety facilities/equipment provided by the company, 4) low wages encourage workers to seek premium (additional pay) causing them to ignore the health and work safety aspect, 5) high work load is not balanced by quality food.

Many workers in Sawit Graha Manunggal, for example, many of whom are local residents, have been dismissed because they were considered unable to work or quit themselves because they could not endure working in the plantations. According to them, working in the plantations is very hard work and there is a high risk of accidents. The company does not supply the workers with occupational health and safety equipment.

Case 4: Workers must pay treatment costs for work-related accidents

"In terms of safety and security, it is hard working in the plantations. Workers are without shoes and face masks. Workers are often sick, they are also vulnerable to attack by bees. If they are sick, they have to pay out of their own money. Workers who are sick treat themselves with whatever they have because they can not afford treatment. There was a migrant worker in the oil palm plantation owned by SGM who was attacked by bees over his entire body. He received almost no help. Since the local hospital could not help, he was rushed to hospital in South Kalimantan. Before his treatment was finished, the worker was forced to return home because he was unable to pay. The company was not willing to bear the hospital costs. After that the company let him go. The company gave him only Rp300 thousand. Although he has already been laid off, the workers are still too afraid to talk about his case. Workers are not open when questioned about their work in the plantation. They worry about getting into trouble/being fired by the company. (Mardiana, hospital staff, resident of Sarapat village, Dusun Timur district, East Barito)

Health and work safety facilities provided by companies are seen as lacking. Workers only get health and safety equipment when they first start working. After that workers must provide for themselves this equipment. Workers say that the safety equipment provided by the company when they work for the first time can only be used for one year. Even though workers have already been working for several years and the equipment provided by the companies is damaged, the companies will still not provide health and safety equipment. As a

result, many workers work without work safety equipment, such as boots, gloves, masks, helmets, uniforms, and so forth.

The occupational hazard of plantation workers are even higher with an increase in cobra population – either due to natural growth as a result of forest clearing or intentionally disseminated by companies to eradicate rats. The abundance of cobras in plantations is a ‘public secret’ in oil palm plantations. In Kotawaringin Timur and Katingan districts, for instance, workers say that companies intentionally spread cobras to eradicate rats. Companies dismiss this notion. In Kotawaringin Timur, cobras even have entered into people’s homes. The origin of cobras is still a matter of debate. The government to this day has not determined whether these cobras are local species or have been brought from outside.

Case 5: Cobras in the Plantation

"Seeing a cobra, passing a cobra, is not an uncommon experience for workers. There was even a worker from NTT who was bitten by a baby cobra on his eye when he was cutting palm branches. This worker was immediately rushed to Palangkaraya hospital. "(NN - name withheld – worker in Karya Dewi Putra company)

"True, they release a lot of cobras in company plantations to get rid of the rats."
(NN - name withheld - worker Katingan PT Indah Utama company)

Working conditions that do not guarantee the health and safety of workers can also be seen from housing facilities that are unfit, availability of clean water that is inadequate, and the quality of food whose nutrition quality is low. Workers live in shabby and holed barracks, without adequate water. Water provided by companies is hardly enough to meet the needs. As a result, workers use river water that may not be fit for bathing and washing. In terms of food, companies do indeed provide rice, but they do not guarantee the availability of vegetables and protein. As a result, the quality of food of workers has a low nutritional value. The work load and long working hours not supported by quality food will weaken the resilience of workers. According to records of medical staff at company polyclinics, the illnesses suffered by workers — are mostly illnesses caused by the low nutritional quality of the food. Workers tend to consume instant noodles and energy drinks.

Low wages and a wage system that press workers to work overtime

Companies apply a wage system based on the number of hours per day and a bonus that is determined by the amount of overtime or certain target achievements, such as what applies for harvest and transportation workers. With such wage system daily workers are forced to work long hours, with a heavy workload and strict under supervision.

Daily workers – both temporary and permanent – who work at PT Karya Dewi Putra, for instance, get Rp 48,000 per day if they work 7 hours per day. If a worker does 4 additional hours per day, that worker gets an additional Rp 24,000. If the worker wants to earn Rp 72,000 per day, then he must be willing to work 11 hours per day. But not all workers are able to work overtime, because according to them, it is very demanding to work in the plantation. In addition to the wage, workers also get rice allowance. Temporary daily worker,

they do not get paid when they do not work. Whereas for permanent daily worker, if they do not work with a reason that is acceptable to the company, they still get paid but without the rice allowance.

For workers who do the harvesting wages are paid based on targets. In one working day they will get Rp65 thousand if they succeed in harvesting 120 bunches or jonjong with the proviso that there are no green palm fruits and palm fruits that fall are collected. If the workers manage to harvest more than the target they are paid Rp400 per palm fruit bunch.

The wage of regular daily workers are still not that much different from that of temporary daily workers. Permanent daily worker are subject to cuts to pay for social insurance (Jamsostek). Permanent daily worker who work to transport the harvest, for instance, get paid Rp 55,000 per day (inclusive of cuts to pay social insurance) with premium. Premiums are calculated based on the amount of harvest transported. The more oil palm fruit carried, the higher the premium. Without cuts to pay for social insurance, the daily workers will still earn a higher wage. Daily workers who hold Jamsostek cards must pay Rp 160,000 per month, where Rp 140,000 is paid by the company and Rp 20,000 is paid by the worker cut from their monthly wage.

A different condition is experienced by workers working at PT KIU. The majority of Kabauu village residents who work as temporary daily worker at PT KIU work only 12 – 14 days each month, paid Rp 68,000 per day. Whereas workers who do harvest get Rp 72,000 per day with additional rice allowance given as money in the amount of Rp 3,000. After this and that [sic] cut by the company, the workers get Rp 70,000 per day. Workers do not know what cuts are applied by the company.

The wage amount of workers at PT Karya Dewi Putra (KDP) is below the minimum wage set by the government. Workers must work overtime in order to get higher pay than the minimum wage. Whereas the wage PT Katingan Indah Utama (KIU) workers is slightly higher than the minimum wage. The minimum wage set by the government in 2013 is Rp 1,608,340 per month (or Rp 64,000 per day) for Kotawaringin Timur district, Rp 1,553,127 per month (or Rp 62,125 per day) for Katingan and Barito Timur districts. Even if the workers wage meets or is slightly higher than the minimum wage, this wage still cannot meet the minimum *kebutuhan hidup layak* – especially for workers with family. People in Parenggean subdistrict, Kotawaringin Timur, say that in order to meet their minimum daily needs workers must earn at least Rp 75,000 – 80,000 per day.

The low wage of oil palm plantation workers is even more strongly felt when workers must also pay for their own food when they work. Companies do not provide food for workers during working hours. Food and drink needs are borne by the workers themselves. PT KDP, for instance, only provide a 15-kg rice allowance for all workers every month. This means that in one day each worker gets 0.6 kg of rice. For workers with family, the allowance is 30 – 35kg per month depending on the number of dependents, with a provision of a maximum of 2 children. Rice allowance for daily workers – either temporary or permanent – is only given when they come to work. Workers who do not come to work have their rice allowance cut. Meanwhile, PT KIU only provides rice allowance for workers who do harvest work. This rice allowance is given in the form of money, Rp 3,000 per day.

Oil palm companies operating in East Barito regency allegedly pay a lower wage than in Katingan and Kotawaringin East. However oil companies operating in East Barito regency

(Sawit Graha Manunggal company) did not respond to a request for an interview. Villagers who know about the conditions of workers in SGM said that workers were poorly paid. Minimum wage in Bartim regency is Rp1,553,127, which means a casual worker who works 25 working days is paid Rp 62,125.

Case 6: Five Years with the Company Still a Low-Paid Day Laborer

“SGM recruits people through their own means, not through the Labor Office. As long as people work as laborers, the company rules are arbitrary. They define the rules however they please. Five years with the company, and still a day laborer. Labor wages are also not clear. Day laborers are paid Rp50 thousand a day, working from seven in the morning to two in the afternoon. The permanent workers only get 30 thousand because there are a lot of deductions (rice, health insurance, etc).” Roslina, Murutiwu village, Paju Empat district, East Barito)

Temporary daily workers do not get social security. Oil palm plantation workers bears a high risk for work accidents. As a result, temporary daily workers often become victims of work accidents. The majority of temporary daily workers do not get any social insurance for work accidents. When even for work accidents they are not insured, what is there to say about old-age insurance, life insurance, and healthcare insurance.

For temporary daily workers, PT KDP only provides polyclinic facilities that serves all workers, including temporary daily workers. However, the service quality is deemed inadequate by workers. When the polyclinics are unable to provide service, either due to lack of medicine or equipment or the medical staff being unable to give help, temporary daily workers must then pay for their own medication or in-patient care in clinics outside of the plantations. For permanent workers – both daily or monthly – the cost of treatment and in-patient care conducted outside of plantation clinics is borne by the company. For temporary daily workers who earn very little, it is certainly difficult if they must pay themselves the medication and inpatient care outside of the [plantation] clinics.

The quality of social insurance provided by companies is also very low. PT KDP, for instance, registers their permanent daily worker and monthly workers including its foremen, plantation assistants, and office staff with PT Asuransi JAMSOSTEK (*Jaminan Sosial Tenaga Kerja*). However, the participation in Jamsostek does not include health maintenance insurance (JPK), life insurance and pensions. This is proven by the fact that daily workers as well as CSR staff only hold their Jamsostek membership cards without their health maintenance cards. PT KDP registers its permanent daily worker and staff with Jamsostek under the category Construction Service Worker Enrollment (HBK JK), which is valid only for temporary daily workers. This proves that the company is evading its responsibility to provide social insurance to its workers. Permanent daily workers are provided with insurance for the temporary daily worker category, while temporary daily workers do not get any social insurance at all.

According to PT KDP, health maintenance insurance and work accident insurance for *buruh tetap* – both daily or monthly – are fulfilled by providing a polyclinic inside the plantation. Such polyclinics are provided in every estate and can be accessed freely also by temporary

daily worker. It is just that when polyclinics refer workers to seek treatment in health facilities outside of the plantation or [if they] must be treated in hospitals, the temporary daily worker must pay for their own treatment. As for permanent daily worker – both daily or monthly – their costs are borne by companies.

Case 7: Casual Workers do not have Social Security

"There was a casual worker who died on the plantation. His body was returned to his village, Atambua, in NTT. The company bore the costs of returning the body to Atambua. There was no obligation for the company to pay because the worker was a casual laborer. But the company payed on humanitarian grounds. "

(Neo Piudian, CSR staff KDP company)

Female workers have minimal protection and do not get menstruation and maternity leave. Around 30 percent of oil palm plantation workers are women. Almost all female workers are homemakers whose husbands also work in the same plantation. Female workers usually work in spraying and fertilizing department – work that poses high risks for health and safety due to direct exposure to chemicals. They do this work without protective masks. They only use cloth to cover their heads and faces. The companies say that they have provided them with masks, it is just that the workers themselves do not want to wear them. The companies also say they provide milk and mung beans porridge specifically for women who do fertilizing and spraying work. However, this information from the company cannot be confirmed by the workers. The companies do not give access to outsiders to meet directly with workers.

In regard to working hours and wages, female workers work under the same working hours, and the same working and wage system. Female workers who are 3-9 months pregnant or 20 days before they are due still actively work in plantations. Female workers with the status of temporary daily workers in particular do not want to lose their earnings. They continue to work even during pregnancy. The companies in such cases let pregnant workers do activities that have risk.

Female workers with the temporary daily status are not entitled to menstrual and maternal leave. Companies allow them to not work during menstruation or when they give birth, it is just that they do not get paid. Female workers with the status of permanent daily are still better off. They have the right to menstrual leave for one day of work, and a 40-day maternity leave beginning 20 days before giving birth and 20 days after. If the worker in question leaves work for more than the allowed 20 days, her wage will be cut in proportion to the number of days she does not come to work.

Facilities provided by companies for workers and their family. Oil palm companies provide a range of facilities for their workers and families. PT KDP, for instance, provides the following facilities: 1) housing for workers and their families, 2) electricity, 3) daycare for children (TPA), 4) Primary School on estate premises complete with school buses for worker children, 5) sports facilities, 6) places of worship, 7) health clinics with medical personnel, midwives and nurses. While PT KIU provides the following facilities for workers and their families: 1) school bus for workers' children, 2) housing for workers and their

families, and estate polyclinic, in addition to paying the honoraria of school security guards, school renovation, and furniture.

Facilities provided by the companies are still inadequate compared with the thousands of workers employed and the basic physical needs of workers and their families. The limited services provided by the companies make it difficult for workers to access these services. The polyclinic provided by PT KDP, for instance, does not provide *posyandu* (lit. Integrated Service Post, a national program comprising of a 5-step service for mothers, babies and infants held monthly) for babies and infants, no immunization, transportation facilities to transport sick workers are limited, no doctors, limited medicine, and the location is far away from where workers live. As a result, no small number of women give birth at home and their health and safety is not guaranteed. Polyclinics are also unable to provide service to workers with serious illnesses. As a result, workers – especially temporary daily worker must pay for relatively expensive treatment outside of plantation clinics.

The condition of the polyclinic provided by PT KIU is far more dire than the quality of its service. Workers felt it is useless or there is no benefit to using the plantation clinic's services because the plantation polyclinic will refer them to *Puskesmas* ([government] community health clinics) or hospitals anyway. In the end, workers would opt to seek independent treatment to *Puskesmas* even though the cost is expensive.

The housing for workers is also seen as inadequate in terms of its physical condition and availability of clean water. Those workers who use the river water inside the plantations for bathing and washing contract skin diseases and itching. The availability of quality food for workers and their families is also minimal. The availability of vegetables depends on vegetable vendors who very rarely come into plantation locations – especially during rainy season. Meanwhile, companies do not allow workers to plant vegetables around their houses to meet their vegetable needs. Workers consume a lot of instant noodles and energy drinks that have low nutritional content.

Companies, like PT KDP, provide schools for children of workers. This school facility is also seen as inadequate considering the thousands of workers and housing locations that are spread across several estates. Text books are not available, guidebooks for teachers are incomplete, school locations are very far from where workers live, and school buses are unable to reach all children. Time for school is also limited as children must travel long distances (2-3 hours) due to remote locations and difficult terrain. The transportation being limited, a good number of children are forced to ride along with oil palm trucks that do not guarantee child safety. Regarding education for children of workers, PT KIU does not provide schools for workers' children. The company only provides school buses for workers' children who live within plantation premises.

PT KDP also provides daycare facility for children. According to information from PT KDP workers are not solicited fees. Whereas some workers attest that they pay Rp 15,000 per child per day. This clearly adds to the expense of workers whose wage is already low. PT KIU does not provide and child care facility. Only some of PT KIU workers live inside the plantations.

PT KDP company also provides places of worship, one mosque and one church that are used in turns by Protestant and Catholic Christians. According to workers, this church is rarely used because the location is too far and can only accommodate 80 people. Meanwhile, there are

thousands of workers who are Christians. They use the daycare court to conduct their worship.

5.2.2.3 Rights Pertaining to Fair and Non-Discriminatory Treatment

The policy of oil palm plantation companies who apply a loose working relationship through the practice of hiring temporary daily workers narrows the opportunity to fulfill the rights of workers to obtain fair and non-discriminatory treatment. With the temporary daily worker system applied widely companies intentionally minimise their responsibility for workers. It is evident that companies tend to let workers work for years in plantations with the status of temporary daily worker. There is little opportunity for workers to improve their status into permanent daily worker, because the promotion of status from temporary daily worker to a full permanent daily worker is in the hands of the company.

Temporary daily workers at PT KDP, for instance, work 7 hours per day and 25 days per month continually. Many of them have even been working as temporary workers for more than 1 year. According to PT KDP, the promotion of temporary daily worker into permanent daily worker [is] based on the worker's performance. However, the performance meant by PT KDP is not followed with an explanation regarding indicators used to judge the performance of temporary daily workers.

The workers explain that the status promotion from temporary daily worker to regular daily worker does not use a clear and transparent mechanism. Every temporary daily worker is treated differently even though the working period is the same. The workers see that the promotion from temporary daily worker to permanent daily worker depends on several factors. *First*, closeness of the worker with the foremen/assistance. *Second*, workers coming from the same ethnic background with the foreman/assistance. *Third*, workers seen as hardworking, diligent and rarely protesting to the foreman/assistant. Most temporary daily workers have no hope to be promoted into permanent daily worker. The bad working situation and conditions in the company also discourage workers from protesting to the company, what is important for temporary daily worker is that they do not lose their jobs.

Discrimination also often occurs between temporary daily worker and permanent daily worker. Even though they do the same work, same working hours and days, and same working period, and face the same risks of work accidents, they get different treatment from the company. Workers with permanent daily status have more rights than temporary daily workers. They at least get social security, right to vacations and right to not come to work due to sickness and still get paid. While temporary daily workers must bear the risks of getting sick and accidents themselves and do not have the right to get sick, menstruation or get pregnant. [sic] Because if they do not show up for work due to illness, periods or pregnancy, they will not get paid. Temporary daily workers also do not get religious holiday allowance (THR) as determined by the government.

5.2.2.4 Instrumental Rights

Workers do not have the freedom to organize and associate. In oil palm plantation sector in order to freely speak about the rights to associate, organize, and collective bargaining, and even more so the right to strike. How can workers organize and associate of the freedom of

workers to speak and state opinions are not guaranteed. Even though the companies say that they fully guarantee the rights of workers to associate and organize but in practice these rights are difficult to realise. It is proven, for instance, that PT KIU did not give access for workers to speak to auditors who visit plantations. Similarly with PT KDP who did not give access for workers to speak openly to outside parties. Plantation companies in Barito Timur district even never responded to requests for interview. The concern about facing problems with the company if they speak about their working conditions in oil palm plantation companies and to outside parties is the common condition faced by workers at oil palm plantations.

Case 8: The Company does not Prohibit the Existence of Trade Unions, but.....

"The company does not prohibit workers from establishing labor unions, but workers feel the company will take a firm stance against workers considered to be "causing problems". There are several organizations established by workers, but these are based on regions, such as Flores family ties, Timorese extended families, Javanese or Batak trade unions. These regional organizations are more about solidarity for workers. Even these regional organizations are monitored by the company. "(NN - name withheld – worker Karya Dewi Putra company)

Conclusion. Capital and labor-intensive oil palm industries have led to job opportunities for people in Central Kalimantan and also those from outside. But oil palm corporations run their business with no respect for the rights of citizens and also the rights of workers who they employ. Companies tend to minimize their responsibility to workers' rights by implementing a lax labor relations system in the form of casual labor practices and wage systems based on forced labor: low wages, long working hours/target system, heavy workload and risk without social security, and under tight surveillance. Labor right violations by corporations are made possible because of the absence of monitoring by the government on labor conditions and corporate policies in the field of employment.

5.2.3 Regarding the Right to Health, Education, and Proper Livelihood

5.2.3.1 The right to health

In terms of international agreements on the right to health set forth in the Covenant on Economic, Social, and Cultural Rights, elements of the right to health can be divided into two categories, namely: 1) elements related to health care (including preventive and curative care), and 2) elements associated with a number of basic prerequisites for health, such as clean drinking water, adequate sanitation, adequate nutrition, health-related information, environmental health, and health in the workplace. The right to health has economic and social characteristics because in the fulfillment of this right, as much as possible, the individual must be guarded from social and economic inequities with regard to health. Furthermore, it has cultural characteristics because in the fulfillment of this right there must be an attempt to ensure health-services provided are sufficiently adjusted for the cultural background of individuals.

WHO formulated the substance of the right to health as follows. First, regarding health care:

- pregnancy and child health care, including family planning
- Immunization against major infectious diseases
- Adequate treatment for common illnesses and injuries
- Supply of essential drugs

Second, regarding the basic prerequisites for health:

- Education about common health problems and the methods of prevention and monitoring of health problems
- Increased food supply and proper nutrition
- Supply of clean water and adequate sanitation

Water pollution increases susceptibility to disease. The oil palm industry has a devastating impact on the health of individuals and communities, both indigenous and migrant communities that are around the palm plantations. The intensity and extent of the impact depends on the proximity of settlements to the oil palm plantations. The closer settlements are to the plantations, the more severe the risk is to the individual and society. Clearing of forests and trees in residents' fields, destruction of swamps and creeks, changes in farming systems from the planting of diverse vegetation to monocultures dominated by oil palm, the establishment of oil palm processing plants has changed the landscape and ecological balance. These changes have had an impact on climate change, water availability, the kinds of infectious diseases prevalent, public access to diverse food, and public access to materials for traditional medicines and health care.

After the oil palm companies began operating extensively, a change felt directly by the people was the reduction or loss of availability of fresh water due to pollution of rivers and creeks, swamp closures, and massive deforestation. Rivers, creeks, and swamps are a source of clean water for consumption and for bathing, washing and sanitary needs, while the forest guards the water balance. Shortly after oil palm plantations began operations, residents found the river water became turbid, dried up during the dry season and suddenly overflowed in the rainy season. Previously the river and creeks were clear and could be directly consumed by citizens. Clean water was available in abundance, both during the dry and rainy season. Residents used the river for bathing and washing without any problems. Now the river water can no longer be used for consumption purposes and for sanitary needs due to the chemicals and sludge from oil palm plantations. Pollution is worsening with the establishment of oil palm processing plants. River water is not only murky but has become black and smelly with dead fish floating in it that attract the flies.



a clean river, used for bathing, in Delang village, Lamandau district (photo: Ecosoc Institute)



A river in Murutuwu, East Barito, used for bathing and daily hygiene by the local population, that is now polluted (photo: Ecosoc Institute)

Case 1: Rivers Contaminated, Flooding, and Mud Everywhere

"Almost all the rivers on the edges of the oil palm plantation have changed colour, stink, and have dead fish and flies. These small streams then flow into major rivers and empty into the Katingan river. In the last three years since the oil processing plant began operating, the river has become polluted. The river water changed to blackish brown."(Sepia Suping, resident of Tumbang Marak village, Central Katingan district, Katingan)

"Since the oil palm started, it has effected water supplies. Water has dried up in the dry season and become dirty. While, after the rains, there is flooding and mud everywhere. "
(Rata, resident of Belawah village, East Barito)

Residents who are economically capable make boreholes and obtain clean water from the ground or buy bottled water for consumption purposes. People who are economically limited find it increasingly difficult to access clean water. They collect rainwater for consumption needs or are forced to continue using the river water, cooking and filtering it first. The majority of residents still use river water for sanitary purposes even when they already have wells. Problems arise in the dry season when the creeks dry up, there is no rain, and the water supply is reduced. Some people have to travel long distances to fetch water from neighboring villages for consumption purposes.

Use of river water for bathing is not just about meeting physical needs but is also part of tradition. Indigenous people can not be separated from the river because the river is part of their daily lives. The river is a means of communication between people. While bathing and washing the people chat and the river comes alive with activity. Bathing in the river is also a means of recreation for residents. That is why it is difficult for them to leave the river even when the river is polluted. In addition, the supply of clean water by the government through the installation of tapped water systems in the villages and the construction of wells has been very minimal. Residents have no choice but to use river water to meet their needs for clean water.

The use of polluted river water for consumption has not yet had a visible impact. However, those who use the river water for bathing have felt an immediate impact. They suffer from itchy skin diseases and prolonged illnesses.

Case 2: Suffering Prolonged Itchiness after Bathing in the River

"The itching started when I bathed frequently in the river at the edge of the palm plantations. Coming home from the field I took a bath in the river because there was no longer any other source of water that could be used for bathing. Two days later, my whole body felt itchy. Especially my legs, calves, hips and back. I thought the itching would go away, but it continued. I've been to the clinic for treatment many times. I was given antibiotics and ointment, but the itching over my whole body hasn't gone away.

Since the itching started, every night I find it difficult to sleep. My whole body feels itchy. I can no longer work like I used to. It continually disturbs me. When my body feels really itchy, I pat on some powder. The itching goes away for a bit, but when the powder is gone the itching comes back. Look at my body, it's a mess. More than a year I've had this itch. "(Sepia

Suping, resident of Tumbang Marak village, Central Katingan district, Katingan)

(note: when interviewed, Suping kept scratching his body, his feet, legs, face, and back. Dark patches were evident on his skin. The skin on his feet, legs, and back was peeling.)

Environmental degradation and the decline in the availability and quality of water have hampered and even eliminated residents' access to clean water. Residents' right to clean water and the right to health has been limited/violated.



Photo: skin diseases suffered by children of the workers in PT KDP in Katingan, as a result of bathing in a polluted tributary river (photo: Ecosoc Institute)

Flooding and air pollution increases the risk of illness. Clearing of forests and fields, and the filling in of creeks/swamps has brought increasing vulnerability to flooding in the rainy season and drought and air pollution in the dry season. In the rainy season, especially in Katingan and East Kotawaringin, residents face flooding and waterlogging problems that disrupt economic activity and lead to a variety of diseases such as diarrhea, respiratory infections, malaria, skin diseases, and so on. This is exacerbated by the increased number of flies swarming over the waste from factory and palm plantations. In the dry season water availability is reduced, so the air is hot and full of pollution from rising dust and smoke. These conditions also increase the vulnerability of people to diseases such as respiratory infections and other health problems. In nearly all plantation sites, residents can no longer

travel far on a motorbike without a mask or in cars without air conditioning. Thick smoke and dust make it difficult to breathe.

In long dry seasons fires used in the oil palm plantations to clear land often cause heavy smoke that is detrimental to health. In Kabuau village, Parenggean district, Kotawaringin East, for example, the people have become vulnerable to disease since the palm oil processing plant began operating. They realized this after many people began suffering from new types of disease that did not previously exist. Various types of diseases have been recorded including respiratory infections, skin allergies, coughs, colds, high uric acid and cholesterol, anemia, ulcers, and toothaches. It may not be that all these illnesses are directly caused by the presence of oil processing plants. However, what is clear, is the palm oil processing plant which is located very close to residential areas has been polluting the river and adding to the number of flies swarming around factory waste. Massive deforestation has also allegedly caused an increase in the incidence of malaria due to the growing population of mosquitoes breeding in the bushes springing up after deforestation, climate change, and the increase in stagnant water. The declining quality of the environment has increased peoples' risk of disease. Hence, citizens' right to health has been lost.



Left: dust among the road in the palm oil plantation area (photo: Ecosoc Institute)

Right: flooding in East Kotawaringan (photo: Ecosoc Institute)

Loss of access to traditional medicines. The clearing of forests and residents' fields has eliminated their access to ingredients of traditional medicines derived from roots, stems, leaves, honey, and so on. The Dayak indigenous people are known as a gatherer society who produce traditional medicines both for healing and maintenance of health. That is why they used to drink river water directly without boiling it first because they believed that river water is full of roots and leaves that have a medicinal function. Local medical personnel use traditional medicine integrated with modern medicine. Because, according to them, there are many diseases that cannot be treated with modern medicine but can be cured with traditional medicine derived from the forest. When someone is bitten by a snake, for example, there are forest leaves that can quickly suck up or neutralize snake venom. Similarly, when a bone is broken, they pluck branches from a certain plant species to treat fractures. With this medicine, bones can heal without the need for surgery. There are many forest plants that have healing and healthcare properties. In addition, residents also commonly consume wild honey that they can easily get out of the big trees existing in the forest. The loss of medicinal plants and honey will force people to rely on medicines and modern health services for healthcare and

treatment of diseases. In this way, the right of citizens to health has been limited or even eliminated.



pasak bumi, a root used in traditional medicine, in the customary forest in Siong village, Paju subdistrict, East Barito district(photo: Ecosoc Institute)

The loss of citizens' access to nutritious food. Clearing of forests and fields, river pollution, filling in of swamps, and so on for oil palm plantations has resulted in loss of access to food diversity that allows people to eat nutritious foods. Residents are no longer easily able to get protein from fish and crustaceans from the river and animals from the forest/farms; no longer able to get a variety of fresh vegetables from the forest/farms; no longer able to get fruits from the forest/farms. To obtain all these things now they have to buy them from the market at a price that is no longer cheap. Economic limitations also reduce their access to nutritious foods. The lack of nutritious food coupled with declining air and water quality increases the incidence of disease and the emergence of new diseases, making communities around oil palm plantations susceptible to disease.



village garden that has been cleared and planted with oil palm in East Kotawaringan (photo: Ecosoc Institute)

Residents who work in oil palm plantations also face working conditions that do not meet workers' right to health. Working conditions do not ensure the health and safety of workers. Workers are at risk of illness and accidents in the workplace, while health supplies and work safety is inadequate. Health risks increase when dwelling places and clean water availability do not meet health requirements and there is limited access to nutritious food.



residents of Pulau Patai in East Barito, an area still untouched by oil palm, can easily get fish from rivers and marshlands (photo: Ecosoc Institute)

Conclusion. Expansion of the oil palm industry has damaged and worsened the quality of the environment, including water, air, and land/residents housing. Expansion of the oil palm industry has also eliminated food sources making it difficult for citizens to obtain diverse and nutritious food. Expansion of the oil palm industry has also eliminated the variety of

ingredients in traditional medicines for healing and healthcare. The decline in the quality of the environment - including water, air, and soil, loss of variety in food and traditional medicines, indicate a violation of the right to water and health, both by oil palm companies and the government.

5.2.3.2 The Right to Education

Aside from creating employment opportunities, palm plantation companies operating in the Districts of East Barito, Katingan, and East Kotawaringin, provide assistance to residents and workers in the area of education. Residents explained that PT. Sawit Graha Manunggal (PT. SGM), operating in East Barito District, helps by providing a school shuttle bus service for children of transmigrant families in the village of Luau Jawuk who study outside the village. The existence of this shuttle bus helps these children to continue their studies at the junior high school in the Sub-district's main town. In the transmigrant village of Luau Jawuk, there is only an elementary school and to continue at junior high school, the children must attend school in the main town in the Sub-district. PT. SGM also provides school buses for the children in the village of Sarapat who attend junior and senior high schools outside the village. The school buses provided by PT. SGM are primarily intended for people who work for PT. SGM.

PT. Dewi Putra Karya (PT. KDP), which operates in Katingan District, provides primary education for the children of plantation workers from the five plantation estates. PT. KDP has provided buildings and furniture for schools, brought in teachers and provided handbooks for them, and provided school buses. The existence of these schools located on the plantation estates allows the children of workers to receive primary school education. Without primary schools in these areas, it would be difficult for the workers to send their children to school because the estates are located far away from any public schools. Workers' children who go on to continue their education at higher levels tend to choose to go to school in the area their parents originally came from. The workers send their children to schools in their villages and the children stay with grandparents or other relatives.

In terms of education, PT. Katingan Indah Utama (PT. KIU) provides school buses for the children of workers who live on the estates. With this bus, the workers' children can access schools that are outside the estates. In addition, PT. KIU also helps to repair the buildings of elementary school where the workers' children attend, provide school furniture, and pay stipends to security guards and teachers.

PT. Ketapang Sumber Lestari (PT. KSL) operates in East Barito District. There is no information about the contribution it makes to education, either for local people or for the workers who work on its palm estates. The company has recently started its operations.

The contribution of palm oil companies to the realization of children's right to education is still very limited. Their role remains far from what is appropriate when compared to the damage to the environment and people's lives that is caused by the expansion of palm oil plantations. What is taken by the company from the environment and from the community, both from local people and transmigrants, is much greater than what is given back to the community.

The expropriation of the sources of people's livelihoods by the palm oil companies has an impact in terms of the community losing its ability to realize the right to education for their children. The land that they farm, for example, which for the community is a form of 'savings' for the future of their children, is being lost which is eliminating sources of income needed to finance basic needs other than food —such as education. Due to the limited educational services in villages, people have to send their children to the Sub-districts' main towns, to

District capitals, or even to the provincial capital, which is expensive. This can only be funded by the crops that the local people grow, such as rubber and fruit. Losing the land they farm means losing very valuable economic resources that enable people to obtain the cash needed to fund their everyday lives—including their children's education. The expansion of the palm oil industry reduces or even eliminates the ability of local people to pay for their children's education. In this matter, the assistance from companies in the field of education is still far from sufficient. In fact, at this time, fulfilling the rights of citizens to education relies heavily on their economic capacity because the government's efforts to carry out its obligations in terms of fulfilling the right to education are very limited.

As can be seen in many Districts around Indonesia, the government's own provision of education is inadequate. Ideally, every village would have one primary school, but as seen in the village of Tumbang Marak, Katingan District, the government did not immediately build schools and provide universal primary education there. The village owns and has provided land for a planned junior high school and yet, until now, no school has been built.

Judging from the development of education services in the villages in the proximity of palm oil plantations, the presence of these companies in fact creates an excuse for local governments to not immediately meet their obligations to provide education that comply with the requirements of the basic right to education for children. Local governments are supposed to fulfill this obligation directly by building schools and organizing the provision of education in rural areas. Instead, the government asks the palm oil companies to build schools, so the companies opt to build them in the areas where their estates are. In fact, the locations of these schools are too far away for the children of local residents who generally live in rural areas.

The companies should provide facilities for the workers who live on the isolated estates so that their children can receive an education. Providing schools in the plantation areas and school bus services for the children of workers who live in those areas should already have been carried out by the companies. In this way, the workers' children could access the schools that are outside the plantation areas. However, the implementation of corporate responsibility with regard to workers' rights is still very minimal. The children of estate workers are also entitled to quality education. Corporate donations to education are too small to change the fact that access to education is increasingly difficult following the arrival of industrial palm oil plantations.

Conclusion. The responsibility for realizing the right to education, first and foremost, lies in the hands of the government. However, the government is still not fully carrying out this responsibility. Consequently, people's access to education—especially in the interior—remains very low. This condition is exacerbated by the economic downturn resulting from the expropriation of people's land and sources of income by palm oil companies. This decline of economic conditions weakens local people's access to education. This difficulty in accessing education is increasing in the wake of the industrial palm oil plantations being set up. Overly small corporate donations to education cannot disguise the fact that the presence of the palm oil companies has impinged upon the right to education.

5.2.3.3. Right to an adequate standard of living

Article 11 of the Covenant on Economic, Social, and Cultural Rights states that, "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." By adequate standard of living, this Article means sufficient food, clothing, and housing. Nevertheless, the adequacy of a standard of living is more than just the basic needs such as food, clothing, and housing. How much is

needed to meet the requirements of an adequate life can not be defined in general. It depends on the cultural conditions in a society. The important thing is that everyone can — without embarrassment or obstruction — participate fully in daily interactions with others. This means that they can enjoy the basic needs with dignity.

No one should be allowed to live in conditions where providing for their welfare entails humbling themselves or ignoring essential freedoms, by begging, prostituting or enslaving themselves, just to obtain their basic needs. In purely material terms, "adequate standard of living " should be understood as a way of maintaining a level of living that is above the poverty line, which, according to the World Bank, can be seen in two parts: the funds required to purchase a minimum standard of nutrition and those required to purchase other basic needs the amounts of which vary from one country to another, according to the daily needs in that community.

Adequate food. General Comment No. 12 of the Covenant on Economic, Social, and Cultural Rights provides an interpretation of the right to adequate food as follows: "The right to adequate food is realized when every man, woman, and child, both individually and in the community with others, has physical and economic access at all times to adequate food or means for its purchase." The right to adequate food means the availability of food in a quantity and of a quality sufficient to meet the nutritional needs of individuals. Food must be free of hazardous substances and appropriate for the existing food culture. Moreover, food should be easy to obtain on a continuous basis, which means that the food should be accessible and available in the long term.

With regard to an adequate means of living, food is not the only requirement to be considered. Therefore, any form of food purchase can only take place if the resources available are also sufficient to meet basic human needs. It is important to look at food adequacy through an approach of livelihoods for food security, rather than a "food is paramount" (food first) approach.

The expansion of the palm oil plantation industry has resulted in the community losing their diverse sources of food. Before the operation of palm oil estates in the areas farmed by local communities, residents easily met their food needs. Staple foods such as dry-field rice, maize, tubers, and others, were self-produced by the communities through farming activities. Vegetables could be easily harvested from the forest, orchards, or fields. Forests provided a variety of vegetables which could be easily accessed by the community. Even if they had to buy, people could buy them inexpensively. Protein sources were also available in abundance in the woods/fields/orchards and rivers, all of which were accessible to the community, both individually and in groups. Now the people's access to quality food has been limited and even eliminated. The communities are increasingly dependent upon the market. Even if they could buy their foods in the market, the food quality is not what it used to be. The fish sold in the market are taken from rivers that have been heavily polluted with chemicals.

Case 1: Difficulty Meeting the Needs for Rice After the Land was Expropriated by the Company

"Before PT. BHL took away the 9 acre field where I cultivated rice and rubber, I never had any problems with food. The 9 acres of land was suitable for rice planting. Not all land in Kalimantan is suitable for dry-field rice. There are a lot of swamps and peat swamps where it is difficult for rice to grow and develop well. The 9 acres of farm land taken by PT. BHL was the only area of all the land that was suitable for rice. Since the loss of that land I have

had difficulty meeting our needs for food, especially rice."

(Sulja, from the village of Mirah Kalanaman, Central Katingan Sub-district, Katingan)



Irrigated fields belonging to transmigrants in Luau Jawuk village, East Barito. The presence of palm oil plantations have in effect forced the landowners to sell their lands to the plantation companies, due to repeated failed rice harvests after palm oil was introduced to the village. This has happened in spite of previous investment in an irrigation channel. (photo: Ecosoc Institute)

The expansion of the palm oil plantation industry has not only restricted and even eliminated the right of citizens to produce their own food, it has also reduced their ability to access food from the market. This reduced ability is related to the change in their livelihood. People who used to farm in the fields, and cultivate rubber plants, rattan, fruits, and go hunting, or search for vegetables and fish, are now forced to become labourers on the palm oil estates because they cannot or cannot fully work like they did. Their incomes have been greatly reduced. Quite a few people are now even experiencing an economic crisis because their wages as farm labourers or income from their new livelihood is no longer sufficient to meet their basic needs, the prices of which continue to soar. Back when there were still plenty of fish, the price of fish in the East Barito market, for example, was IDR 15,000 per kilogram. Now the price of the cheapest fish is IDR 70,000. The price of kerosene is now IDR 14,000 per litre and gasoline IDR 10,000. Even “raskin” Rice (rice for the poor provided by the government) has to be purchased for IDR 30,000 per sack. Even getting hold of “raskin” is difficult for the people here.

Case 2: Life as a Palm Oil Plantation Labourer is like "Digging a Hole to Fill Another Hole"

"For the family meals, I buy vegetables and side dishes in the market and spend about IDR 50,000 per day and have to buy rice, sugar, coffee, and other household goods in the shop on credit. I can do that in the shop because my husband works on the estate. If there were no such guarantee, they wouldn't let me do that. Each month I have to pay off my debt to the shop which is between IDR 700,000 and IDR 1,000,000 and that does not include the electricity bills, petrol for the motorcycle, snacks for the children and grandchildren, medicine, cigarettes, and school fees. I pay IDR 150,000 for electricity each month because I also help some neighbours who cannot get an electricity connection themselves. Working for the palm oil plantation, we have to dig up hole to fill another hole. (NN - name withheld, wife of a PT KIU worker, a villager of Kabuau, Parenggean Sub-district, East Kotawaringin)

The expansion of the palm oil plantation industry threatens food security not only because of the extent of land converted from food production to palm oil plantations, but also because of the increasing intensity of disasters and climate change, the impacts of which include crop failure, crop planting failures, and the emergence of rice crop pests. In Katingan District, for example, floods or overflows from the river inundated the area for one week damaging and even destroying cultivated food crops such as rice and vegetables. Failures in planting and harvesting crops disrupts local communities' food security at the level of individuals in households.

Case 3: Flooded Rice Fields. Rice Attacked by Pests

"In December 2011, water from the palm oil plantations flowed down the roads. Palm plantations are located side by side with the ricefields and the water flowed into the fields as well. Since the palm oil plantations started their operations in the village, the local people have had to bear the impacts. One of these is the water in wells either decreasing or drying up. In addition, pests start to attack our rice plants. We never had such attacks till now. Since the rise of palm oil, rice has begun to be attacked by pests."

(Fernandes – a transmigrant in the village Luau Jawuk, Tampak Sub-district, East Barito District)

The massive conversion of forests into palm oil plantations appears to have caused the local ecosystem to become out of balance. Palm trees are considered not capable of replacing the function of large trees that had been maintaining the balance of the ecosystem in land which partly consist of peat. One consequence is the increased acidity of water and soil which inhibits the growth of plants.

Case 4: Palm Oil Arrives, Rice Productivity Decreases

"One hectare of ricefield used to produce four to five tons of rice, but now it is considered good if we can get up to three tons. This is because the acidity level of the water and soil here has risen and this affects the growth of rice. We have felt this over the last ten years, since the number of palm oil estates has been increasing. Once I planted 200 banana trees, but eventually all died due to overflows into the field which made the soil acidic."

(Rudi, a villager of Bapeang, Sub-district of Mentawa Baru Ketapang, East Kotawaringin in Antaranews.com)

A decent standard of living. If decent standards of living are perceived as living standards above the poverty line, then the expansion of palm oil plantations has created a process of impoverishment, both for indigenous people and transmigrants. The income of the residents has fallen. Those who were well off in the past now have to live from hand to mouth, face economic pressures, and some have even fallen into poverty. In the village of Ipumea, East Barito, for example, two widows became poor and had to rely on support from the community after their rubber plantation was taken by a palm oil company but they did not get the smallholding they were promised. Now they do not have a livelihood or any source of income, whereas in the past, these two were able to finance their own lives comfortably from tapping rubber.

The impoverishment process happens not only materially but also culturally. Villagers who used to work on their own farms and orchards, and who could work any time they wished and were free to organize their own lives, have now turned into palm oil plantation workers bound by company regulations. These people are considered to have lost their pride because, for the indigenous peoples, losing their lands amounts to losing their self worth.

Case 5: Many Villagers Lose Their Pride by Becoming Company *Jiten* (Dayak word for "slave"),

"I'm helping to take care of my family's land in Parenggean. There are 30 hectares of our land there that the palm oil company took and we were not compensated for it. Many people living there do not own their land anymore. They are now the day labourers at the palm oil company. Some live in the village, others live in the estate dormitories. Their wages are IDR 56,000 per day, plus rice. They barely eke out a living. Compared to how they previously lived, of course, it was better then. They used to work in their own fields and orchards; now they are labourers for the companies. In the Dayak language these labourers are called "*jiten*" which means slave." (Wanto, chief of Pariyei village, Katingan Tengah Sub-district, Katingan)

"It's a matter of pride. If I sell the land that has been my livelihood, it is the same as selling myself, selling my livelihood. Many people sell the land because of economic pressures and pressures from the company." (Tupis Stretcher, traditional *mantir* from

Conclusion. The palm oil plantation industry that has taken villagers' land and communal land away has already threatened the people's food security and at the same time deprived them of a decent living. In this case, the indigenous peoples and transmigrants are going through a process of impoverishment, both material and cultural. The communities lose various sources of income and there are now many people living as wage labourers dependent on the palm oil estates. Those who used to be relatively well off are now living under economic pressure due to reduced income and increased costs of living. Cultural impoverishment happens when people who used to work freely in their own fields and orchards have now had their status changed to palm oil plantation coolies. In the local language, a *coolie* is also called "*jiten*" or a 'company slave'.

5.2.4 *Impact on civil-political rights*

The expansion of the palm oil plantation industry has given rise to various problems related to human rights violations, both by the state and the corporations. Violations occur not only for individuals and the community's economic, social, and cultural rights, but there are also violations of the civil rights that are guaranteed by national and international laws. The presence of the palm oil plantation industry not only took over the areas farmed by the communities but also deprived the indigenous people and transmigrants of their civil rights, among which are the right to freedom of expression, the right to security, the right to be free from discrimination, and the right to participation.

Violation of freedom of expression and freedom of speech. The right to freedom of expression, and the right to hold opinions without interference, is stated in Article 19 of the Covenant on Civil and Political Rights, which safeguards the right to hold opinions without being harassed and to freedom of expression, including the freedom to seek, receive and impart information and ideas of any kind. The presence of the palm oil plantation industry in the areas farmed by indigenous peoples and transmigrants has restricted and violated citizens' rights to expression and to hold opinions and express them.

Although national legislation requires the consent of the community as part of the respect for the right to express an opinion, in fact the opposite has happened. In general, people were not asked for approval prior to the companies' operations commencing. Companies tend to use the strategy of 'do first, talk later' - clearing the forests and fields/community lands first and then talking to the community later. In this way, no matter how people express their opposition to the presence of palm oil estates, ultimately, they are forced to accept it because forests and land have already been cleared. With people who insist that the company return the land that has been expropriated and cleared, companies tend to use violence in the form of terror and threats that eventually forces these people to give up.



Residents who have had their land taken by oil palm companies, protest by planting rubber and cassava next to the company's oil palm plants (photo: Ecosoc Institute)

Even if the company informs the community beforehand about the presence of palm oil companies in their area, this process of briefing is not carried out within a framework of respect for the people's freedom of expression and right to information. It is carried out, instead, more as an attempt to speed up the process of the company's operations. When informing the community about their presence, the companies make promises regarding the welfare of society but without there being transparent information about the impact of palm oil plantations on people's lives. There is no guarantee in writing that spoken promises will be honoured by the company transparently. In this case the government tends to be one of the parties who are fully behind the company. There is absolutely no information from the government regarding the rights of citizens and communities that must be respected by the company or regarding the impact of the palm oil industry. The government encourages people and communities to accept the presence of the oil companies unconditionally. In fact, the promises have not yet been implemented. If implemented, the fulfillment of the promise is not in accordance with what was said.

Violations of the right to security. So far there have been no reported cases such as torture or cruel treatment or punishment in the palm oil plantation areas in the three Districts that were the locations for research. However, many villagers stated that their living conditions are no longer safe and peaceful as they were before the arrival of the palm oil plantations. They said that many thugs now live in the villages and spy on the activities of the residents who oppose the operations of the palm oil plantations in their villages. The villagers suspect that the thugs are paid by the palm oil companies for 'spying' and reporting to the company's

management about the attitude, actions and efforts of residents attempting to resolve land cases that they have experienced. Residents have felt a loss of freedom of movement when always being watched and followed. Residents even feel unsafe working in their fields which are located close to the palm oil estates because their attitude of opposition to the presence palm plantations results in them often being approached and threatened by the company thugs.

With the presence of palm oil companies, according to the residents, they have already seen attempts to play those who welcome the palm oil companies off against those who reject them. Palm oil companies build strong relationships with village leaders in particular, ranging from the neighborhood and village committee level, to the village chief. There are village leaders who forbid their villagers from gathering together to discuss and attempt to negotiate the resolution of issues where land was taken over by the company. Although in the other villages there are no restrictions on residents gathering, the spying or intimidation activities aimed at groups of people who gather to discuss and attempt to resolve land issues have resulted in people feeling they have lost their sense of security. Indeed, this difficult and unsettled situation in the community has fomented divisions within extended families and even nuclear families, because family members are split over their attitudes towards the the choice of approving or rejecting the palm oil companies.

This loss of a sense of security among residents is felt strongly when data collection is carried out. Residents are not willing to be interviewed or discuss matters in or near their villages. They are concerned about thugs turning up when they gather together. If the thugs come and are present during their discussions, they will not be able to speak freely about their problems relating to the palm oil companies. Freedom of expression is also something that is not enjoyed in full by palm oil estate workers. Their concerns that they will have problems with the company make them feel they do not have the freedom to express opinions and provide information about the working conditions they experience.

Violations of the right to freedom from discrimination and the right to be treated equally before the law. The expansion of palm oil plantations that operate in the areas farmed by local communities have had an impact in terms of discriminatory treatment against indigenous and transmigrant communities. There have been various cases where farmland has been seized from individual residents and community members who felt be aggrieved because of the palm oil companies' actions and they have reported them to law enforcement officials. However, these reports are not handled properly and tend to be ignored. No legal cases, either criminal or civil, related to land seizures have been resolved in a truly fair way. By implication, the loss of the right to work on the land, and the right to the crops cultivated by local people, are in no way compensated for fairly or adequately. What happens is there is a unilateral imposition on residents and communities of compensation options laid out by the palm oil companies which the people can take or leave, and which amount to between IDR 150,000 and IDR 300,000 per hectare of land that the company has deprived them of. Crops that are very valuable economic assets, such as wood, rubber, fruit, and others, are lost and there is absolutely no compensation for them. Reports made by residents to the government about actions causing heavy pollution of rivers and water resources by the companies are also not followed up. The government and law enforcement officials tend not to act on companies committing such criminal acts.



Residents from Dayu village in East Barito, who fight against company land-grabbing closing the road with a rope, a form of protest based on '*hinting*', an *adat*- ritual (photo: Ecosoc Institute)

The government also discriminates against communities who are truly determined to improve their economic circumstances by managing their own communal land, orchards and fields. The government issues concessions to corporations for areas of forest that are thousands, hundreds of thousands, and even millions of hectares. Meanwhile the right of people to manage the fields, orchards, and their own communal land is not recognized. Not only does it not acknowledge these rights, the government facilitates the expropriation of the communities' communal land, orchards and fields. Having obtained millions of acres of forest and hundreds of acres of communal land, the corporations still grab the land worked on by transmigrants which may only be 1 hectare per family.

Corporations enjoy a very special position in the eyes of the law. Meanwhile, citizens are treated like step children. When residents stage protests against companies that have seized their land, the company has no difficulty calling in law enforcement officials to block the residents and end the protests. When people take a stance and reject the land grab by a corporation and fight strenuously for the stolen land to be returned, the company can easily report the people to law enforcement officials and ask for criminal charges to be brought. Such reports make it easy for the local people to be detained and imprisoned. When they are arrested on criminal charges, they do not have access to a fair and impartial trial.

Case: The Arrest and Imprisonment of "Kintetman", a Citizen Who Refused to Allow his Land to be Confiscated

Kintetman, the son of Ukaiman, lived in the village of Sarapat, East Dusun Sub-district, East Barito District. Ukaiman was the owner of 18 hectares of farmland that were seized by a palm oil company called PT. SGM. Ukaiman was also the leader and coordinator of citizens who rejected and protested against the actions of the company that had seized residents' land and the communal land of the villagers of Sarapat. Repeatedly, Ukaiman along with villagers went to the company, protested, and asked it to return their land to them. Ukaiman and the other residents had already reported the expropriation of the land to the police, local government, to NGOs, the National Commission on Human Rights, and also to the governor. But law enforcement authorities did not respond to their reports. Their complaints were also not dealt with by the District and Provincial governments. Ukaiman then put up a banner in front of his house that criticized the company for acting arbitrarily. Putting up this banner resulted in him being visited by security officers from Satpol PP who asked him to take the banner down. Ukaiman was forced to end his struggle to get his land back after his son (Kintetman) was arrested by police at a protest against the palm oil company and jailed on criminal charges. Here is a chronology of the Kintetman case.

On Monday, 25 April, 2011, at around 08.00, Kintetman was riding his bike to the office of PT. Sawit Graha Manunggal (PT. SGM). As he had many times before, he intended to ask for an explanation about the 18 hectares of land belonging to Ukaiman, his father, that had been seized by PT. SGM.

As Kintetman entered Beautiful Blooms Housing Complex in A. Yani Street, a Ford Ranger car with licence plate number KH8131K was speeding towards him. The car was heading towards the office of PT. SGM. Seeing it, Kintetman waved his hand to stop the car. Nandar Rianto, the driver, then pulled up about 100 meters from the gate of PT SGM.

A moment later, Kintetman took the Ford Ranger's key out of the ignition and asked for the vehicle registration document. While doing so, he asked about the whereabouts of the manager of PT. SGM. The driver of the car said he did not know. Kintetman then walked away with the ignition key.

The driver then reported the matter to the operational section of Senior Assistance in the PT. SGM office. Meanwhile, an employee of PT. SGM who worked as a member of the security staff pushed the car to the yard at PT. SGM's office.

PT. SGM reported Kintetman's actions to the police at Dusun Timur sector, making several charges: (1) that he had infringed someone else's rights or forced someone against their will — "melakukan perbuatan tidak menyenangkan", literally "doing something unpleasant" — (Article 335 of the Criminal Code), (2) that he had committed an act of theft (Article 362 of the Criminal Code) and (3) that he had been carrying a sharp weapon (Article 2, paragraph 1, of Act No. 12 of 1951).

On the basis of the report from PT. SGM, the police issued a warrant for Kintetman's arrest, number SP.Kep/12/IV/2011/Polsek No. 25 April 2011. The police arrested him on 26 April, 2011, and detained him from 27 April - 16 May 2011 based on

The determination of Kintetman as the accused was judged to have not been based on preliminary evidence that was sufficient. LBH Lantern from Surabaya, the legal firm representing Kintetman, appraised that the police had designated Kintetman as a suspect based only on the complaint and witness report from the victim which was examined on 25 April 2011. This was a violation of Police Regulation No.12 of 2009 which states that determining a person to be a suspect of having committed alleged criminal acts must be carried out using two valid pieces of evidence. Valid evidence under the Criminal Procedure Code includes a witness, expert testimony, letters, clues, and the testimony of the defendant. In this case, Kintetman was named as a suspect based solely on the statement of only one witness.

In the police investigation report on the witnesses, police wrote that Kintetman had been carrying a sharp weapon, a Saber type blade, with a red cloth sheath, hanging from his motorbike. For this reason, the driver did not dare to try stopping Kintetman acting as he did.

In addition to the victim, the testimony of other witnesses was examined in the police investigation reports dated 28 April 2011 and 10 May 2011. They were questioned after Kintetman had been charged and detained.

In July 2011, the Tamiyang Layang District Court, in East Barito District, began the trial of the criminal case of PT. Sawit Graha Manunggal against the defendant Kintetman.

At the evidentiary phase of the trial on 5 October 2011, four witnesses from PT. SGM were called to provide information. At this trial, the driver, as the victim, testified that he was never threatened by the defendant. The defendant was said to have spoken with his normal tone of voice and the defendant did not commit any violent acts. The victim did not see the defendant carrying any weapon and the police never asked about a weapon during the process when the police investigation report was being compiled. In fact, the first time he saw evidence pertaining to a sharp weapon was in the court.

The second witness, the security guard on duty at the post located 50 metres from where the car stopped, also provided evidence in court. He stated that he saw the defendant talking with the victim without hearing any shouting from the defendant. They did not fight. The defendant also was not carrying any object during the incident and there was no saber on the motorbike. The witness only saw this saber when it was presented as evidence in court. Even during the compiling of the police investigation report, the witness conceded that there were no questions about a sharp weapon.

The third and fourth witnesses who were present at the trial admitted that they themselves did not actually see, hear or experience the incident involving the defendant. They only heard the story from the victim.

At the end of the trial, the defendant Kintetman was found guilty of violating Article 335 of the Criminal Code (*“perbuatan tidak menyenangkan”*) and Article 362 of the Criminal Code (theft). He was sentenced to eight months in prison, reduced for time already served. Kintetman was released mid-December 2011.

After the arrest and detention of his son, Kintetman was forced to relinquish the 18 hectares of land already controlled and cleared by the company and received the compensation offered by the company which amounted to IDR 300 per square meter.

Source: personal interview with Ukaiman and "-Kintetman Case Chronology" compiled by LBH Lantern Surabaya.

The trial in the Kintetman case proved the existence of a conspiracy between the companies and the police to manipulate the police investigation report through the insertion of evidence of there being a sharp weapon. During the investigation, the witness was never asked about the weapon, but this issue suddenly appeared in the police investigation report. The court also ignored the reason for the victim's actions and for taking the car keys, that is to say, it was in protest against the arbitrary land seizures. The company arbitrarily seized Ukaiman's own land, land belonging to members of the community, and also communal land, by clearing it without the permission of local residents. The reports of local citizens were kept quiet and the company seizing the land was not subject to any sanctions. Meanwhile the resident who protested against these land seizures by removing the key from the ignition of the company's car was imprisoned.



Photo: residents of Sarapat village protest against corporate landgrabbing by putting up banners in their own yards, as their complaints to the governments do not get any response

Kintetman's younger brother, who picked cassava leaves from land seized by a palm oil company, was also arrested by the police, accused of bringing sharp weapons to the oil palm plantation area.

The police asked Kintetman's father Ukaiman to sign a statement declaring his willingness to stop all actions based on the claim that the palm oil company must return the land it seized. Then Kintetman and his brother would be released. Thus Ukaiman was forced to sign. However, his children were not immediately released. They were kept in prison for three months. Ukaiman also lost his lands without being able to protest, as he had signed a statement declaring that he would not do so.



Photo: Ukaiman, Kintetman's father, one of the persons mobilising the people of Sarapat village to fight for their traditionally managed forest. Together with other local inhabitants, he is installing a stake as a marker of land ownership, a form of resistance against the company takeover of customary forests.

Violations of the right to participate. Communities affected by the presence of the palm oil industry did not get any information related to the impact of palm oil plantations being there. The public did not get information about their area being used for the operations of palm oil estates and about the lands and fields that they farm, along with their customary communal lands, being included in the concession area for the oil companies. What makes this worse is that people did not know the size of the area covered by the license that was held by the palm oil company, nor where this land was located, and where its boundaries were. Therefore, if the company did not comply with the permitted boundaries, people would not even know. Moreover, the company operates completely without oversight from the government.

The community was never asked for their opinions regarding the presence of palm oil plantations, and most of the residents only knew once the palm oil company was already operating in the area and after the forests, communal land, and their fields had been cleared. Residents were forced with the use of violence to give up land. Residents identified as being village officials who were a part of the group that rejected the presence of the estates were not invited to meetings and also faced bureaucratic obstacles in receiving services because

they were considered to be standing in the way of development. The right to participate was restricted.

Residents who finally accepted that their land had been taken over by the company did so after a promise given by the company to grant them smallholdings, but they also did not get clear and transparent information regarding running these smallholdings. There was no black and white agreement between the residents and the company. It was the company that determined all the rules and regulations related to the smallholdings. The company formed a cooperative to act as the manager of the smallholdings. The running of this cooperative did not fully involve the residents. Because of this, the cooperative's management tended to be determined by the company. There were cooperative managers who were members of the company's staff. The lack of information about the company-run smallholdings schemes, and the lack of transparency about the management of smallholdings by the company and cooperative, must have disappointed those people who had surrendered their land in the hope of getting a smallholding. Consequently, the results of the smallholdings did not live up to expectations and those residents felt aggrieved.

Conclusion. Palm oil plantation corporations that operate in the areas farmed by indigenous people and transmigrant communities have violated not only their economic, social, and cultural rights, but also the civil rights of these citizens. The expansion of the palm oil industry has violated the citizens' freedom of expression and freedom to state their opinions by removing the sense of safety through the presence of the thugs who were paid the company. The presence of palm oil companies increases the tension/conflict within families, between residents, and between people who oppose the palm oil companies on one hand and the government/law enforcement on the other. The presence of palm oil companies also makes people suffer discrimination, both in terms of ownership and management of land and in terms of treatment at the hands of the legal system. The right of citizens to obtain information and participate in making decisions related to the presence of the palm oil companies, which have a serious impact on people's lives, are not respected at all.

6. Human Rights obligations of the state and corporate human rights responsibilities

6.1. Human Rights Violations in the Context of National Law

Before assessing the implementation of state and corporate responsibility, it is important to first assess the human rights violations suffered by individuals and communities based on the implementation of rules and provisions in national law, particularly in regard to the oil palm industry. Violation of economic, social, cultural and civil rights occur in the oil palm industry and are a consequence of violation of the rules and regulations set out in the law/rules at the national and local (provincial) level.

Relating to the oil palm sector, there are several laws, among which are: 1) Act No. 18 / 2004 on Plantations, 2) Act No. 41 / 1999 on Forests, 3) Act No. 32 / 2009 on the Protection and Management of the Environment, and 4) Act No. 13 / 2003 on Labor-force. In addition to these four laws, the Central Kalimantan provincial government has also established rules relating to the oil palm industry, Regional Regulation No. 5 / 2011 on Sustainable

Management of Plantations. Below is an assessment of national law violations by oil palm companies.

Violations of law related to land and cultural rights. A common occurrence is that land under public management is seized by oil palm companies, with or without compensation. Appropriation is carried out by the company in a variety of ways, with or without the use of violence. The right of citizens and communities to ownership and control of land is not respected. This action is a violation of Article 9, paragraph (2) of Act No. 18 / 2004 on Plantations. Article 9 paragraph (1) of Act No. 18 / 2004 states that in the course of running a plantation business, company owners, in accordance with their interests, can be given the necessary land rights for their business While Article 9 paragraph (2) of Act No. 18 / 2004 states that where the required land is customary land of indigenous communities, businesses - in this case oil palm companies - must conduct meetings with indigenous community communal land holders and citizen land holders of the land rights in question to obtain agreement on the use of this land and remuneration. In this matter, oil palm corporations are not following what has been set out in the legislation. Corporations do not conduct meetings with local people, but clear communal land and land owned by citizens prior to communicating with the people.

Appropriation of publically managed areas is also a violation of Article 67 of Act No. 41 / 1999 on Forests. In article 67 it is stated that indigenous people have the right to collect forest products to meet daily needs, conduct forest management activities based on customary law, and gain empowerment in order to improve their welfare. By taking over communal land – within which there is indigenous forest - plantation corporations do not respect the rights of indigenous peoples to harvest and manage forest based on customary law.

The oil palm industry violates land rights in the process of carrying out its business bringing consequences in the form of cultural right violations. Widespread violation of cultural rights in oil palm plantation areas shows that the oil palm industry is not fulfilling the functions set out in Article 4 of Act No. 18 / 2004. One of the functions of plantations as defined in this article is the cultural social function, where the plantation should serve as an adhesive and means of unifying the nation. What actually happens is the oil palm industry increases conflict, divides societies, and destroys local culture/wisdom laden with values of cooperation, mutual assistance, and environmental sustainability.

The oil palm industry is run without regard to principles of sustainability set out in Regional Regulation (Perda) No. 5 / 2011. The sustainability referred to in this Regional Regulation contains four important principles/meanings, ie, environmental management, community plantation development, recognition of indigenous rights, and the granting of licenses only for degraded land. Oil palm companies that run their business by seizing communal and citizen land have violated the principle of recognition of customary rights and therefore have violated Act No. 5 / 2011. Article 8 of this Regional Regulation obliges oil palm businesses to draw up plantation development plans which include the identification of indigenous land and areas of high conservation value within the area of their business, plan, manage and monitor the environment prior to clearing land, and also require plantation businesses to pay attention to the suitability of land, respect, acknowledge and seek approval from indigenous people on customary land prior to the establishment of plantations. However what in fact happens is that companies clear the communal and citizen land before requesting approval from residents and communities. Even when residents and communities have repeatedly

expressed their rejection of the plan, companies ignore their refusal and force residents to receive compensation that has been determined unilaterally by the company.

Article 11 of the Regional Regulation also requires businesses to recognize and respect the cultural values of customary communities, recognize and respect customary peoples' land rights and implement the legal provisions and prevailing customary norms followed by local indigenous communities in the area where the business is located, exclude customary land from the business area, conduct meetings with indigenous owners of communal land to seek approval prior to plantation development. This article also requires businesses to meet local customary law in the event of a violation of customary laws by businesses, obtain permission of indigenous peoples for utilization of land under customary tenure, exclude cultural sites from the plantation areas and maintain these sites in accordance with the needs and agreement of the people, and to pay customary fines when companies are in violation of customary law. This article also confirms that the acquisition and utilization of communal land should be with the permission of customary peoples. None of the obligations specified in Article 11 of Act No. 5 / 2011 were implemented by the company. Oil palm plantation companies ignore all customary law and do not respect the rights of indigenous peoples.

Article 44 paragraph (3) of Regional Regulation No. 5 / 2011 also confirms that permit holders in the location are obliged to respect the interests of other parties on land that has not been released, not close-off or reduce the accessibility of communities around the location, and guard and protect the public interest. In reality, the people whose land is located in oil palm plantations do not have access to their land. The companies do not respect the right of citizens to land. Even when residents refuse to hand over their land to the company, the company continues to clear and damage the land.

Violations of law related to the right to work. A common occurrence in the oil palm industry is that oil palm corporations carry out their business without respect for the right to work. Citizens' right to free choice of employment is not respected. Deforestation, grabbing of communal and citizen land, filling in of swamps and pollution of rivers by oil companies have robbed citizens of their right to free choice of employment. Residents who have lost everything no longer have any choice but to become workers on oil palm plantations.

Oil palm corporations minimize responsibility towards workers' rights by implementing a system of labor relations in the form of casual labor practices and bad working conditions: low wages, long working hours, heavy workloads, and tight supervision. Abuses of the right to work carried out by oil palm corporations are a consequence of the neglect of the rules and regulations related to employment contained in Act No. 13 / 2003 on Labor and procedural rules. Some violations of the Labor Law are as follows.

Violations related to the status of 'temporary daily workers'. Terms of casual labor are stipulated in the Ministerial Decree on Labor and Transmigration of the Republic of Indonesia No.Kep-100/Men/Vi/2004. In article 10 of this Decree casual labor requirements are set out, including: (1) 'temporary daily workers' (*Kerja Harian Lepas*) agreements are implemented for certain jobs where the volume of work and wages vary and pay is based on attendance ; (2) 'temporary daily workers' agreements are made with the stipulation that workers must work less than 21 days in a month, (3) where workers work 21 days or more for 3 consecutive months or more then the 'temporary daily workers' employment agreement turns into an indefinite term worker/permanent worker agreement.

In reality, oil palm corporations violate the provisions related to ‘temporary daily workers’. Most ‘temporary daily workers’ in oil palm plantations work for more than three consecutive months. There are even ‘temporary daily workers’ who have worked for years, whose status still remains the same. The company deliberately leaves them with the status of ‘temporary daily workers’ because in this way the company is able to ignore its responsibilities towards labor rights.

Violations related to the right to social security. Article 99 of Act No. 13 / 2003 affirms the right of workers/laborers and their families to social security. Workers’ social security is stipulated in Act No. 3 / 1992 on Workers' Social Security (Jamsostek), Government Regulation No. 84 / 2010 and Ministry of Labor Decree No: KEP-196/MEN/1999. The company is required to include laborers/workers in the social security system which includes health, accident, death and old age benefits.

Social security for ‘temporary daily workers’ is specifically stipulated in the Ministry of Labor Decree No.: KEP-196/MEN/1999. This decree includes provisions related to social security, namely ‘temporary daily workers’ are included in the category of Construction Workers Membership (HBK JK), the Social Security Program for ‘temporary daily workers’, Contract Workers and Definite Term Work Agreements in the Construction Services Sector which includes accident and death insurance. The Ministerial Decree also confirms that the company is obliged to include ‘temporary daily workers’ in the entire social security program.

A common occurrence is that ‘temporary daily workers’ working in the oil palm plantations do not get their full right to social security, even though they have worked for more than three months and sometimes even years. For ‘temporary daily workers’ the company only provides healthcare services in the form of a local clinic. When the clinic is not able to cope with the illness or accidents that befall workers, then the workers themselves must bear the cost of treatment due to illness or accident.

Oil companies' obligation to include laborers / workers with a permanent worker status are also not executed according to regulations. Companies register permanent daily and monthly workers including foremen, assistant plantation staff, office staff on the JAMSOSTEK insurance. However, JAMSOSTEK does not include health insurance (JPK) for workers and their families, life insurance and retirement benefits. The workers remain holders of JAMSOSTEK only without health insurance. The oil palm companies retain workers/employees within the Construction Services Membership category. This category according to the law only applies to ‘temporary daily workers’.

Violations related to freedom from discrimination. Article 6 of Act No. 13 of 2003 explicitly forbids companies from discriminating against workers. This article also confirms that every worker/laborer is entitled to equal treatment without discrimination from employers. In reality, ‘temporary daily workers’ experience discrimination by oil palm companies. ‘temporary daily workers’ who do the same job, with the same hours and times of work, and face the same working conditions as permanent workers still get different treatment from the company. ‘Temporary daily workers’ do not get the same rights as permanent workers, including the right to rest breaks and leave, as well as the right to social security.

Violations related to the right to health and safety. Article 86 paragraph (1) of Act No. 13 / 2003 sets out the right of workers to obtain occupational health and safety protection. While article 87 paragraph (1) of this law requires every company to implement an occupational health and safety management system that is integrated within the company management system. In reality, oil palm plantation workers have poor working conditions with a high risk of illness and accidents but this is not accompanied with safeguards to ensure health and safety. Workers do not get sufficient information/explanation about the risks associated with health and safety and efforts that should be made to avoid the risk of illness and accidents. Workers do not use protective gear such as boots, gloves, masks, helmets, work uniforms, and so on. Health and safety equipment is given only once when a new employee starts working. If the equipment is damaged or is no longer adequate the worker must provide their own health and safety equipment. Companies do not fulfill their obligations to workers' right to health and safety protection. Companies ignore the fact that oil palm plantation workers are vulnerable to illness and accidents. The media has shared workers' stories regarding various workplace accidents that have befallen oil palm plantation workers, such as a worker who went blind as a result of contact with palm waste, workers bitten by snakes, attacked by wasps, wounded by work tools, and also crushed to death by palm fruit.

Violations related to the right to a decent wage. Article 88 paragraph (1) of Act No. 13 / 2003 sets out the right of laborers/workers to earn a decent living. Article 88 paragraph 4 confirms that the government sets the minimum wage based on basic needs and with regard to economic productivity and growth. While article 90 of this Act prohibits employers from paying wages lower than the minimum wage set by the government and requires employers who are unable to pay the minimum wage to be suspended. In reality, most oil palm plantation workers receive wages below the minimum wage. Although there are companies that pay 'temporary daily workers' above the minimum wage, such as KIU, the company only employs casual labor for 12-14 days in a month. This means that the monthly wages of 'temporary daily workers' remain below the minimum wage.

In addition to low wages, oil palm corporations tend to implement payment systems based on forced labor. Meaning, workers are given low-wages in accordance with the calculated working days. To get higher wages workers are encouraged to work overtime in order to earn additional premiums or wages. In the end, in order to get higher wages, workers are forced to work up to 4 hours overtime a day. Thus the worker is no longer working 7-8 hours a day, but 11 hours a day (7 hours of work as part of the normal working day plus 4 hours of overtime). Such wage systems mean workers face very hard working conditions: long working hours, heavy workload, high risk of illness and accidents, and under strict supervision by the foreman. Despite long working hours, a heavy workload, and high occupational health and safety risks, wages still do not meet the needs for a decent standard of living. Workers consider the minimum wage set by the government to be very low and not enough for a decent standard of living. The company does not bear the cost of food and drink for workers during working hours, and this must be paid for by the worker. Workers only get a ration of rice for each working day. The company also does not ensure that workers get food that meets nutritional standards .

Provincial labor department staff state that no company has raised an objection to the minimum wage determined by the government. This does not mean that employers agree to pay the minimum wage, but, according to labor department staff, employers tend to ignore the minimum wage. Labor department staff admit there has been no effective monitoring by the government - in this case the labor department - on the implementation of minimum wage because of the lack of human resources in the labor department. In addition, many companies also do not carry out reporting of employment conditions in the company as stipulated.

In addition to wages, the company also does not carry out provisions relating to holiday allowance, as stipulated in the Ministry of Labor and Transmigration Regulation No.PER.04/MEN/1994 on Religious Holiday Allowances. According to this Ministerial Decree, employers are required to give allowances for workers who have been working for a period of three or more consecutive months. Workers who have worked for 12 or more consecutive months get a minimal holiday allowance of one month's salary. While workers/laborers who have worked for three consecutive months but less than 12 months, receive an allowance in proportion, ie by calculating the work period divided by 12 months and multiplied by one month's salary. In reality, companies do not pay holiday allowances for 'temporary daily workers' who have worked more than three consecutive months. Those who have worked more than a year did not get holiday allowances either.

Violations related to the right to take leave and women's reproductive rights. Article 79 paragraph (1) of Act No. 13/2003 requires employers to provide breaks and leave for workers. These breaks include rests in working days of at least half an hour after working for 4 consecutive hours and a weekly rest of one day for a six-day work-week or two days for a five-day work-week. Article 81 paragraph (1) of this law stipulates that workers/employees are not obliged to work on the first day and second days of their menstruation. While Article 82 establishes the right of workers to obtain time off for 1.5 months prior to giving birth and 1.5 months after delivery based on an obstetrician or midwife's calculations. Article 84 clearly states that every worker/laborer who exercises their right to time off is entitled to full wages. This right is reaffirmed in Article 93, which requires employers to pay wages if the worker/laborer is ill and unable to work (Article 1) and if the woman worker/laborer is in pain on the first and second day of her menstrual period and therefore unable to do her job.

In reality, oil palm corporations do not implement the provisions on breaks and leave that workers are entitled to. An estimated thirty percent of workers in oil palm plantations are women. They mostly do work that is risky to their health, working in direct contact with chemicals, ie spraying and fertilizing. Women workers who are 3-9 months pregnant still work actively in the plantation up to 20 days before delivery. The company does not have a specific policy for the protection of pregnant workers. Workers who are pregnant still do fertilizing and spraying without any special protection.

Related to the right to leave during menstruation and childbirth, women 'temporary daily workers' do not get menstrual and maternity leave as stipulated by law. Companies allow 'temporary daily workers' to take one day off during their menstruation and during pregnancy they are allowed 40 days off (starting 20 days before giving birth and 20 days after

birth), but they do not receive wages.

While women permanent workers, despite getting time off for menstruation and childbirth, do not have leave rights in accordance with the provisions of the law. They only get one day off for menstruation and 40 days for childbirth, 20 days before giving birth and 20 days after delivery. When workers take leave in excess of the provisions the workers' wages are cut according to the number of days that exceed the allowable leave.

All permanent workers get the right to a day off when sick providing there is a certificate from the clinic and it is known by the company foreman. If the worker exceeds the permitted time off, wages are cut. 'Temporary daily workers' do not get the right to time off due to illness. 'Temporary daily workers' who are absent from work due to illness do not get paid.

Violation of provisions related to overtime. Article 77 of Act No. 13 / 2003 requires employers to implement the terms of employment, ie seven hours a day and 40 hours a week for six working days or eight hours of work a day and 40 hours a week for five working days. Employers who employ workers/laborers over their working time should fulfill the conditions, including that overtime work be no more than three hours a day and 14 hours a week. In reality, workers in oil palm companies work 4 hours overtime a day. As a result, workers work up to 11 hours a day.

Violations of law related to the right to water and health. Oil palm companies carry out their business in ways that damage and worsen the quality of the environment, including water, air, and land or housing. Oil palm companies also violate the right of citizens to nutritious food and the right of citizens to access ingredients for traditional medicines. These actions constitute a violation of article 25 and article 26 of Act No. 18 / 2004 on Plantations. Article 25 of this Act confirms that every business must maintain environmental sustainability and prevent damage. It is also emphasized that, to prevent environmental damage, before obtaining plantation permits a company is obliged to: 1) make an environmental impact assessment or environmental management efforts and environmental monitoring efforts; 2) make a statement on the ability to provide facilities, infrastructure, and adequate emergency response systems to tackle fires that occur in the clearing and/or management of land. The company is also required to implement environmental impact assessment or environmental management efforts and environmental monitoring efforts and/or analysis and management of environmental risks as well as monitoring the implementation of this. While article 26 affirms the ban on plantation businesses clearing and/or cultivating land by fires that result in pollution and environmental damage.

What happens in reality is that oil palm plantation companies ignore the rules related to environmental protection. There are companies who do not have environmental impact assessment (EIA) documents, as was the case with KSL. There are also those with an EIA document, but the document does not meet the conditions required, as was the case with SGM. According to the rules, the EIA is a requirement in order for companies to obtain licenses before operating. Lack of EIA documents in accordance with the provisions occurred not only in the case of SGM and KSL, but many other companies also do not meet the provisions relating to the EIA. Based on data from the Environment Agency of Central

Kalimantan, as of January 2010 there were 436 companies that obtained permission to operate in Central Kalimantan. Of these, 81 companies obtained EIA documents issued by the provincial government and 158 companies obtained EIA documents from the district government. While 197 other companies had unclear EIA ownership. Failure to obtain EIA documents has long been a problem but there is yet to be any firm action from the government.

KDP, KSL, and KIU are not in the category of companies that meet the *clear and clean* criteria. That is, these companies have not fully met the permit requirements to begin operations.

If even the requirement to obtain necessary permits for company operations are not carried out, there is no guarantee that other obligations regarding the environment and rights of citizens and communities will be met. Meeting all licensing requirements reflects the intention or desire of the company to operate within the law. However, strangely, although licensing requirements have not been met, there are many companies already operating. It is not surprising then that companies do not comply with the relevant provisions of environmental sustainability and violate the rights of citizens and communities. It has been seen how companies clear land for oil palm plantations by burning though article 26 of the Act on Plantations expressly prohibits businesses using fires for clearing or cultivating land. In addition to violating the Law on Plantations, violation of the right to water and health occur as a consequence of companies' actions in violating Act No. 41 on Forests, in particular Article 38 and Article 50. In Article 38 paragraph (2) it is stated that forest areas can be used without changing the basic functions of forests. While Article 50 paragraph (3) asserts that every person is prohibited from working and/or using and/or occupying forest land illegally, encroaching on forest area and felling trees within a radius of up to: 1) 500 meters from the edge of lakes or reservoirs, 2) 200 meters from the edge of springs and the left and right of rivers in swampy areas, 3) 100 meters from the left and right side of rivers, 4) 50 meters from the left and right side of creeks, and so on. Burning forests, cutting trees or harvesting or collecting forest products without having the rights or permission from authorities. In reality, most oil palm companies change the basic function of forest areas and operate by occupying forests and clearing land illegally because they do not yet have a forest release permit, such as KSL and KDP. In addition, plantation companies also plant palms on riverbanks.

Environmental damage by oil palm companies abuse the right to water and health and is also a consequence of the violation of Act No. 32 / 2009 on the Protection and Management of the Environment. Article 53 of the Act confirms that every person who is responsible for pollution and/or destruction of the environment is required to carry out measures towards the prevention of pollution and/or environmental damage. Prevention of pollution and/or environmental damage is done by warning the community of pollution and/or environmental damage, isolating the pollution and/or environmental damage, stopping the source of the pollution and/or environmental damage, and/or other means according to science and technological developments. While Article 54 of the Act states that any person who is responsible for pollution and/or destruction of the environment is required to conduct

restoration of environmental function. Restoration of environmental function is performed in stages: stopping the source of the pollution and carrying out the cleanup of pollutants, remediation, rehabilitation, restoration, and/or other means in accordance with science and technological developments.

Oil palm companies proven to have conducted environmental destruction have not been performing pollution and/or environmental damage prevention and also have not attempted to restore environmental functions. Polluted rivers are left as they are, black and smelly, without any attempt to recover and restore. Protests from the community are ignored. There is no effort from the oil palm companies to reduce the level of pollution and environmental damage. Nor is there any attempt by the company to provide clean water to people who have lost their source of water. The company leaves the people to bear the impact of pollution and environmental damage caused by oil palm plantations alone. Communities bear the pollution and damage to rivers that are their only source of water, bear the flooding and dust/haze pollution caused by environmental damage, bear the loss of nutritious food sources due to damage to rivers, swamps, and forests, and so on. There is no contribution from the company to reduce the burden, problems, and difficulties faced by these communities.

The pollution and destruction of the environment by oil companies also violates Regional Regulation No. 5 / 2011 on Sustainable Management of Plantations. Article 23 of this Regional Regulation requires that plantation businesses pay attention to the preservation of water resources and people's livelihoods and prohibits business operators undertaking plantation development activities around water sources within a radius of up to 500 meters from the edge of lakes and reservoirs, 200 meters from the edge of springs, left and right of rivers in swamp areas, 100 meters from the left and right side of rivers, 50 meters from the edge of creeks and so on. In addition, businesses are also required to pay attention to residential areas (definition: villages) with a minimum distance of 2,000 meters from the outer limits of community settlements. Oil palm companies do not comply with the provisions contained in the law. Companies do not meet their obligations and violate prohibitions set out in the regulations. For example, companies do not seek to prevent or reduce the pollution and destruction of water sources. Companies violate the provisions by planting palm on the edges of rivers, right up behind residential areas, and even filling in swamps to plant oil palm. Oil palm companies also establish palm oil processing plants near residential areas.

Violations of the law related to the right to a decent standard of living. Palm plantation companies seizing citizen and communal land have threatened the food security of communities and at the same time deprived citizens of a decent standard of living. Indigenous peoples and transmigrants are undergoing a process of impoverishment, both materially and culturally. Communities have lost diverse food and income sources. To meet everyday needs residents are increasingly dependent on wages from laboring in palm plantations. Residents that were previously relatively well off are now living under economic pressure due to reduced income and increased costs of living. Cultural impoverishment occurs when people who used to work freely in their own fields and gardens now work as coolies for oil palm

plantations. Palm plantations have changed the status of local communities from free human beings to "jiten" or slaves.

Article 3 of the Act on Plantations (Act No. 18 / 2004 on Plantations) contains the objectives of establishing a plantation, one of which is to increase the community's income. Article 4 confirms the functions of the plantation, one of which is economic function, namely to increase the prosperity and welfare of the people. In relation to increasing income, prosperity, and welfare of the community, Article 22 of the Act sets out a provision on, "plantation business partnerships". It is stated in the article that plantation companies carry out partnerships that are mutually beneficial, mutually respectful, mutually accountable, and mutually strengthening and interdependent with plantation owners, employees, and communities around the plantation. The pattern of the plantation business partnership can be in the form of cooperation in the provision of production inputs, production, management and marketing, transportation, operational cooperation, share ownership, and other support services. Associated with the implementation of the plantation business partnership, the minister of agriculture through the Agricultural Ministerial decision of Article 11 requires companies to establish plantations for the surrounding community of a size that is at least 20 percent of the total area of the plantation cultivated by the company. Construction of public plantations can be done by credit, grants, or produce. The obligation of the company to build community plantations of at least 20 percent of the total cultivated area is also affirmed in Article 18 of Bylaw No. 5 / 2011 on Sustainable Management of Plantations.

In practice, not all oil palm companies fulfill their obligation to build community plantations. Even when oil companies do build a community plantation, the development of this plantation is not in accordance with what is promised by the company. What happens eventually is that the plantation business partnership through the development of a community plantation is actually used by the company as a means of seizing community land in order to increase the plantation area. The company promises the development of a community plantation with a favorable management system. However, in practice, many people who have handed over land do not get the plantation as promised. While people who do get the plantation are disappointed by the size and produce derived from the plantation that is far from that which was promised by the company.

A study conducted by Aloe Dohong (IPAM-IP researcher) and Yusuram Jagau from Palangkaraya University on perspectives of plantations and local government related to the implementation of the Regional Regulation on Sustainable Plantation Management showed that although 90 percent of plantation companies agree with the obligation to build a community plantation covering 20 percent of the total licensed area, 100 percent of plantation companies refused to build the plantation in the leasehold area controlled by the company and suggested that local governments provide land for the community plantations outside their concession.

In the end, oil palm plantations have abused the rights of citizens to a decent living, both materially and culturally. Assistance given by oil palm companies to indigenous people and transmigrants is not comparable and cannot make up for the violation of rights by the

company. Oil palm companies not only rob people of diverse livelihoods and force people to become laborers in oil palm plantations, but also ignore the rights of workers employed in the plantations. Communities around oil palm plantations suffer material and cultural impoverishment. They used to work freely in their fields and plantation and get sufficient produce to satisfy their needs and have a decent standard of living, but they now live as oil palm company 'jiten' with insufficient wages for a decent living.

In addition to not respecting the rights of people recognized in the Act on Plantations, oil palm companies also do not respect the rights of people recognized in the Act on Forests (Act No. 41 of 1999). In article 68 of the law it is stated that the people have a right to enjoy the quality of the environment produced by the forest and utilize forest products in accordance with applicable legislation. In addition, the people are also entitled to compensation for loss of access to the surrounding forest by way of jobs to fulfill their livelihood needs.

Violations of law related to civil rights. Oil palm corporations that operate in areas managed by customary people and transmigrants have not only abused the economic, social and cultural rights of residents, but have also abused civil rights. Expansion of the oil palm industry has violated the freedom of people to express their opinions safely. The peoples' sense of security has been lost due to the presence of thugs and the increasing tension/conflict in families, between residents, and between people against palm plantations and government/security forces. Residents also experience discrimination, both in terms of ownership and management of land and in terms of treatment before the law. The right of citizens to obtain information and participate in decision-making related to the presence of oil palm companies that have a serious impact on people's lives is not respected at all.

Violations of civil rights committed by oil palm companies occur as a consequence of companies ignoring the rights of people guaranteed in national law relating to the oil palm plantation industry, namely Act No. 41 / 1999 on Forests and Act No. 32 / 2009 on the Protection and Management of the Environment.

Article 68 of the Act on Forests recognizes the right of people to know the plans on forest allocation, utilization of forest products, and forest information, the right of the public to provide information, advice and considerations for forestry development, and oversee the implementation of forestry development either directly or indirectly. Article 69 of this law even requires people to participate in maintaining and protecting forest areas from disturbance and destruction. While article 70 of this law also recognizes the right of people to participate in development in the field of forestry. Article 71 affirms the right of people to file a lawsuit or report to law enforcers about forest damage that harms the lives of people. However the right of citizens to participate in the development and use of the forest is not respected by oil palm companies. Companies and also the government do not submit plans and provide information related to changes in forest use. Plans and information regarding changes in the use of forest areas are even deliberately concealed by companies and the government. The people are only aware of the presence of oil palm companies after they cut down and destroy the forest. People who wish to participate in the supervision and development of forests are prevented from exercising their right to do so. Companies even apply pressure by using thugs and security forces to restrict and violate the freedom of citizens to express opinions and participate in the supervision and development of the forest.

In addition to violating the Forestry Act, oil palm companies also violate the Environment Act (Act No. 32 / 2009 on the Protection and Management of the Environment). Article 70 of the Act recognizes the right of people to play an active role in the protection and management of the environment without any discrimination. The role of the community can be in the form of social supervision, offering advice, opinions, suggestions, objections, complaints, conveying information, and/or reports. But in reality the oil palm companies do not respect the right of people to participate in environmental protection and management. The oil palm companies even take actions that obstruct and impede the public in exercising their right to participate in the protection and management of the environment, such as playing citizens off against each other, using thugs and security forces to suppress people who raise objections and openly reject the presence of the oil palm companies. The right of citizens to express their opinions and participate is completely disrespected.

Non-compliance with RSPO standards. In addition to ignoring the rules and laws that apply at the national and regional level, the one palm oil company examined that is a member of RSPO, did not adhere to the RSPO standards that have been agreed upon. This company, Sawit Graha Manunggal (SGM) is part of the large group Bumi Borneo prima - AEP Indonesia (Anglo-Eastern Plantations) The RSPO standards have been formulated on the basis and principles of : 1) a commitment to transparency, 2) meeting the applicable laws and regulations, 3) a management plan that aims to achieve long-term financial and economic feasibility, 4) the use of best governance by companies and factories, 5) environmental responsibility and conservation of natural resources and biodiversity, 6) consideration of responsibility to workers and individuals and communities affected by the company and the factory, 7) responsibility for development of new plantations, 8) commitment to continued improvement in all areas of activity.

In practice, SGM carries out its operations in violation of the rights of citizens and communities as well as workers employed in oil palm plantations. SGM do not fulfill their commitment to transparency. The company enters into areas managed by communities by clearing and destroying forests, communal and citizen-owned land without the knowledge of residents. The company also establishes compensation unilaterally without any consultation with residents and communities that will be disadvantaged. Similarly, in the establishment of community plantations, there is no written agreement related to the management of plantations that can be used by the people in order to know the rights and obligations of the community and the company. This disrespect for the principle of transparency also means the company refuses to convey information related to the management of the plantation business to outsiders, including researchers.

SGM also does not meet the standard of, "fulfilling applicable laws and regulations". Plantation companies conduct business in violation of applicable laws and regulations, namely the Plantation Act, Forestry Act, Act on the Protection and Management of the Environment and Regional Regulation on Management of Sustainable Plantations. Violations of these laws and regulations result in violation of the rights of citizens recognized in these laws and regulations.

SGM also does not carry out "environmental responsibility and conservation of natural resources and biodiversity". SGM has cleared forests rich in rare flora and fauna without any attempt to relocate this rare flora and fauna in advance. SGM has also polluted and destroyed rivers and tributaries that are a source of water for residents and a habitat for diverse species of fish that are a source of food for the people, damaged rice fields and resident's plantations

with mud, flooding, and pests caused by the monoculture farming system dominated by oil palm.

SGM has polluted and damaged the environment in the process of carrying out their oil palm business. However, SGM has made no effort to tackle this pollution and damage and have not given compensation to the residents and communities affected. No attempt has been made by SGM to prevent, reduce, and mitigate the effects of pollution and environmental damage. Affected communities are left to find their own solution. SGM has not helped people who have lost their source of clean water by providing clean water for residents.

SGM has also not taken responsibility for those who work in oil palm plantations. Workers work without a written employment agreement. SGM have a loose work relations system with the practice of employing 'temporary daily workers' and wage systems based on forced labor: low wages (below the minimum wage set by the government), long working hours, heavy workload, high health and safety risks, with no social security and under strict supervision. SGM ignores labor rights guaranteed in ILO conventions and national law.

SGM does not respect the civil rights of citizens and communities. Citizens' rights to freedom of opinion, to a sense of security, to be treated equally before the law, and to participate are completely ignored. To facilitate the takeover of communal and citizen land, SGM has implemented strategies that provoke the community and given rise to conflict, paying thugs and using security forces to put pressure on residents who object to the presence of oil palm plantations and reject the seizure of land. SGM has even cooperated with law enforcement officials in fabricating evidence and manipulating the investigative report made in the interest of justice.

Assistance provided by SGM to workers and local residents in the form of school buses, construction of houses of worship, and other assistance, is not at all commensurate with the economic, social and cultural value of the forests, communal and citizen land, that has been seized by the company. The assistance is also not commensurate with the pollution and physical and social damage caused by the company. Ultimately, assistance provided by SGM cannot make up for human rights violations suffered by residents and the community as a result of the business practices of SGM which ignore international law, national law, and the basis and principles of the RSPO.

6.2. Implementation of state duties

Dealing with the power of corporations and business practices of oil palm businesses that are increasingly expansive and violate the rights of citizens and communities around the palm plantations, the government is the first to be held accountable for the human rights violations experienced by residents and the community in various forms. In accordance with pillar one and pillar three of the UN Guiding Principles on Business and Human Rights,² the government is obliged to protect every individual from infringement by third parties, including corporations. This obligation requires taking appropriate steps to prevent, investigate, punish, and handle violations that occur through effective policy, legislation, regulation, and justice. The government is also obliged to clearly define provisions so that corporations respect human rights in all their operations in the state's jurisdiction.

As part of its responsibility to protect individuals from human right abuses by corporations, the government should take appropriate measures to ensure that those affected by human rights violations by corporations can access effective remedies through judicial, administrative, legislative, and other appropriate means. Following is a portrait of the implementation of government responsibility for human rights related to the oil palm plantation industry business practices.

6.2.1 the state's obligation to protect

To be able to carry out the responsibility of protecting rights, governments are obliged to prevent human rights violations by law, regulations, and policies. The government is also responsible for overseeing business practices that are already in progress and undertaking investigations if there are indications of human rights violations by corporations. When human rights violations have occurred, the government is responsible for handling violations and punishing the perpetrators. Below is an assessment of the implementation of responsibilities.

In the oil palm sector the government has implemented several relevant laws, including: 1) the Act on Plantations, 2) the Act on Forests, 3) the Act on the Protection and Sustainability of the Environment, and 4) the Act on Labor. Although there are laws relating to the oil palm industry, human rights abuse in the plantation sector is still widespread. This occurs because the government has not yet carried out its obligation to protect the rights of citizens and communities in areas around oil palm plantations. Following is an assessment of the implementation of the State's obligation in protecting human rights.

Violation of land and cultural rights. The government has failed to prevent violation of rights to land and culture. Communal and citizen land is taken over by corporations - with or without compensation - and inadequate efforts are made to protect communal land and land cultivated by residents. What happens is, the government - especially the government at the village level - and also security forces actually support corporations in the takeover of land, either by persuading or taking advantage of other people using influence or force, or unilaterally issuing land ownership certificates (SKT)⁵⁰ without the knowledge of all family members entitled to the land. The SKT is issued without being accompanied by a customary land certificate (SKTA).

The national, provincial and district government gave land management and control permits to oil palm plantation corporations without noticing there was a community managed region in the area that was handed over to the company. The government handed over the settlement rights of people and communities to the corporation when there was communal and citizen land inside the area. There was no attempt made to prevent the corporation from committing violations against the rights of citizens and the community. This situation was exacerbated by the fact that the government also gave permission for the management of forests and land without first ensuring the position of its boundaries so as not to violate individual and

⁵⁰ This land ownership certificate is different from the certificate issued by the National Land Agency.

community arable land, owned both by indigenous people and transmigrants. What eventually happened was that people did not know where the boundaries of the plantation were. When the corporation operated beyond the permitted limits not a single residents knew. This means corporations can freely annexed residents' land on the pretext of having already obtained permission from the government.

The government itself does not expressly recognize the rights of communities in the management of communal and resident land. This is proved with the existence of a rule that asserts that customary forests and customary land are recognized as far as customary law applies and this application of customary laws should be confirmed in Regional Regulations. In Central Kalimantan although customary law still applies in indigenous communities, there is no Regional Regulation confirming the existence of these indigenous peoples. The position of citizens in dealing with corporations is very weak because citizens' rights are not recognized.

The laws/rules made by the government, both at the national and local levels are inadequate to prevent land grabbing and violation of the right to culture. This is seen in the legislation relating to plantation industries. Article 9 of the Act on Plantations, for example, requires corporations to carry out consultation with customary communities and citizen holders of customary and citizen land to obtain agreement on the handover of land and remunerations. But the article governing corporate obligation to community and resident land rights is not followed up with sanctions. Therefore, even if corporations do not carry out their obligations to citizens and community land rights holders, they will not be penalized.

Recognition of the rights of citizens and indigenous people contained in Article 8, Article 11, and Article 44 of the Regional Regulation on the Management of Sustainable Plantations are also ineffective because they are not accompanied by sanctions for those who violate them. Only article 11 where the offender is penalized in the form of five years imprisonment and a maximum fine of five billion rupiah. However, in reality, the existing sanctions are not effective in preventing the occurrence of human rights abuses by plantation companies. Evidently, companies that clearly violate these regulations are free of sanctions. Ironically the government itself actually facilitates abuses by corporations. The same thing occurs in Article 67 of the Law on Forests, which recognizes indigenous rights to forest use and management, but the recognition of this right is not accompanied by sanctions for those who break them.

In addition to the recognition of the rights of citizens and communities to land and culture in the legislation relating to the plantation industry, the government also uses several instruments to prevent violations of the rights of citizens and communities. Some of the instruments are contained in the Act on Plantations, the Act on Forests, and the Act on the Protection and Management of the Environment, including: 1) plantation - forestry - environment planning, 2) spatial planning, and 3) permits. In reality, the government - both central and local government - does not carry out its obligation to integrate planning into plantation development, forest management and the environment, which could become a guide in granting permits for plantation companies. Even in granting permits to plantation corporations, the government does not fully comply with applicable laws. There are companies that already have land use permits (HGU) despite not holding a forest release permit from the minister of forestry which is required before obtaining the HGU. There are also companies that already hold a HGU and forest release permit and are in the category of *clean and clear* - which means they hold all the required permits - but the EIA assessment does not meet the requirements because it was done by a team of assessors who have no

competence in the field of environmental impact assessment. In the end, the four companies selected as cases, namely SGM, KSL, KDP and KIU PT did not meet the licensing requirements in full.

Related to spatial planning, Central Kalimantan government and business operators face legal uncertainty due to the uncertainty of the status of forests in Central Kalimantan in the last ten years. Legally, spatial layout in the province of Central Kalimantan is based on two different rules, namely the Provincial Spatial Plan (RTRWP) regulated in Act No. 8 / 2003 and Central Kalimantan Forest Use (TGHK) contained in Minister of Forestry Decree No. 759 / Kpts/Um/10/1982. This occurred because there was no synchronization in the use of space, especially forest, when the process of change in the use of space happened and the implementation of regional autonomy in Central Kalimantan. The impact of spatial policies in Central Kalimantan resulted in overlap between forest and permit areas which encouraged deforestation, lawlessness and social conflicts due to evictions from land and space managed by the community. This legal uncertainty was used as a pretext – both by local governments and oil palm companies to justify their offenses. Because, according to WALHI, even though there is the Regional Regulation No. 8 / 2003 regulating spatial planning, local governments grant permits without regard to the provisions related to space. As a result, many oil palm companies are operating illegally. Spatial planning by provincial government also does not sufficiently recognize the right of citizens and communities to land and areas managed by the community.

Policies and rules related to licensing that are expected to prevent the occurrence of human rights violations evidently have not been fully executed, not only by companies but even by the government itself. This situation is exacerbated by lack of monitoring of oil palm company activities and the lack of law enforcement by competent authorities. Companies that clearly violate the law are not punished. The government ignores the reports of citizens and communities whose land has been seized and whose rights have been violated. In regard to these reports, the government has not conducted a serious investigation or dealt with violations experienced by residents. Rather than crack down on companies that seize citizens' land, law enforcement authorities actually support corporate efforts to criminalize people who fight for their rights.

Even when the government does respond to reports made by citizens and communities, the response is no more an invocation that is sent in the form of a letter to lower government officials in order for them to handle the problems faced by these citizens and communities. The district and provincial governments each try to transfer responsibility. The provincial government made a provision that the party responsible for resolving the conflict is the party who issued the permit, while the permit givers make not response to public reports. In the end the people and communities are not protected at all from human rights abuse by corporations. The government from the level of the village to the center is responsible for human rights abuse by corporations. The central government does not make rules and policies that adequately recognize the rights of citizens and communities and that are effective in preventing human rights violations and does not implement the rules and regulations of its own making. Provincial and district government directly involved in licensing also do not fulfill their obligations. Provincial and local governments tend to ignore the human rights violations experienced by the people. Local government not only doesn't implement the provisions related to licensing but is also actively involved in facilitating corporations in taking over citizen and community land.

Violations related to the right to work. The government has already made detailed provisions governing the right to work, including labor rights. One of the weaknesses in the provisions relating to labor rights made by the government is the “decent wage” minimum standard made by the government with the “minimum wage policy” scheme. Workers claim the minimum wage policy set by the government is not enough to meet daily costs that must be met by the workers and their families. Another weakness is the lack of sanctions for those who violate the right to work, which does not give a deterrent effect.

Despite already making policies and laws governing the right to work, the government has not fully carried out its obligations related to the protection of the right to work. The Transmigration and Labor Department of Central Kalimantan acknowledges that the government has been weak in monitoring the operating oil palm companies. The weakness in monitoring is due to lack of staff that are able to carry out monitoring and also lack of budget for supervision. This situation is exacerbated by the location of oil palm plantations in isolated areas that are far from the reach of the labor department. The government only relies on reports from the company. The workers themselves do not get a lot of information related to their rights as workers guaranteed in the legislation, so the workers do not realize that their rights have been violated. In addition the conditions of work of oil palm workers do not allow them to submit reports or complaints related to the violations they experience. Moreover, workers’ lives are entirely dependent on oil palm companies. This has resulted in the low number of cases reported to the government.

Despite the policies and rules made by the government to protect the right of citizens to work, these policies and rules are not enough to prove that the government has carried out its obligation to protect the right of citizens to work. Because without effective monitoring of the operations of oil palm companies and strict sanctions for offenses committed, the citizens will remain unprotected from human rights abuses by corporations.

Violations of the right to health. Expansion of oil palm plantations has damaged and worsened environmental quality, including water, air, and land or residents’ housing. Expansion of the oil palm industry has also eliminated diverse sources of food meaning that citizens do not have access to nutritious food and have lost their access to various ingredients required in traditional medicines for healing and healthcare. Citizens' rights to health have been abused by oil palm corporations.

Related to the responsibility to the right to health, the government has enacted laws/rules that are intended to prevent violations of the right to health. However the laws made are unable to prevent violations of the right to health committed by corporations. The government has failed to carry out its duty to protect citizens from abuse by corporations. This failure occurs because the government - from the central to the district – has not carried out its obligations set out in legislation related to the oil palm industry, among them : 1) make a plantation - forestry - environment plan that becomes a guide in controlling the expansion of the oil palm industry so that it is in accordance with the carrying capacity of the environment and does not violate the rights of citizens, 2) make rules about spatial planning that adequately protect the rights and areas managed by the community, 3) fully apply the rules relating to licensing, 4) actively monitor oil palm company activities, including an environment audit, 5) carry out law enforcement and give sanctions to companies that commit violations. The government,

from the district to the central level, does not actively monitor the activities of companies, while reports from residents and communities related to pollution and environmental destruction do not get a serious response. Companies are allowed to continue to commit violations. Related to this omission, Central Kalimantan Environmental Control Board (BPLH) admitted, the provincial government cannot take decisive action for several reasons: 1) lack of budget to take steps towards legal proof, 2) hindrance from oil palm companies that use thugs to deter government officials from gathering evidence in the plantation areas, 3) intervention from higher authorities. Even when the government - both at the central and provincial level, does take steps to investigate violations committed by companies or audit the company, it is unclear what the follow-up is on the results of the investigation and audit carried out by the government. Companies that commit violations continue to operate.

Violations of the right to education. The responsibility of the government to realize the right to education has not been fully implemented by the government. This can be seen from the fact that the people in the villages in rural Central Kalimantan still have difficulty accessing basic education. There are even villages that do not have primary schools.

Public access to education has been further weakened by the presence of oil palm plantations which rob citizens of diverse economic sources. The government gives little protection against the deprivation of economic resources by oil palm corporations. The government is encouraging companies to contribute to improving citizens' access to education, but the oil palm companies' contribution is very small and not commensurate with the loss of source of income.

Violations of the right to a decent livelihood. The oil palm industry that robs residents of citizen and communal land threatens community food security and at the same time deprives citizens of a decent livelihood. Indigenous people and transmigrants are undergoing a process of impoverishment, both materially and culturally. The community loses diverse in income sources and many people are now dependent on their wage as laborers on oil palm plantations. Residents who used to be relatively well-off are now living under economic pressure due to reduced revenue and increased costs of living.

As with other rights, the government also does little to prevent the violation of the right to a decent livelihood, which is closely related to the right to land and use of natural resources, such as forests, rivers, and swamps. The government has not executed its obligations mandated in the Plantations Act, the Forest Act, and the Act on Protection and Management of the Environment to make a plantation - forestry - environment plan in order to control the use of land for oil palm plantations. Without a plan, the government has no basis for controlling the expansion of oil palm plantations in order that they do not take citizen land and areas managed by the community. The permit system that has been made by the government is ineffective in preventing the seizure of land managed by residents and the issuance of permits is not accompanied by effective monitoring and law enforcement. The failure of the government to carry out their duty to protect citizens and the community from human rights violations by corporations means the plantation industry not only fails to increase the income and welfare of the community, but actually impoverishes people, both materially and culturally.

Associated with the development of community plantations which is an obligation of oil palm companies to increase the income and welfare of the people, the government has not made clear rules relating to the 20 percent of land that is to be devoted to building the community

plantation. Rules made by the government - in this case the ministry of agriculture – are not only inadequate in protecting the rights of citizens and communities but also contain legal uncertainties related to land for community plantations. On the one hand, corporations agree to carry out their obligation to establish community plantations, but on the other hand do not agree that the plantations be built in the concession areas controlled by the companies but rather on public lands or on other land provided by the government. The government has not clearly and transparently regulated the management of community plantation schemes and has failed to protect the rights of the people. As a result, community plantation development schemes aimed at increasing the income of the community are actually used as a means for corporation to rob citizens of their land.

Article 22 of the Act on Oil Palm Plantations regulates mutually beneficial cooperation, respect, accountability, and strengthening of the mutual interdependence between corporations, employees, and communities around the plantations, and this is embodied in the plantation business partnership. This article also regulates the ways the plantation business partnerships can be carried out by plantation companies, including cooperation in providing production inputs, production, management and marketing, transportation, operational cooperation and ownership of shares. However, in the implementation of these rules, the government tends to limit the plantation business partnership scheme and emphasize development of community plantations that are actually detrimental to the society.

Associated with the violation of the right to a decent living, the government has failed to provide protection for citizens and communities. This failure occurs for several reasons, including: 1) the inadequacy of laws/rules/policies in recognizing the rights of citizens and communities, 2) the provisions in the legislation relating to plantation-forestry-environmental, spatial, and licensing plans not being exercised 3) weak supervision, 4) lack of law enforcement.

Related to civil rights violations. The government makes policies and rules that recognize the right of citizens to express their opinions, obtain information related to policies and rules that affect their lives, participate without discrimination in monitoring related to the forest and environment, report violations, file lawsuits in court, and obtain legal protection, but this recognition of the rights of citizens and communities is inadequate because there are no sanctions for violators of these civil rights. The government formulates the rights of citizens in laws/rules but does not guarantee the rights are implemented. The government even systematically impedes residents and communities from exercising their civil rights to fight for economic, social, and cultural rights violated by the company. This is seen by the substance of Article 20 and Article 21 on the Act on Plantations.

Related to the protection of civil rights in the plantation industry, laws/rules set by the government tend to side with the interests of the company. Article 20 of the Plantation Act, for example, asserts that plantation owners undertake plantation security that is coordinated with security forces and may involve the help of the surrounding community. With this article the government provides full security support for plantation companies, including giving companies the opportunity to pay thugs or recruit local residents to face other residents considered to be against the company. Full government support of oil palm companies is increasingly affirmed in Article 21 of this law. The article prohibits any person from

vandalizing the plantation and/or other assets, using plantation land without permission and/or other actions that result in the disruption of the plantation business. This prohibition is accompanied by criminal sanctions for those who intentionally violate them with imprisonment of up to five years and a maximum fine of five billion rupiah. Unintentional violations are punished by imprisonment of up to two years and six months and a maximum fine of two billion five hundred million rupiah.

It is truly ironic that the Plantations Act does not stipulate sanctions for companies that rob citizens and communities of their land, while the law firmly establishes severe penalties for people who are considered to have disrupted plantation business. Residents who use their civil rights to struggle for economic, social, cultural rights taken by the company could easily be charged with criminal offenses.

6.2.2. the duty to provide remedies for victims of human rights violations

The government is considered to have carried out its obligation to victims of human rights violations when the government takes appropriate measures through judicial, administrative, legislative, and other appropriate means in order that those affected by human rights violations by corporations get access to effective remedies. Violations of human rights are widely and intensively experienced by citizens and communities - especially those in the areas surrounding oil palm plantations. In reality, the government - district, provincial and national - does not take the proper measures towards reparations for the victims of human rights violations by oil palm companies. There are no laws/rules that can be used as a reference in the resolution of human rights violations. The government has also not established a system of handling human rights violations and providing remedies for victims. Local governments tend to respond to cases of human rights violations by lodging appeals with the companies and authorities/government under them. Residents in the end are left to handle the problem alone.

Various cases of violations experienced by citizens and communities have been reported and brought to public attention by the media. However, the people and communities that have been victims of human rights violations do not have access to remedies. Residents no longer know where to complain about the problem of human rights violations they have experienced, no longer know how to fight for the restoration of their rights. The complaints they convey at the district, provincial and national level of the government do not get an adequate response. There has been no solution to the human rights violations they have experienced. They are forced to accept a declining quality of life resulting from the presence of the oil palm plantations that rob them of their rights.

To address the increasing incident of land conflict and violations in the plantation sector, the provincial government in 2010 formed the "Prevention, Control, Management, and Disruption Resolution Plantation Team". The team was formed based on Decree No. 188.44/335/2010 on the Formation of a Prevention, Control, Management and Resolution Team in charge of disseminating information related to the handling of disturbances in the plantation sector. Central Kalimantan Plantation Department admitted, since 2010, the team established by this governor has only carried out dissemination of information in four districts; East Kotawaringin, Gunung Mas, North Barito, and South Barito. It is expected that

the sub-district government also form a similar team. Residents consider that the team formed by the provincial government is not effective in resolving the human rights problems faced by communities. A similar assessment was given by the National Land Agency (BPN) of Central Kalimantan.

6.3. Responsibilities of Corporations

In addition to the state, corporations as actors outside the state also have a responsibility towards human rights. In the UN Guiding Principles on Business and Human Rights it is declared that corporations have a responsibility to respect human rights. In addition, in the event of human rights violations by the corporation, the corporation is also responsible for providing remedies for victims of human rights violations. The responsibility of corporations to respect human rights thus include: 1) avoid being involved in or committing human rights violations; 2) prevent or reduce the impact of human rights violations directly related to the company's operations, or indirectly with products or services from their business relations, even if the corporation in question is not involved in human rights abuses. The responsibility of the corporation to respect human rights applies to all corporations, regardless of size, sector, operating context, ownership and corporate structure. Nevertheless, the scale and complexity by which the corporation carries out its responsibilities can vary according to these factors. To meet its obligations in respecting human rights, corporations must have policies and rules, which include: 1) a commitment to respect human rights obligations; 2) investigation process to identify, prevent, mitigate, and make those responsible accountable for any human rights violations that they commit; 3) a mechanism to address the impact of human rights violations that they commit. Following is an assessment of the implementation of corporations' responsibility for human rights.

The implementation of the obligation to prevent human rights abuses. The companies' commitment to avoiding human rights abuses can be assessed from their commitment to the laws/rules set by the government. In this matter, oil palm companies have not fully carried out the applied rules/laws. In terms of the provisions related to licensing, for example, the oil palm companies chosen as cases do not meet licensing provisions. SGM which is in the category of companies that meet the *clear and clean* criteria evidently does not have an EIA document that fulfills the requirements. While KSL, KDP, and KIU are not included in companies that meet the *clear and clean* criteria, which means that these companies do not yet fully meet the requirements that allow companies to operate. Even though they do not yet meet all licensing provisions required to operate, the companies are already operating.

When operating, the companies also do not heed the provisions in the law/rules, both at national and local levels. By breaking the law/rules, companies also do not respect the rights of citizens guaranteed by the law/rules. In each stage, from obtaining permits, clearing land, operation of plantations to the establishment of oil palm processing plants, companies deliberately violate the economic, social, cultural, and civil rights of citizens and communities. Companies also violate labor rights guaranteed under national and international law.

The implementation of the obligation to address/resolve human rights violations. Oil palm companies have committed widespread human rights abuses against people and communities in areas around oil palm plantations. However companies do not show good faith in addressing/ resolving the human rights abuses they commit. Companies take over

citizens' arable land with compensation determined unilaterally by the company. Companies use security forces and hired thugs to suppress citizens who are not willing to accept compensation. Not all arable land taken over by the company is compensated for by the company. When companies take over communal land they do not provide compensation to the local community.

Palm plantation companies minimize their responsibility for the health and safety of workers as well as the welfare of the workers and their families.

Clearing of land and operation of oil palm plantations and processing plants has caused damage and pollution of rivers, swamps, and citizen's arable land. But companies also ignore the complaints and protests of people affected by the pollution. Companies do not take adequate measures to reduce the environmental impact. Companies leave people who have lost their source of clean water to solve their own problems. Companies do not ease the burden of pollution caused by the operation of oil palm plantations, for example by helping make wells or provide clean water for residents. Companies leave people to use the polluted river water to meet their consumption and sanitation needs.

The implementation of the responsibility to provide access to remedies for those impacted by human rights violations. Companies do not provide any complaint mechanism for those who feel their rights are violated. Instead of providing a mechanism to accommodate complaints, companies actually hamper or hinder attempts to make complaints by utilizing security forces and hired thugs. Companies force workers to keep their distance from external parties and prevent them from speaking of their working conditions.

The oil palm companies do not make any efforts at providing remedies for victims of human rights violations. The residents and communities who are victims of human rights violations are left to bear the impact on their own. Also, in terms of pollution and damage to the environment, there are no efforts made by the company to reduce the damage and pollution. Assistance given by the company to the people, communities and workers affected by human rights abuses committed by the company is not at all comparable to the extent of the damage and loss that must be borne by residents and communities both now and in the future.

7. Conslusions and recommendations

7.1. Conclusion

This study on the life of the communities around oil palm plantations and plantation workers reveals different problems related to human rights violations and how state and companies have performed their responsibilities towards human rights. The study find the following:

1. The oil palm industry that started to operate in Central Kalimantan in 1992 has developed very rapidly, and tended to develop with no control from neither the central nor the provincial or district governments. Every year about 65,349 hectares of land in Central Kalimantan are turned into oil palm plantations. The expansion of oil palm plantations is conducted in massive fashion through conversion of forests and agricultural lands, including customary lands. The lack of control over the granting of licenses for oil palm plantations can be seen by the rapid increase in the number of licenses, where in several

districts, the total number of hectares allocated for oil palm exceeds or approaches the sizes of the districts themselves.

2. None of the four companies selected as study cases, i.e. PT Sawit Graha Manunggal (PT SGM), PT Ketapang Sumber Lestari (PT KSL), PT Karya Dewi Putra (PT KDP) and PT Katingan Indah Utama (PT KIU), possessed all the required licences. PT SGM is listed as having fulfilled the criterium of being 'clear and clean', but its environmental impact assessment has failed to comply with the necessary requirements. As for PT KDP, PT KSL and PT KIU, they are not considered 'clear and clean' and thus, they do not possess all the required licenses. PT SGM is a subsidiary of a larger company that has become a member of the Roundtable of Sustainable Palm Oil association. The above-mentioned companies are operating on the ground although they have not fulfilled the necessary requirements to be able to operate legally.
3. The presence of oil palm plantations around dayak and transmigrant villages has dramatically transformed the physical environment. Forests and locally managed cultivation areas rich in flora and fauna have been cleared away and changed into monocultural plantations. Oil palm plantations have damaged rivers and swamps and surrounding cultivation areas. Rivers have been polluted by waste and mud from oil palm plantations, and many swamps and river tributaries were filled with different kinds of materials for the sake of establishing oil palm plantations.
4. Oil palm plantations have led to loss of livelihoods. Local people who earlier relied on products from forests, rivers, swamps, gardens and fields, now depend on the market to fulfill their needs. Loss of livelihoods combined with increased dependence on the market has deteriorated the economic situation of most individuals.
5. The oil palm companies have seized customary lands, and cultivation areas owned by individuals, both dayaks and transmigrants. This land grabbing was conducted in different ways, including subtle ways like making promises and lures to make local people surrender their lands, but also violent ways like destroying people's gardens, or using security officers and thugs to put pressure on people. Companies often make promises, but not all these are kept.
6. Palm oil results expansion frequently leads to tension and conflicts within families and local communities, and between communities and local government. Customary institutions and norms undergo rapid change and get weakened. Values of team working, *gotong royong*, mutual respect and local wisdom in managing natural resources have been put aside by the material orientation brought in by the palm oil economy.
7. The oil palm plantations operate without respecting basic human rights guaranteed by national and international laws. As a result, companies have widely abused economic, social and cultural rights of local people. The closer the residing areas to the plantations, the more serious are the negative human rights impact on individuals and communities.
8. Oil palm companies frequently fail to respect the land rights of individuals and communities. Loss of lands negatively affects indigenous peoples' right to culture.
9. The capital- and labour-intensive oil palm industry has opened employment opportunities for local people and citizens from other parts of the country. The companies however do not respect the rights of the employed labourers. The companies tend to minimise their responsibility towards the labourers' rights by applying loose employment relations through the use of temporary daily workers, with bad working conditions, i.e. low wages, long work hours and high work targets, heavy workload and high risks of accidents, without social insurance and under tight supervision.
10. The oil palm industry damages and worsens the quality of their surrounding environment, including the quality of water, air and soils. The expansion of plantations has also eliminated different sources of food, which earlier made the local population able to

maintain a diversified diet. The deterioration of the environmental quality and the elimination of the sources of food and of traditional medicines indicates abuse of people's rights to water and to health.

11. The responsibility to fulfill the right to education is a responsibility of the state. The state has not fully observed its duty. As a result, access to education is low, in particular for those who reside in the hinterlands. Access to education deteriorates as a consequence of land grabs leading to loss of livelihoods, and reduced economic possibilities. Some companies support education through CSR programs but the size of this support is insignificant compared to the overall impact of these companies.
12. Corporate land-grabbing threatens people's food security and their right to an adequate standard of living.
13. The presence of the oil palm companies' has led to a process of impoverishment for customary and transmigrant communities, both in a material and a cultural sense. People have lost their livelihoods and many of them now depend their lives on wages as plantation workers. Local people who earlier were living under relatively decent conditions are under economic pressures due to the decrease of their incomes and the increased dependence on the market in order to meet their daily needs. Cultural impoverishment takes place when people who formerly worked freely in the fields and in their own gardens yet now they end their statuses as coolies in the oil palm plantations, locally called as '*jitèn*'.
14. The oil palm plantation industry that operates within the area of customary and transmigrant communities does not only abuse economic, social and cultural rights but also their civil rights. The presence of paid thugs, paid by companies, makes people feel insecure and afraid to express themselves. The industry causes social tension and increased levels of conflict within families, between individuals in communities, between those who oppose the plantations and the government or the security officers. Communities become divided between those who support plantations, those who oppose them and those who are indifferent.
15. Many local communities lack formal acknowledgement of land ownership from the state. This is not caused by oil palm, but palm oil expansion makes the problems resulting from lack of formal ownership more urgent to address. While local communities' land ownership is not acknowledged, companies get permits to control thousands (or even millions) of hectares. The law and its enforcement is seen as biased, companies who grab community lands are not acted upon, while those communities who fight for their right to land are criminalised. The right to free, prior informed consent is not respected at all.
16. Human rights abuses of oil palm companies have happened because the state has failed to carry out its obligation to protect human rights from abuse by companies. The state has also failed to provide remedies for victims of violations that have occurred.
17. As for the obligation to protect people from human rights abuse by companies, the state has failed to prevent violations from happening through providing necessary laws, regulations and policies. In the oil palm industry sector, the state has enacted relevant laws, i.e. 1) the law on plantations, 2) the forestry law, and 3) the law on the protection and the sustainability of the environment. However, the laws fail to provide adequate recognition of the rights of individuals and the communities, including right to land, the right to manage forests, and the right to healthy environment. The laws fail to firmly oblige the state to determine the land management area of the people and to ensure that the allotted areas are not categorised as lands for oil palm plantations. The recognition of the rights of the individuals and the communities that do exist is not assured by clear penalties against perpetrators who violate these rights.

18. Apart from the inadequate contents of the laws in recognizing the rights of the individuals and the communities, the government has not accomplished the legal provisions mandated in the laws for the prevention of the rights violation, i.e. 1) to delineate planning related to matters of plantations, forest and the environment that will serve as a guidance to control the unbridled expansion of oil palm plantations; 2) to enact regulations on spatial planning and management that assure the rights and the territory of the individuals and the communities; and 3) to fully apply regulations pertaining to licenses granting.
19. The state has not only failed in preventing rights violations with taking proper policies, regulations and laws, but it has also failed in monitoring the oil palm companies that have been in operation. Although there have been many reports of violations, the state have not conducted investigations, not resolved past violations and there has been no sanctions against the perpetrators.
20. The state fails to observe its obligations to provide remedies the victims of human rights violations. The state tends let the victims of violations deal with their own fate without any assistance.
21. There is a comprehensive set of regulations on worker's rights. However the companies tend not to observe these, because the state does not conduct effective monitoring and there is no legal action taken against companies perpetrating legal violations.
22. The plantation law protects the interests of oil palm companies and forsakes the interests of affected communities. There are no penalties enforced towards companies that perpetrate abuse individual or communal rights. Instead, those individuals who are charged of having disturbed the plantations' business can receive down criminal penalties and heavy fines. As a result, any individual who fight for her rights can easily now be criminalised.
23. The cooperation between oil palm companies and smallholders based on *plasma* schemes are in practice implemented without any clear regulations. There is no official agreement in the managment of the *plasma* plantations that secures the local people's rights. In its implementation, the scheme has turned, instead, into a subtle mode for companies to take over lands.
24. The legal framework frovides inaducate protection to of the rights of communities. Also, the state does not fully comply with existing laws and regulation. Under such circumstances, corporations are able to violate human rights without any legal sanctions.
25. In the selected three district areas of East Barito, Katingan and East Kotawaringin it has not been identified proper alternative efforts among the individuals or the communities, the oil palm companies and the government in overcoming the human rights violations. The bereft individuals and communities have in fact conducted different attempts, like 1) community organising, 2) protests to the companies, 3) to file reports to local governments, the National Commission of Human Rights (Komnas HAM), and to related civil organisations, 4) placing *hinting*, i.e. a customary tradition to put rope to line up the disputed plots of landm, etc. Local people's struggle and resistance have not reached the purpose of respecting basic rights. The government officials rather blame one to the other instead of taking up responsibilities. Customary measures are to discount and to ignore, either by the government or the corporations.
26. The government has failed to reach the goals of establishing the development of the plantations and the forest management specifically for improving people's life quality and social welfare. Oil palm plantations indeed have significantly contributed local gross income and have made local economy to grow higher than the average possible and have been able to absorb labour. The expansion of the oil palm plantations however has

reduced life quality of and caused impoverishment of local people, either economically or social-culturally.

7.2. Recommendations

7.2.1 For the state (at national, provincial, and district level)

1. Continue the moratorium on new operation licences for palm oil plantation and other operating licences (mining and logging) to stop the expansion of human rights violations and environmental degradation that result from a lack of control. The moratorium should be accompanied by monitoring and strict sanctions for those that violate it, both state and companies. In order to make the moratorium efficient, the state needs to form a monitoring unit, with community participation.
2. Monitor the human rights performance of companies and the human rights situation in communities close to oil palm plantations, and provide remedies to victims of violations. In order to do so, the state should establish a standard operational procedure for resolving human rights cases in the oil palm sector at the national, provincial and district level.
3. Conduct audits and evaluation of how palm oil companies concerning operation licences, land covered, its location and borders, and the relationship to the land rights of local population. This step is needed in order to prevent further human rights violations taking place.
4. Identify the land areas that traditionally as been managed by the local population in every village, subdistrict and district, including both areas that are still managed by local population as well as areas where the land has been seized. This is needed in order to identify victims of human rights violations, formulate remedies, and prevent further violations in areas under community management.
5. As a matter of priority, create spatial plans at provincial and district level, that in a clear and firm way identify lands under community management and guarantee their protection.
6. Revise the plantation law and the forestry law, considering the environmental capacity, community management areas, the interests of coming generations, spatial plans, local wisdom in natural resource management, and human rights principles
7. Establish a human rights complaint mechanism (outside the legal system) that is clear, easy to access and able to provide justice for victims, so that the community may complain when land grabbing, land burning, river pollution, intimidation, or other problems occur. Besides that, it should be possible to seek solution to human rights violations through the legal system. In order to make the legal system more accessible for victims, the state should provide legal aid.
8. Immediately stop the practice of using day laborers without a contract of work, and the practice of giving wages based on strict targets, and make sure that company conduct is in accordance with workers' rights, as regulated through the law on human resources and its implementing regulations.
9. Make sure that plantation workers are able to conduct their right to organise, and take legal action against companies that prevent workers from organising/or forming labour unions.

10. Consider human rights and the environment as central elements in regional and national budgets, and allocate sufficient funds for monitoring, law enforcement and solving human rights cases in the oil palm sector, as well as in extractive industry sectors.
11. Strengthen the *kedamangan*-institution in line with its function in management of customary land, conflict resolution, and resolution of other matters related to customary (*adat*) rights.
12. Memperkuat lembaga kedamangan sesuai fungsinya sebagai kepala adat dalam pengelolaan tanah adat, penyelesaian konflik, dan penyelesaian masalah-masalah lain terkait hak masyarakat adat
- 13.
14. Evaluate the implementation of *plasma* schemes and open alternative cooperation schemes between communities and companies that guarantees the rights of citizens and communities. If the plasma scheme is continued, there is a need for regulations and cooperation agreements that are clear, transparent, and guarantees human rights.
15. Revise the licensing system by placing the right of affected communities to give or withhold their consent to plantation establishment as a criteria that can not be negotiated. This should be done to reduce land grabbing.
16. Educate state officials at all levels about human rights and the state's human rights obligations related to businesses.
17. Especially for the Corruption Eradication Commission,
18. Khusus untuk Komisi Pemberantasan Korupsi (KPK), examining corruption in the forestry, oil palm and mining sector
19. Provide legal aid for victims that chose to pursue a solution via legal channels.
20. Conduct land reform to prevent land monopolies and to guarantee the protection of community-managed land. The state should also acknowledge the land rights of customary communities who, until now, has not gained formal acknowledgement of land ownership. In order to do so, the central government needs to improve the system for acknowledgement of land ownership in order to avoid overlapping/and large scale land acquisitions without control.
21. Implement the UN guiding principles on Business and Human Rights through formulation of a national action plan on human rights and business that is integrated to the national action plan of human rights.

7.2.2. For oil palm companies and industry organisations

1. Stop all human rights abuse, and take responsibility for providing remedies for human rights abuse that has already happened
2. Avoid establishing or expanding palm oil plantations that does not possess the required operating licences, or that goes beyond the areas covered by the licences
3. Form teams to evaluate whether company conduct is in accordance with human rights and national law, involving local communities and independent third parties.
4. Return all lands that has been acquired in unjust manners, both individually owned land and common land previously under customary management

5. For companies that apply *plasma* schemes, make written agreements on plasma management that are clear and transparent, and fulfil all promises that are made to local communities
6. Stop the practice of using day laborers with no contract of work, and the system of reduced wages when strict production targets are not met. Follow all articles in the labour law, including those concerning child workers and female workers.
7. Take action to restore ecosystems that are damaged due to the oil palm industry, and to reduce the negative environmental impact for the future
8. Commit to respecting human rights and refraining from corruption. Follow all legal provisions of national law related to oil palm and human rights, including those concerning land rights.
9. Promote the understanding that human rights are not undermining business. On the contrary, respect of human rights constitutes part of a sustainable business. Industry should act in accordance with the UN guiding principles on business and human rights.

7.2.3. For civil society

Be aware that solution to human rights problems cannot be achieved without the participation on civil society that supports customary communities in organising themselves and fighting for their rights

1. Help create and nurture solidarity within customary communities who are susceptible to human rights abuse. This is needed to prevent/or overcome polarisation and conflict in these communities, related to the role of companies.
2. Build networks to identify and map community managed land from the village until district level.
3. Create awareness among the middle class to avoid investing in corporations that conduct human rights abuses, engage in corruption or harms the environment.
4. Disseminate information about the human rights obligations of that state and the human rights responsibilities of corporations
5. Push for clear acknowledgement of the rights of customary communities within the national legal system at national and regional levels
6. Cooperate with regional and central government and other stakeholders to build networks that provide legal aid to victims of human rights violations, or assistance to seek solutions outside the legal system.
7. Spread the understanding that promoting human rights is not identical with obscuring business possibilities. On the contrary, respect for human rights is part of sustainable business. In order to do so, there must be continuous calls for applying the UN guiding principles on business and human rights, and the principles must be integrated into the national action plan on human rights.