

THE LOSS OF REASON

Human Rights Violations in the Oil-Palm Plantations in Indonesia

A report based on case studies in Labuhan Batu



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**Study carried out on behalf of Lentera Rakyat, Indonesia
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Part 1: Background

1.1 Rationale for the report

“We live in a country without a State. Those who have power and weapons will win. Every day, villagers here are subjected to violence, and intimidated by military officers, thugs and company security officers. The peasants are only defending their right to land for their living needs.” (D., a member of a peasant group at Jatimulya, Sei Meranti Village, Torgamba, South Labuhan Batu, 2010)

On 11 August 2010, a conflict took place in the village of Sukaramai in North Sumatra between a peasant group, Karya Lestari, and a palm oil company, Sawita Leidong Jaya (SLJ). Armed people, allegedly under the orders of SLJ, attacked the peasants¹. Reportedly, one person was killed and three seriously injured.

Another case took place on 30 November 2010 in Torgamba, in the district of South Labuhan Batu. Forestry police and suspected air force officers are reported to have fired on peasants in the village of Sei Meranti. According to reports, 10 people were seriously injured. The conflict occurred because the local people, mostly smallholders, were struggling to regain control of their lands. The land had been taken by Surya Belantara Indah (SBI), a subsidiary of the Raja Garuda Mas Group, now known as RGE², which claims that the lands cultivated by the local people belong to the company³. SBI is not directly connected with the palm oil business, but the companies surrounding the village are the palm oil estates such as Torganda, the state-owned company-PTPN III, and many smallholders.

These two cases are typical of many land conflicts in Indonesia where local peasants find themselves victimised by companies. Official government statistics show that in 2009-2010, 16,388 hectares of land were converted from food crops to palm oil plantations⁴. This rapidly increasing expansion of palm oil plantations, particularly over the last 10 years, has led to serious human rights violations and the depletion of the food-rice crops area. According to a 2011 report from the National Commission of

¹ <http://www.inimedanbung.com/node/7158>

² SBI, together with PT SRL (Sumatra Riang Lestari), is a company member of RGE. RGE is one of the biggest company groups operating in pulp, energy, agribusiness/palm oil, and paper in Indonesia, see: http://www.rgei.com/index.php?option=com_content&view=article&id=6&Itemid=11

³ http://www.starberita.com/index.php?option=com_content&view=article&id=14427:sat-pol-kehutanan-bentrok-dengan-petani-2-kritis-8-luka-&catid=37:peristiwa&Itemid=457

⁴ BPS Sumut 2010

Human Rights (Komnas HAM), of 5000 cases of human rights violations gathered in 2010, 30% related to the palm oil plantation sector⁵.

North Sumatra is known as the first area of palm oil capitalisation in the world, beginning in 1911. For many years, it has been a highly profitable source of revenue for Indonesia. The patterns of plantations in North Sumatra are spreading to other areas in Indonesia, reaching the provinces of Sulawesi, Borneo, and Papua since the 1980s.

Labuhan Batu, which in 2008 was divided into three separate district administrations - Labuhan Batu, North Labuhan Batu, and South Labuhan Batu - has become an arena for conflict between landless farmers and palm oil corporations.

Sawit Watch, an NGO working on the impact of oil palm plantations, has noted an increase in land conflicts relating to such plantations in Indonesia. In 2008, it reports, there were 576 cases of human rights violations between society groups and plantation corporations⁶. Of these, 13 took place in North Sumatra. This figure may be even higher since research undertaken for this report has found 20 cases of human rights violations in Labuhan Batu district alone⁷.

A report by Konsorsium Pembaharuan Agraria (KPA), an NGO Forum for Agrarian Reform in Indonesia, states that between mid-1998 and 2002, there were at least 479 victims of torture, 12 people killed, 134 who suffered gunshot wounds, 936 jailed, 284 houses and huts belonging to local people set on fire, 1,901 peasants and human rights defenders facing threats, and 307,945 hectares of peasant lands destroyed as a result of land conflicts in Indonesia. In addition, in the same period, an estimated 20% of 1,753 protests have been related to oil palm plantation⁸.

A scheme introduced by the government in the 1980s and supported by the World Bank has been unable to resolve the situation. Under the nucleus estate scheme (Perkebunan Inti Rakyat (PIR)), large-scale corporations were required to allocate 20% of the lands they owned to this scheme. In practice, the corporations established their own peasant groups and the genuine groups have been marginalised. According to research in 2010 by NGO groups Kelompok Pelita Sejahtera, Bakumsu, and Lentera, the corporation owners use their own peasant groups to gain more easily credits from the World Bank⁹.

⁵ A speech by the vice chairperson of Komnas HAM, Nur Kholis, SH, at the RSPO Meeting, Kuningan Hotel, Jakarta, November 2010. Also see: <http://www.kalimantan-news.com/berita.php?idb=1825>

⁶ Sawit Watch, 2009.

⁷ See this report.

⁸ Down to Earth No 52, February 2002, p.31.

⁹ Konprensi pers Bakumsu, Lentera, dan KPS, 10 November 2010, di Koki Sunda Medan.

Similar research focused on labour in North Sumatra reported that of 236,000 labourers, an estimated 80,000 work as casual workers without receiving social safeguards such as accident, health, death-benefit, or pension fund insurance¹⁰.

The aims of this report

- To provide data about rights violations at three selected locations in the oil palm plantation areas of Labuhan Batu, in North Sumatra.
- To offer recommendations to institutions and agencies at the district, national, and international levels to reclaim the rights of labourers and peasants. This report is expected to be part of a joint campaign between *Brot für die Welt* in Germany and Lentera.

1.2 Scope of the report

This report covers violations of civil and political rights, and economic, social and cultural rights, as enshrined in domestic law and international human rights law, in three selected districts. It sets out the forms and patterns of rights violations, as well as naming victims and perpetrators. The report outlines the contradictory regulations on land tenure that indirectly create a potential for conflict. The report aims also to outline the supply chain for the palm oil industry, including sources of financial and technological supplies.

1.3 Methodology

Research was conducted to examine human rights violations resulting from the expansion of oil palm plantations, and directed against agricultural peasants (rice planters) and labourers working at the plantation companies.

This research has also examined the regulations – both as set down on paper and as practised – aimed at protecting including civil and political rights, and economic, social and cultural rights.

The case studies use a rights-based approach, using a framework and benchmark of universally accepted human rights. The most important phase of this approach is to reconstruct the structures that impact upon injustice, poverty, and rights violations. This report then analyses human rights violations

¹⁰ Konprensi pers Bakumsu, Lentera, dan KPS, 10 Nopember 2010. Also see: http://www.medanbisnisdaily.com/news/read/2011/01/28/17123/membagi_hasil_perkebunan_sumut/

committed against marginalised people and the lowest class in society. It outlines the structures of regulations that indirectly create potential conflict and struggles over resources.

For this report, the researchers organised a series of interviews with evicted peasants and those who are defending their rights, and organised a Focus Group Discussion. Researchers also undertook interviews with the regulatory agency (the Local People's Representative Office), NGO activists, and local journalists. The cases in this report are taken from selected articles that have been published both by local and by national newspaper companies¹¹.

1.4 Structure of the report

The structure of the report consists of a background section outlining the rationale for this report, a second section setting out the context for the study and the results of previous research. A third section highlights a series of case studies setting out the extent of human rights violations in the three selected areas. Finally, the fourth section sets out recommendations.

¹¹ The following are the selected articles: The eviction of peasant groups by SLJ-GDLP-Bakrie Sumatra Plantation di Sukaramai, North Labuhan Batu; The eviction of peasant groups by oil palm growers in Linggahara Baru, Labuhan Batu; The eviction of peasant groups in Jatimulya by SBI, Sei Meranti, South Labuhan Batu; Tolan Tiga Parlabian-Sipef and Socfindo Bilah Hilir, South Labuhan Batu and Labuhan Batu: Marginalised Labourers; "PTPN III: Labour transferred because joining the organisation", located in Labuhan Batu; The eviction of 9 peasant groups by PTPN III in Marbo Selatan Plantation, Labuhan Batu.

Part 2

Context of the study: A review of forced labour and eviction in the plantations

2.1 Labuhan Batu at a glance



Map of Indonesia, North Sumatra, and Labuhan Batu.

North Sumatera Province consists of 78 districts and municipalities.

Coverage areas of the study consists of Labuhan Batu (07), South Labuhan Batu (22), and North Labuhan Batu (23)

Areas of Labuhan Batu were first populated by migrants coming successively from Tapanuli Selatan, Tapanuli Utara and Java, following the opening of plantation companies in the 1920s. Migrants from Java, known as *Jawa Kontrak*, worked as labourers in the plantations, whereas migrants mostly from Tapanuli, known as *Panombang* worked as peasants. Labuhan Batu was well known for its successful agricultural products and rice storage.

In 2008, Labuhan Batu was administratively divided into three districts: Labuhan Batu district (pop. 414,417), South Labuhan Batu district (pop. 277,549), and North Labuhan Batu district (pop. 331,660). These districts are currently in the process of forming their own institutional structures and infrastructure¹².

According to the North Sumatra Statistics Board, by 2008, large and small-scale oil palm plantation accounted for 1,019,207 hectares (53.64%, of the total number of plantations in North Sumatra), an increase of 386,970 hectares from 1984. It is estimated that two-thirds of oil palm plantations belong to large-scale plantations, including local and foreign investors, and to state-owned firms. This sector

¹² Statistic Board of North Sumatra, 2010.

produces approximately 14 million tonnes of Crude Palm Oil (CPO) each year. The remaining one-third of plantations belongs to smallholders, but there is no clarity as to how “smallholders” are defined.

In 2009, the plantation department of North Sumatra classified land possessions on the basis of their management and production system: smallholders’ plantations on 815,000 hectares producing 2,829,280 tonnes of CPO; private plantation on 425,551 hectares producing 4,934,556 tonnes; and state-owned plantations on 388,534 hectares producing 4,461,398 tonnes.¹³

Peasant groups, as described in this report, are grass-root mass organizations of small-scale farmers at the village level. They are usually established on the initiative of a group of farmers who face problems and have mutual interests with respect to farming and agrarian problems. The organizational form of such groups is not clearly stipulated in Indonesia’s laws, but there is recognition by the government of such entities. Peasant groups do not require legalisation, but some groups, for particular legal purposes, have been legalised through a notary deed.

2.2 Research review

Although there has been a considerable body of research by domestic and foreign academics since the colonial era that has highlighted the severe social situation linked to oil palm plantations in North Sumatra, there has been no specific research focussed on the situation of Labuhan Batu.

Table 1: The early development of oil palm plantations in East Sumatra pre-independence¹⁴

Years	Area (Hectares)
1915	3,294
1920	8,462
1925	29,402
1930	61,229
1935	74,919
1938	92,307
1945	73,621

¹³ Plantation Department of North Sumatra, 2009.

¹⁴ Taken from Karl J. Pelzer, *Toean Keboen dan Petani, Politik Kolonial dan Perjuangan Agraria, 1863-1947*, Sinar Harapan, 1985. p.78.

In his book first published in 1987¹⁵, *Taming the Coolie Beast: Plantation Society and the Colonial Order in South-east Asia*, Jan Breman presented a study of the plantation system on the East Coast of Sumatra from the early 19th to the beginning of the 20th century. He highlighted a report by a colonial attorney, J. L. T. Rhemrev, dealing with the suffering of the labourers in the plantation areas under western control.

Breman described how the labour recruiting process, allowed by the *coolie ordonantie* system in 1903, represented physical harassment¹⁶, with unjust criminal and civil penalties applied to labourers outside the very laws that had been created by the colonial authorities. This system was known as *poenale sanctie* or “penal sanction”, on the basis that “Coolies are not worth more than an animal”¹⁷.

If Jan Breman covered the conditions of “slavery” faced by labourers, Ann Stoler has critically examined the situation in the plantation sector from the colonial period to the establishment of Indonesia. She noted how women were particularly vulnerable because of the lack of access to housing leading them to engage in commercial sex¹⁸.

Stoler demonstrated that slavery flourished in the plantation sector: “Labourers who ran away, refused to work, or otherwise transgressed the rigorous rules inscribed in their contracts were subject to imprisonment, fined, and or forced labour above and beyond the duration of the initial agreement”¹⁹.

A modern form of such penal sanction in the oil palm plantation sector in Sumatra appears to be practised through the strategic policies of the Sumatra Planters Association²⁰, regarded as a strategic and powerful body in Sumatra influencing labour-based policies. This body has a powerful influence with its policies often being in conflict with national law²¹.

Research published in 2010, and conducted by ELSAM Jakarta, a human-rights-based NGO, has highlighted the rights violations in this sector. The 69-page report highlights the conflicts between local villagers and the PT PP Lonsum Tbk-North Sumatra Company. The rights violations have included

¹⁵ Jan Breman, *Menjinakkan Sang Kuli, Politik Kolonial, Tuan Kebun, dan Kuli di Sumatra Timur pada awal Abad ke 20*. Penerbit Grafiti, Jakarta, 1997, p. xx. Published in English as Jan Breman, *Taming the Coolie Beast: Plantation Society and the Colonial Order in South-east Asia*, OUP India, 1989.

¹⁶ Idem, p. xxxvii.

¹⁷ Idem, p. Page xxv.

¹⁸ Ann Stoler, *Kapitalisme dan Konfrontasi di Sabuk Perkebunan Sumatra, 1870-1979*, penerbit Karsa Yogyakarta, 2005, pp 48-9.

¹⁹ As quoted in William Liddle, Ann Laura Stoler, *Capitalism And Confrontation In Sumatra's Plantation Belt, 1870-1979: A Review*, by R. William Liddle <http://www.jstor.org/stable/3351192>, p.28.

²⁰ Badan Kerjasama Perusahaan Perkebunan Sumatra (BKS-PPS).

²¹ Interview with Gindo Nadapdap, Director of Kelompok Pelita Sejahtera, December 2010.

eviction, depriving villagers of their potential livelihood resources and activities, sexual harassment of women, the use of casual labour, and child labour trafficking²².

2.3 The plantation labour wage system in the post-colonial era

Research undertaken by the Kelompok Pelita Sejahtera (KPS), a local research-based NGO, on the plantation wage system indicates that the system that existed during the period from 1950 to the 1960s known as the “old order”²³ was much better than in the period that followed. This can be seen in the method called the “Catu 11” system, in which in addition to a cash wage, labourers received additions for their 11 primary needs (rice, dried fish, cooking oil, sugar, green beans, soap, milk, clothing/half material, tea, salt, and kerosene). During the period of the “new order”²⁴, however, a labourer received only a cash wage and rice²⁵. Table 2 presents a comparison of the wage system from 1990 to 2007²⁶:

Table 2: The History of Wage System in the Plantation Companies

Wage system Period	Wage measurement	Wage components	The wage amount converted into rice equivalent (Kg/Day)
Coolie Ordinance (1900-1936)	10-12 hour working day and additional target	Daily Basic Wage	USD 6 per month. Rice was not provided
Post Coolie Ordinance (1937)	10-12 hour working day and additional target	Daily Basic Wage	4.37 kg
Old Order (1950s to 1960s)	7 hour working day and additional work target	Daily Basic Wage + Catu 11	2.6 kg
New Order 1984	7 hour working day and additional work target	Daily Basic Wage	3.21 kg
Reformation 2007	7 hour working day and additional work target	Daily Basic Wage	3.7 kg

²² Position Paper No. 1/2010, Pelanggaran Hak Asasi Manusia di Kawasan Perkebunan Kelapa Sawit PT PP Lonsum Tbk-North Sumatra, published by ELSAM, February 2010, pp. 35-8.

²³ The post-independence state under Sukarno (1945-1967).

²⁴ The authoritarian regime of President Suharto.

²⁵ Sistem Pengupahan di Perkebunan, by Manginar Situmorang dan Hotler Parsaoran Sitorus, published by KPS, 2009, p. 78.

²⁶ Idem, p. 101.

The table below shows the additions for the 11 primary needs under the Catu 11 system:

No	Catu Contents	Monthly Quantity/Labourer
1	Rice	15 kg + 7.5 kg for dependants
2	Dried Fish	1.5 kg + 0.5 kg for dependants
3	Cooking Oil	1.5 kg + 0.5 kg for dependants
4	Sugar	1.5 kg + 0.5 kg for dependants
5	Green Beans	1 kg
6	Soap	4 packs + 0.5 pack for dependants
7	Milk	1 can per three months
8	Clothing/Material	6 metres per three months + 3 metres for dependants per three months
9	Tea	3 packs
10	Salt	1 kg
11	Kerosene	2 litres

Syafray Sairin (Mubyarto, 1992) has shown how the real salary of labourers has declined each year since the colonial era. In 1937, labourers received the equivalent of 4.37 kg of rice plus social safeguards such as pensions. By 1984, the daily wage had dropped to the equivalent of 3.21 kg rice plus social safeguards. In 2007, the daily wage of labourers was 3.7 kg rice but in this case without any social safeguards such as insurance and pension benefits²⁷.

Other research by KPS²⁸ notes that an estimated 80,000 of 236,000 labourers are employed as casual workers²⁹ in North Sumatra Province, being paid less than the equivalent of 2 euro per day and working without adequate social safeguards. On top of that, an estimated 68,000 labourers who work to collect the waste fruits of oil palm are provided with a wage of only 1 euro. The research notes also that the permanent labourers are assisted by casual workers³⁰ or *kernet* who have no legal agreement with the company, but are instead paid by the permanent workers to achieve the targeted production of the company set for each worker.

²⁷ Idem, p. 8.

²⁸ Research report 2007.

²⁹ Buruh Harian Lepas (BHL).

2.4. Problematic laws and regulations in Indonesia

The Indonesian constitution of 1945 gives clear recognition to the value of human rights, land use, and local peoples' rights regarding their land, but the laws and regulations that have followed have demonstrated less sensitivity to such values. These regulations have not given protection to the rights of indigenous people, individuals, or local communities.

Several times since national independence, the rights of indigenous people have found recognition, such as in the constitution of 1945 and the Basic Agrarian Law of 1960. After the downfall of the authoritarian "new order" regime of President Suharto in 1998, there have been four amendments to the national constitution affirming the recognition and protection of human rights, as well as the ratification of two international covenants and several treaties and conventions on human rights.

The constitution now includes a commitment to the right to life (Chapter 28). This includes the right to self-development through the fulfilment of basic needs and the right to organise collective demands for this right (Chapter 28 C), the rights to employment and a decent wage, as well as just and decent treatment in working relationships (Chapter 28 D, 2), and the right to social safeguards (Chapter 28 H, 3).

These amendments have been underpinned by Human Rights Law No. 39 of 1999, which has given a mandate for a more independent development of the court on human rights, despite its limited authority.

In 2005, the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights, were ratified. Indonesia has also ratified the Convention on the Elimination of all forms of Racial Discrimination (CERD), and the Convention on the Elimination of Discrimination against Women (CEDAW).

In the context of food and agriculture, a 2009 law³¹ on the protection of sustainable food agriculture has enshrined the protection of peasants, as well as the provision of sufficient credits and incentive to ensure food autonomy and sovereignty. It also prohibits the transfer of land that has been designated as sustainable food agricultural land.

However, in conflict with these policies, the government has also promulgated laws and regulations that infringe the recognition of local communities, and the just use of land, as Sawit Watch has noted³²:

³⁰ *Kernet* is a person who is not documented by the company who works to help a worker to achieve his/her target work.

³¹ Act No. 41 of 2009.

³² Working paper on political economy of the Indonesian palm oil industry, Norman Jiwan, March 2009.

1. The Forestry Act No. 41 of 1990 on the conditional recognition of the rights to land ownership. The provisions of this law would in practice be difficult to fulfil.
2. The Plantation Act No. 18 of 2004. The law serves as the justification of large-scale land ownership and excluding local people from access to land. One of its provisions states that entering the plantation without authorisation is a criminal act.
3. The Agricultural Minister's Regulation No. 26 of 2007 on land ownership stating that a company is allowed to own more than 100,000 hectare of lands
4. The Agricultural Minister's Regulation No. 14 of 2009 giving permission to plant oil palm on the peat lands up to 3 metres deep.
5. The Environmental Minister's Regulation No. 12 of 2007 giving permission to plant oil palm without necessarily undertaking an Environmental Impact Assessment.

2.5 The legislative process and the potential for 'laundering' illegal plantations

Two regulations that are connected to spatial planning and the use of forests are being considered in the legislative arena³³. These two regulations are directly linked to sustaining business and investment.

Several Indonesian NGOs have questioned potential changes to certain forest areas that have been proposed by the provincial administration of North Sumatra to the central authorities. An NGO Forum, APTRSU, found evidence that land designated for Alternative Land Use had been allocated for oil palm plantation areas such as Tapanuli Selatan, Labuhan Batu, North Labuhan Batu, and Asahan. The forum also found evidence on Samosir Island and in South Labuhan Batu of preserved forest being transferred to permanent forest production³⁴.

The government is considering expanding oil palm plantation by about 22 million hectares, an area larger than Great Britain, by 2020³⁵. This follows demands by oil palm growers for measures to enable them to meet the target of the Association of Oil Palm Growers in Indonesia (GAPKI) of 40 million tonnes of Crude Palm Oil by 2020³⁶. This is a quantity that is twice that which had been achieved by 2010, 20 million tonnes. Yet the conflicts already taking place on the current area of 7.9 million hectares of oil palm plantation areas will be exacerbated if the plantation lands are expanded, as proposed.

³³ The revision of the Forestry Minister's Letter No.44, and the legislative process of the RTRW Act on spatial planning.

³⁴ <http://www.hariansumutpos.com/2010/05/49228/revisi-hutan-bisa-berubah.html>

³⁵ http://www.medanbisnisdaily.com/news/read/2011/03/26/25867/jalan_ketiga_peta_jalan_diskursus_sawit. See also <http://www.pecad.fas.usda.gov/highlights/2009/03/Indonesia/>

³⁶ http://www.kabarbisnis.com/aneka-bisnis/agribisnis/2811852-40_juta_ton_target_targetkan_produksi_CPO_Indonesia_di_2020.html

These developments demonstrate the contradiction between laws recognising the rights of individuals and communities (the human rights law package), and economic- and investment-oriented policies which can be inimical to the promotion of human rights.

Such a situation can act as a trigger for the violation of the rights of indigenous people and local communities, despite these rights being supported and protected by international human rights law.

This underlines the need for legislation to regulate the ownership and use of land for Indonesian citizens as a whole. Besides the need for the involvement of indigenous people and local communities, there needs also to be a forum for dialogue among relevant agencies, such as forestry, public development and infrastructure, plantation, agricultural, and environmental departments.

Part 3

Information and case studies on human rights violations

This section contains information obtained through observation, interviews with relevant parties, focus group discussions, and relevant documents. This data has then been assessed using a human rights framework. This means looking not only at the infringement of civil and political rights, but also of economic, social and cultural rights.

3.1 Media reports and NGO data on the eviction of peasants

Local media in 2010 reported 26 cases of eviction, involving 909 families. Two local people were reported to have been killed, five tortured, and tens of people jailed³⁷.

In 2007, Bakumsu, a local NGO in North Sumatra, gathered documentation³⁸ about land conflicts in nine districts and municipalities: Deli Serdang, Langkat, Labuhan Batu, Simalungun, Asahan, South Tapanuli, Toba Samosir, Medan, and Dairi. Bakumsu found at least 97 cases of land conflict between local peasant groups and plantation and timber companies, relating to 32,504 hectares of lands. The 97 local peasant groups accounted for 29,774 families that are vulnerable to eviction from their land because of the increasing presence of large-scale oil palm and other activities related to oil palm expansion.

In 60% of these cases, the groups were in conflict with oil palm plantation companies. Another 29% of cases related to conflict with industry, and the remaining cases related to conflict with the military and other groups in society.

Bakumsu also found 20 cases of eviction against peasant groups in the area of Labuhan Batu (before it was divided into three districts). These related exclusively to land conflicts between the peasants and oil palm plantation companies. A total of 5,298 families, living on 6,943 hectares of lands, were caught up in these conflicts with 17 large-scale companies.

³⁷ See the reports in media such as Kompas, Medan Bisnis, Pos Metro, and Sinar Indonesia Baru.

³⁸ Bakumsu has the data from its NGO partners: KPS, KSPPM, Lentera, Bitra, PBHI Sumut, Kontras, and LBH Medan, year of 2006-2007.

3.2 Case studies

3.2.1 Case study 1: Peasants evicted by SLJ and GDLP

“One night, on 12 April 2007, two units of police trucks suddenly stopped in front of my house. Tens of police officers disembarked and then surrounded my house. Some of them made their way in through the front entrance, while others smashed in the back door. My house was treated as though it was a hiding place for fugitives, although my husband works in the fields during the day and everyone must have known that he was inside. He was finally arrested.” (Ms. M., the wife of B., a member of the peasant group Penghijauan)

“I had given birth when some police officers came to my house looking for something. They arrested my husband, ... I begged to be allowed to follow them to where my husband was being taken. My baby, aged just two days, had to be left in the house.” (Ms E., the wife of M., vice-chairperson of the peasant group Penghijauan)

“Over a period of two months, after my husband had fled the house, police periodically visited my home. On 21 July 2007, three policemen again visited my house. Apparently they were not looking for my husband. They took me and my three children to the police station, and finally arrested me. My arrest was intended to replace that of my husband. They said only, ‘You will be released when your husband has been found.’” (N. S., the wife of B., chairperson of the peasant group Penghijauan, who fled his home after being placed on the wanted list)

These are the testimonies of three women during a land conflict in 2007 in the village of Sukaramai in the sub-district of Kualuh Hulu in North Labuhan Batu. The conflict revolved around the activities of two companies, Grahadura Leidong Prima (GDLP) and its subsidiary, Sawita Leidong Jaya (SLJ). These two companies are active in land procurement and acquisition, cultivating, managing and harvesting. GDLP started its operations in Kualuh Hulu in 1996, after gaining a permit from the head of the Labuhan Batu district³⁹ to operate on 16,000 hectares of land in Kualuh Hilir and Kualuh Hulu sub-districts. GDLP now belongs to Bakrie Sumatra Plantations, one of the biggest plantation groups in Indonesia. SLJ was founded by GDLP to acquire an additional 8,000 hectares of land. However, the operating permit of SLJ was revoked in 2005 by the Forestry Ministry for operating on protected forest lands⁴⁰.

One of the main causes of land conflict in the area is the failure of GDLP to return 602 hectares to 301 families in Sukaramai as promised by the company in 1996. Following a long conflict between the

³⁹ No. 693/43/0/TIB/1996 dated on 5 July 1996.

⁴⁰ Letter No. S.293/VII-PW/2005, issued by the Forestry Planning Board of the Forestry Department, 21 April 2005, sent to the head of Labuhan Batu district to revoke immediately the permit given to SLJ.

Penghijauan peasant group and GDLP, the families concerned agreed to move to another location. However, by 2005 there was still no clarity on where this land should be. Instead of providing compensation, GDLP allocated the 602 hectares of land to SLJ, its subsidiary company.

The peasants decided to return to their farming activities on the lands occupied by the plantation, and, at the beginning of 2006, the Sukaramai villagers, belonging to the peasant group Penghijauan, began to re-enter the plantation area. This led to a clash between members of Penghijauan and the SLJ's security officers. The villagers began to cultivate maize, bananas and vegetables, and to build huts and houses close to the place of the conflict. In April 2007, the company filed charges against the peasant group in the district police station of Labuhan Batu. Five members of Penghijauan – L. S., B. M., N. S., M., and P. - received prison sentences ranging from six months to three years. Police are still seeking B., the chairperson of Penghijauan, as a wanted person.

Another peasant group in conflict with SLJ is Karya Lestari, chaired by S., which claims the 216 hectares of lands located in the village of Air Hitam, which neighbours Sukaramai. In 1998, SLJ claimed the peasants' cultivated lands for the company. On March 2008, SLJ was challenged by the Karya Lestari peasant group in the state court in Medan, relating to their rights to 216 hectares of lands in Air Hitam. The court approved the peasant group's claim. On appeal, the provincial court supported SLJ. The peasant group is now appealing to the Supreme Court.

At the beginning of 2009, the Karya Lestari group finally began to re-occupy their land. On 11 August 2010, an estimated 50 people, mostly known to be company employees, attacked 30 peasants who were defending the lands. According to reports, one peasant was killed, and three were seriously injured⁴¹.

M.'s Testimony: Tenure conflict and human rights violations

Mr M., 36 years old, is one of the members of the peasant group Penghijauan in Sukaramai who was imprisoned in July 2007. He was sentenced to a three-and-a-half prison term.

The father of three children, M. was working as a casual labourer at GDLP in 2000. Without regular employment, he works as a small peasant with his father-in-law. His father-in-law, one of the village founders, cultivates rice and horticultural plants. They also engaged in other activities such as gathering timber, fish, and rattan at the Kualuh Hulu forest, which has now been taken over by SLJ. Since SLJ started its logging activities, and converted the lands to oil palm production, they no longer have access to these resources.

⁴¹ Press release by Lentera, 12 August 2010.

M. decided to become involved actively in Penghijauan and, together with other peasants, began organising against the SLJ operation in Sukaramai, demanding the compensation that had once been promised by GDLP for the lands that had been taken by SLJ. This led to the clash in 2007 between the members of Penghijauan and two SLJ managers, and then to M.'s prison sentence.

The testimony of N. S.: held as a hostage

On Saturday, 21 July 2007 at 8 p.m., three police officers visited the home of N. S.. She was not particularly concerned about the visit because she was used to the police coming to try and find her husband, B., chairman of the Penghijauan peasant group. The police officers, however, requested her to follow them to the police station saying that she could return home after the interview, but N. refused.

Eventually, N. said she was ready to go to the police station, accompanied by her children and four members of Penghijauan. On arrival at the police station, N. was handed a notice of arrest in her name. She refused to be interviewed without having a lawyer present.

The following day, she was ready to be interviewed, accompanied by a lawyer provided by Lentera. She requested the head of the local/regional police to suspend her detention so that she could look after her children. But the police refused to grant the request until her husband had surrendered himself.

N. was imprisoned for three months. On paper she was imprisoned for having destroyed the palm trees of SLJ, but she insists she was imprisoned only because her husband had not been found.

The status of SLJ

The SLJ employee who reported the peasants to the police apparently held an illegal permit to manage the plantation, as revealed in a case review held by the Regional Police of North Sumatra.

The case review of the conflict between the peasant group and SLJ took place on 8 October 2010. It was attended by 16 police officers from the regional and district levels. SLJ was represented by Johan (SLJ general director), Coki Sinambela (the company lawyer), Hasudungan Sinaga (general director), and Elikson (director). Neither the peasant group Penghijauan, nor its lawyer, were present⁴². This review contained several presentations by the police and company managers and lawyers. The minutes of the case review show a difference of opinion among police officers on whether SLJ was guilty of engaging in illegal activities.

⁴² See the 'Presensi Gelar Perkara Poldasu', October 2010. A 200 page-report contains the minutes of the case review. Document POLDA SUMUT, October 2010,

SLJ had reported two cases to the police including the destruction of the company's office⁴³. The Karya Lestari and Penghijauan peasant groups reported three different cases to the police including land destruction⁴⁴, torture⁴⁵ and the killing of a member of Karya Lestari⁴⁶. The head of Reskrim, the (detective and criminal) police department of Labuhan Batu district, filed a report to the Regional Police Department demonstrating that SLJ's activities in the forest area were illegal⁴⁷.

In advance of the case review, a report by First Lieutenant I. F. D. from the crime division of the regional police station of North Sumatra, noted that an investigation by the Forestry Department in Labuhan Batu had found that SLJ's operating activities in Air Hitam were taking place on an area designated for forest permanent production. A police investigator, Chief Warrant Officer O. S., had found official letters indicating that SLJ had been engaging in illegal operations (Table 5). He concluded that SLJ was illegally operating, using and occupying the forest area.⁴⁸

Table 5: Relevant letters about the invalidity of SLJ's business operation

No	Institution-Proposed Letters	Official Letter	Subjects
1	Forestry Minister – The Head of the District of Labuhan Batu	S.673/MENHUT-II/2005	Request for support in administering investigation towards SLJ
2	Forestry Minister – The Head of Regional Police Station of North Sumatra	S.672/MENHUT-II/2005	Request for support in administering investigation towards SLJ
3	Forestry Minister – North Sumatra Governor	S.95/MENHUT-IV/2010	A report of the illegal use of forest area
4	Forestry Minister – The Head of the National Police Station	S.436/MENHUT-VII/2006	Forestry Minister's explanation on the status of forest area
5	District Administration of Labuhan Batu – SLJ	593/3189/TST/2008	The termination of SLJ's activities
6	Forestry Intelligence Agency – The Head of the District Police Station of Labuhan Batu	522/631/PRH/IV/2008	The management of four preserved forest areas by SLJ (forest deliverance issued by Forestry Minister)

⁴³ Laporan Polisi no: LP/84/III/2009/SU/RES.LBH, 19 August 2009.

⁴⁴ Laporan Polisi No: LP/1296/XII/2008/LB.SPK.B.

⁴⁵ Laporan Polisi No: LP/492/III/2010/SU.

⁴⁶ Laporan Polisi No: LP/1220/VIII/2010/SU/RES.LBH.

⁴⁷ Forestry Law No. 41 of 1999 Chapter 50 (3) a, b.

⁴⁸ Presented by police investigator A. O. S. at the case examination at Poldasu, October 2010.

As a result, Captain M. T., the head of the crime division of the district police in Labuhan Batu made the general director of SLJ, Johan, an official suspect for illegal operations. Johan was placed on the wanted list on 7 June 2010.

Officials of the regional police appeared to hold a different opinion, however. Captain M. B. of the regional police force stated there was not enough evidence to charge Johan and that only the person who actually gave the permit to SLJ should face investigation.

Given the discrepancy between the statements made by the district police force and the regional police force, it is not surprising that the lawyer for SLJ wanted the case to be dealt with by the regional police force⁴⁹.

During the case review, several remarks by SLJ's lawyer indirectly confirmed that the company does not hold a legal permit for its operations. He stated, "Polres Labuhan Batu [the Labuhan district police] has discriminated against SLJ in the investigation process, because there have been many companies, closely located to SLJ's area, operating on the area of forest permanent production. But why only is SLJ investigated at this case"⁵⁰ The lawyer added, "What is wrong? Why only is SLJ being targeted? There are many illegally-run oil palm plantations' in North Labuhan Batu, but they are not being touched by the state apparatus"⁵¹. There is no detailed information about what the lawyer meant by '*a lot of illegally-run oil palm plantation*', but several companies, with close links SLJ, have been alleged not to hold a legal permit⁵².

Efforts to solve the conflicts

Each of the parties claimed that they held a valid land permit. SLJ received a permit in 1997 from the local district government, which was extended until 1998, and expired in 1999. The peasant groups, such as Penghijauan and Karya Lestari, however, claim to have been living on and cultivating the lands since the 1980s, and that since 1995 the lands have been cultivated with oil palm trees in the village of Air Hitam. The member of the peasant groups also received an acknowledgement letter signed by the head of the village administration of Air Hitam, and the approval of the land title by the head of the sub-district of Kualuh Hilir⁵³. Such conflicting claims can happen because of a lack of coordination at between public officials at village and district level.

⁴⁹ Idem, p.5.

⁵⁰ Idem, p.5.

⁵¹ Gelar kasus di POLDA Sumut, 2010.

⁵² These companies include PT Serba Huta Jaya (SHJ), PT Blungkut Jaya, PT Nagali, and PT Marbo Jaya. See Observasi penulis.

⁵³ Material of examination case, part 1, Poktan Karya Lestari with PT SLJ, Poldasu, October 2010.

The responsibility of the state and the corporation

This case study illustrates the issues of determining the legal status of a case such as this, and the various arguments used by police. On the one hand it is argued that the case should be regarded as a criminal case (stealing and violence); on the other, it should be regarded as civil case (ownership status).

The case chronology drawn up by the police shows that the peasants constitute a first party in the case, by cultivating crops, including palm trees, since 1995 on the lands that SLJ claims have belonged to the company since 1998. The clashes that resulted from these two different claims directly led to serious violations of the rights of the peasants.

The violation of the rights of many members of the peasant groups Karya Lestari and Penghijauan cannot be separated from the role of the state to protect its own citizens in accordance with the human rights provisions that it has enacted. However this role has not been taken seriously by the relevant authorities, including the police forces of North Sumatra and of Labuhan Batu, nor by the lower and supreme courts. Neither can Bakrie Sumatra Plantations, together with GDLP and SLJ, evade their responsibilities for this conflict.⁵⁴

3.2.2 Case Study 2: The eviction of the peasant group Putra Tani by an oil palm grower in Linggahara Baru

Background: A. Heng, a big businessperson in Labuhan Batu

Lie Kian Siang, born in 1963 and often known as A. Heng, is a major figure in land acquisition throughout Labuhan Batu. As well as his interests in palm oil plantations, he is known as the major business dealer in the gold sector in the city of Rantau Prapat city, in Labuhan Batu.

Heng claims to own 300 hectares of land near the village of Linggahara Baru. However an investigation by a member of the district legislature of Labuhan Batu showed that Heng had neither a land use permit (HGU) nor concession rights⁵⁵. The law requires that everyone with more than 25 hectares of land be obliged to have a concession from the national authorities⁵⁶. The palm oil fruits from A. Heng's plantation are sold to two companies, Nubika Jaya and Cisadane Sawit Raya (CSR). CSR is a plantation-operating company whose owners include Adi Yohana Radius Prawiro, a brother *of the former finance minister, Radius Prawiro*. One of the investors in this company is A. Heng.

⁵⁴ Field observation, January 2011.

⁵⁵ <http://www.formatnews.com/?act=view&newsid=4174&cat=39>

⁵⁶ Basic Agrarian Law no 5, 1960.

A. Heng has been accused of grabbing another parcel of land of about 60 hectares that has belonged to local people in Linggahara Baru since 1971⁵⁷.

The conflict between a peasant group and A. Heng

A conflict began in 2004 when A. Heng began to dig holes for cultivation on the 300 hectares of land he administered and encroached into 60 hectares of the neighbouring land of the village of Tebing Linggahara Baru. About 63 families, representing 1000 people in the village, were threatened with eviction.

On 19 October 2005, there was a clash between tens of peasants and an estimated 60 police officers guarding the company workers clearing the village lands with three heavy vehicles. The peasants insisted on remaining on their lands. A report from *Lentera* concluded that A. Heng had bribed the 60 police officers protecting the workers evicting the peasants from their land⁵⁸.

In 2006, Heng reported 63 members of the peasant group Putra Tani to the police, accusing them of having occupied and cultivated the lands without a permit. Police started a criminal investigation against eight of the members of the peasant group – S. R., E. S., B., B., Z. R., T., R. S., and J..

Putra Tani showed that they had land permits from the head of the village and sub-district authority for the 60 hectares of land grabbed by A. Heng, but this was not taken into consideration by the court. The lower court of Rantau Parapat found the eight peasants guilty. They were given prison sentences of between one and three months, with each needing to report to police for a period of about six months⁵⁹. However, four of them were subsequently freed on appeal by the court in Medan.⁶⁰

This hesitation by the Medan court to confirm the sentences shows the unprofessional nature of the work by the court given the lack of clarity of the ownership of the land claimed by A. Heng. The peasants have the rights to land where they have been staying on since 1971⁶¹. The conflict has still not been settled. The estimated 60 hectares of land in the village of Tebing Linggahara Baru, and cultivated by the peasants since 1971, cannot be shown to belong to A. Heng. Police and attorneys, however, have made no serious attempts to investigate the conflict over the status of the land.

⁵⁷ Nota Pembelaan, registered case no 914/pen.pid/2006/rp-rap, p. 2.

⁵⁸ *Lentera* report, 2011.

⁵⁹ See the decision of Pengadilan Negeri Rantau Parapat, No Reg. 827/Pid.B/2006/PN.Rap, 11 January 2006.

⁶⁰ Decision of Pengadilan Tinggi Medan, No Reg 226/Pid/2006/PT-MDN.

⁶¹ Interview with B., Linggahara Baru.

The history of peasant land in Linggahara Baru

These conflicts between the peasants and A. Heng have impacted on the peasants' ability to defend the resources they need for their livelihoods. Peasants are often physically attacked and the legality of their land claim questioned and contested. The Putra Tani group continues to resist such actions.

This unresolved conflict also affects the ability of the villagers to fulfil their daily basic needs. As well as the difficulty in having access to the land, the oil palm expansion surrounding the agricultural areas forces peasants to convert their lands to oil palm trees. This is leading to a high incidence of pests because of the palm trees surrounding the paddy fields, and the paddy crops are unable to grow normally when palm oil trees surround them. As a result the price of rice is increasing while quality is declining⁶².

The testimony of D. A.: a woman arrested

*"I was treated by police officer as an animal. I was dragged, kicked, and punched without reason while I was in my fields harvesting corn. My three-year-old child was wailing and crying as he saw his mother being mistreated by the police officer."*⁶³

D. A. is a 41-year-old housewife. She sells vegetables at the market in the village of Tebing Linggahara Baru, sometimes working in her cornfields. D. is a migrant, married to J. S. who originally comes from the village of Tebing Linggahara Baru.

On 11 August 2006, D. was forcibly arrested while harvesting the corn crops, and was treated violently by the police in front of her son. However the police officers failed to present her with a written statement about her arrest, in contravention of Chapter 18 of the Criminal Code.

According to her lawyer⁶⁴, the rights violation against D. was arbitrarily committed by the police officers, and by the court in Rantau Parapat. She was detained without a detention order being issued.

D. was accused with using violence against a human being or an object, in this case, seed oil, and the destruction or taking of someone else's property. However, there was no evidence that she had taken the seed oil, and the charge of using someone else's property referred to her cultivating on land claimed by A. Heng. The attorney eventually determined that there was no legal basis for the accusations against D. who was then found not guilty.

⁶² Interview with D. A..

⁶³ Idem, interview on 14 February 2011.

⁶⁴ Pledoi of D. A., register case No 914/Pen.Pid/2006/ RP-RAP, at Pengadilan Negeri Rantau Parapat.

Human rights responsibility

A. Heng has contributed to the inability of 33 peasant families to fulfil their basic needs. Companies such as Nubika Jaya and Cisadane Sawit Raya (CSR) need also to face questions about their responsibility since they can be seen to be the purchasers of the palm oil fruits from A. Heng. Nubika Jaya receives about 80 percent of its raw materials from its neighbouring plantations in South Labuhan Batu, including from A. Heng's 300-hectare palm oil plantation⁶⁵.

3.2.3 Case Study 3: The eviction of a peasant group in Jatimulya: 10 shot and 1 kidnapped

Sinar Belantara Indah (SBI) and the peasant group

Sinar Belantara Indah (SBI) is one of the companies alongside Sumatra Riang Lestari (SRI) and Torganda that surround the village of Sei Meranti. Both SBI and SRI deal in timber, but the conflict revolves around 6,200 hectares of land on which palm oil trees are cropped. The two companies claim to have a land concession of 32,000 hectares, including the 6,200 hectares claimed by two village peasant groups, Jatimulya and Himpunan Petani Pintu Gajah (HPPG)⁶⁶. Both SBI and SRL supply a pulp and paper company in Riau, the Indah Kiat, which is part of an umbrella company, the Raja Garuda Emas (RGE). The director of SBI is Zakaria Ahmad, the father of Ir. Danuri, the former head of Regional Office for Forestry Department, and who currently serves as a general director of National Forestry Department in Jakarta

In the parcels owned by the peasant groups in some sub-villages, palm trees as well as rice, cassava, corn and several vegetables are cropped. The difficulties faced in cropping rice and the rapid expansion of palm oil plantations have led to the villagers to crop palm trees, which promise greater returns⁶⁷.

Similarly to the situation in Sukaramai, the emergence of conflicts is linked to permits granted by different levels of administration. The SBI claims to have received concessions from the national government in 1992⁶⁸, whereas the villagers claim to have permits granted by the head of Sei Meranti Village and the sub-districts of Torgamba. The map below shows the conflict area⁶⁹.

⁶⁵ <http://www.scribd.com/doc/47795870/inti-laporan>

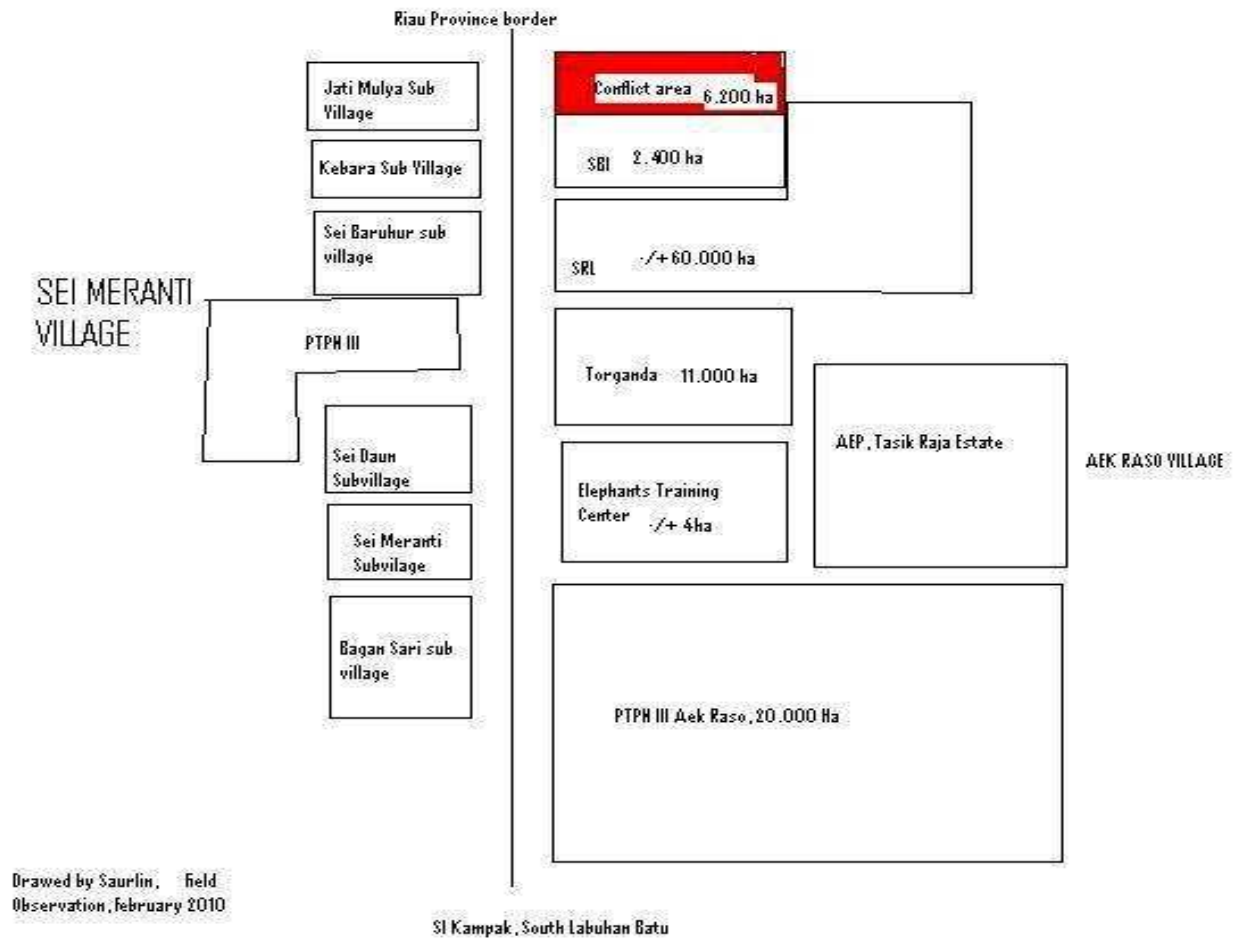
⁶⁶ An interview with L., field staff of Lentera Rakyat.

⁶⁷ Idem.

⁶⁸ SK Menhut No 18/KPTS-V/1992

⁶⁹ http://www.mandailingonline.com/2010/12/rusuh-torgamba-bisul-lama-yang-meledak/?mobile_switch=mobile

Map of Conflict Area, Jatimulya, Sei Meranti Village, South Labuhan Batu



The background to the land conflict

On 30 November 2010, there was a violent confrontation in the Jatimulya sub-village of Sei Maranti between tens of villagers and approximately 100 employees of SBI. Nine Forestry Police officers, two Air Force officers, and eight SBI management staff supported the employees of SBI. Ten peasants were shot, of whom four were seriously injured.⁷⁰

⁷⁰ This information comes from focus group interviews. The number of victims reported in the newspaper was eight, but according to interviews with the villagers, 10 people were shot. The victims were Tukidi (29 years old), Taufik Ikhrom (35 years old), Roni Budianto (43 years old), Suparman (40 years old), Wawan (19 years old), Mijan (39 years old), Bambang Aryo (27 years old), Herman (27 years old), Erwin (32 years old), and Simin (30 years old).

Before the clash took place, 35-year-old W. S., a member of the peasant group, was abducted, allegedly by Forestry Police officers, who were identified by the car they drove. W.'s current whereabouts are still unknown⁷¹.

Focus group discussions were conducted on 15 December 2010 with 10 members of the peasant group in Jatimulya, victims of violence, and three community organisers.

The conflict that led to the shooting of the peasants in Sei Meranti has existed since 2008. The peasant group Jati Mulya made up of 287 families, or about 1000 people, has depended on agricultural resources since 1970s. Since then, the Jatimulya sub-village has become part of Sei Meranti⁷².

Clashes result from SBI's claim that the 6,200 hectares of land occupied by the Jatimulya villagers belong to the company. The villagers in the Jati Mulya peasant group have fought not only against the company's security force, but also the Forestry Police and other security workers paid by the company.

Three people – A. S., P. L., and P. S. – were detained by Forestry Police officers on 28 October 2009, accused of illegally occupying forest areas in Sei Meranti village.

The following day, police officers and company security workers used heavy vehicles to destroy the villagers' cultivation, leading to a clash between the villagers and the police officers. There were no victims in this conflict and the district forestry committee offered mediation. However when the villagers went to take part in the mediation process on 30 October, armed assailants allegedly paid by SBI attacked them. More than 35 motorcycles owned by the villagers were destroyed. The attacks stopped after the police intervened.

Mediation was restarted on 11 November, this time under the auspices of the district police. This led to an agreement based on the following points: the villagers were not to cultivate on the areas disputed by SBI and the villagers; SBI was not to disrupt the villagers' cultivation; Forestry Police officers were not to engage in attacks against the peasants; and SBI was advised to take a civil action about the dispute.

For a period after the agreement, there were no clashes between peasants and SBI, but no steps had been taken to reach a permanent solution. The conflict boiled over again at the beginning of 2010. SBI failed to comply with the agreement, disrupting the peasants' cultivation with support from Forestry Police officers. This then led to the clashes in November 2010.

⁷¹ Interview with A. H. and W. S.

⁷² Tercatat, desa ini terdiri dari 14 dusun, dengan jumlah penduduk sekitar 5000 kk, dan luas sekitar 18000 HA.

Efforts to resolve the conflict

This conflict has been a concern of the district legislature (DPRD) in South Labuhan Batu, though no concrete efforts have been made to break the deadlock on land conflict in Sei Meranti. The chairperson of the Indonesian Democratic Party/Struggle (PDI-P) in the legislature, Zainal Harahap, has said that the identification of the victims is being undertaken through series of *visum et repertum* (medical reports) to prove the truth of the shootings. The legislative commission that deals with land issues has said it will discuss the shooting of the peasants by the state apparatus and report the case to the National Commission for Human Rights. Zainal Harahap has said that to resolve the land conflicts, the lack of clarity about the status of SBI should be investigated by Forestry Department officials, the company itself, and the police⁷³.

In December 2010, the district police brought charges against four people on suspicion of shooting and kidnapping villagers, but no one has yet been sentenced.

Serious human rights violations

The shooting and kidnapping of civilians in the village of Sei Meranti are forms of violations against civil and political rights as enshrined in Act No. 12 (2005) on the ratification of the International Covenant on Civil and Political Rights, and of the Criminal Code according to which the perpetrators should be brought before the law.

The rights of the villages have not only been violated by the eviction of 287 families and the shooting and kidnapping of some of them, but also by the lack of access to the 6,200 hectares of land, which affects their right to fulfil their basic needs and their right to live in security and freedom from fear.

⁷³ Interview on 15 December 2010.

3.2.4. Case study 4: Marginalised labour

This case study focuses on two companies: Tolan Tiga, a subsidiary of the Belgium-based Sipef group, and Socfindo, a company owned by investors from Belgium.

One of the Tolan Tiga estates is located in the region of Parlabian, and was established in 1929 in the Labuhan Batu district. After the district was divided into three sub-districts in 2007, the Parlabian estates now extend over South Labuhan Batu and Labuhan Batu, with 2,436.62 and 6,042.44 hectares in each district respectively. These estates are near to the villages of Losari and Kampung Rakyat, in Labuhan Batu, which neighbour the Parlabian area.

Socfindo has land concessions of about 47,995 hectares in Aceh and North Sumatra Province, divided into 15 estates. Palm oil trees are planted on 10 estates, accounting for a total of 37,734 hectares.

One of the Socfindo estates is located in the sub-district of Bilah Hilir, Labuhan Batu. In the 1920s, palm tree cultivation was established on 800 hectares. In 1928, a palm oil factory was built. This led to an expansion of palm oil cultivation, reaching 1,900 hectares in 1963 and increasing to 2,215.66 hectares in 2002⁷⁴. A business activity permit was issued in 1997 to expire in 2024⁷⁵. In 2005, an estimated 2,170.72 hectares were used for productive plantations, while another 44.9 hectares were being replanted. The factory is able to produce up to 14 tonnes of palm oil per hour.

Interviews about the labour situation were conducted at two selected large-scale plantation companies, Tolan Tiga Parlabian-Sipef at Parlabian estate, and Socfindo Bilah Hilir or Socfin Indonesia, at Bilah Hilir estate.

***Dipertujuh* punishment in Tolan Tiga Parlabian and Socfindo Bilah Hilir**

Sipef Parlabian and Socfindo Bilah Hilir apply a system of work sanctions called *dipertujuh* to labourers who are not able to meet their targets despite having worked a full day, reducing their wage and rice subsidy.

Health and safety violations

Table 6 shows the various health and safety risks to which workers are exposed and the steps taken by the Socfindo and Tolan Tiga companies.

⁷⁴ Data diperoleh dengan langsung mendata luas yang tercantum di setiap blok perkebunan.

⁷⁵ HGU No. 1/1997, SK.88 /HGU/ BPN/ 1997

Table 6: Work tools and work risks at Socfindo Bilah Hilir and Tolan Tiga Parlabian⁷⁶

Area of work	Work risks	Work tools	Tools provided by the plantation management	Additional information
Harvesting	1.Struck with palm fruits 2.Dirt from trees accidentally entering eyes 3.Struck with palm midrib 4.Hurt by thorns 5.Snake bites	- Helmet - Eye protector - Glove - Boots	No tools provided	
Putting down pesticides	1.Poisoned 2.Blistered Skin 3.Eye pain 4.Headache 5.Vertigo 6.Cough	- Mask - Glove - Special clothing - Hat - Boots - Eye protectors	The company only provides long-sleeved T-shirt and trousers	Mask is provided but does not offer adequate protection
Putting down fertilisers	1.Hands get hot 2.Blistered Skin 3.Vertigo 4.Headache	- Mask - Gloves - Special clothing - Hat - Boots - Trousers	The company only provides gloves, with a note that the gloves must be given back after finishing the work	Gloves not adequate

Repression of a labour union

There are two labour unions at Tolan Tiga Parlabian, namely SPSI and SBSI. SPSI is a long-established union with 900 members and the only one approved by the company. SBSI, established in 2004, has 70 members, is not treated equally and its members face intimidation by company officials. They are threatened with transfer to other sectors where the work is tougher. As a result, many workers decided to resign their membership in SBSI.

Casual workers

Lentera has noted in a report that casual workers at Tolan Tiga Parlabian appear to constitute not only a source of secondary labour but also of primary labour for the company.

There are about 600 casual workers, of which 200 are used as a primary labour force, compared to the remaining 400 who are used for work at harvest time. The increasing use of casual workers is seen as a

⁷⁶ Laporan Observasi Lapangan dan wawancara terhadap buruh PT Sipef dan PT Socfindo oleh Lentera, 2007.

way for the company to remove its liability and social responsibility to provide work facilities. Such a system has been legitimised by legislation from 2003 on outsourcing. The casual workers normally come from the community that surrounds the plantation and from the families of the labourers. A casual worker is paired with a worker having permanent status. The casual workers' wage is included in that of the permanent workers. Thus the permanent workers pay the casual workers. The casual workers have similar work targets to the permanent workers but the money that the permanent workers receive from the company for the casual workers is more than the casual worker actually receives. Moreover the production of the casual workers is counted towards the targets of the permanent workers.

Conflict with peasants

As part of its process of expansion between 1963 and 1993, Socfindo Bilah Hilir forcibly grabbed 150 hectares of the plantation-labouring community's lands, on which the peasants were cultivating rice for sale at market. Several tactics have been used to gain possession of the land, including promising to promote labourers to supervisors, offering compensation, threatening labourers with unemployment, and accusing them of being members of the Indonesian Communist Party (PKI), a prohibited political party during Suharto's authoritarian rule.

In 1974, a conflict over 2,000 hectares of land broke out between the company and the four villages - Kampung Bangun, Wonorejo, Menanti, and Sidorejo. The conflict came after the company laid claim to the lands without offering compensation.

The community repeatedly attempted to get their lands back and even reported the case to the Representative House in Jakarta. However they gave up after failing to have a productive result.

Conflicts have occurred in the village of Lohsari not only because of land grabbing but also through pollution caused by the disposal of waste by Tolan Tiga Parlabian. This has destroyed the ecosystem of the local river. In the past, the villagers used the river for drinking water and fishing but were obliged to stop this after the pollution. The community demanded compensation and the provision of a drilled well. Socfindo Bilah Hilir has also dumped its liquid waste into the river. The villagers were then not able to use the polluted river that had previously been a source of clean water

Violations of labour rights

The way in which workers are treated largely does not correspond to the national constitution, which strongly respects and protects the lives of those who work in the plantations. In practical terms, use of *dipertujuh* resembles the *poenale sanctie* (penal sanction) of the colonial era. The actions of Socfindo Bilah Hilir and Tolan Tiga Parlabian contravene the Human Rights Law No. 39 of 1999 which clearly

states the right of every person to life, to defend someone's lives and to a decent living standard (Chapter 9 .1), the right to decent work (Chapter 38), and the right to social safeguards (Chapter 41).

The action of Sipef and Tolan Tiga Parlabian, in prohibiting a new labour union in the plantation area, contravenes the law of 2005 on the ratification of ICCPR, in particular on the freedom of opinion or expression (Chapter 19), and the right to assembly (Chapter 21 and 22).

These two companies have also violated the law of 2005 on the ratification of the ICESCR, in particular the rights to a just, safe, and healthy work as well as the rights to decent wage (Chapter 7).

3.2.5 Case study 5: PTPN III: Labourers transferred because of joining peasant groups

PTPN III at a glance

The state-owned company PTPN III operates its palm oil and rubber industries activities at 34 plantations in North Sumatra, accounting for 159,655 hectares of land. The allocation of land for main oil palm estate accounts for 105,067 hectares, of which about 19,553 hectares are used for a government scheme for small farmers, called the plasma scheme⁷⁷. The main estate produces 393,594 tonnes of Crude Pal Oil (CPO) and 81,852 tonne of Crude Palm Kernel Oil (CPKO) annually. The plasma scheme produces 123,742 tonnes of CPO, and 27,019 tonnes CPKO per year. PTPN III has 11 factories producing crude palm oil and crude palm kernel oil⁷⁸.

Since the 1990s, most of the land managed by PTPN III in Marbo Selatan has been replanted from rubber to palm oil trees. The company's land use permit or concession (HPU), extending across 3,668.45 hectares, expired in 2010. A proposal to extend the permit was presented by PTPN III to the National Land Board in 2002⁷⁹ and was approved in 2005. This approval included a stipulation to release several parcels of land amounting to 118.80 hectares that had been the subject of conflict with local people, for school buildings, places of worship and rain rails⁸⁰. The land approved for use by PTPN III amounts to 3,193.67 hectares for the cropping of rubber and palm oil⁸¹. There has been no clear explanation by PTPN III as to whether the remaining 355.98 hectares have been delivered to local people.

⁷⁷ http://www.kpbptpn.co.id/profileptpn.php?profil_id=16&lang=0

⁷⁸ Idem.

⁷⁹ Letter of PTPN III to BPN, No III.11/X/1475/2002.

⁸⁰ SK Kepala BPN No 118/HGU/BPN/2005.

⁸¹ Idem.

PTPN III is one of the members of the Roundtable on Sustainable Palm Oil (RSPO), which has been certified by RSPO to use the certifying service of TUV Rheinland Malaysia. This certificate was given to the palm oil factory owned by PTPN III in areas of Sei Mangkei, and Simalungun District, and palm oil fruits are supplied from plantations in Kebun Rambutan, village Ulu, Gunung Para, and Gunung Pamela⁸², another plantation in the neighbouring Labuhan Batu District.

Since 1965, the plantation has been expanding its operations. This has not only involved expanding in open areas but also occupying inhabited areas and evicting villagers⁸³ in places such as Tanah Kayangan, Sidomulyo MBK, Leuweng Hideng, and Bandar Gula. If the villagers resisted they were accused of being members of the Indonesian Communist Party.

The eviction of nine peasant groups in the Marbo Selatan area plantation

Nine peasant groups, made up of 599 families, are in conflict with PTPN III over 1343 hectares of land in Marbo Selatan. The conflict in Leuweng Hideng, in the village of Babussalam, has calmed down, but still has the potential to explode. Only 187 hectares of lands have been able to be occupied by 48 families and then have been generally cultivated with palm, alongside some horticultural activities. I.W., a women leader of the peasant group Tani Leuweng Hideng, stated: “Currently we are safe cultivating on our own lands. However, we must be ready at any time for attacks by PTPN III. There have been many people trying to persuade us to leave our lands, saying there will be compensation”⁸⁴. She added: “We are forced to cultivate oil palm trees because this is what was cultivated before. We have no choice, otherwise our rice plants will be become unproductive”⁸⁵.

About 52 families, members of the Poktan Sidodadi peasant group in the village of Sidodadi Kebun Sayur, have struggled to reclaim their 72 hectares of land from PTPN III. This led to two members of the peasant group, Ms S. N. (32 years old) and Mr S. (28 years old), being accused of being minor criminals by the police in January 2011. D. S., a local resident, stated, “On November 2010, when we were on the plantation land, an estimated 180 employees of PTPN III suddenly attacked local people, destroyed our houses, and wounded our colleagues. We complained about this case, but instead two of colleagues of ours were made suspects”⁸⁶.

⁸² Media Nusatiga Magazine, edition of XXVI 2010.

⁸³ See for example the situation in the sub-villages of Tanah Kayangan, Sidomulyo MBK, Leuweng Hideng, and Bandar Gula.

⁸⁴ Interview, January 2011.

⁸⁵ Idem.

⁸⁶ Interview with D. S., chairperson of the peasant group Sidomulyo MBK, January 2011.

Table 7: Land conflicts between local people and PTPN III Marbo Selatan

No	Locations	Large	Conflict with Peasants	Evidence	Groups' Names/Number of Memberships
1	Estate II	187 Ha	Village Babussalam	Sale letter of Rubber Latex that the land cropped previously with rubber belongs to the local people Witness statement	Leuweng Hideng 48 Families
2	Estate II	63 Ha	Village Marbau Selatan	Witness statement	Sinar Jadi 42 Families
3	Estate I	120 Ha	Village Marbau Selatan	Sale Letter of Rubber Latex Witness statement	Tanah Kayangan 58 Families
4	Estate I	72 Ha	Village Marbau Selatan	Governor's letter on recognising the local people land Witness statement Local Cemetery	Sidodadi 52 Families
5	Estate II	71 Ha	Village Marbau Selatan	Letter from local government Witness statement	Sidomulyo MBK 46 Families
6	Estate I	30 Ha	Village Marbau Selatan	Land permit Witness statement Border Bar	Sinar Jadi 29 Families
7	Estate IV	400 Ha	Village Marbau Selatan	Land permit Witness statement	Sidosari Bandar Gula 84 Families
8	Estate V	200 Ha	Village Janji	Land permit Witness statement	Janji Baru 120 Families
9	Estate V	200 Ha	Village Tebangan	Land legal Letter Witness statement Cemetery	Tebangan 120 Families
	TOTAL	1.343 Ha			599 Families

Mr. S.: Retired without any compensation or pension

“Even though I was working as a labourer, it is impossible not to engage in plant breeding, cultivating, and so on. I will never feel pleased if not seeing such things at my place; it has been like that since I was born.” (Mr. S., 84 years old, formerly working at PTPN III as a labourer, fired without compensation and pension)

Mr. S., born in 1928 in Aek Ledong, belongs to the second generation of contract coolies from Java Island. His parents were among the first Javanese peasants who migrated to Labuhan Batu. He is one of the founders of the village of Kebun Sayur.

As well as working as a labourer in the Netherlands-owned Risma plantation, Mr. S. began in 1958 to cultivate rice fields to fulfil his family's daily needs. S. once achieved the position of supervisor or *annemer*.

In 1959, the name of the company was changed to Kebon Merbau Selatan Estate, in the area of Merbau Selatan village, Merbau Sub district, now being owned by the Indonesian government. In 1969, the plantation company, after being nationalised, expanded its plantation area and encroached on the lands of the sub-village of Kebun Sayur. S. and his colleagues opposed this expansion. But military officers confronted them and accused them of being members of the Indonesian Communist Party if they refused to give up their lands. "When I came to the director's office, I was spat upon and thrown out of the room," he stated ⁸⁷.

After joining the Indonesian Peasants Union (CSO Petani) in Labuhan Batu, S. was part of a delegation to the office of the governor of North Sumatra to demand that the 72 hectares of lands owned by local peasants be returned to them. In 1972, the head of agrarian inspection in North Sumatra ordered the company's district administration in Labuhan Batu to give back the land to the 158 peasants⁸⁸. However, the letter said that the peasants should make payment for this land and the order to return the land was never put into practice.

When S. turned 60 in 1987, he stopped working for the company. Despite serving for 23 years (1964-1987), he received no pension. Some of his parcels of land are still occupied by the PTPN III and he fears that the next generation will be evicted from the land.

PTPN III and labourer's rights: the transfer of labourers

In January 2011, seven labourers who were founders of a peasant group while also being workers at PTPN were transferred to a remote area by the management of PTPN III Marbo Selatan. They were T. (52 year old), T. (55 years old), P. (40 years old), B. (46 years old), and J. (47 years old). The letter informing them of their transfer did not explain the reasons for this. One of the labourers said: "PTPN transferred us in order to remove us from our ancestral lands where we have been living from generation to generation" ⁸⁹.

⁸⁷ Interview with P. S., February 2011.

⁸⁸ See the letter from S. H., on the page for the Governor, dated 30 March 1972, SK No. 31/HM/LR/1972.

⁸⁹ Quoted from FGD, January 2011.

Not allowing the right to freely establish a labour organisation is a major violation of civil and political rights. Peasants are about to lose the possibility to cultivate their own lands⁹⁰ that have been taken over by the plantation company. They are deprived of the fulfilment of their daily basic needs, and access to a decent life.

Wives lose their access to a decent life, to a social network and to culture⁹¹ when their husbands are transferred to remote locations. Such transfers also affect the rights of children to have access to education since education is often not available in the areas to which the men have been transferred.

⁹⁰ UU No 12, 2005

⁹¹ UU No 11, 2005.

Part 4

Conclusions and recommendations

Proposals from business sectors for a major project to enlarge palm oil estates by 22 million hectares are in conflict with the government's commitment to protect the remaining tropical forests in Indonesia. The government has imposed a moratorium linked also to the commitment by President Susilo Bambang Yudhoyono to reduce carbon emission due to deforestation.

Conflicts over palm oil production have occurred not only on the ground, but also at the levels of structures such as institutions, and regulations, and their effects on estates, agriculture, forestry, and local peoples. This report has shown that there are policies that are not coherent with one another.

The impact of opening up large scale palm oil estates in the Labuhan Batu District has led to a "snowball effect" where small subsistence paddy peasants are converting their holdings to palm plantations, increasing the food scarcity that leads to the high price of basic foods such as rice.

Another finding is that at least 20 large and medium-size estates in Labuhan Batu do not possess legal permits. Two palm oil estates that have been investigated, the 16,000-hectares SLJ estate and the 300-hectares A. Heng estate, are acting illegally. This suggests that official government data based on legal plantations and stating that there are 7.9 million hectares of palm oil plantations in Indonesia in 2010, could be misleading.

Research has shown that there is not a single medium- or large-scale estate, including private, state-owned, domestic and foreign-funded estates, that has not had conflict with local community and peasant groups in the area being investigated. The impact of the land grabbing has affected civil and political rights⁹², economic, social and cultural rights⁹³, and women's and children's rights⁹⁴.

Companies that are members of the Roundtable on Sustainable Palm Oil (RSPO), such as PTPN III, Tolan Tiga, and Socfindo, have embraced the principles and criteria of RSPO, particularly principle 6 on the responsible consideration of employees and of individuals and communities affected by growers and mills. Principle 6.5 of the RSPO mentions minimum standards and the need for sufficient wages to provide a decent living income, and Principle 6.6 states that the employer respects the right of all personnel to form and join trade unions of their choice and to engage in collective bargaining. CSR and Nubika, which buy palm fruits from unsustainable sources such as the A. Heng estate at Linggahara Baru, have also embraced the principles and criteria of RSPO.

⁹² Act No. 12/2005.

⁹³ Act No. 11/2005.

⁹⁴ Act No. 7/1984.

Furthermore, the large-scale expansion of estate expansion has led to people being excluded from access to resources such as land that is used for food crops for their own basic needs (subsistence) and also for generating income. This not only violates the political and civil rights of local peasants but also their economic rights. The Principle of Free Prior and Informed Consent, a UN Indigenous peoples' rights declaration, has been recognised but not implemented by the Indonesian government, with a devastating impact for landless people groups

It has been found that the business actors in the oil palm plantation sector have attempted to intervene in the legislative process of the drafting of the Regional and National Spatial Planning in order to allow clearing for the illegal plantations, particularly in North Sumatra. The Union of Palm Oil Planters tried to release some forest areas that had already been converted to plantations, from the government moratorium scheme.

4.1 Land grabbing and peasant groups

The cases below demonstrate a persistent violation of the human rights of local people:

1. There is no clear regulation on the boundaries of villages. This contributes to the overlap in land ownership claims, particularly between the level of village and district administrations. The village administrations have not communicated land ownership data collected at the village level to the higher levels of administration, such as the district and provincial level. Large estates are used to applying for a land ownership letter to the higher levels of administration without re-confirming the history of the application at the village level. Conflicts cannot be avoided, because each party claims the same parcels of land.
2. Police officers examining a land conflict case do not check the letters provided by the heads of villages, but rather the documents provided by the heads of districts or provinces given to the corporations. This leads to local people who have had complaints filed against them by corporations being placed under investigation. The police, sometimes in cooperation with company security guards, then have the right to detain local people or members of peasant groups. This can be described as a situation of criminalisation that creates tremendous fear among the local populations.
3. Detaining local people for 24 hours before sending the case to prosecutors for further investigation can be seen as intimidation, to prevent other people from involving themselves in activities related to land tenure issues. Court prosecutors use the police examining documents to deal with such cases, rather than thoroughly examining the conflict over land ownership between the local peoples and the corporations.

In case of D. A., a woman member of Putra Tani peasant group at Sukamakmur village, the court failed to examine witnesses proposed by D. and local people, instead examining the witnesses provided by the corporation.

An additional difficulty in resolving the land conflicts are the relationships between local politicians and estate owners. More than 80% of members of District Legislatures in the region of Labuhan Batu are either owners or have a connection with palm oil plantations⁹⁵

4.2 Recommendations

To the government of Indonesia:

1. To the Minister of Forestry: to stop releasing permits for another new concession of about 22 million hectares for palm oil plantations which threatens food sovereignty, remaining forests, and engendering agrarian conflicts.
2. To the Minister of Forestry, the National Police of Indonesia, and the Minister of Agriculture: to take immediate action against companies, both state and private, that engage in further forced evictions of peasant groups and local communities around oil palm plantations.
3. To the National Land Agency: to immediately resolve the land conflicts that occur between peasant groups and palm planters, by giving priority to the interests of vulnerable groups, such as small farmers, women and children, in accordance with the principle of Free Prior and Informed Consent.

To the National Commission of Human Rights (Komnas HAM):

To ensure that the government implements consistently the International Covenants on Civil and Political rights and on Economic, Social and Cultural rights, and the Convention on the Elimination of All Forms of Discrimination against Women, which have been ratified, including implementing the UN declaration on the rights of local communities/indigenous peoples.

That the National Human Rights Commission makes the issue of palm plantations in Indonesia a priority. An immediate effort by Komnas HAM to conduct field visits and investigations is needed.

⁹⁵ Interview with Nelson Manalu, labour party activist, Labuhan Batu, December 2010.

To the Corruption Eradication Commission (KPK):

To act decisively against the perpetrators of forestry crime, (converting forests to plantations) such as those set out in the report.

To the government of Germany:

To stop palm oil import for energy purposes until adequate institutions and regulations have been created to ensure that palm oil production does not contribute to the eviction of farmers, food scarcity or the degradation of forests. Government and banks in Europe need to stop financing palm oil expansion to avoid severe impacts on humans and nature.

To the Roundtable on Sustainable Palm Oil (RSPO):

To take the necessary actions vis-a-vis the companies mentioned in this paper that have applied poor treatment, unfair salary and social and health guarantees to the workers, and have not respected the right of all personnel to form and join trade unions of their choice (criterion number 6.6). Companies such as PTPN III Marbo Selatan, Socfindo Bilah Hilir (Belgium), Tolan Tiga Parlabian -Sipef Group (Belgium), and Bakrie Sumatra Plantation have links with Europe. These corporations have all been engaged in conflict with peasant groups regarding land ownership claims. It means that these corporations, which are all members of RSPO, are seriously violating the principles and criteria of RSPO.

Outstanding issues:

1. This study was unable to answer adequately the question of tracking the funding, banking and market relations of productions- distributions chains
2. The pesticide and herbicide companies are also actors that are responsible for the degradation of soil and local peoples. According to data from the Green Institute, each hectare of oil palm plantations requires herbicides of one to three litres per year. If the oil palm plantations in Indonesia have reached 9 million hectares by 2010, it requires 28 million litres of poison to be poured into the ground in Indonesia per year. Bayer and BASF from Germany have about 29% of the total “poison” market in Indonesia. Another European company, Syngenta of Switzerland, has 17% of the total herbicide/pesticide market.
3. There is a need to incorporate OECD guidelines for corporations, since some of the companies investigated, such as Sipef and Socfindo, are in OECD related countries.

4.3 Need for further research:

Further research is needed in the following areas:

1. The food scarcity that has occurred in several districts in Ledong Labuhan Batu, relating to the conversion of food crops to palm plantations. The people in Ledong are using *Raskin*, the lowest quality-imported rice, while the rice produced by the peasants is sold to the market. In 2010, the price of ordinary rice produced by the peasants (upper quality than *Raskin* price), was about 10,000 rupiah per kilogram, whereas the *Raskin* price was about 3.000 rupiah per kilogram.
2. Illegal plantations in North Sumatra. Indications suggest there are about 20 illegal estates in Labuhan Batu. There is likely to be a similar situation in other places in Indonesia.
3. The impact and relationship of the use of pesticides/herbicides on palm plantations and local communities in Indonesia.
4. The political economy of palm oil plantations in Indonesia, to uncover the relationship of links between the elite, such as the representatives, head of districts, governors, and the ownership of palm oil plantations.

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