

With global consumption of edible oils set to double in the next twenty years, expansion of the palm oil industry has become one of the main planks in the government of Indonesia's plans for national development. Now the opportunity to market palm oil as 'bio-diesel' is fueling even faster expansion. The implications for Indonesia's forests are dire. But what of the millions of people who live in these forests? Will this expansion help them or harm them? How, indeed, do palm oil companies acquire land for these huge estates?

This detailed study by Sawit Watch, Forest Peoples Programme, and the World Agroforestry Centre, examines the laws which regulate land acquisition for plantation development in Indonesia. Through field studies of six palm oil estates in three provinces, the investigation also explores how these laws are actually applied in practice. The findings are startling. Indonesia's indigenous peoples are being systematically deprived of their heritage – their lands, forests, livelihoods and culture – for palm plantations without any token acknowledgement of their rights and interests.

Although the Indonesian Constitution is meant to protect indigenous peoples' rights, a series of other policies and laws allow these rights to be ignored 'in the national interest'. Even where negotiations with communities take place, they are never given the chance to say 'no' to the takeover of their lands, and are never informed that their rights are being extinguished in the process of plantation development.

Palm oil plantations already cover over six million hectares of Indonesia, most the ancestral lands of indigenous peoples. Regional land use plans now envisage the clearance of a further 20 million hectares for these expanding estates. If this expansion is not to cause further harm, Indonesia's laws and policies and company practices must change. Customary rights must be secured. Communities must be given the right to decide whether or not they want plantations on their lands and, if so, on what terms.



Forest Peoples Programme

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# PROMISED LAND



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Palm Oil and Land Acquisition in Indonesia: Implications for Local Communities and Indigenous Peoples

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Implications for Local Communities and Indigenous Peoples

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# The International instruments

1. International laws, standards and practices are generally held to be above the laws of nation/states. Historical realities stemming from Colonization and Imperialism can be very relevant under international law and in the UN system generally (Policies stemming from the Termination Era).
2. Human Rights protections and issues are a significant priority in Arena #3. International Complaint Procedures are being utilized in this Arena.
3. Modern Conventions now refer to indigenous rights – Example: CBD. International agencies and NGO's can and do work with Indigenous Peoples - Example: UNDP policy of engagement and MDG's.
4. Collective efforts with other indigenous and non-indigenous peoples, natives and networks are mandatory in international Arena #3. Under UN Structure – Civil Society plays a large part in "the program of action". Globalization makes collective resistance and cooperation a necessity.

# Some key instruments

Principles	International Standards	Key Provisions
<i>Just Land Acquisition</i>	ILO Convention 169 (1989) on Indigenous and Tribal Peoples	Articles 13-19
	UN Convention on Biological Diversity (1992)	Article 10c
<i>Fair Representation and Participation of Indigenous and Tribal Peoples</i>	ILO Convention 169 (1989) on Indigenous and Tribal Peoples	Articles 6-9
	Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, InterAmerican Human Rights System	UN CERD Committee, UN Committee on Social Cultural and Economic Rights, InterAmerican Commission on Human Rights
<i>No Forced Labour</i>	ILO Convention 29 (1930) Forced Labour	Article 5
	ILO Convention 105 (1957) Abolition of Forced Labour	Article 1
<i>Protection of</i>	ILO Convention 138 (1973) Minimum	Articles 1-3

# Cont'd ... some key instruments

Principles	International Standards	Key Provisions
<i>Children</i>	Age	
	ILO Convention 182 (1999) Worst Forms of Child Labour	Articles 1-7
<i>Freedom of Association and Collective Bargaining</i>	ILO Convention 87 (1984) Freedom of Association and Protection of Rights to Organise	Articles 2-11
	ILO Convention 98 (1949) Right to Organise and Collective Bargaining	Articles 1-4
	ILO Convention 141 (1975) Rural Workers' Organisations	Articles 2-3
<i>Non-Discrimination and Equal Remuneration</i>	ILO Convention 100 (1951) Equal Remuneration	Articles 1-3
	ILO Convention 111 (1958) Discrimination (Employment and Occupation)	Articles 1-2
<i>Just Employment of Migrants</i>	ILO Convention 97 (1949) Migration for Employment	Articles 1-9



# Cont'd ...

Principles	International Standards	Key Provisions
	ILO Convention 143 (1975) Migrant Workers (Supplementary Provisions)	Articles 1-12
<i>Protection of Plantation Workers</i>	ILO Convention 110 (1958) Plantations	Articles 5-91
<i>Protection of Tenants and Sharecroppers</i>	ILO Recommendation 132 (1968) Tenants and Sharecroppers	Articles 4-8
<i>Protection of Smallholders</i>	ILO Convention 117 (1962) Social Policy (Basic Aims and Standards)	Article 4
<i>Health and Safety</i>	ILO Convention 184 (2001) Safety and Health in Agriculture	Articles 7-21
<i>Control or Eliminate Use of Dangerous Chemicals and Pesticides</i>	Stockholm Convention on Persistent Organic Pollutants (2001)	Articles 1-5
	FAO International Code of Conduct on the Distribution and Use of Pesticides (1985, Revised 2002)	Article 5

# Human rights treaty & supervisory body

<b>HUMAN RIGHTS TREATY</b>	<b>NAME OF SUPERVISORY BODY</b>
The International Covenant on Civil and Political Rights (ICCPR)	The Human Rights Committee (HRC)
The International Covenant on Economic, Social and Cultural Rights (ICESCR)	The Committee on Economic, Social and Cultural Rights
The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	The Committee on the Elimination of Racial Discrimination
The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	The Committee Against Torture
The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	The Committee on the Elimination of Discrimination Against Women
The Convention on the Rights of the Child (CRC)	The Committee on the Rights of the Child

# An Indonesian Case

Oil palm industry & plantation act

Convention on the elimination of all  
forms of racial discrimination  
(CERD)



# Article 11 of Plantation Act

- (1) The concession right for plantation activities is given for the **period 35** (thirty five) years.
- (2) The period referred in verse (1) based on the plea of the right holder is given an extension for the period of maximally 25 (twenty five) years by the institution that has an authority in the land affairs provided that the agent of the plantation activity has, according to the Minister, fulfilled all the obligation and carried out the plantation management in line with the technical regulations determined. **Extension 25**
- (3) After the period of extension as mentioned in verse (2) ends, based on the plea of the ex-right holder, new concession right can be given for the period of the one determined in verse (1) and other determined requirements as written in verse (2). **Renewal 35**



# Indonesian state discriminate indigenous peoples on the grounds that

1. Does not recognise indigenous peoples' institutions
2. Their property rights are not secured and their land unfairly expropriated
3. Fail to protect IPs customary and collective rights in lands, (as distinct from those holding individual title)
4. Taken over IPs lands without FPIC
5. Taken over IPs lands for the settlements of other citizens and/or private companies on those lands
6. Refuse to attend to complaints by IPs when their rights to property were violated (and/or sent in police with ensuing violations)
7. It has provided unjust and unfavourable conditions of works for IPs forcibly incorporated into palm oil plantations and smallholders schemes
8. It has denied them a free choice of enjoyment
9. It has denied them equal participation

# Therefore, Indonesia fails to

- **Article 2:** States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:



# Article 2, cont'd

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
- (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
- (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
- (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.



# Ratification of ICERD

- Indonesia ratified ICERD 25 June 1999
- Reservation:
- "The Government of the Republic of Indonesia does not consider itself bound by the provision of Article 22 and takes the position that disputes relating to the interpretation and application of the [Convention] which cannot be settled through the channel provided for in the said article, may be referred to the International Court of Justice only with the consent of all the parties to the dispute."



# Closing – Argumentation

- Indigenous peoples have EQUAL rights but the recognition of these rights should accommodate their situation and cultural distinctiveness.

# Notes

- Direct to what you are going to tell
- Issues – situations, conditions
- Close by repeating your problem
- ICERD 23
  - 1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
  - 2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.