



# Indigenous Issues

[The occasional briefing papers of the Asian Indigenous and Tribal Peoples Network (AITPN)]  
P.O. Box 9627, Janakpuri, New Delhi-110058, India  
Email: [aitpn@aitpn.org](mailto:aitpn@aitpn.org); Website: [www.aitpn.org](http://www.aitpn.org)

**Embargoed for:** 14 February 2007

## **BIO-DOLLARS DESTROY INDONESIA'S BIO-DIVERSITY**

The global warming requires reduction of greenhouse gas, an undesirable consequence of industrialization. Bio-diesel is being touted and promoted as the next “in-thing” to reduce greenhouse gas effects. But it comes at a terrible price as being witnessed in Indonesia which aspires to become the world's number one producer of bio-diesel and crude palm oil, it targets the indigenous territories.

Already, a total of 6,059,441 hectares of land in 17 provinces, viz. Nanggroe Aceh Darussalam, Sumatera Utara, Sumatera Barat, Riau, Jambi, Sumatera Selatan, Bangka Belitung, Bengkulu, Lampung Jawa Barat and Banten, Kalimantan Barat, Kalimantan Tengah, Kalimantan Selatan, Kalimantan Timur, Kalimantan, Sulawesi Tengah, Sulawesi Selatan, and Sulawesi Tenggara, Papua have been covered under oil palm plantations.

Palm oil brings much needed dollars to the country. It is presently grown in at least 17 Indonesian provinces. In 2004, the total planted oil palm area amounted to 5.3 million hectares, yielding 11.4 million tons of Crude Palm Oil (CPO), a record export value of US\$ 4.43 billion, and US\$ 42.3 million in government revenue.

The Kalimantan Border Oil Palm Mega-project launched in July 2005 by the Indonesian State Plantation Corporation (PT Perkenunan Nusantara or PTPN) apart from eventually employing nearly 400,000 people, would also generate an annual inflow of US\$45 million in tax revenue to the State.

The policy papers of the Indonesian State Plantation Corporation on the Kalimantan Border Oil Palm Mega-project states that the project would counter poverty; border conflicts; inaccessibility to the areas; environmental degradation, illegal logging and trade; smuggling of clothes, sugar and oil palm seeds; illegal worker migration etc. The government promised “bringing prosperity, security and environmental protection to the Kalimantan border area”.

Of course, it comes at a terrible price. The proposed Kalimantan Border Oil Palm Mega-project will require 1.8 million hectares at the heart of Borneo and among others will destroy three national parks of Betung Kerihun (800,000 hectares), Kayan Mentarang (1,360,000 hectares), and Danau Sentarum (132,000) as well as surrounding “protection forest”. Kalimantan Border Oil Palm Mega-Project will destroy primary forests in these areas but will further robe the indigenous Dayak communities of their lands and territories.

---

## I. Sovereign power over indigenous peoples' land

Indigenous peoples of Indonesia have little legal recognition for protection of their land rights. Article 28 of the 1945 Constitution of the Republic of Indonesia (as amended in 2002) provided some rights of ownership to indigenous peoples. Clause 4 of Article 28H states, "Every person has the right to own property and this property can not be taken... from them by anybody". Article 28I further provides that "The cultural identity and the rights of traditional societies shall be respected in accordance with this age of progress and human civilization".

However, these constitutional rights were undermined by Article 33 of the Constitution which establishes sovereign power of the State. Article 33 states that,

- “1. Economic matters are managed as common efforts based on family principles.
2. Productive activities related to natural resources, which have importance to the State and significance for the livelihood of the Indonesian people, will be managed exclusively by the State.
3. The earth, water and natural resources are under the control of the State and should be utilized for the maximum welfare of the Indonesian people.
4. The national economic system should be conducted in accordance with the following principles: togetherness, equitable efficiency, sustainability, environmental friendliness, independence, and balancing progress and national economic unity.
5. The implementation of this article will be regulated by further laws.”

The national interest therefore remains supreme and gives the State the authority to determine whether the rights of the indigenous peoples still exist or not and to take over natural resources from indigenous peoples by extinguishing their traditional, *ulayat*, rights.

Moreover, procedures for the titling of individual land holdings, apart from being defective, also lag far behind the rate at which new land holdings are being created. A five-year-old National Assembly Decree (TAP MPR IX/2001), requiring reforms of forestry and agrarian laws, is yet to be put into effect. The imposition of a uniform administrative structure throughout Indonesia down to the village level during the New Order (Orde Baru) rule consciously ignored the traditional rights of the indigenous peoples. The traditional rights of the indigenous peoples were also ignored

---

in the Basic Forestry Law (BFL) and Basic Mining Law and their implementing regulations.

## **II. Eminent domain prevails**

Even if one's individual land holding is registered albeit under a deceptive system, he/she has little rights vis-à-vis the government. Indonesian state exercises sovereign power under the controversial principle of the 'controlling right of State' (Hak Menguasai Negara) to regulate and manage the country's natural resources, grants the State the authority to regulate, operate, classify, utilize, reserve and preserve natural resources for the benefit of the people, including deciding on and regulating the legal relations between people and natural resources.

On 3 May 2005, President Susilo Bambang Yudhoyono signed Presidential Regulation No. 36 of 2005 on Land Procurement for Development for Public Purposes to further strengthen the sovereign power of the state on land acquisition. The new Regulation vaguely defines "public interest" and violates landowners' rights as set out in the 1962 Property Law.

In June 2006, the Indonesian government made cosmetic amendments to the Regulation by dropping some of the development projects like public assets, schools, health clinics, government buildings and telecommunication facilities specified under "public interest" but the basic draconian thrust of the Regulation remained intact. The decree still empowers the government to take over any land for public interest and strip private land owners of their property rights if they do not agree to State offers of compensation.

## **III. Spelling doom**

The palm oil project will spell doom for natural and human bio-diversity.

*First*, the destruction of bio-diversity through conversion of natural forest can never be replaced. According to estimates of the World Rainforest Movement, the area of convertible forestland has increased from 8 million ha in 2000 to 14 million ha in 2002. As per the Indonesian Oil Palm Research Institute (IOPRI), 3% of all oil palm plantations are established in primary forests while 63% of these plantations are in secondary forest and bush and therefore 66% of all existing productive oil palm plantations involved forest conversion.

*Second*, the sheer volume of lands required will destroy human bio-diversity. Research carried out by Indonesian Bio-diesel Forum (FBI) states that 15-20 tonnes of fresh fruit bunch of oil palm per hectare produce 0.2 - 0.22 m<sup>3</sup> of raw oil, with 0.95 litres of bio-diesel produced from one litre of CPO. This means 0.3ha of oil palm plantation would be needed to generate 1,000 litres (1 kl) of bio-diesel. Going by this

---

standard, it projected that in 2009, bio-diesel from oil palm will reach 2% of diesel consumption or 0.7 million kl, requiring over 200,000 ha of oil palm plantations. By 2025, demand for bio-diesel is projected to reach 5% of petroleum diesel consumption, equivalent to 4.7 million kl. This will need 1.41 million hectares of land for oil palm plantations.

Where would 1.41 million hectares of land come from? Obviously, from the indigenous peoples. Apart from destroying socio-cultural values, oil palm plantation projects have already increased gambling and prostitution. The palm oil plantations have also increased the living expenses as cultivation in oil palm does not permit traditional intercropping (tumpang sari) methods.

In order to reduce green house gas emissions, Indonesia's indigenous peoples are all set to pay a heavy price.

**Further readings:**

1. Promised Land: Palm Oil and Land Acquisition in Indonesia - Implications for Local Communities and Indigenous Peoples, A study by Forest Peoples Programme, Perkumpulan Sawit Watch, HuMA and the World Agroforestry Centre.
2. The Kalimantan Border Oil Palm Mega-project, Commissioned by Milieudefensie - Friends of the Earth Netherlands and the Swedish Society for Nature Conservation (SSNC), April 2006
3. Why is palm oil replacing tropical rainforests? Why are biofuels fueling deforestation? By Rhett A. Butler available at: (<http://www.mongabay.com/about.htm>)
4. The Kalimantan Border Oil Palm Mega-project, Commissioned by Milieudefensie - Friends of the Earth Netherlands and the Swedish Society for Nature Conservation (SSNC), April 2006
5. Govt makes minor changes to controversial land decree, The Jakarta Post, 6 June 2006
9. <http://www.wrm.org.uy/bulletin/85/Indonesia.html>
10. Biodiesel and the expansion of oil palm plantations, Down to Earth No. 69, May 2006