

## An Open Letter to The European Commission:

### Regarding the Impact of Oil Palm Plantations, Namely Forest Destruction, Land Grabbing, Human Rights Violations, Corruption and Environmental Disasters.

We are leaders of indigenous people's organizations, farmers' unions, civil society organizations, traditional communities, farmers, laborers, human rights defenders and environmental activists.

We read and receive many contradictory messages and statements that seem to ignore the impact of the palm oil industry in the form of deforestation, land grabs, human rights violations, labor exploitation, corruption, socio-economic and political problems and ecological problems. There are efforts to conceal these issues, including by claiming oil palm plantations are forests. Some statements supported by several academics have also accused several Non-Governmental Organizations (NGO) of negative campaigns against oil palm in Indonesia.<sup>1</sup>

We hereby would like to state and assert that, in fact, the palm oil plantation and industry have indeed destroyed and eliminated forests on a large scale<sup>2</sup> and they continue to destroy forests and peat lands until now.<sup>3</sup> We have also lost our village lands<sup>4</sup> (because our management rights to the land have been occupied by oil palm plantations), our food sources, livelihood, sources of herbal medicine, rare vegetation and germ plasm, as well as our collective ways of life based on our local wisdom, and connections with our ancestral places integral to our identity and cultural heritage. On the ground, we experience conflicts, harassment, criminalization and human rights violations, the denial of labor rights and socio-economic and environmental problems. Our customary territories now suffer long-term ecological disasters, such as droughts, forest fires, water pollution and the decline of fish stocks, loss of food security all of which diminish the quality of life of the local people, especially women and children.

For us, forests are not only timber stands and economic resources, but also our home. Forests are the source of biodiversity that is bonded in one comprehensive ecosystem: human, nature and its Creator. The destruction and elimination of forest will not only destroy and eliminate our source of life, but also our ecosystem and place to live, now and for posterity. With the removal of forests our traditions, languages and traditional rituals vanish.

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<sup>1</sup> See <https://ekonomi.inilah.com/read/detail/2449314/akademisi-sebut-sawit-bukan-pemicu-deforestasi>, see also: <http://ekbis.rmol.co/read/2018/04/23/336627/Akademisi-Sawit-Nasional-Masuk-Tanaman-Hutan-Harus-Diperjuangkan->, <https://sawitindonesia.com/rubrikasi-majalah/berita-terbaru/akademisi-kehutanan-ipb-susun-naskah-akademik-sawit-sebagai-tanaman-hutan/>, <https://www.liputan6.com/news/read/3487802/gara-gara-kelapa-sawit-legislator-minta-ppatk-bekukan-aliran-dana-lsm>

<sup>2</sup> Deforestation rates from oil palm plantations in Indonesia averaged 117,000 hectares per year between 1995 and 2015. See: K.G. Austin et al. 2017. Shifting patterns of oil palm driven deforestation in Indonesia and implications for zero-deforestation commitments. Land Use Policy Vol. 69, December 2017. <https://www.sciencedirect.com/science/article/pii/S026483717301552>

<sup>3</sup> Check out the latest video of Greenpeace's findings about forest destruction in Papua <https://media.greenpeace.org/archive/Web-video-CLEAN-Palm-Oil-Supplier-Destroys-Forest-in-Papua-27MZIFJXASBK6.html>

<sup>4</sup> See the Institute for Ecosoc research report set forth in the book "The Plantation Industry and Human Rights" (2014) and "Transmigration and Plasma Partnerships Support the Palm Oil Industry" (2017)

All of this happens because of land clearing for large scale oil palm plantation controlled by local and foreign investors.

We are hunters and foragers, farmers and farm laborers, creating our food with our hands, knowledge and self-sufficient organizations. We have become disempowered economically because our economic systems have been relegated by the plantation-oriented economic system controlled by companies. In addition to that, our socio-cultural systems that support our collective living have been forcibly transformed into one that is individualistic and dependent on money. This has created social vulnerability and often sparked serious and prolonged social conflicts.

The companies promise compensations, damages and CSR (corporate social responsibility). But all of those cannot replace the value of our lost forests and lands, as well as the harmonious living with nature and our neighbors. The CSR projects cannot make up for our loss and suffering.

We are of the opinion that social justice and ecological sustainability are treated as words rather than obligations for action, not regarded as actual responsibilities of the corporations. Our rights in the estate-smallholder farming contract, part of the plantation license requirements, are often not fulfilled. This is a legal violation since the obligation to fulfil the rights of the community has been prescribed in the Plantation Law (39/2014). But in reality, the companies often used this "nucleus-plasma" partnership model as a way to take over our forests and community lands.<sup>5</sup>

We have experienced how this economic model of palm oil plantation has ignored the principles of justice and robbed us of our rights (men, women, the elderly, children and future generations) to continue to exist on our own land. The palm oil companies have appropriated all and we are now forced to work as informal laborers for palm oil industries. Our rights as (male and female) laborers are also ignored, our strength is drained but we are given wages below the minimum standard, we are discriminated against, the women are not given menstrual leave, are vulnerable to sexual harassment, are not provided with decent toilets, are provided poor quality food and water, are not given the freedom of expression, of opinion and of association, are vulnerable to diseases and work accidents, are not provided with health insurance neither for when they are sick or injured in work accidents, and to add to this, they are vulnerable to sudden termination of employment.<sup>6</sup>

We, small-scale farmers and planters are also marginalized in the whole supply chain of the palm oil industry. As small-scale planters, we cannot determine the price because it is controlled by the companies. We also have not received any protection of land tenure because of the difficulty of obtaining such recognition by the government.

We have no adequate instruction in the knowledge of plantation business management. We are also kept away from having access to capital by the financial sector. There is an oil palm

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<sup>5</sup> See the Institute for Ecosoc research report set forth in the book "The Plantation Industry and Human Rights" (2014) and "Transmigration and Plasma Partnerships Support the Palm Oil Industry" (2017)

<sup>6</sup> Results of Women's Solidarity Research with Sawit Watch 2010 and Female Solidarity Investigation Data Kendari 2015

fund management policy that directs funds to the development of smallholder plantations but the funds are instead diverted as subsidy for the development of biodiesel<sup>7</sup>, such as the those received by five large-scale oil palm companies in 2017, namely Wilmar Group, Musim Mas Group, Darmex Agro Group, First Resources and Louis Dreyfus Company (LDC)<sup>8</sup>.

We perceive and feel that the policies of the plantation business, the palm oil trade and industry have deviated a long way from, and are contrary to, the constitutional ideals of justice and social welfare. In the investors' interest, regulations on licensing and on management of oil palm plantation funds have been lifted.

We understand that the oil palm sector contributes to the national economy with export value reaching 15% of total Indonesian exports<sup>9</sup>. However, using that figure as the sole basis for policy-making is inappropriate. The foreign exchange revenue claims are also inaccurate since much of the export earnings are actually deposited in tax haven countries. At the same time, the oil palm industry also has a major negative impact on basic rights and survival of the people, indigenous peoples, farmers, laborers and the environment.

We see that the government is serving the interests of financiers rather than the interests of communities and smallholders. Moreover, for the sake of growth and investment, licensing, tax and export facilities are generously given out to foreign investors<sup>10</sup>. As a result, the grip of the holders of capital over oil palm resources in Indonesia is so strong. All the links in the supply chain are under control of a handful of capital owner, some of them the richest people in Indonesia: from the land to the palm oil mills and processing plants all the way to the trading floor.<sup>11</sup>

They control the palm oil supply chain in Indonesia and internationally from Singapore and Malaysia<sup>12</sup>. They are foreign tycoons that have been served by the government and are considered worthy of commendations as contributors of foreign exchange revenue.

We see that the claims of foreign exchange earners are inappropriate or "careless", because the profits are actually kept in tax haven countries. They are actually tax evaders causing losses to the state. Asian Agri Group, for example, was proven to have done just that. Some

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<sup>7</sup> See the KPK report (2016). Study of Palm Oil Commodity Management System. Directorate of Research and Development of the Deputy for the Prevention of Corruption Eradication Commission

<sup>8</sup> See the KPK report (2016). Study of Palm Oil Commodity Management System. Directorate of Research and Development of the Deputy for the Prevention of Corruption Eradication Commission.

<sup>9</sup> Central Agency for Statistics [Badan Pusat Statistik] (2017). Indonesia's Export Data for 2017.

<sup>10</sup> TuK Indonesia study (2015) showed that there are 29 tycoons behind 25 oil palm businesses controlling more than five million hectares, among them Sinar Mas Group, Wilmar Group and Surya Damai Group. This is made possible due to state facilitation and illegalities. Wilmar and Sinar Mas Group could own more land than prescribed in the Agriculture Minister's Regulation No. 26 of 2007 on Guidelines on Plantation Business Licenses that every corporate group can own only 100.000 hectares in every province. Companies under Wilmar Group, Darmex Agro, Musim Mas, First Resources and Louis Dreyfus Company, have also received subsidy from the Plantation Fund Management Agency.

<sup>11</sup> See: <https://www.forbes.com/indonesia-billionaires/list/2/#tab:overall>

<sup>12</sup> According to AURIGA Foundation study by following the money (downstream-upstream tracing of profits in Indonesia and the network in neighboring countries) is is apparent that the network of chains of national oil palm profits lead to major companies based in Malaysia and Singapura, (AURIGA, 2016).

of the bosses in the oil palm industry have made a commitment to clean up the supply chain from the practices of deforestation and peat degradation, and promise to respect human rights. In fact, however, these pledges have not been implemented.<sup>13</sup>

Income Tax (Article 22) is directly deducted from every sale and purchase transaction of our oil palm fruit bunches. Meanwhile, the oil palm companies are not compliant in paying taxes. In 2015, the corporate compliance rate is only 46.34%. The state loses potential tax revenue of IDR 18 trillion annually from non-compliance.<sup>14</sup>

We are often accused of being "unpatriotic" by our own government, when we cry out for our rights as Indonesian citizens, which are taken from us at the advantage of investors. We know that the claims were actually started by those foreign investors who want to perpetuate and sustain their profitable business in our country.

We have repeatedly sent letters, engaged in dialogue and held rallies before government offices, the parliament, the National Commission for Human Rights and corporate offices to speak out about injustices and grievances over land grabbing, loss of livelihoods and food security, forest destruction and environmental pollution, low wage labor, corruption, criminalization, violence and human rights violations experienced by communities, farmers, laborers and activists.<sup>15</sup>

Policies and bad practices of the oil palm plantation industry have contributed to the occurrence of agrarian conflict of 659 cases, with 208 cases occurring in the plantation sector, covering a land area of at least 530,491.87 hectares and sacrificing 652,738 families<sup>16</sup>. Conflicts between oil palm plantation companies and communities in particular have continued to expand, with the number of cases continuing to rise to 717 cases to date. These cases have not been resolved.<sup>17</sup>

We have taken note of the following document "Palm Oil and Deforestation of the Rainforests"<sup>18</sup>, which states that the development of the palm oil industry is a major cause of forest loss and climate change.

Further, the recently agreed recast Renewable Energy Directive (RED II) requires the European Commission to adopt, by 1 February 2019, a delegated act for determining the high indirect land-use change risk biofuels feedstocks "for which a significant expansion of the production area into land with high carbon stock is observed" as well as setting out the criteria for certification of low indirect land-use change-risk biofuels. The share of the identified high ILUC risk biofuels' feedstocks will be capped until 2023, based on their 2019 levels, and then will be completely phased out of the renewable targets by the year 2030. However, they can still

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<sup>13</sup> See: Greenpeace's Report "Moment of truth" <http://m.greenpeace.org/seasia/id/high/press/Sejumlah-Merek-Global-Masih-Enggan-Transparan-Soal-Rantai-Pasok-Sawit/>

<sup>14</sup> See KPK report (2016): Study of Palm Oil Commodity Management System.

<sup>15</sup> See Elsam publication (2010): Human rights violations in oil palm plantations. PP PT Lonsum Tbk, North Sumatra

<sup>16</sup> In 2015-17 there were 1.361 agrarian disputes covering an area 2.185.948 hectares and 848.197 direct victims. Around 40% are connected to conflicts caused by palm oil companies. See further KPA Annual report: Reforma Agraria di Bawah Bayang Investasi [Agrarian Reform in the Shadow of Investment 2017]

<sup>17</sup> See <https://www.infosawit.com/news/5240/sawit-watch-tanggapi-komentar-kabarhakam>

<sup>18</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0098+0+DOC+XML+V0//EN>

legally be used and imported into Europe.

To respond to this, we the undersigned hereby urge you to take into account the following statements when finalising the delegated act:

1. We agree with the European Parliament's proposed change of policy. The EU should ensure that renewable energy is only sourced from businesses that are eco-friendly, equitable and respectful of human rights. Palm oil-based biodiesel clearly does not meet these principles, as shown by the emergence of various social, economic and environmental problems. We therefore call on the Commission to ensure that palm oil is placed in the category of high indirect land-use change risk biofuel feedstocks and excluded from the category of low indirect land-use change-risk biofuels.
2. In relation to all other imports of palm oil, we urge the EU to uphold and promote the highest protection for small-scale oil palm farmers who make a living from the cultivation of oil palm plants. The EU should promote labor rights for men and women working in oil palm plantations.
3. We call on the European Parliament, the European Commission and the EU Member States to improve policy standards in all its economic trade agreements, not least in relation to the use of palm oil. Its policies must adhere to human rights principles and instruments, respect and protect the rights of indigenous peoples, local communities, oil palm farmers and oil palm workers, and improve access to justice and support sustainable development without removing more forests and peatlands.

This concludes the open letter we are submitting. Thank you for your attention and support.

Jakarta, January 2019

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  146. Dominikus Uyub, Lanting Borneo, Kapuas Hulu, Kalimantan Barat
  147. Valentinus Heri, Yayasan Riak Bumi, Pontianak, Kalimantan Barat
  148. Ansilla Twiseda Mecer, Yayasan Karya Sosial Pancur Kasih, Pontianak, Kalimantan Barat
  149. Supriyadi Sudirman, Barisan Pemuda Adat Nusantara, Maluku Utara
  150. Yusuf kiki, LARRA Banggai, Sulawesi Tengah
  151. Pabeangi P. Lajjo, farmer from Sukamaju, Batui Selatan, Banggai, Sulawesi Tengah
  152. Agus P. Tatu, Kelompok Tani Mo'otinela, Banggai, Sulawesi Tengah
  153. Anwar Sastro Maruf, Konfederasi Pergerakan Rakyat Indonesia, Jakarta
  154. Hermawan, Konfederasi Serikat Nasional, Jakarta
  155. Yohanes Joko Purwanto, Federasi Serikat Buruh Karya Utama, Jakarta
  156. Alimin Abraham, Kelompok Pemuda Tani Dulohupa, Bualemo, Banggai, Sulawesi Tengah
  157. Abner Patras, Masyarakat Tiberias, Bolaang Mongondow, Sulawesi Tengah.

158. Maria Borotian, perempuan adat Arso, Keerom, Papua
159. Harry Oktavian, Yayasan Bahtera Alam, Pekanbaru, Riau
160. Wina Kairina, Hutan Rakyat Institute, Medan, Sumatera Utara
161. Adriana Sri Adhiati, TAPOL – Promoting Human Rights, Peace and Democracy in Indonesia, UK
162. Veronica Koman, International Lawyers for West Papua, Jakarta
163. Ahmad Yudis Tuangku Mahadirajo Bosa, Pucuak Adat KAN Muaro Kiawan, Nagari Muaro Kiawan, Kab. Pasaman Barat, Sumatera Barat
164. Kasiman M. Batuah, Ninik Mamak, Nagari Muaro Kiawan, Kab. Pasaman Barat, Sumatera Barat
165. Syahrul Ramadhan Tanjung Sinaro, indigenous peoples, Nagari Simpang Tigo Koto Baru, Kab. Pasaman Barat, Sumatera Barat
166. Pedi Sutan Putihah, Ninik Mamak, Nagari Muaro Kiawan, Kab. Pasaman Barat, Sumatera Barat
167. Jhonis Muis, indigenous peoples, Nagari Sasak, Kab. Pasaman Barat, Sumatera Barat
168. Sardani Bib, Bosa Adat Sikilang, Nagari Sungai Aua, Kab. Pasaman Barat, Sumatera Barat
169. Nasran, Bosa Air Haji, Nagari Sungai Aua, Kab. Pasaman Barat, Sumatera Barat
170. H. Syafnil, Spdi, indigenous peoples, Nagari Sasak, Kab. Pasaman Barat, Sumatera Barat
171. Sawalman Sutan Laut Api, Pucuk Adat KAM, Nagari Aia Gadang, Kab. Pasaman Barat, Sumatera Barat
172. Gusnifar Majo Sadeo, indigenous peoples, Kab. Pasaman Barat, Sumatera Barat
173. Nazar Ikhwan Imbang Langik, indigenous peoples, Kab. Pasaman Barat, Sumatera Barat
174. Horison Nangkodo Rajo, indigenous peoples, Nagari Mandiangin, Kab. Pasaman Barat, Sumatera Barat
175. Ilyas Majosadeo, indigenous peoples, Nagari Kinali, Kab. Pasaman Barat, Sumatera Barat
176. Khairuman Bandaro, Pucuk Adat KAN, Nagari Lingkuang Aua, Kab. Pasaman Barat, Sumatera Barat
177. H. Gazali Chan, indigenous peoples, Kab. Pasaman Barat, Sumatera Barat
178. H. Jurnalis M, indigenous peoples, Kab. Pasaman Barat, Sumatera Barat
179. Damri, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
180. Bahtiar, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
181. Mainis Dt. Tuankabasaran, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
182. Zainal Abidin Dt. Majo Basa, indigenous peoples, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
183. Gusti DT. Mangkuto, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat, Sumatera Barat
184. Fitra Naldi Dt. Kayo, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat, Sumatera Barat
185. Syafri Dt. Maruan, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat,..... Sumatera Barat
186. Taslim S. Dt. Kabasara, indigenous peoples, Nagari Air Gadang, Kab. Pasaman Barat, Sumatera Barat

187. Tuangku Hendri Eka Putra Daulat Parit Batu Pasaman, Nagari Lingkungan Aua, Kab. Pasaman Barat, Sumatera Barat
188. Samsiwan Rangkyo Mudo, Ninik Mamak, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
189. Aziman Sutan Ameh, indigenous peoples, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
190. Alman Gampo Alam, Pucuk adat KAN, Nagari Kapa, Kab. Pasaman Barat, Sumatera Barat
191. Gusti Dt Mangkuto, indigenous peoples, Nagari Kajai, Kab. Pasaman Barat, Sumatra Barat
192. Dirman, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
193. Yunita, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
194. Karti, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
195. Nirwan, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
196. Damak, palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
197. Bardin, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
198. Uhing, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
199. Adiatma, farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
200. Dehen, MH, indigenous peoples Dayak Ngaju, Kapuas, Kalimantan Tengah
201. Irwan S, Kerukunan Suku Dayak Meratus, Banjarmasin, Kalimantan Selatan
202. Robby M. Ngaki, Dewan Adat Dayak, Banjarmasin, Kalimantan Selatan
203. Heri Susanto, Yayasan Tahanjungan Tarung, Kapuas, Kalimantan Tengah
204. Raden Ledi Karsapatir Mathias, Dewan Adat Dayak, Kapuas, Kalimantan Tengah
205. Ihwan, activist, Kuala Kapuas, Kalimantan Tengah
206. Abdul Hamid, indigenous peoples Dayak Ngaju, Desa Katunjung, Kapuas, Kalimantan Tengah
207. Dumu, Lembaga Hutan Adat, Desa Pulau Kladan, Kapuas, Kalimantan Tengah
208. Ather. palm oil farmer, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
209. Tanduk, AMAN Kapuas, Desa Pulau Kaladan, Kapuas, Kalimantan Tengah
210. Kostan Magablo, AMAN Sorong Raya, Sorong, Papua Barat
211. Mukri Friatna, activist lingkungan, Bandar Lampung
212. Norhadi Karben, Serikat Tani Manggatang Tarung, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah
213. Mardian, farmer, Desa Sembuluh, Kec. Danau Sembuluh, Kab. Seruyan, Kalimantan Tengah.
214. Mairaji, community mapping activist, Palangka Raya, Kalimantan Tengah
215. Misradi, farmer, Desa Sei Ahas, Mantangai, Kab. Kapuas, Kalimantan Tengah
216. Demianus Safe, activist, Distrik Ayamaru Tengah, Kab. Maybrat, Papua Barat
217. Gunawan Inggeruhi, indigenous peoples of Yerisiam, Kampung Sima, Nabire, Provinsi Papua Barat.
218. Dirman, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
219. Yunita, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
220. Herlina Sukmawati, farmer, Desa Sei Ahas, Kapuas, Kalimantan Tengah
221. Basri H. Darun, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
222. Asmawi, Serikat Tani, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
223. Subarjo, farmer, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.
224. Riyanto, farmer, Desa Mantangai Hulu, Kapuas, Kalimantan Tengah.

225. Andrianson, village government, Desa Kalumpang, Kapuas, Kalimantan Tengah.
226. Heripato, village government, Desa Kalumpang, Kapuas, Kalimantan Tengah.
227. Orion Kateng, indigenous peoples of Dayak Ngaju, Desa Kalumpang, Kapuas, Kalimantan Tengah.
228. Ambun Suteng, indigenous peoples of Dayak Ngaju, Desa Kalumpang, Kapuas, Kalimantan Tengah.
229. Sanjo, Mantir Adat, Desa Kalumpang, Kab. Kapuas, Kalimantan Tengah
230. Werdian, farmer, Seruyan, Kalimantan Tengah.
231. Anang Hardiansyah, farmer, Desa Sembuluh, Kab. Seruyan, Kalimantan Tengah
232. Agus Subekti, teacher, Desa Palingkau, Kab. Seruyan, Kalimantan Tengah
233. Suriansyah, farmer, Desa Sembuluh, Kab. Seruyan, Kalimantan Tengah
234. Sardiyanto, farmer, Desa Sembuluh, Kab. Seruyan, Kalimantan Tengah
235. Wancino, Yayasan Kaharingan Institute Indonesia, Palangkaraya, Kalimantan Tengah.
236. Sarah Agustiorini, Kaoem Telapak, Bogor, Jawa Barat