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Conflict and Collaboration in the Case Study Areas

The research was conducted in Sanggau district, an upland area and the biggest producer of CPO for the province, dominated by the *Dayak Bidayuh* ethnic group (70% of the population). Most of the *adat* lands are in conflict either with the forestry department or oil palm plantations. Land acquisitions for forestry activities were carried out through a one-sided process by the Forestry Department. Unfair land acquisition processes were also used by the oil palm plantation companies.

Adat lands were ignored by the Ministry of Forestry in its process to determine the extent of the province's state forest area. In this regard, Provincial and District governments share the perspective of local communities that many areas are not state forests but are *adat* lands. The state forest areas, forest concessions as well as conservation areas were designated solely by the ministry of forestry in Jakarta.⁴⁷ The designation of National Forest areas and the delineation of areas for logging concessions and nature reserves by the national government limited the local government's ability to develop these areas for rent seeking. The revenue it derives from logging concessions is too small to fund development of the district. Oil palm plantations can only be located outside state forest areas; if an area is classified as state forest, a land status conversion process needs to be followed (as explained in figure 3.3).

District and Provincial governments favor plantation companies over the interests of *Masyarakat Adat*⁴⁸. Governments assume that oil palm plantations will provide more revenue compared to forest areas and traditional local community farms. Given this situation it is extremely unlikely that District governments will issue regulations calling for the recognition of IPs rights to protect them from further expansion of oil palm plantations. This conflict is reflected in the cases below.

6.1. The Indigenous Peoples Customary (Adat) Institution and its Land Tenure System

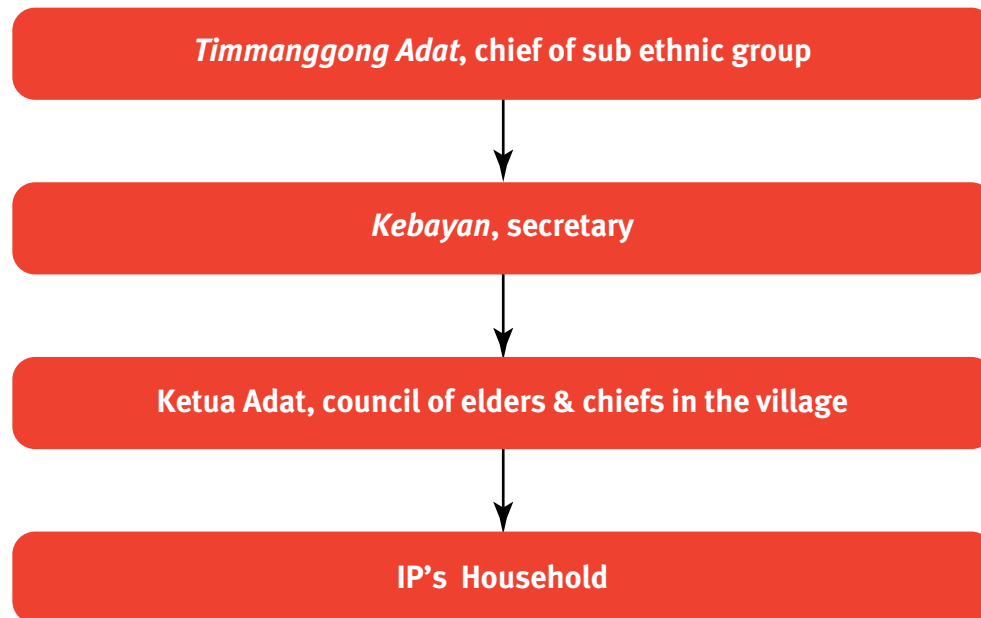
The *adat* institution responsible for *adat* law enforcement in these three case studies and throughout the *Dayak Bidayuh* ethnic group is similar. The *adat* institution is headed by a chief (usually a man but sometimes a woman) called *Timanggong*, who is chosen by the elders of the descendant group of ancestors who originally established and developed the village. The chief is responsible for several villages in the ancestral territory of sub ethnic groups such as the *Sami*, *Jangkang*, *Hibun* and *Pompang*. The chief is helped by a *Kebayan*, his secretary. *Ketua Adat* form a council of elders and chiefs for each village. The chief at the village level is chosen by the IP members of each village. There is no clear separation of powers in these IPs institutions as in the western system *trias politica*⁴⁹, with the council of elders functioning as both legislature to establish laws and judiciary to run the *adat* court together with the *Timanggong Adat* (see Figure 9. General Structure of the *Dayak Bidayuh* Indigenous Peoples Institution in Sanggau District).

⁴⁷ See Colchester, *Sirait & Widjarjo* 2003.

⁴⁸ See Colchester, *Jiwan, Sirait, Firdaus, Surambo and Pane*. 2006

⁴⁹ See, *ICRAF-FPP-AMAN* 2003, *In Search of Recognition, Bogor* pp 29-34

FIGURE 9. GENERAL STRUCTURE OF THE DAYAK BIDAYUH INDIGENOUS PEOPLE INSTITUTION IN SANGGAU DISTRICT



Source: Abdiyasa Yas, Iwi Sartika, Marthen Lothar, Susilaningtyas ed. Forthcoming, Mengenal Sistem Peradilan Adat; 25 Suku Dayak di Kabupaten Sanggau, LBBT, Pontianak p25

In all legal issues in the village, the village chief should initially handle the case. If the disputants are not satisfied with the chief's ruling, they can appeal to the *Timmanggong* and settle the case by involving the council of elders. Murder cases will be brought to the *Timmanggong* and to the police.

The *Timmanggong* are elected from village chiefs. If a chief performs well, he or she could be elected *Timmanggong* by the council of elders. There is a time limit for the position of *Timmanggong* and its staff. The *Timmanggong* can be replaced if the council of elders loses faith in his or her capabilities.

In the past, the IPs institution was stronger and respected by the community and neighboring IPs as well by the outsiders from non-indigenous communities. Until the 1980's, adat institutions played a central role in the life of each IPs community. All affairs were executed, regulated and justified through *adat* institutions, from birth to death, from planting to harvesting, from war to peace. In the 1940s, government imposed village institutions only dealt with official state affairs such as government projects, identity cards, census etc. and village officials could not interfere in the adat judicial process.

This system started to break down in 1979 when the state introduced a uniform system of village governance that did not recognize *adat* institutions, through the Local Governance Law no 5 /1979. After the Reform 1998, through the Local Governance Laws (no 22/1999 and no 32/2004) the state re-allowed village Indigenous Institutions to replace the village governance

system as long as it has a separation of power between the legislative and executive function. But law UU 4/2004 on Judicial Power does not recognize Indigenous Peoples' Judiciary as equal to or part of the state judicial system and this weakened the judicial function of Indigenous Peoples' adat institutions.⁵⁰

In practice today communities use both government and indigenous institutions for regulating and administering law. Oil palm companies as well as local government use both governance systems to promote oil palm plantations on ancestral lands, using state law as well as manipulating *adat* law. Chapter 7 will elaborate the consequences of these challenges to IPs *adat* systems and *adat* land management and control.

The IPs in the case studies used to access and control their **ancestral lands** or **communal lands**, calling it tanah adat (*adat* land) using their own land tenure system, regulated by their *adat* law, through their own *adat* institutions. The land tenure systems were similar for these IPs groups as they were from the same root ethnic group (*Dayak Bidayuh*) with land divided into three categories:

- (1) **The commons**; lands possessed by the whole IP community. These lands were forest and other commonly used areas, and could be used for farming by new members of the community with the permit of the *adat* chiefs and elders.
- (2) **Descendant land**; lands possessed by individual families, usually the descendents of the ancestors who established the longhouse (village) in the area. These descendant lands were mostly used for mix agroforest and sometimes contained sacred forests and graveyards. The benefits from these lands were shared among the descendant group and the community with consent of the descendant group members. This land could not be transferred to persons outside the descendant group, but the land could be converted to private lands belonging to a descendent household with the consent of the descendant group leaders.
- (3) **Individual lands**; private lands under the management and control of individual households, with the benefits shared by members of those households. These individual lands could only be transferred to members of the same IP residing in the same village.

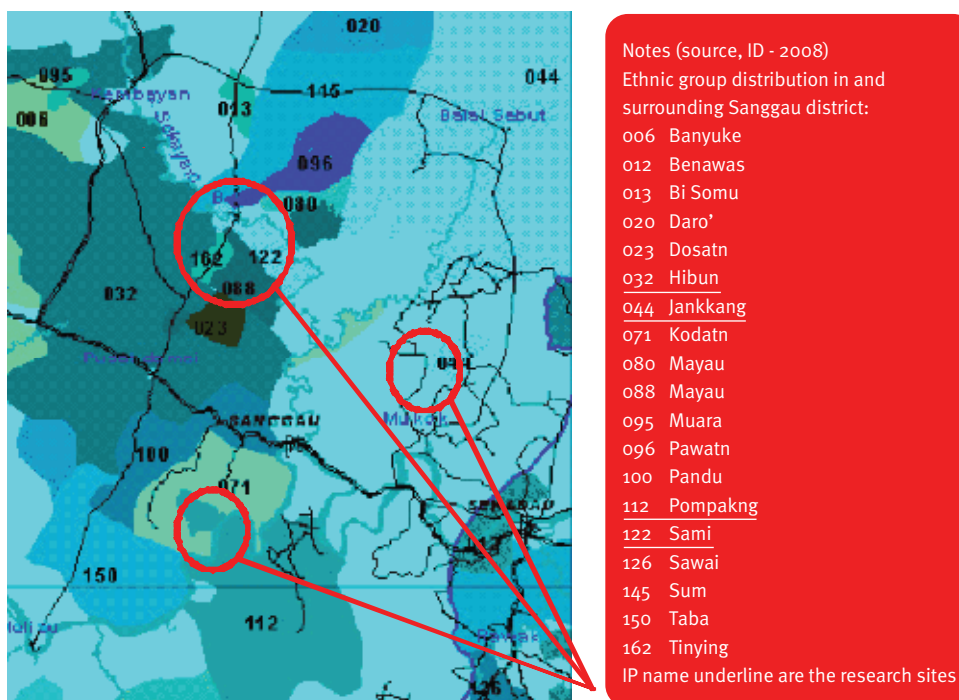
These indigenous tenure systems are recognized widely among IPs in West Kalimantan and regulated by *adat* law. Adat chiefs and their staff were responsible for *adat* law enforcement. These land ownership and management systems were not registered in the state land registration system, but were respected by the local community as well as neighboring communities. These indigenous tenure systems were threatened by the expansion of the state tenure system which did not explicitly recognize IPs tenure systems. In the 1970's, large-scale forest concessionaires used the state tenure system to ignore the tenure rights of the IPs. In the 1980s and 1990's large-scale oil palm plantations also ignored the tenure systems of IPs (common land, descendant land and individual lands). In the last decade, community mapping was introduced to several IPs in West Kalimantan to help them articulate their claims using the same spatial approach (map with scale and coordinates) as is used by the government and companies.

⁵⁰ See Abdurachman (2009), in: Abdiyasa Yas, Iwi Sartika, Marthen Lothar, Susilaningtyas ed. Forthcoming, *Mengenal Sistem Peradilan Adat; 25 Suku Dayak di Kabupaten Sanggau, LBBT, Pontianak*. Further, the Government Regulation no72/2005 re. Village Governance (article 15 k) elaborates that the Village Governance could run an arbitrary rule outside the court in settling disputes, and IPs Institutions could assist the Village Governance in settling arbitrage among the members of the village (p5). Exception for Papua Province, through the Autonomous Law of Papua no 21/2001(article 51, 1 and its explanation) the State recognized the Indigenous Peoples Court of the IPs in Papua as one of the court to settle disputes among the IPs in Papua (p 7).

The study was conducted in three sites in Sanggau District where IPs lands have been taken over by oil palm plantations. The *Hibun*, *Sami*, *Jangkang*, and *Pompang* are four sub-sub-ethnic groups from the largest *Dayak* sub-ethnic group in Borneo Island, *Dayak Bidayuh*. *Dayak Bidayuh* are known as the *land Dayak* as they settled upland areas of Borneo together with other Dayak sub-ethnic groups such as *Kayan*, *Kenyah*, *Iban* and *Punan*. (Kalimantan Review, September 2006). In the Sanggau district these IPs are interspersed with another 60 *Dayak* sub-ethnic groups as well as with Malay and ethnic groups originating from other islands (see Figure 10. Ethnic distribution in Sanggau District). According to a Dayak Bidayuh legend, this group came from the area called *Tampun Juah* (Kalimantan Review, October 2006). It is not clear where *Tampun Juah* is located; some communities believe it is in Metun Taput, Sarawak, Malaysia (Sirait 1997⁵¹). According to an Institute of Dayakology language research survey, the majority of the Dayak Bidayuh ethnic groups reside in Sanggau district, especially in Mukok, Bonti and Meliau sub-districts, and can be divided in 37 communities⁵².

The four sub-sub-ethnic groups (*Hibun*, *Sami*, *Jangkang Junggur Tanjung*, and *Pompang*) have their own dialects which differ from each other and from other Dayak ethnic groups, which helps to maintain their identity as distinct indigenous communities. The dialects are used in certain areas for communication between a number of different ethnic groups, e.g. in Mukok sub-district, the *Jangkang* dialect is used, in Bonti district the *Hibun* dialect is commonly used.

FIGURE 10. ETHNIC DISTRIBUTION IN SANGGAU DISTRICT



51 See Martua Sirait. 1997. p59

52 See Kalimantan Review no 134/ThXV/Oktober 2006. p47 as well as Institute Dayakology, 2008

Three cases were chosen to explore community experiences in conflict and collaboration between *masyarakat adat* and in their dealings with migrants, government and companies in relation to the development of oil palm plantations. The study explores qualitative aspects of the conflict, such as the feelings of members of these indigenous communities about the conflict, their ways of resolving conflict, and the impact on indigenous peoples' institutions and their customary lands. The cases concern different stages and conditions in the conflict between oil palm plantations and IPs which together are indicative of the situation for IPs in other areas of Kalimantan. See Figure 4. IPs Engagement with Oil Palm Plantations.

The first case presents conflict and collaboration between the *Hibun* and *Sami* communities who have been living as neighbors since time immemorial. *Hibun* (population 18,502 no. 032) is the dominant group and dialect used in the sub-district of Bodok and includes villages such as *Kampuh*, *Kerunang* and *Upe*. The *Sami* (population 608 no. 122⁵³) are the minority IP in their sub-district, mostly staying in Terusan village. The Hibun decided to engage with the oil palm plantation while the Sami rejected the engagement with the same oil palm company.

These two groups have a long experience in conflict and collaboration with each other and they hold many stereotypes, attributes and stigmas against each other. The decision in each community whether to engage or not with the offer of a *plasma-inti* contract farming scheme from the oil palm plantation company PT MAS-II revealed different positions within each community. Conflict and collaboration regarding the decision and all the consequences brought by the practice of oil palm reformulated the internal relations within a community, as well as the community's relation with the company, especially in the process of expansion of oil palm plantations.

The second case presents conflict and collaboration between the indigenous community *Jangkang* and *Javanese* transmigrants. In the sub-district of Mukok, the *Jangkang* (population 15,711 no. 044⁵⁴) are the dominant IP and reside in several villages together with the Javanese transmigrants that arrived in the 1980s through a government sponsored program. The bringing together of these two ethnic groups has created a complicated situation. Today the stereotypes, attributes and stigmas against each other are not based on personal experience but mostly come from secondary information. The situation worsened with the arrival of the oil palm plantation PT CNIS (PT Citra Nusantara Inti Sawit, an Indonesia subsidiary of the *Sinar Mas* group) when both communities accepted the company onto their lands. The company promoted conflict between the two ethnic groups and used the differences to gain access to community lands from 1986.

The third case presents conflict between the indigenous community of *Pompang* (population 4,892 no. 112⁵⁵) in the Meliau sub-district, the *Malay* ethnic group around the Kapuas River and the state-owned oil palm plantation Company, PTPN XIII. The *Pompang* community joined the oil palm plantation scheme in the 1980s and today it does not have enough land to maintain its agricultural activities or practice traditional rituals. Not many options on the land remain for most members of the *Pompang*; they work as daily laborers on the plantation, work in the nearest town or have migrated to Sabah/Sarawak (Malaysia).

53 See Figure 10. Ethnic distribution in Sanggau district.

54 See Figure 10. Ethnic distribution in Sanggau district

55 See Figure 10. Ethnic distribution in Sanggau district.

6.2 The Hibun and Sami communities in relation to the oil palm plantation

In 1995 the majority of the *Adat* community of *Hibun* from several villages, including Kerunang and Upe, accepted the request of oil palm company PT-MAS to operate on their customary lands and they joined the company's *plasma-inti* scheme. The neighboring *Sami* community from Terusan and Terinting villages rejected engagement with the oil palm plantation company.

In 1996 the company started land clearing including areas of swidden land and graveyards belonging to the *Sami* even though the *Sami* had rejected the proposal to join the oil palm plantation. The *Sami* asked for clarification from the company but land clearing continued. After several years of having their demands ignored, in 1999 the *Sami* community stopped their land being taken over by the company and did not allow the companies' nursery and office to be based in their territory. The *Sami* confiscated company vehicles and all documents in the company office. The PT-MAS II, which bought PTPMS (*PT Ponti Makmur Sejahtera*, an Indonesian Private Company) in 1998, used the opportunity to provoke *Hibun* leaders from eleven villages to accuse the *Sami* community of violating *adat* by harassing the oil palm company. Tensions escalated between the two ethnic groups. Terusan village received threats: if they refused to pay the *adat* fine equivalent to US\$1,100, their village would be burnt down. The *Sami* decided to pay the *adat* fine to protect their village and their ancestral lands. The spirit of the *Sami* community is reflected in a statement by the *Sami* lawyer Mr. Abdias (see Figure 11 Mr. Abdias):

FIGURE 11. MR. ABDIAS



According to my ancestors, the land that we claim as our *Sami* ancestral land was given to us by the Mayau, Darok and Selayang Indigenous Peoples. These lands were given to us through a long social and historical process, so we can't easily pass it to the oil palm company. We believe that we should continue to manage our land using our indigenous systems for swidden agriculture, mixed gardens etc. and also use our indigenous institutions that we reinstalled in 2004 through an *adat* assembly. Our indigenous system distributes access to resources more or less equally among us. Sometimes we need to add to our institutions new systems that are accepted by our custom, such as cooperatives (*usaha bersama*)

As a result of the conflict, clear segregation and demarcation of each *adat* territory between these two ethnic groups was made, even though the *Sami* community lost about one hundred hectares of their territory, which was occupied by the oil palm company. The forced agreement on boundaries between these two ethnic groups resulted from the imbalance in power between the communities, including physical threats from the dominant group. The *Hibun* with a population of 14,000 were supported by the local government and the company against the *Sami* who had a population of only 640.

The *Sami* communities continue to manage their remaining territorial resources based on their indigenous knowledge and wisdom. They wish to remain independent of the company. They

realized that due to the large operations of the oil palm plantation in their neighboring village, they might become alienated from their *Hibun* neighboring community and marginalized from the local government development program. Their isolation from the wider world is influenced by their geographical position. *Terusan* village is located on a small island in the Sekayam River, with only a small bridge connecting it to the other side of the river. In response to these developments, the *Sami* community formed cooperatives (*Usaha Bersama*) to buy and sell their agricultural products such as rubber, rice and other mixed farm products. The cooperatives also sell basic needs such as gasoline, sugar, rice and cooking oil to members of the village. The cooperatives are involved in maintaining and developing basic services, such as bridges on the Sekayam River, roads, water and sanitation projects etc.

The income of the *Sami* community is higher than in most of the neighboring *Hibun* villages and they don't depend on the charity from the oil palm company. They can afford to send their children to basic and secondary school. Some families send their children on to the high school in Pusat Damai (the main town of Bonti sub-district) or to the University in Pontianak based on income from their mixed gardens (mostly from the sale of rubber).

The situation in the Bonti sub-district changed radically in early 2006 when the company failed to fulfill its promise to the local communities to redistribute land to the farmers and continued to expand the oil palm plantations under the name of PT-MAS III. The *Hibun* community realized that they had lost most of their land and identity due to the changed structure of their livelihoods and lives: from a subsistence village that could generate its own food and resources

BOX 7. GAINING BACK THE COOPERATIVE

Mrs. Herkulana Rini is a member of SPKS (the union of oil palm farmers) Sanggau. She is a teacher who has consistently struggled for the rights of IPs and oil palm farmers through the company cooperatives. In December 2007 she was transferred by the local government from her village school to serve as a teacher Kapuas sub-district, far from her home. After widespread protests, in November 2008 she was transferred back to serve at her village school in Kampuh. She was supported widely not only by SPKS members and its supporting NGOs but also by her own students and their parents who petitioned the local government. Threats by the company and local government due to her activities have not stopped her advocating for the rights of IPs and oil palm farmers.

“As a teacher working in the village and originally from the village Kampuh, and as member of the Hibun indigenous people, my husband and I feel that it is our obligation to react collectively. We and other teachers in the area as well as the other communities here are members of the cooperative. We were each supposed to receive our own oil palm plot but we still do not know which is our plot. Our land was taken with empty promises but none of our adat leaders have reacted. No wonder, they are members of the Satlak of the company. They became the guardians of the company, not any more our real leaders. By joining SPKS, step by step we will gain back our cooperative and we can negotiate with the company to gain a better position”.

Source: Kalimantan Review no 151, March 2008, Pejuang yang Dibuang, P 47 and personal interviews in 2007-2008

where a family could earn approximately US\$6 a day from rubber tapping, to a village of plantation labourers that receive small wages (US\$1.50/day) working for the company. Of the land that each family released (7.5 ha), they had been promised two hectares for oil palm plantations of their own, but this was never transferred to all house hold beneficiaries. The interest rate of the credit scheme doubled, and these costs were deducted from each family's share. Their sacred graveyard was dug up and planted with oil palm.

The *Hibun* community realized that they could not return back to the previous situation, so they demanded the company to fulfill its promises, especially those listed in the written contracts with each family participating in the *plasma-inti* scheme. The community decided that individual efforts to demand their rights from the company should be channeled through the Cooperative (*Koperasi Maything Hija*⁵⁶). The cooperatives are controlled and appointed by the company, most of them are *Satlak* members, which are their own *adat* chiefs and the village head, and paid by the company.

To further its struggle, the *Hibun* community joined the oil palm peasant union (SPKS) together with other communities in West Kalimantan. Peaceful demonstrations were held at Sanggau district, involving 500 members of SPKS to demand a special taskforce of the legislative assembly to resolve land conflicts⁵⁷. The SPKS has also held a peaceful demonstration at the provincial government office in Pontianak together with the members from other districts of the province using the momentum of the 2007 Indigenous Peoples day. They demanded a freeze on all oil palm plantation expansion and a focus on resolving oil palm land conflicts.

The SPKS has also been involved in developing and testing the criteria and indicators of the Roundtable on Sustainable Palm Oil (RSPO) standard. This process brought Mrs. Rini (See Figure 12. Mrs. Rini spokesperson of SPKS-Sanggau from Kampuh village) and other members of the SPKS to an international conference on the RSPO in Singapore in 2005. There she met with the RSPO CEO, lending aid agencies, consumer groups, NGOs and academics who are concerned about the sustainability of oil palm plantations. Mrs. Rini and other SPKS members received threats of punishment for joining the SPKS, and for going abroad to the RSPO meetings.

FIGURE 12. MRS. RINI, SPOKESPERSON FOR SPKS SANGGAU FROM KAMPUH VILLAGE



56 The name of *Maything Hija Cooperative* has been taken as the abbreviation of four sub-ethnic groups representing the four IPs participating in the oil palm plantation scheme: *Mayau, Thinying, Hibun and Jangkang*

57 The demand was addressed by the local government which formed a special task force for resolving conflict between the peasants and the oil palm companies *PTPN XIII, PT MAS, PT KGP*. The task force includes *SPKS* as one of its members.

In mid 2007, the *Hibun*, as well as communities of *Mayau* and *Sami* from areas affected by the plantations of PT MAS-II, wrote a letter to the company requesting that it solves the outstanding land conflicts. After several weeks with no response from the company, the local communities blockaded the road leading to the areas in conflict, to stop company trucks from harvesting the area (see Figure 13. Blockade and demonstration against PT MAS II in Bonti sub-district). The blockade used the *adat* symbol of *pantak* which is used in sacred rituals and is not allowed to be used without *adat* ritual. On the same morning, youth, children, men and women went to the company office and demonstrated outside, repeating their demand that the company redistributes two hectares to each oil palm participant and asking for transparent management of the oil palm concession. The demonstrators forced open the office and harassed one of the Satlak members. A long negotiation with the company manager of PT MAS-II regarding the communities' demands followed. At 4.00 AM the next morning, the company agreed to raise the demonstrators' demands with the branch office in Pontianak. The 18-hour demonstration ended peacefully under heavy guard from the company (*Pamswakarsa*) and the police.

FIGURE 13. **BLOCKADE AND DEMONSTRATION AGAINST PT MAS II IN BONTI SUB-DISTRICT**



The next day, the company, working through the IP leaders, negotiated the lifting of the road blockade. This exposed the conflict between the IP leaders backed up by local government, police and company and the local communities allied with the SPKS. During the tension between the IP leaders and their local communities, police captured five SPKS local leaders, detained them and beat them up. The SPKS leaders were charged under the criminal code with destroying company property, including opening a company gate by force and blockading a plantation access road. They were also charged with assaulting an *adat* leader who was a member of the *Satlak*. Advocates from the Public Interest Lawyer Network (PILNET) including an AMAN lawyer from Jakarta as well as AMA Kalbar from Pontianak backed up the SPKS leaders during the police investigation and the court process. At the same time the *adat* leader who claimed to have been assaulted was backed by the company to bring a case of *adat* harassment to the district *adat* board (alleging misuse of the sacred *pantak* to blockade the plantation road).

Several days after the demonstration, the District Government attempted to force teachers not to join the SPKS. It sent a letter to all school heads in the area asking the teachers to support and promote oil palm expansion in the area. The teachers reacted by sending a letter to the Human Rights Commission in Jakarta asserting their right to unite and express their views on human wellbeing⁵⁸. At the same time the Provincial police office assigned a special armed team to undertake law enforcement operations to protect the oil palm plantation. The SPKS leaders faced intimidation, with stones thrown at night into their houses and assassination threats from the *Satlak* (land acquisition task force) and *Pamswakarsa* (security). These intimidation attempts, as well as the empty promises by the company were reported by Sawit Watch and SPKS members, facilitated by Paul Wolvekamp (Both Ends) directly to the CEO of Synergy Drive (Dr. Dato Azhar) at the RSPO V meeting in Kuala Lumpur, 20th-22nd November 2007 (See Figure 14. Mrs. Rini meets with the CEO of Synergy Drive in KL). PT MAS-II is owned by the Malaysian company Synergy Drive which itself is part of the *Golden Hope Group*, *Kumpulun Guthrie*, and *Sime Darby* group. Dr. Dato Azhar apologized for the lack of action and the empty promises from his company and asked to be kept informed of any further intimidation of the community or SPKS members.

FIGURE 14. MRS. RINI (CENTER) MEETS WITH THE CEO OF SYNERGY DRIVE IN KL



The court case against the five SPKS leaders is ongoing but it will not help resolve the land conflicts at the root of the problem as it will only deal with the criminal case of the blockade of a public transportation route (see Figure 15. The SPKS leaders from Bonti sub-district facing criminal charges). The case brought to the district Adat board is stuck on the issue of who in the community has the legitimacy to use the *pantak*.

The Synergy Drive responded to the crisis by sending an independent monitoring team consisting of Wild Asia and Aksenta⁵⁹, to assess the problems through mapping, verification, inventory of stakeholders etc. This process will be the barometer as to whether the case will be reported to the RSPO for a Grievance Procedure, or solved directly. Communication is being maintained in an informal way between the SPKS and managers of the parent company in Malaysia, as well as with supporting NGOs. However, SPKS members clearly find it difficult to stay in regular communication with outside parties.

FIGURE 15. THE SPKS LEADERS FROM BONTI SUB-DISTRICT FACING CRIMINAL CHARGES



PT-MAS II remains unwilling to distribute land according to the agreements originally made by PT-MAS with members of the *Hibun*, *Mayau* and *Sami* communities (each community participant that released 7.5 hectares was to receive two hectares for their own plantation). The company offered to allocate several blocks for redistribution, but participants will only receive between 1 to 1.5 hectares, and the land is located on infertile soil or steep slopes. Each block will be managed by a group of farmers and they will share the costs together, known as an *Akuan* scheme.

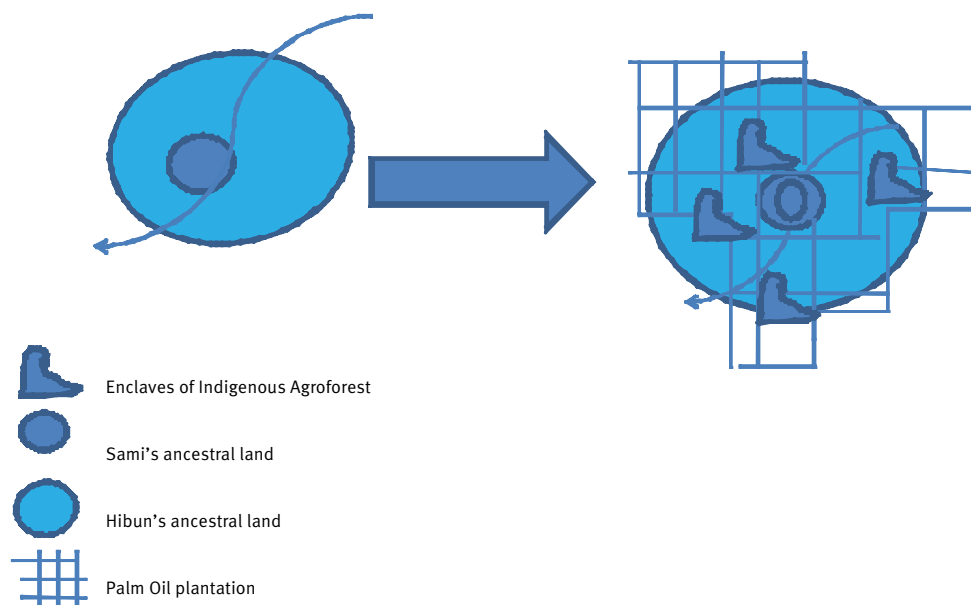
Most of the participants did not agree with the first offer and without any choice they joined the virtual block scheme, known as *saham* (share). Under *Saham*, the plantation will be fully

⁵⁹ Both organization are hired by the company to do the assessment of several problems surrounding the PS MAS operation that might be violating the RSPO standard and criteria.

managed by the company and the participants will receive a fee, based on their production with a deduction for production costs. In this plantation scheme, those owning two hectares of oil palm plantation will receive between US\$22 and \$33 per month and will be paid every three months, without doing anything. In this system, there is no transparency over the production or the level of deduction for production costs. Some farmers realized this after their demonstration, as their earnings for the next month increased almost 50% without a clear reason.

The frustration and anger within the communities affected by PT-MAS II is still evident and will no doubt remain until the root of the problem is addressed. Several religious leaders have brought the case into their sermons and prayers at the Sunday church and on other occasions, which helps to give moral support to the community struggle for their land. At this moment, the *Hibun* and *Sami* are working hand in hand to resolve their common problem with the company, along with other members of the SPKS and supporting NGOs. The ancestral lands of these two IPs are largely taken over by the company's oil palm plantations. In both IPs, those families who had limited private lands and depended on common ancestral land are suffering the most from the expansion of the company's oil palm plantations. At this stage the two IPs are collaborating to achieve different purposes; the *Hibun* are struggling for their rights as participants in the *plasma-inti* oil palm scheme, while the *Sami* seek to protect their remaining ancestral lands from the expansion of oil palm plantations. The control of the communal land and the landscape of the *Hibun* has changed radically from communal lands to company lands with the promise of some individual land ownership. Some communal land of the *Sami* was taken over by the company, but the community has kept their remaining ancestral lands intact (see Figure 16. Changes in the *Hibun* and *Sami* Communal Lands 1995-2008).

FIGURE 16. LANDSCAPE CHANGES ON THE HIBUN AND SAMI COMMUNAL LANDS (1995- 2008)



6.3. The Relationship between Masyarakat Adat Jangkang, the Javanese Transmigrants and the Oil Palm Company

The Adat community of *Jangkang*, especially those living at Tokang village, could not reject the Transmigration plan that took over some of their ancestral lands in 1980. Transmigration was a major government program at that time; it was supported by ADB and became the pilot project for further transmigration programs in West Kalimantan. The transmigration area around Tokang village is around 20,000 hectares. Fifty-eight *Javanese* transmigrant families from Delangu, Central Java arrived in Tokang village in 1983 and mixed with 43 families from Tokang village.

The old village was left behind when all the Tokang villagers moved to the new settlement at SP 1 in the transmigration area named Tokang Jaya. The Government promised that each transmigrant family would receive a quarter hectare of land as its home yard, one hectare as a first plot and three quarters of a hectare as a second plot. But by 1986 only the quarter hectare home yard had been distributed to each family. Few transmigrants received the first land parcel of one hectare or the second parcel of three quarters of a hectare. In response to this situation, the members of the Adat community from Tokang moved back to their old village and continued cultivating their land through shifting cultivation and rubber tapping. Some of the *Javanese* transmigrants sold their quarter-hectare plots to neighbors and returned to Java or moved to the city and became street vendors. But the majority of the transmigrants held on to their land and survived by working outside the village, such as labourers in new oil palm plantations. This was the hardest period of their life as transmigrants.

In 1986 the transmigrants protested to the transmigration authority demanding their first and second land parcels. After a long negotiation, they obtained ownership to the first plot (one ha per participant), but they did not get access to the promised second parcel due to overlapping claims with the *Jangkang* from *Tokang* village. Later in the 1990's the National Land Agency released the second parcel certificate and distributed it to the *Javanese* transmigrants even though the land is still under the control of *Tokang* village.

Several violent conflicts and cases of harassment took place between the *Jangkang* IP and the *Javanese* transmigrants. Later the two groups realized that the basis of their conflict stemmed from the bad planning and implementation of the transmigration area. The planner had underestimated the area, thereby undermining the land status of the ancestral lands of the *Jangkang*. The indigenous tenure system was confusing for the *Javanese* transmigrants and the land certification process confused the *Jangkang*. Through a long process the *Javanese* transmigrants agreed on the indigenous tenure system, as described by transmigrant Pak Siswomiharjo (see Figure 17):

FIGURE 17. MR. SISWOMIHARJO



Land certification is a registration system that is required by the state, and is what the transmigration staff promised to provide us, but it is not a letter that shows proof of ownership (yang menghaki). It is only proof of being a paper holder (pemegang sertifikat). The question of who owns the land should be asked from the local Tokang community. The Tokang community does not have a written record; they know exactly who owns the land and who the descendants are who have rights over it. If I want to be both certificate holder and land owner, I should negotiate with the person who owns it. A certain price could be negotiated on the basis of good will.

Realizing this condition, both the *Jangkang* land owners and Javanese transmigrant title holders felt anger, frustration and disappointment. The transmigrants felt cheated by the National Land Agency and the *Jangkang* community felt betrayed by the Transmigration authority. Not all rights over land have been settled between the two communities. Most of the land owners and holders of certificates for the second land parcel knew each other but have refused to talk about it. The transmigration authority has been dismissed and the National Land Bureau keeps promising to solve the problem, but this has never materialized. Mr. Albertus Awin (see Figure 18) from the *Jangkang* community expressed his concerns:

FIGURE 18. MR. ALBERTUS AWIN



I was one of the local transmigrants from Tokang village. During the land acquisition for the transmigration area, the government never bought our land. There was only compensation for the plants we had planted on our land. Ten hectares was taken from me, and I got Rp. 100,000/ hectare for rubber gardens and Rp. 30,000 /ha for swidden land. I still own land to which a certificate has been issued by the land agency under someone else's name. If the person wants to use that land, I would agree if the price is Rp. 50,000,000 per hectare (approx US\$5,000).

In 1999, an oil palm plantation company (PT CNIS) came to the transmigration area. They knew exactly which lands were in dispute and through their land acquisition task force (TP3K) they offered the *Javanese* as well as the *Jangkang* to join the plasma-inti scheme. The participants with a land certificate for three quarters of a hectare - mostly the *Javanese* transmigrants - were promised the same area. For the land outside the transmigration area - ancestral lands owned by the *Jangkang* community - the company required that five hectares should be released in return for two hectares. This favorable treatment for certified land for which there was no proof of ownership raised the issue of racial discrimination, as the *Javanese* were put in a privileged position compared to the members of the *Jangkang*.

Through the TP3K land acquisition task force, the company promoted a solution to the land conflict and asked the transmigrants to provide their land certificates to the village head. The *Javanese* transmigrants who did not join the oil palm scheme felt intimidated that they would no longer be allowed to cultivate their land. Members of the *Jangkang* were concerned that if they did not join the new oil palm scheme, they would become poor and the *Javanese* transmigrants would become their bosses, taking over their customary lands. Most members of the two communities released their land to the oil palm company. In return they received a piece of paper registering them as a member of a cooperative (Koperasi Tut Wuri Handayani) although they were not involved in forming the cooperative and have never controlled it.

In 2000, PT CNIS was sold to the Sinar Mas Group. The new owner neglected the previous promises to distribute the land to the transmigrants as well as to the other participants from outside the transmigration area. The *Javanese* transmigrants and the Tokang community demanded that a portion of their land be returned in a form of oil palm plantations along with land certificates for those areas and credit of US\$778 per hectare. These requests have never been fulfilled; the land has not been returned and the credit that the participants are owed on the use of those lands by the company has grown to US\$2500 per hectare.

Currently the company is offering to manage the whole plantation by itself and to pay a fee to the local community based on the level of production. This scheme has a good name *sistem Saham* (participant as share owner) but all the *Javanese* transmigrants as well as the *Jangkang* participants are listed as passive members and will only earn approximately US\$6 per three quarters of a hectare per year. This scheme actually is the same with Akuan scheme (see Box 6.) with better name. Returns are very low compared to the returns from rubber tapping that the Tokang community practices and which has also been taken up by the *Javanese*, as expressed by Mr. Raji Mulyono (see Figure 19), a *Javanese* Transmigrant:

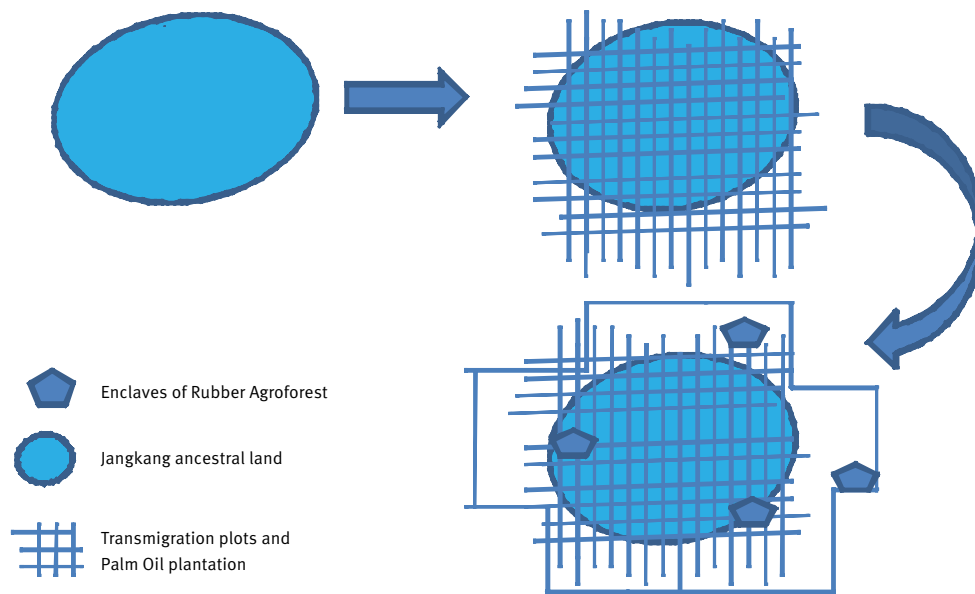
FIGURE 19. MR. RAJI MULYONO



Before the company arrived in our village, we already knew how to plant and take care of oil palms. We used to work as wage labourers in surrounding areas because we did not receive our land from the Transmigration authority. I don't think the Oil Palm scheme is benefiting us, it is another way of exploitation. It has been proven over the generations that our neighbors from the *Jangkang* IP manage their mixed rubber gardens profitably. I also learned from them and know my life is better as a result of their help and I will invest in mixed rubber gardens in the future.

The communal land of the *Jangkang* IPs has been rapidly changed to individualized land plots owned by *Javanese* and *Jangkang* families amidst the vast land holdings of the company oil palm plantation.

FIGURE 20. LANDSCAPE CHANGES ON JANGKANG COMMUNAL LAND (1983-2008)



Both the *Javanese* families as well as the *Jangkang* IP hope that their land, at the least their individual plots, will be returned as expressed by Sutomo (see Figure 21), a Javanese transmigrant:

FIGURE 21. MR. SUTOMO



If the land is not returned, I will ask the village leader of Tokang, because he is the person in charge of the case. If he passes away, I will convince other friends to march to the company and ask them to return our land as soon as possible, so we can win back control over our lands.

A similar expression was made by Diman (see Figure 22), a member of the *Jangkang* IP and the village leader of Tokang:

FIGURE 22. MR. DIMAN



I am disappointed with the company and feel bad that I released my land to the oil palm company, but what to say, it's too late. I think if we want our land back, we need to march to the company and make our demands. So far we have complained in our meetings and raised our complaints to the cooperatives. It does not work!

If the community demands the return of the land to those holding land certificates (the transmigrants), it will create another conflict between the *Javanese* transmigrants and the *Jangkang* IP. This horizontal conflict was not expected by either group, especially those who were involved in the process of land acquisition. The *Javanese* transmigrants received land through a long struggle and they might continue to fight to get their land certificates back. The younger generation of *Jangkang* seems to hold a different feeling. They still believe that the whole land is owned by them and should be redistributed to the families of the *Jangkang* IP.

Land conflict will manifest again as soon as the leaders from the elder generation pass away. The company knows the nature of the land conflict and has managed to get more land and maintain control over the land by entering the conflict arena. To “avert” the pre-existing conflict, the company offered another scheme, which itself is an unfair system. This position is represented in the statement of the oil palm company public relations officer, Mr. Bonifasius (see Figure 23):

FIGURE 23. MR. BONIFACIUS



The company uses the benefit sharing mechanism, but credit should be paid by the participant farmers. 60 % of the production will be given to the participants and 40% will be the right of the company. We just continue this calculation given by the former company owner.

This means that the land and the management of the oil palm plantation will neither be given back to the Javanese transmigrants nor to the *Jangkang* community. At this stage, these two ethnic groups are represented by the older generation who avoid conflict (horizontal conflict), but it is predicted that this status quo will not last long. The younger members of the two communities are not hesitant to enter into horizontal conflict when they cannot form a position of solidarity against the oil palm company.

6.4 The Pompang IP at the end of their IP existence

This *Pompang* IP is one of the ethnic groups of the Dayak Bidayuh in Sanggau district. The population of this ethnic group is not large compared with other ethnic groups (the Malay) along the Kapuas river.

In 1974 the *Pompang* IP from several villages including Sei Rosat and Sei Kodang could not resist when the heads of the district, sub-district, national land agency (BPN) as well as military and police intimidated the community to release their ancestral land for oil palm plantations under the state owned company (PTPN XIII). If the *Pompang* had resisted releasing their ancestral land, they would have been accused of rejecting the government program and obstructing national development. In 1976, each household was asked to register their land ownership and prepare a map showing which land should be excluded from the oil palm plantation, in particular their mixed rubber gardens (*kebun karet*), mixed gardens and the village settlement. In Sei Kodang and Sei Rosat village the process of land acquisition continued in 1979 with demarcation in the field involving the village chiefs and supervised by the police, military and the national land agency. Most of their ancestral lands, including forest, mixed gardens and rubber gardens which were far from the village settlement were classified as part of the oil palm concession. In the early 1980's the company cleared the area including the mixed gardens and rubber gardens that had been demarcated and excluded from the oil palm concession. The company paid compensation ranging from Rp25.000 - Rp275.000 for each hectare (approximately US\$2.50 - \$27.5/ha). Almost all of the *Pompang* lost individual lands and the community as a whole lost a huge area of communal lands due to the state claim over their lands. The *Pompang* members from these villages never received the promised payment for transferring their lands to the State but only received small compensation for the costs of originally clearing the land. Not even all households received this small compensation.

The *Pompang* community realized that the oil palm plantation scheme was not a nucleus-estate smallholder model (*Plasma-Inti*), but was managed by a company that would not redistribute two hectares back to each household. The *Pompang* did not get any share of the profits from the oil palm plantations on their lands, which have been productive since 1988. They lost all the lands that they had released on the assumption that for every 7.5 hectares released, two hectares would be returned. Two members of the community, Mr. Marsan (a former village chief) and Mr. Itjin (the local teacher) bravely spoke up and rejected the compensation proposal and refused to release their productive lands. These two persons, representing their clan, refused to sign the land acquisition letter despite being intimidated by the military firing shots near them during the land demarcation process. Until now the letter from their clan releasing their lands is unsigned by the authorized person, but was signed instead by the subsequent village chief.

The intimidation model using military and police as well as government officials during the Soeharto era could not be maintained after the 1998 reforms. In 2000, the *Pompang* IP from Sei Rosat and Sei Kodang villages held demonstrations asking the oil palm company to return their ancestral lands or redistribute two hectares to each household member. Several negotiations were facilitated by the district government over the last seven years and it seemed that the parties had reached a consensus with an offer to the two villages to join another oil palm plantation credit scheme known as KKPA (Primary Cooperatives Credit for its Member), see Box 5.

The scheme sounded good, as the members of the *Pompang* IP would get back some of the land that they released to the company in 1976, even though each household would have to pay the KKPA credit to develop their own two hectares of oil palm plantation. But the reality is different, as expressed by Mr. Marsan (see Figure 24) from Sei Rosat.

FIGURE 24. MR. MARSAN



I was shocked when I realized that the land that will be used for the KKPA oil palm scheme is not the land that had been promised to be redistributed by the previous land grabbing oil palm concession. The scheme will take our only remaining lands, surrounding our settlements. The new oil palm plantation is planted right up to our door steps! We can't do much about this, as every decision-making process in this village has been manipulated by the TP3K members for the benefit of the oil palm company.

The KKPA scheme was used by the company to expand their plantations and increase their input to the palm oil production mill. The land surrounding the village settlements that was turned into plantations under the KKPA scheme has been producing oil palm fruit bunches since 2007. Lands have been redistributed to all households, but a lot of *Pompang* families with larger households have no land for farming activities. They had hoped for oil palm plots to be redistributed to them under the KKPA scheme. The land hunger can be felt clearly in the statement of Mrs. Ruth (see Figure 25 and illustrated in Figure 26 The Landscape of the *Pompang* IPs Communal Land).

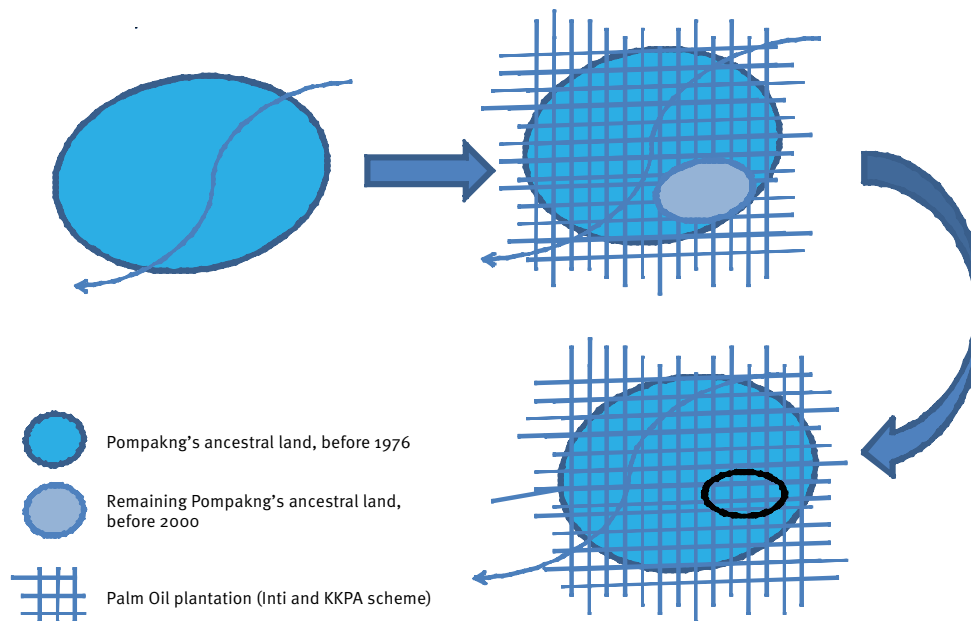
FIGURE 25. MRS. RUTH FROM SEI ROSAT



Could you imagine that our two hectare oil palm plantation plot should feed 16 household members, consisting of four families? This of course is not enough. Most of the families, especially those who did not get a plot of oil palm, have sent their sons to go off farm and their daughters to work in the cities.

The gross income of households able to obtain and manage two hectares of oil palm and produce 2000 kg of oil palm fruit bunches a month is Rp. 2 million or US\$200 per month. After selling fruit bunches, a household must deduct fees, such as 5% cooperative fee, 15% for credit preparation (they never know how much exactly they are charged), Rp. 30/kg for transport, Rp. 10/kg for (down)loading, Rp. 5/kg fee for the cooperative director and Rp. 5/kg for group savings. If this is their only income it will not be enough to feed and maintain a household with 16 members for a month. More land is needed to support the *Pompang* IP.

FIGURE 26. LANDSCAPE CHANGE ON THE POMPANG IPS COMMUNAL LAND (1976-2008)



Since 2000, the *Pompang* have not held *adat* ceremonies. There is no swidden land left and so no celebrations can be held in the harvesting season. The *Pompang* communities are busy with their own survival, each household trying to keep members from starving. The elite households, mostly the village leaders and *adat* chiefs, profited from selling the ancestral lands and receive monthly payments from the company. Some of these funds were used to buy oil palm plots from poor households or for opening Karaoke businesses which are fronts for prostitution in the village near the oil palm company dormitory.



7

The Consequences for Indigenous Peoples

To engage in oil palm plantation partnership schemes (either KKPA and *Plasma-Inti*) IPs must contribute their land, labor and capital. This engagement brings about major social, political, economic and cultural consequences which ideally should be anticipated by IPs prior to deciding whether or not to engage in such schemes.

7.1 Impact on ancestral lands

Local governments in West Kalimantan strictly interpret the Plantation Estate Law to mean that *Masyarakat Adat* rights are only relevant if they have been recognized by the local legislature. Even though this is against the spirit of the national constitution and many international human rights laws that Indonesia has ratified, the lack of local (district or provincial) regulations recognizing IPs institutions and rights means that the rights of IPs in West Kalimantan (*Dayaks* as well as other IPs) over their customary lands and resources are neglected by the state (central, provincial and local) as well as by the private sector. Ancestral lands are taken over by oil palm plantations under the claim of state land. In the process, customary lands are converted to household lands or to individual members of households. The three sites in this study show how ancestral lands which were communally owned shrank significantly after the IPs engaged with oil palm plantations in partnership schemes. The proportion of loss of ancestral lands differs between the three sites. The *Pompang* IP who became engaged in oil palm plantations in the 1980s lost the highest proportion of their customary lands, followed by the *Jangkang Junggur Tanjung* due to oil palm plantations and transmigration, followed by the *Hibun* who joined an oil palm plantation scheme after 2000.

In each case, commons as well as descendant group ancestral lands were transformed into privately owned lands through individual land ownership titles. The households who obtained ownership of several oil palm plots were able to get money as passive participants of the “partnership” oil palm scheme. Without providing labour, these households receive money from the company as a share of the production. Households that previously depended on ancestral commons were the most negatively affected by the land acquisition process. The livelihood strategies of members of these land-poor households included selling the small plots of land which they had received for investing in the partnership with the oil palm company, working as casual labor on the oil palm plantations, engaging in off farm economic activities or migrating to nearby towns and cities or to Malaysia. In the process of land acquisition, ancestral lands were split up as households compete for control over communal lands; elites typically want more commons land to be offered in partnership with oil palm companies, while those families with little or no individual land want to maintain their access to commons lands. Communities are divided pro and contra on the issue of oil palm expansion.

Pursuing a different strategy, the *Sami* IP resisted engagement with the scheme of the oil palm company seeking to take over their lands. They found ways to strengthen their communal solidarity and maintained community control over their ancestral lands. This is also reflected in the strength of their cooperatives which maintain common goods such as public areas, bridges, roads etc. Similar strategies have been used by IPs in other parts of Kalimantan who have rejected engagement with oil palm plantations.

7.2 Impact on Indigenous Natural Resource Management Practices

The spatial relationships of the *Dayak Bidayuh* ethnic group have changed significantly since the 1960s when they were forced to leave their longhouses and occupy single houses with one household per house. Currently only a few *Dayak* longhouses remain in all of Kalimantan, and most of those are only used for ceremonial purposes. Continuing to conduct ceremonies is essential for the cohesiveness of *Dayak* institutions and for maintaining indigenous resource management practices. All this changed for the worst for the *Dayak Bidayuh* ethnic groups in Sanggau when they engaged with oil palm plantation companies. Oil palm companies want their plantations planted in monoculture blocks and not mixed with other crops in the scattered form of mixed gardens used by the IPs (*PompangPompang*, *Hibun* and *Jangkang* IPs) in the study sites.

The planting of oil palm in monoculture blocks differentiates it from Rubber (*Hevea brasiliensis*), which was introduced as a commodity crop in the late nineteenth century. IPs all over Kalimantan and Sumatra introduced rubber into their mixed farm systems, and rubber gardens became a symbol of identity for many of them, including the four IPs in this study. Households that still maintain a mixed garden including rubber trees and ilipel nuts trees (*tengkawang*) have a higher economic and social status than those who have no mixed gardens. The growing of rubber in a mixed garden is recognized by the scientific community as an example of IPs adapting their indigenous swidden fallow management system (IFM⁶⁰), by shortening the shifting cultivation cycle especially the fallow periods, which are sometimes classified as a non productive stage.

Mixed gardens, owned communally by descendant groups, are well known in the research sites for production of ilipel nuts oil as well as timber and fruit products. The shifting cultivation land and mixed rubber gardens owned by households produce rice, vegetables, medicinal plants, rubber latex, timber and ilipel nuts for sale and local consumption, as well as seasonal fruits etc. These lands are often targeted by companies for conversion to oil palm. IPs that lose these lands lose the ability to grow and sell products and must generate cash income to buy food and building materials instead.

Most of the local governments in Sanggau district (Bonti, Mukok, Meliau sub-district) and the oil palm companies promote monoculture agriculture rather than diverse agroforestry farming systems. *Buying rice, vegetables, meat and fish is better than wasting time to produce it by your own*, they are reported to have told IP communities. Almost all of the members of the *Pompang* IP in Sei Serosat and Sei Kodang suffered by following this suggestion; only a few of their households now control large oil palm plots and earn enough money to live from the oil palm plantations. All the other members of the community have lost the ability to live from their own lands, and have to work elsewhere to survive. All of their forest and agricultural lands were converted to oil palm plantation in the 1980s, and everything that they need must now be bought at the local market. The *Jangkang* IPs in Mukok district lost all of their old mixed garden to a transmigration project in the 1980s and oil palm plantations in the 1990s, but some households still maintain and benefit from mixed rubber gardens. Some of the *Javanese*

60 See Burgers, Kairah, Cairns, 2008. p4. *Swidden cultivators themselves have been remarkably innovative in devising their own ways to manage fallow lands. These management systems have developed from internal initiatives and are known under the term indigenous fallow management systems.*

transmigrants were reluctant to join the oil palm plantation scheme and were able to “escape” this development. These communities decided to develop their remaining lands into mixed rubber gardens, a system that they learnt from the *Jangkang* IPs, as expressed by Mr. Margono (see Figure 27):

Currently our family has three plots of mixed rubber gardens, which I learned how to develop from the Jangkang community. My experience shows that the benefits of mixed rubber gardens and planting food crops are better than a share in the oil palm company. I don't care about my land which has been released to the oil palm company, it is like losing at the gambling table in one night. Our family has now joined the Keling Kumang credit union in Sekadau, to save our earnings from latex rubber sales and we will use it to expand or rejuvenate our farm. We learned about the credit union from the neighboring Dayak Bidayuh who established their own mixed farm independently from the oil palm plantation.

FIGURE 27. MR. & MRS. MARGONO, JAVANESE TRANSMIGRANTS IN TOKANG JAYA VILLAGE



This migrant community, as represented by Mr. Margono, does not have a close relationship with the land, and they were able to distance themselves from the land that they released to the oil palm company. They did not have the depth of relationship towards their land as the *Jangkang Junggur Tanjung* IP did, and it assisted them to escape from the oil palm company domination and exploitation.

The *Hibun* IP released almost all of their communal lands but they did not release all of their household individual lands. Only a few households from the *Hibun* IP in *Bonti* district still maintain a diverse agroforestry landscape and benefit from shifting cultivation lands and mixed gardens. In contrast, the *Sami* IP, which although it also lost its longhouses, rejected the oil palm plantation expansion and was able to maintain their indigenous spatial landscape, which helped them to maintain a better economic and social status than neighboring IPs.

In the 1980s the *Pompang* IP did not release all of its land in oil palm deals. In 1999-2000, when an oil palm company offered that their ancestral lands would be returned to them and

redistributed to household members as oil palm plots, the community agreed. The oil palm plots, however, were not returned after they released their remaining land for an oil palm plantation under a KKPA scheme. This situation left the *Pompang* surrounded by oil palm plantations right up to their door steps. They had given up all their lands for oil palm, and had neither rubber gardens nor other indigenous landscapes, except for the *Pompang* community in Sei Kodang that controls a plot of less than one hectare of their last indigenous sacred place (*pesaguan*) to maintain their customary rituals.

7.3 Impact towards the means of subsistence

In the transmigration areas as well as the *Hibun IPs* villages in *Kerunang*, *Upe* and also in the *Pompang IPs* villages in *Sei Kodang* and *Sei Rosat* there is not enough rice for the whole year, in contrast to the situation before the land has been converted to oil palm plantations. These communities now depend on other villages that still have rice surpluses such as the *Sami IP* villages in *Terusan* and other villages that rejected the oil palm plantation offers to utilize their land. They now need to generate cash income to buy rice, vegetables, meat and fish and for cloths, school fees, health services etc. Produce from their remaining mixed rubber gardens are the main source of income for purchasing basic staples, but those who don't have a mixed garden need to work off farm to provide income to purchase their basic needs.

The community members realize that if they earn cash working as day laborers on the oil palm plantations, as well as income from their own two hectare oil palm plot, they can earn approximately US\$70/month working eight hours a day, 20 days a month. This is approximately twice the working hours and 30% less income than what they earned previously. Having two hectares of mixed rubber garden and working 20 days a month, 4 hours a day earned them US\$100. The community members who are already engaged with oil palm plantations can not return to their mixed rubber garden practice as they will lose the opportunity to work as wage laborers if they ask for their lands to be returned by the company. As a consequence, they try their best to get back the two hectare oil palm plot owed to them by the company and hope to manage it assuming that they will earn more money than before.

TABLE 3. COMPARISON OF EARNING IN THE OIL PALM AND NON OIL PALM PLANTATION

Activity and hours worked	Oil Palm Plantation Monthly Earning in US\$	Non Oil Palm Plantation Monthly Earning in US\$
Rubber tapping, 4hs		100
Share in oil palm plantation, 0 hrs	33	
Wage Labor in oil palm plantation, 8 hrs	37	
Total income US\$	70	100

The several families who own rubber gardens as well as more than five oil palm plots have a good income. There is no need for them to work as laborers for the company, and they can hire wage labor to tap rubber in their mixed gardens. These better off households belong to the elites of the IPs who betrayed other members of their community to promote oil palm plantation development on their communal lands. Most of them are among the three to four

households that belong to the land acquisition task force that secured community lands for the company and in return received a monthly salary from the company during the acquisition period ranging from 400,000 to 1.5 million Rupiah per month (\$US40-150/month). They were able to obtain land for the oil palm company by claiming that communal lands were individually owned or by contributing their descendant group land⁶¹. They typically invest their surplus by opening shops and transportation businesses or buying other parcels of land from those who are planning to quit from the oil plantation scheme.

Agrarian structures and relations changed rapidly based on land holdings in the communities that joined oil palm plantation schemes. The proportion of households in the community that are nearly landless or already landless significantly increased while a few of the former elites become the new rich or the middle class of the village. As well as the elites who were able to use their traditional power in the village to gain wealth from oil palm plantations, there are the outside elites whose wealth is not only based on inherited land but on actively accumulating land and capital from the village. These are the managers of the company who have the power to make significant decisions in the area, and also the military, police officers and civil servants related to the oil palm plantation sector. They are able to influence decisions regarding oil palm company business such as who in the community gets the best plots and also regarding public and private policy, as demonstrated by the policy of transferring active SPKS members who are civil servants (e.g. the teacher, Mrs. Rini) to villages outside the oil palm concession, and influence public policy to disallow civil servants from joining SPKS, etc.

Besides the IP Elite, there has emerged a new social class: the traders from the district, province or other islands who run businesses in the area, selling cloths and other basic needs as well as lending money. The cohesion of IPs communities becomes further fragmented and stratified between the minority group that benefits from oil palm plantations and those who suffer from oil palm plantations. The majority of IPs members suffer from oil palm plantations because of a significant decrease in their livelihoods, and they struggle to return to the standard of living they had before the oil palm company took over their ancestral lands.

7.4 Means of survival, integrity and gender issues

The establishment of large areas of oil palm plantations has led to a significant decrease in land ownership and land use in the *Hibun* and *Tokang* communities and especially for the *Javanese* transmigrant families. Those families who are now landless or nearly landless can only hope to work as wage laborers on plantations or look for work outside the village. The situation for the younger generation is expressed by Mr. Serinus (see Figure 28) from Sei Kodang:

⁶¹ *Descendant group lands are known in the local language as parenean. These are lands that can be utilized by a group of descendants or clan. These use rights are acknowledged by the community.*

FIGURE 28. MR. SERINUS FROM SEI KODANG



We can't rely on our ancestral land as now we do not own any remaining parcel. We also can't rely on the job opportunities here at the oil palm plantation or at the palm oil mill. The work in the plantation is limited and seasonal, the company brings its own staff to run the mill, and they have their own school and housing for their staff. My wife works seasonally as a daily laborer at the oil palm plantation. With my limited education, my strategy to feed my family with small children is to work outside the district in gold mining (sungai emas). It is a hard job and we use mercury for processing the ore but this is our survival strategy!

The trend of sending members of the family as migrant workers to the city or abroad was reported by the younger generation of transmigrants in *Tokang* village and the *Pompang* IP community in Sei Kodang and Sungai Rosat village. This trend, however, was not admitted to by the elders. This withholding of information hindered the ability of the study to find out where the women and girls go to work outside the village. From interviews with women's activists in Sanggau, it was acknowledged that there is a new attitude among the girls and women in the rural areas in their decision to look for work outside the village. Ten years ago it was relatively easy to find *Dayak Bidayuh* girls from rural areas working as housemaids for *Dayak Bidayuh* families living in cities such as Sanggau. In addition to the housework, these girls usually continued their formal studies. This practice was common in the past but currently it is difficult to find girls and young women who are willing to do so. Currently girls and young women prefer to work as sales promotion girls in the cities or working at cafes along the main road of the Trans Kalimantan Highway; they admit this is easier than working as housemaids. Cafés and Karaoke bars have been spreading in the towns, near palm oil mills and near forestry and mining operations. These establishments are often a front for prostitution that uses *Dayak* girls to serve customers who work at the plantations, mills and mines.

Julia (2008) through her research of the Hibun IPs, indicated that the oil palm plantation brought a new concept of masculinity to the area. Tracing back through oral history, the *Hibun* IP used to have a prominent woman figure, *Entulai Ndou' Labaa'*, who called on the community leaders to stop inter-tribal war. This indicates that the *Dayak Bidayuh* culture recognized and respected women leaders in its social system⁶².

But the land acquisition process neglected women's voices and marginalized women's role in decision making and control over oil palm plots. Women were excluded from the negotiations; only men attended the acquisition meetings. The women were told that the land was to be released to the oil palm plantation company even though they realized that they can't eat oil palm fruit. Oil palm plantation plots are registered under a man's name as the head of the household. In one case in the *Hibun* community, a woman insisted on being registered under her own name, and she was required to present evidence that she was a widow.

62 Other *Dayak* ethnic group also noted the existence of its women leader in their indigenous social system, such as prince Kumang in the *Iban* IP, Bungin in *Kenyah-Kayan* IP etc

In the oil palm plantations, women provide the main labor for planting, weeding, chemical spraying with limited protection, harvesting and loading the trucks. Men control the benefits from oil palm production as they transport the fruit bunches to the mill and receive payment from the mill.

It is impossible for women to join the transportation because of the long journey and the need to rent a truck. The trucks leave the plantation in the middle of the night and start queuing at the mill at 4 AM, hoping to return home the same day.

There are no special efforts in terms of government policy or company codes of conduct to protect vulnerable groups, such as households headed by women, orphans, landless households etc. According to Agarwal (1994) and Razavi (2007)⁶³, to be able to improve the imbalanced power relations that women face in the household and at the community level, there is a need to allocate productive businesses to women's groups collectively. Collective registration of oil palm plots, either as groups of families or women's groups, such as suggested by Agarwal and Razavi, is not known in the area. Most of the young married women in the village work as seasonal and daily laborers for the oil palm plantations. The women must also work in their own houses and gardens.

7.5 Reconstruction of indigenous Peoples

Oil palm plantations reconstruct the whole community, firstly by segregating those who join and those who reject the scheme. Oil palm plantations also segregate those that benefit and those that lose out, and those who join the SPKS and those who reject the SPKS approach. Plantation schemes distinguish between descendant groups regarding their decision towards their communal lands, segregating those who are still loyal to *adat* institutions from those that want to reform *adat* institutions.

Agrarian differentiation, which happened rapidly as a consequence of the Green Revolution in rural areas of Java in the 1970s, is currently happening in West Kalimantan due to the expansion of oil palm plantations. This agrarian differentiation is sharpening social and economic disparity and creates a new class of landless and nearly landless families as well as a few newly rich families. The situation creates new professions in the rural areas and allows outsiders to gain benefits from the imbalanced agrarian structure through work such as money lenders and land brokers etc.

This situation is expected to worsen in the future in areas where the oil palm plantations are entering the non productive age and need to be replanted. See Figure 29 Replanting area in the *Pompang & Pandu* IPs territory. Several plantations established in the late 1970's and through the 1980s along the main road to *Meliau* and *Sosok* sub-district have become unproductive and need to be replanted. The replanting starts by injecting Round-up herbicide into each old palm tree; within several weeks the trees die and are cut down. After replanting with new oil palm seedlings there will be a period of three to seven years with no product coming out of the plantation, so there will be no income from the plantation for the company or the community for that period. Oil palm plantations are also enriching the non productive class through accumulation of oil palm lots by civil servants and plantation staff when they buy plantations

63 See Bina Argawal 1994. ; Razavi 2007

from the IPs,⁶⁴ which is against the Basic Agrarian Law⁶⁵. There are no special efforts by government or industry to address the issue of sharpening agrarian differentiation in the communities that join oil palm plantation schemes.

FIGURE 29. REPLANTING AREA IN THE POMPANG & PANDU IPS TERRITORY



IPs communities who engage in oil palm schemes are transformed rapidly into a community differentiated by social and economic class. The identity of communities, previously developed by the interrelation of several ethnic groups through long social historical processes, and their relation towards their ancestral lands and its natural resources, is transformed into a loose identity as Dayak ethnic group. Dayak is not a genuine ethnic group but is a loose differentiation created by outsiders to identify the communities who live in the uplands, and is used in government statistical data presented in Chapter 2.

In the *Pompang* villages in Sei Kodang and Sei Rosat where almost all ancestral land was given to oil palm companies, the identity of the IPs in their day-to-day relations is now limited to symbols which differentiate them from *Melayu* ethnic groups. The ceremonial practices by the *Pompang* IP to celebrate the rice harvest now rarely happen.

In *Tokang Jaya* village, which is part of a transmigration area, the IPs are no longer identified by their ancestral lands, the type of landscape they manage or the type of house they stay in, but are identified and labeled as the *Jangkang* ethnic group to differentiate them from the *Javanese* ethnic group. Both groups stay in the same type of house built by the transmigration program

64 *McCarty John, 2008.*

65 *Article 10 Basic Agrarian Law no 5, 1960. absentee land*

but located in different blocks. Both plant irrigated rice introduced by the *Javanese*, both plant mixed rubber gardens introduced by the *Jangkang*. Their children go to the same school, and supposedly they own oil palm plots and are registered as members in the same cooperative (*Tut Wuri Handayani*), but they are segregated into ethnic groups and feel uncomfortable with each other due to horizontal land conflict.

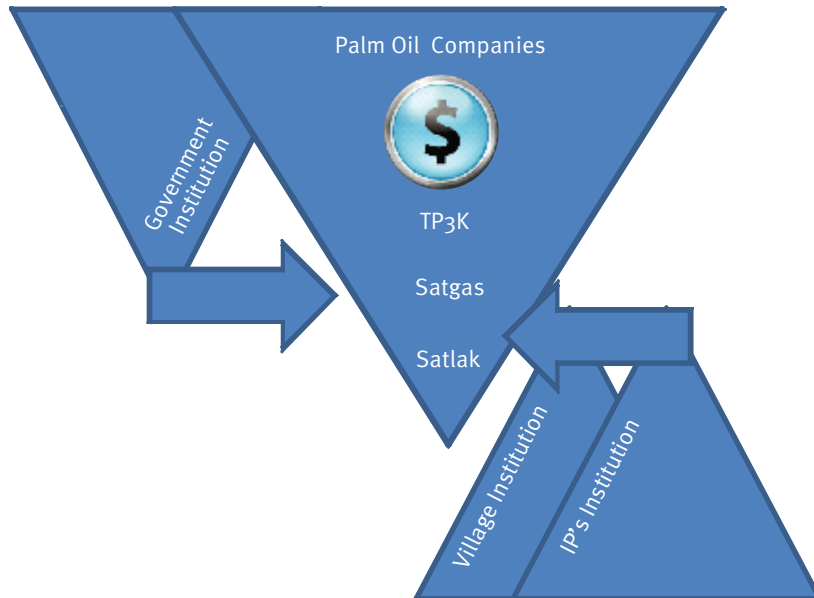
They have tried to solve these problems themselves and they believe that their land is not productive if it is all given over to oil palm plantations; they would prefer to develop mixed rubber farms with improved high yield seeds that could almost double their income. They learned about the improved high yield rubber plants from ICRAF/World Agroforestry Centre who assisted them in developing a communal village seedling farm.

The lands of the *Hibun IP* village in Kerunang and Upe have been changed into oil palm plantations, but they are still strong in their identity as an IP and are also active members of SPKS, AMAN and the local Credit Union. They want to gain back control of the cooperative and for each family to diversify their farm not only with oil palm but also to develop their rubber and mixed farms. They believe that they could gain back their previous level of income through partially engaging with the oil palm plantation while diversifying their farm with other crops such as rubber or other products with a high and stable market price. If the company honors its promise to the community and returns two hectares to each of the beneficiaries, it is only a few of the better off families that will be able to diversify their land to include both oil palm and mixed rubber gardens. Most of the poor families in the community have already released all of their land to the oil palm concession

The *Sami* community was able to maintain its identity as an Indigenous People. They felt that they could pass through the turbulence in the past three decades because they followed their *adat* values and rejected the oil palm plantation scheme. They maintained their pride after they were charged an *adat* fine by eleven neighboring villages that supported the oil palm plantation in 1999. They also maintained their cooperative which is responsible for basic services in the village. Individually owned shops are not allowed in *Terusan* village. They are also an active member of AMAN as well as a member of the Credit Union. They are very selective in choosing who will be their *adat* leaders as well as village head. The younger generation who went to school outside the village are united in an informal association to maintain communication and cohesiveness.

The process of land acquisition that is engineered through the *TP3K*, *Satgas* and *Satlak* (the land acquisition task forces at the district, sub-district and village levels) has weakened IPs institutions and decision-making on engagement or rejection of oil palm plantations. These task forces were initially developed during the 1970s and were utilized by the military and police to force IPs to release their ancestral lands for oil palm plantations. The task forces were reported to be inactive during the latter part of the Soeharto era and the early reform era (1998-1999) but have been revitalized in the current situation, utilizing village chiefs, IPs chiefs and leaders to support the process of land acquisition. As illustrated in Figure 30 Land Acquisition Task Force Modus Operandi

FIGURE 30. LAND ACQUISITION TASK FORCE MODUS OPERANDI



Using capital, oil palm companies can co-opt provincial, district and local government to back the company to gain more land from IPs. Local Government, military and police are actively involved in the district level task forces (*TP3K*) and together with company representatives, promote oil palm plantations. The sub-district task force (*Satgas*) which consists of the sub-district head, several prominent IPs leaders, as well as police, military and the company representatives, is responsible for allocation of lands for the oil palm company. At the lowest level are the village and sub-village task forces (*Satlak*) doing the dirty work to convince each family to join the oil palm plantation scheme. The village head and sub-village head and IPs chief, as well as some prominent persons from the village, actively encourage each household to release their land for the plantation of the oil palm company. All operational costs, including a monthly salary for the land acquisition team members, are paid by the oil palm company. As a result, the village head and the IPs chiefs do not represent the community but effectively represent the company against their own community. This process ruins the representativeness of village institutions as well as ruining the IPs self-reliant institutions. The *Satlak* team is co-opted by the company and later the institution is misused by its members to be the vehicle to invite the company to take over their community's lands. The task forces not only ruin local coherence of IPs and their institutions, creating sharpening agrarian differentiation but also ruin the basic concept of good governance in the district, where the local government should protect the people (political constituents) from the exploitative expansion of companies. Instead, local government has become the guide for investors to take over community productive resources.

The situation today is completely different from when rubber was introduced to the interior of Borneo in the late 19th and early 20th century. Rubber had no such task forces supported financially by private companies but merely cheap rubber seedlings provided by the government to encourage growing rubber for latex production and export. Rubber promoters had no interest over the land compared to the current situation.

As the cases show, the elite of the IPs benefit by engaging with the oil palm company while the commoners who only control small pieces of land join the oil palm company scheme hoping the company promises will come true. The middle class of the IPs, mostly young educated households and individuals react by looking for allies outside the village (eg through membership of AMA West Kalimantan) to support their idea to reform their IPs institutions and revitalize *adat* norms. Revitalization of *adat* norms has been the reaction of the *adat* leaders that felt that their *adat* norms have been neglected by the state as well as by the outsiders, and that a new system needed to be installed that could deal with modern organizational issues, such as election of chiefs, separation of powers, mainstreaming gender and human rights issues etc⁶⁶.

The communities also look for support to gain back their lands as oil palm plots, as promised by the company, through engaging with Sawit Watch and joining SPKS they hoped that they were better positioned against the palm oil company. As IPs engage in oil palm plantations, they sometimes identify themselves as IPs and use a rights-based approach and their constitutional right as IPs in the Indonesian context while also seeking further protection and fulfillment of their constitutional rights as IPs and referring to international convention such as the UNDRIP. In other cases communities demand their rights using a class-based approach in relation to their own elite and the company. In some cases communities use a rights-based and a class-based approach in their struggle, as in the case of the *Hibun* IP demonstration against their own elite and the PT MAS company.

7.6 Risk of Violence

The possibility of violent conflict still exists and can be analyzed based on a rights-based approach, a class-based approach and a market-based price fluctuation. Sometimes all three perspectives may contribute to violent conflict, as elaborated below:

- (1) Rights-based conflict is conflict between the oil palm beneficiaries (*Plasma*) and the company that controls the land, the plantation, and the marketing of the palm fruit to the mill. Broken promises by the company create deep tensions. Blockades of the plantation, which happened in the *Hibun* IPs area, is one manifestation of the conflict with the *Plasma* owners (IPs). Escalation of the conflict can be seen in demonstrations at the company office or at the mill which is usually nearby the company office. The expression of anger towards the company can escalate into violent conflict if the *Plasma* members become provoked by police or company security, or if the local government or another actor fails to facilitate fair mediation of the outstanding conflict.
- (2) Other conflict within the community is class-based; the conflict between the elites who received privileges from the company and those who were deprived of lands and livelihoods due to the plantation. If the company continuously uses the elite to prevent rights-based conflict, as in the cases of the *Pompang*, *Hibun* and *Jangkang Junggur Tanjung* IPs, where the village task force of elite members prevented the expression of anger of other IP members towards the company, the conflict can change to a class-based struggle. Companies are often able to deflect rights-based conflict into class-based conflict so as to be able to continue to exploit the IPs land and labour.

⁶⁶ This process has been facilitated by Institute Dayakology and AMA Kalbar (West Kalimantan Alliance of Indigenous peoples).

- (3) If rights-based and class-based conflicts are not addressed properly, as shown in the court case that could not provide justice to the *Hibun* IP, the anger of the community can manifest in other types of conflict without clear causal relations such as ethnic conflict, for instance, anti *Chinese* violence, anti *Madurese* violent conflict, anti *Javanese* conflict etc. A situation conducive to ethnic conflict has been constructed by the new identity of IPs that are mostly based on ethnicity rather than by ties to land and custom. An even worse situation can happen if the anger of the IPs is used by unscrupulous groups to strengthen their political position using ethnic sentiment and ethnic conflict.
- (4) The conflict can also develop due to external factors such as market price fluctuations of crude palm oil, which began to fall in price in August 2008 and by early 2009 was at one third of its value compared to early 2008. The collapse of the US banks due to improper housing credits brought about a global recession which has slowed down palm oil consumption. This effect has led companies to reduce production at the mills and the price of fruit bunches has collapsed from Rp. 2100 (\$US 0.21) to Rp. 200 (\$US 0.02) per kilogram in only a few months. The local government as well companies who were promoting oil palm plantations have become a target of the anger of the oil palm peasants. In some cases, companies were forced to buy oil palm fruit bunches at higher rates than the market price. Following the price collapse, several riots and demonstrations happened in the major oil palm producing areas in Indonesia⁶⁷. This also shows that the government and the companies only talk about the good things that oil palm plantations can bring without addressing the problem of reliance on a single commodity and the vulnerability to market price fluctuations.

67 See *Cappa Briefsheet, October 2008, The Consequences of the Oil palm Fluctuation Market Price*

