

Submission by Society for Threatened Peoples

a non-governmental organization in special consultative status

Language: English only
Universal Periodic Review
First session

**MAIN CONTACT PERSON:
TILMAN ZUELCH**

P. O. Box 2024
D-37010 Göttingen

Phone: +49 (0)551 49906-0
Fax: +49 (0)551 58028
E-Mail: info@gfbv.de

2007-11-20

Indonesia: Massive violations of the rights of indigenous peoples

The Indonesian archipelago contains 120 million hectares of forest, which is the largest forest area in South East Asia and the world's third largest after the Amazon and the Congo Basins. Since 1990 Indonesia has destroyed over 28 million hectares of forest, largely in order to conserve land for plantations. In the last few years, two million hectares of forest have been lost per year due to poor forest governance, illegal logging and land clearance.

Several hundred indigenous peoples, over 45 million inhabitants, have lived in these forests for hundreds of years. Indonesia officially recognizes 365 ethnic and sub-ethnic groups as customary law communities. They're population about 1.1 million. However, there are many more peoples that consider themselves indigenous. These indigenous peoples are represented by the national indigenous alliance, Aliansi Masyarakat Adat Nusantara (AMAN). Despite the fact that Indonesian President Susilo Bambang Yudhyono and representatives of various government institutions attended the celebration of the Indigenous Peoples' Day in August 2007 and declared that there should be more efforts to strengthen the protection and respect of indigenous peoples' rights, the situation of these peoples is still desperate.

Violation of land rights

The customary rights of indigenous peoples are barely recognized. Customary institutions have been restored only in some parts of the country after three decades of authoritarian rule. The denial of traditional land rights is still persisting, because despite the recognition of customary land rights of communities by laws, there are no procedures for titling these lands. State policies clearly favour large-scale plantations. The laws allow the reallocation of lands for state purposes and for private sector use in accordance with national development plans. Therefore community rights are often subordinated to private sector ventures. The development of new plantations is strongly supported by the Indonesian government. Traditional indigenous land is often considered by the authorities as state land and allocated to companies on a basis of 90-year leases. Despite operating within the same national legal framework, the respect of customary land rights greatly varies in the provinces of Indonesia.

There is a widespread feeling among indigenous communities that their traditional land rights are violated by state-controlled and private companies and that the local communities are denied participation in decision-making on development projects on their land. In the case that they are contacted by companies in the planning process of projects, very often their

consent has been obtained by false promises and irregularities. There are serious legal abuses and violations of human rights in most conflicts between indigenous peoples and plantation companies over land: establishment of plantations without official licenses, customary rights are not respected, information is not provided to the local communities, no consensus-agreements are negotiated, customary leaders are manipulated to obtain the land, lack of compensation, not delivering promised benefits, no land is allocated to smallholders or developed for them, smallholders are threatened by unjustifiable debts, environmental studies are not provided or delivered too late, land is not developed within the stipulated period, use of intimidation, coercion and force, and serious human rights violations.

The Indonesian forestry department admits the severity of poverty among forest dwellers. More than 20% of forests residents are living below poverty line according to recent studies. Their culture and lives are inextricably connected to these forests. These indigenous peoples are dependent on the existence and health of their forests. Traditionally they practice a sustainable form of agro-forestry which ensures the maintenance of extensive areas of humid tropical rainforest. Unsecured customary rights, spontaneous settlers, official trans-migrants, illegal loggers and concessionaires have spawned widespread conflicts which have aggravated illegality and hardship. Notable pressure on land and forests come from the expansion of timber and oil palm plantations. Often accompanied by harassment and arrests, there is violence and criminalization of local community members who resist these actions.

Plantation boom threatens survival of indigenous peoples

Newly established large-scale oil palm plantations deny and ultimately destroy indigenous peoples' relation with their forests and their customary tenure and resource management systems and institutions. The extensive plantations are leading to possible food shortages because the indigenous peoples' traditional food sources are destroyed. Traditionally practiced rotational farming is no longer possible because there is no natural forest left to fertilize the poor rainforest soils. Customary cultural and religious rites must be abandoned because the sacred sites in the forests were destroyed when the land has been cleared for the plantations.

Only a third of the 28 million hectares of forest officially cleared for new plantations have finally been used by the agro-industry. These figures document that most of the companies applying for clearance of forests only tried to ensure their control of timber. The rainforest continues to be destroyed not only for agro-industrial projects, but also for the financial value of the timber.

The destruction of the Indonesian rainforests has caused a massive ecological impact. Most of the plantation expansion is taking place on peatlands which are among the world's most concentrated carbon stores. Ten million of the 22.5 million hectares of peatland in Indonesia have already been cleared of forest and have been drained, resulting in a substantial and continuing increase in greenhouse gas emissions as peat soils dry out, oxidise and sometimes burn. This ecological massively threatens the survival of indigenous forest dwellers in Indonesia. Indigenous peoples in Kalimantan, Papua and Sumatra mostly are suffering from massive human rights violations by logging and new plantations.

While Indonesia's legislation does recognize indigenous peoples and to a certain extent delegates authority to them to manage forests, these forests are nonetheless legally classified as state-owned forests and indigenous peoples are denied any rights in regard to these lands.

The designation of indigenous peoples' territories as state forests means that the state retains ultimate control over the land. Therefore, when the state needs land for oil palm plantations or logging concessions, the authorities confirm the public utility of the project and declare that land has to be provided in the "interest of the nation".

The Indonesian Constitution and the legal system are not providing an efficient protection of land rights of indigenous peoples. According to Article 4 of the Constitution indigenous peoples' rights are respected only to the extent that these rights formally were acknowledged as rights by the State. In the case of property rights the indigenous peoples must provide a formal land rights title (which normally will be impossible for them) and this land rights title will only be respected if the authorities are not declaring that national interests are prevailing. Due to the fact that many indigenous communities do not hold formal land rights titles, the State does not need to comply with normal legal requirements and compensation to expropriate the indigenous peoples.

Massive human rights violations in West Papua

The human rights situation in West Papua has shown no signs of improvement in the years 2006/2007. Evidence suggests that human rights violations, most notably by police personnel, continue on a routine basis. There are no significant efforts undertaken to end impunity for past abuses. Detailed information about the human rights situation remains difficult to obtain due to restrictions on access and movement within the territory. The Foreign media ban in West Papua continues to obstruct the press freedom. The ban has prevented foreign journalists from having official access to the region in the past two years, severely restricting the media's ability to report on human rights violations in West Papua. The restrictions on foreign media are in direct opposition to Indonesia's obligations since ratifying the International Covenant on Civil and Political Rights. Article 19 recognizes the right to seek, receive, and impart information and ideas through any media regardless of frontiers. The Indonesian Ministry of Defence claims that the ban on all foreign media, churches, non-governmental organizations and even diplomats is required for fear their presence in West Papua would encourage Papuans to campaign on issues of human rights.

The level of intimidation against human rights defenders, political activists and religious leaders by military and intelligence personnel has sharply increased since the visit of UN Special Representative on Human Rights Defenders, Hina Jilani, in June 2007. Even the local representative of the National Commission on Human Rights, Alberth Rumbekwan, has been subjected to intense intimidation. Targeted political activists and human rights defenders and their families are intimidated by death threats, anonymous phone calls and SMS messages, constant surveillance and late-night visits by unidentified persons. At the end of September 2007 the 17-year old daughter of a prominent political leader was abducted and assaulted at gunpoint. Activists are accused of links with separatist movements and false SMS messages have been sent in their names to senior police and military personnel containing invented plans to attack police and military institutions.

Routine abuses, such as extrajudicial executions, torture and rape are being committed with impunity in the Central Highlands of West Papua by Indonesian security forces. The abuse is deepening mistrust of the national government and inflaming aspirations among the indigenous Papuan peoples to create an independent State of West Papua. According to

opinion polls of the churches more than 90 % of the indigenous population are in favour of an independent State.

No serious attempt is made to investigate and prosecute those responsible for massive human rights violations. On the contrary, a senior army officer, Colonel Burhanuddin Siagian, who was indicted on crimes against humanity in East Timor, has been deployed to West Papua. In May 2007, he threatened to destroy any Papuan who betrays Indonesia. Reports indicate that the Colonel is a leading instigator of the policy of intimidation against human rights defenders and political activists.