



WRM Bulletin 253
 World Rainforest Movement
 November / December 2020

Crime, Power and Impunity in Forests



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The articles in this Bulletin are written by the following organizations and individuals; The Corner House, UK; women activists in Ivory Coast, Sierra Leone and Cameroon; a member of the Pastoral Land Commission (CPT) in Amapá, Brazil; six women and men activists from across Indonesia; Land Watch Thai, Thailand; Dr. Bernice Maxton-Lee; and members of the WRM international secretariat.

Crime, Power and Impunity in Forests

Our Viewpoint

Naming the crimes (and criminals) for what they are



Illustration: Brian Stauffer, Human Rights Watch

What is a *crime*? According to the dictionary, a *crime* is “an illegal act for which someone can be punished by the government.” But, then, what is considered “an illegal act”? And who decides?

What is considered a *crime* is thus always coupled with what does not count as a *crime*. And vice versa.

The tactics and strategies employed to impose land control and extractive operations in the forests are many. They vary as much as the ways used to dispossess peasant communities and indigenous peoples from their territories, livelihoods and communal cultures. Most of these tactics and strategies are *criminal* acts. Yet, in the public perception (and by enforcement agencies), they are considered *non-criminal* or legitimate, justified with discourses of ‘national development,’ ‘job creation,’ ‘low carbon development,’ ‘progress’ and so forth.

The previous WRM bulletin edition (1) reflects on what is miss-named development, and warns about the strategies that actors promoting it use to take control of territories. This bulletin focuses on yet another side of this story.

Considering particular actions and decisions from corporations, multilateral banks and governmental agencies as *non-crimes* goes hand in hand with the *criminalization* of most dissent and resistance on the ground. Who gets to decide on what should be considered *criminal* and what not, is very interlinked to power.

In this sense, the capitalist economy is based on the structurally racist and violent oppression of workers, women, peasants and forest-dependant populations in the global South. This oppression (and its perpetrators) is however perceived by most courts and dominant discourses as legitimate or *non-criminal*. An article in this bulletin exposes how the violence

and abuse against women is part and parcel of the industrial plantation model and at the base of how companies generate profit. This abuse largely stays invisible for consumers and investors, leaving perpetrators commit their *crimes* without consequences, and keeping the violent colonial plantation model intact.

Criminal acts from public or private actors happen constantly around the world in quite diverse forms and within different layers of societies. Another article in this bulletin exposes how many perfectly legal but corrupt practices are routine within government and companies, frequently even passing for 'good governance' or being the stated mission of public bodies.

Indonesia is a case in point. The implementation of neoliberal economic policy in the late 1960s was led by a group of Indonesian economists who studied at the University of California, Berkeley. One economist in this group, dubbed the Berkeley Mafia, boasted that they presented a 'cookbook' of 'recipes' to Soeharto. The 'success' of US-backed anti-left violence that shocked the public into accepting the imposition of a neoliberal, right-wing regime, turned the Mafia's cookbook into a portable method. Only five years after Soeharto took the presidency, graffiti appeared in Chile prior to the US-backed coup that ousted socialist Salvador Allende. The Graffiti read "Jakarta is coming." (2) Now it seems that Jokowi, the current president of Indonesia, is reopening the Berkeley Mafia's cookbook with the controversial Omnibus Law. An article in this bulletin reflects upon this Law and highlights the voices of six activists from across the islands who have been resisting this 'cookbook' for decades.

Another example is the case of Brazil, where land grabbing has been -and still is- part of a strong system of organized *crime*. There, the word *grilagem* is used when referring to the illegal creation of property titles for public lands, giving them a legal appearance. A *criminal* practice that began in colonial times with the theft of indigenous peoples' lands, and that continues to be widely used by big capital. An interview with a member of the Pastoral Land Commission (CPT, for its Portuguese acronym) reflects on the tactics used by the company Amapá Celulose (AMCEL), which is one of the few large tree plantation companies in the Amazon. AMCEL's FSC-certified eucalyptus plantations produce and export wood chips for the pulp industry and for energy production, among others, to Denmark.

Another article in this bulletin highlights the legalized *criminal* acts that occur in Thailand, where the political prominence of the military and the state's own authoritarian leanings decide what is and what is not to be considered a *crime*. The article shows various cases where the law has been used to *criminalize* Thai forest-dwelling communities' resistance against land grabbing in recent years. The article shows the harsh consequences for community activists when resistance is *criminalized* in order to protect interests of big capital and a political elite.

But other actors in society also influence what is considered a *crime* and what passes as a legitimate practice. One example is the certification schemes. An article in the bulletin shows how the RSPO label, which issues certificates for industrial oil palm plantations with standards of 'sustainability', is run by the same producers who are then judged by it. Besides, the legitimacy of the state to set laws is weakened by the argument that the market should set standards of 'sustainability'. This legitimizes monoculture plantations, the management of which all too often involves one *crime* after the other.

What people usually call “violations of people’s rights,” for example, are often straightforward *crimes* that should be prosecuted. Likewise, most of the so-called “differentiated impacts” that woman must bear due to the imposition of industrial plantations or other extractive industries should be called out for what they are: *crimes*.

It is time to name the *crimes* and the *criminals* for what they are.

(1) WRM Bulletin 252, Development Banks: Financing Dispossession and Exploitation, November 2020,

<https://wrm.org.uy/bulletins/issue-252/>

(2) Lausan, Jakarta is returning: The ‘neoliberal cookbook’ that guides Indonesia’s Omnibus Law, 2020,

<https://lausan.hk/2020/jakarta-is-returning-omnibus-bills/>

Legal but corrupt



Criminality is generally portrayed as the dark underbelly of society – an underworld populated by those on the margins who live to break the rules. As a storyline, it has clear appeal to those whose interests lie in the mainstream being viewed as “above board”, “legitimate” and “decent”. In reality, however, the boundary lines between “honorable citizenry and the penitentiary” (as the German revolutionary Rosa Luxemburg put it) (1) have long been paper thin. Indeed, mainstream capitalist enterprise arguably only prospers because its particular forms of looting, theft, fraud and cheating have been blessed with the holy water of “legality” whereas other forms, similar in substance, have been deemed “illegal”.

Corruption is a case in point.

Some corruption has been criminalised. The bribery of public officials is now universally outlawed, even in countries, such as Germany, where bribery of foreign (as opposed to German) officials was legal until twenty years ago. Bribes are also no longer tax deductible in Belgium, Denmark, France, Japan, Canada, Luxembourg, The Netherlands, Austria, Switzerland, the UK and the USA, a practice that was also legal until the mid-1990s. Fraud, extortion and money laundering are unlawful in all jurisdictions, although not a single US bank has ever been prosecuted for the crime of money laundering.

But bribery, money laundering and fraud are not the be-all-and-end-all of corruption. Indeed, a narrow focus on such crimes (vital as it is to investigate and prosecute them) hides many perfectly legal practices that the general public often rightly regards as corrupt. Examples include: sweetheart deals that let companies pay minimal tax; cronyism; the “overlooking” of the landgrabbing done during colonial times which found the bases of many large companies operating in the forests nowadays; the use of military forces to “protect” private investments

while violating citizens lives and livelihoods; the effective immunity from prosecution granted to “too big to jail” companies; official tolerance of conflicts of interest; the deliberate engineering by corporate lawyers of loopholes in the law to circumvent rules and regulations; and the privatisation of policy-making through special interest lobbying and political donations.

Cue the steady stream of heads of industry, ex-Ministers and government officials that pass back and forth (quite legally) through the revolving doors between politics and business. Cue banking regulatory committees whose board members (quite legally) are heads of the very banks that they are supposed to regulate. Cue the self-interested policy-making that, through privatisation, outsourcing and public-private partnerships, has transformed the provision of public services into publicly-guaranteed get-rich-quick schemes that channel billions of dollars of public money into the hands of private investors and financiers. Cue the development institutions and banks from the global North pressuring with their aid money governmental officials in the global South to establish those neoliberal policies which will benefit the companies from Northern countries.

Many of these perfectly legal but nonetheless corrupt practices are routine within government and companies: worse, such practices frequently pass for “good governance”. Some may even be deemed duties of office; and many – privatisation, for example – are the stated mission of public bodies. Such normalisation of corruption is not new: but today it is widespread enough for Bruce Buchan, a prominent scholar of corruption, to call our current era a “Golden Age of Corruption”. (2)

It is not just that the law, to use the metaphor of the 18th century Anglo-Irish satirist Jonathan Swift, has been designed like a cobweb that catches “small flies but let hornets and wasps pass”, although this is certainly true. Nor that the law is unequally applied, although, again, this is undoubtedly true – three strikes and you go to jail if you are poor and black; no jail time if you are a banker. The decay goes deeper: the very policies and laws that overtly serve to combat corruption are now themselves a shield to the corrupt.

Consider the definition of corruption employed by the World Bank, namely, “the abuse of public office for private gain” – a definition that has provided the template for numerous “anti-corruption” laws and regulations. Corruption is cast as a pathology exclusively of the public sector – “the abuse of public office for private gain”. Private sector corruption is thus conveniently excluded from legal sanction. The definition thus renders “uncorrupt” (and legal) a range of corrupt forms of power mongering – from political contributions by companies to the influence they exercise through the many elite social networks that link corporate boards to government.

The focus on *individual* “private gain” made by *individual* “office holders” likewise obscures institutionalised forms of corruption that work to advance the interests of groups or classes without rewarding any particular “office holder” directly or at all. An official who takes a cut of a public sector contract falls foul of the definition. But a politician who uses illegal payments from foreign governments to finance an election campaign but makes no financial gain personally does not.

The fetishizing of public sector corruption has additional strategic utility. Conveniently ignoring the collusions between “public” and “private” that make most corruption possible, it

casts the 'public' (interpreted as "the state" or "bloated bureaucracy" or "regulators") as a perpetually grasping hand and the 'private' (interpreted as "the private sector") as its victim, tainted only because it is forced to pay bribes to get its work done (no mention here of the role that the mainly Western, mainly multinational private sector plays in facilitating the laundering of the proceeds of corruption).

Anti-corruption policies can thus be readily enlisted (as they are) to the cause of rolling back the state, privatising state assets and giving the private sector a greater say in decision-making, ostensibly in the name of protecting private interests from avaricious rent-seeking officials who would otherwise place transactional barriers in the way of business. The outcome is not to banish corruption, but rather to make certain corrupt interests acceptable and normal within the sphere of government decision-making.

This should come as no surprise. For, despite the rhetoric of "public" and "private" being separate spheres that must be kept separate, the entanglement of the two makes such a separation impossible. Indeed, a complete separation would, as academic Peter Bratsis points out, make "politics as we know it . . . impossible".

The issue is *who* decides and *how* what mingling does or does not act for the common good, which presupposes a process through which the plurality society (with all its diverse groups) (rather than just the Bank) can deliberate what actually constitutes the common good. But it is precisely this process that has been corroded through corruption, not to speak of the myriad other forms of oppression rooted in a history of colonialism, racism and patriarchy that exclude many groups in society from these debates. For the common thread that runs between all forms of corruption – from bribery to revolving doors – is the capturing or bypassing of democratic forms of deliberation.

Such capture is not an unwanted side-effect of capitalism: it is central to its operation. Indeed, the entanglements between corruption and capital are such that to challenge corruption *is* to challenge modern capitalism. Recognising this, and taking seriously its implications, will surely be essential if strategies and alliances are to emerge that allow future forest use to be determined through bottom-up democratic politics, rooted in respect for the commons, rather than the narrow interest of political or financial gain.

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- (1) Rosa Luxemburg, *The Russian Revolution*, Chapter 7, *The Struggle Against Corruption*, <https://www.marxists.org/archive/luxemburg/1918/russian-revolution/ch07.htm>
- (2) Buchan, B. (2016) 'Our Golden Age of Corruption'. *Arena*. Available at: <http://arena.org.au/our-golden-age-of-corruption-by-bruce-buchan/>
- (3) Swift, J. (1707) *A Trritical Essay upon the Faculties of the Mind*. Available at: https://www.uni-muenster.de/imperia/md/content/englischesseminar/swift/tritical_essay_typeset_ic.pdf
- (4) World Bank (1997) *Helping Countries Combat Corruption: The Role of the World Bank*. World Bank: Washington DC. Available at: <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corruptn.pdf>

Sexual Exploitation and Violence against Women at the Root of the Industrial Plantation Model



Ph: AP News

European colonizers relied on large-scale monoculture plantations to impose their rule on peoples and territories across the global South. Their enforced plantation model - planting one single specie typically on the most fertile and flat land with sufficient water sources available - continues to this day. This seizure of vast amounts of land and dispossession of local populations was -and still is- kept in place by oppression. Uneven power relations routinely discriminate against indigenous peoples and traditional communities, and, in particular, women.

The violence inherent in the colonial plantation model does not spare systems of reproduction of life. That is, systems of collective organization, food sovereignty, community care, cultural and language diversity, ancestral knowledge, among many other aspects. The parts of these systems of reproduction that cannot be commercialized are usually made invisible. They are thus not recognized as work. The associated tasks usually rest on women's shoulders. Thus, plantation companies' violence also targets women in their role as pillar of community cohesion. Patriarchal oppression is inseparable from the industrial plantation model, a model that remains at the base of how plantations companies generate profits. (1)

Women confronting the industrial oil palm plantations that are managed by the Luxemburgian-Belgian SOCFIN company in Sierra Leone told WRM that,

“the company takes advantage of women’s labour in so many ways... When the company has already taken over the land, women are most times left with no option but to work for the company. Because they cannot go back to their farms and do their normal activities; they cannot stand up for their families; they cannot take care of their children; they cannot even take care of themselves or put food on the table. They cannot grow food as usual for their own use, so they now depend on buying it from the markets. They are left with no option but to seek a job in these plantations, with this company.

And they are not well paid. The companies are very well aware that women have no other alternative, so they decide how much to pay them, and even how to treat them. Women have

to walk from very far away places every day to work, and then return back, on very long walks, exposing themselves to violence.

Their children, most of them, are also going wayward. Because if you cannot take care of your children—especially girls—when they need you most, they will go for anything a man can give them to survive. So the challenges are so much.”

Women confronting the palm oil company PalmCi in Ivory Coast told WRM that,

“Oil palm companies overexploit women. I can assure you that women are very useful for them; they are outstanding workers for the companies. Harvesting fruit all day without resting, day after day for years.

When the Malaysians visit the plantations, these women have to hide and avoid being seen by them. Why do they hide them if the work they do is legal? Other women are forced to cover their baby’s mouth with their hand to muffle their cries and avoid being detected. The companies overexploit women for profit. That is what is happening.”

And women confronting the Socapalm oil palm company in Cameroon, a company that is also part of the Socfin Group, told WRM that,

“Women from different villages in the area have to walk far to come to this very small plot of land. It is the only place we could find to set up our small garden plots. Look, the potatoes are very small. The oil palm plantation is right over there, too close. Nothing grows well because the plantations are right there. As you can see, that is all the land there is [for us to use]. Look at how we are suffering. This little field cannot produce enough for our families. The land produces very little because we have to plant on the same plot every year. We lack land to grow our food. Socapalm has taken our land. Socapalm has taken it all.”

Once companies set up and operate their industrial plantations, sexual violence and oppression against women and girls considerably increases. Rape, physical and psychological abuse, harassment, persecution, work in exchange for sex, beatings, intimidation, violated pregnancies, presence of armed guards in and around people’s homes and in communities, low wages, deplorable conditions and long working days, unpaid work, constant use of toxic products without protection, impacts on women’s reproductive and sexual health, lost access to land, water, livelihoods and sustenance—which translates into harder, more intense and more prolonged domestic and communal work—are but some of the impacts of industrial plantations that are often not named but just called “differentiated impacts”. (2)

The perpetrators of these horrific and constant violations against women’s bodies, lives and minds almost always get away without punishment.

The women from Sierra Leone added that,

“Violence against women goes on without much intervention from our local authority or the police. If you are against the company, nobody will listen to you.

Women have been arrested. They have been molested and beaten – for crimes most of them will deny – and been taken to the police to face charges. Nobody seems to care about

what is happening to us. Nobody wants to know or take any action against the perpetrators. There are a lot of challenges that we face with these plantations. Sometimes there are accidents. If you are harmed doing work, or faced with any other challenge, you will be fired without them even considering taking care of you. You will be left to spend your own last dime.

As it is now, the community itself is observing a curfew. Because after 12 midnight, you will not see any woman outside. Everybody knows it will be safer for you to stay indoors.

And to crown it all, there is this fear that has been spread amongst us, since the last incident where we lost two people in our community. It was very brutal. When the police and the army came in, it was very brutal. They made a lot of forceful arrests, including me. I was arrested very late at night. I was asleep, my door was forcefully opened, and I was brought out, beaten, and taken to be detained”

In this regard, the women from Ivory Coast also said that,

“Women are victims of physical and other abuses. Women are beaten and unjustly accused as a pretense to demand favors from them. There is also sexual abuse but this is kept under wraps. They are told: “I saw you in our plantation stealing fruits, ‘You take care of me and I’ll take care of you’,” is what they say, meaning, ‘I’ll let you go with the fruit if you have sex with me.’ This abuse is indeed growing because the plantations are still there and the rapists are also still there.

Are the perpetrators punished? You must be joking; who will punish them? They will claim that you entered private property and deserve what you got. They will ask whether you have a “long arm” as we say here, whether you have a powerful person in your family or know an influential member of the government who can support your complaint. Nobody has been punished for these crimes, despite the broken arms and the traumatized children and women. These crimes go unpunished because might makes right.”

It is also in the interest of the companies and their financial backers (regional and Northern countries’ development banks, the World Bank, financial consultants, etc.) that the domination of a patriarchal model, in particular the violence and abuse against women that is part and parcel of this industrial plantation model, stay invisible for consumers, and thus, without consequences for those who perpetrate that violence.

Yet, against all odds, women are at the forefront of the resistance and the defence of life.

The women from Sierra Leone told us that,

“We have been doing our best over the years in staging or organizing protests; we have been moving from one community to another, sensitizing other women in different communities—not to give in to the agreements being done on our behalf. We have been requesting inclusion in every aspect of land deals in our community. We have been making sure that we remind our authorities that we do not want anything from Socfin. That we want our lands back.

In this context, on November 25th, International Day for the Elimination of Violence against Women, the Informal Alliance against Industrial Oil Palm Plantations came together to

denounce the violence and sexual abuse that thousands of women living in and around industrial oil palm plantations face in their daily lives, particularly in West and Central African countries. The video stands in solidarity with all the women who organize to resist these plantations and who are left alone to suffer this violence and abuse in silence.

You can see the video in English, French, Spanish and Portuguese here:

<https://wrm.org.uy/videos/video-violence-and-sexual-abuse-against-women-in-oil-palm-plantations-must-end/>

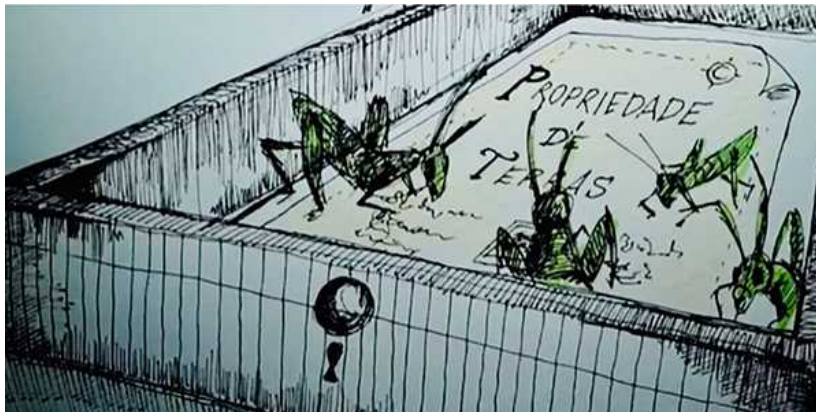
*** All the names for this article have been kept anonymous for security reasons.*

(1) Plantation patriarchy and structural violence: Women workers in Sri Lanka, file:///Users/Usuario/Downloads/Metis_193809.pdf

(2) WRM Bulletin 236, Women and Plantations: When violence becomes invisible, 2018, <https://wrm.org.uy/articles-from-the-wrm-bulletin/viewpoint/women-and-plantations-when-violence-becomes-invisible/>

Breaking the Silence: Harassment, sexual violence and abuse against women in and around industrial oil palm and rubber plantations, <https://wrm.org.uy/books-and-briefings/breaking-the-silence-harassment-sexual-violence-and-abuse-against-women-in-and-around-industrial-oil-palm-and-rubber-plantations/>

Organized land theft for industrial tree plantations in Brazil: The case of AMCEL



The term "grilagem" comes from causing forced aging of papers. Fake writings are placed inside a box with shackles, so that the documents turn yellow (from insect excrement) and gnawed, giving them an old and, consequently, more credible appearance.

Territorial regularization is one of the solutions proposed by the Bolsonaro government to overcome the deforestation crisis. But Brazilian organizations that work in defense of small farmers and traditional communities, such as the Pastoral Land Commission (CPT, by its Portuguese acronym), warn that this regularization could legalize the grabbing of public lands (known as "grilagem" in Portuguese). An emblematic example of land grabbing in the Brazilian Amazon is the case of the company Amapá Celulose S.A. (AMCEL).

Grilagem is the illegal creation of property titles for public lands, giving them a legal appearance. This practice began in colonial times with the theft of indigenous peoples' lands, and it continues to be widely used by representatives of big capital interests, such as landowners and agribusiness, mining and tree plantation companies, among others. This

mechanism allows for the appropriation of land, by expelling small farmers and preventing them from enjoying their right to use the land for their livelihoods. One of the most recent strategies to legalize land grabbing, mainly in the Brazilian Amazon region, is through the CAR (Rural Environmental Registry). This is a mechanism provided for in the new Brazilian Forest Code for registering lands digitally (1).

As a result of this historical process of land grabbing, Brazil currently has one of the most unequal land ownership situations in the world: 1% of landowners own almost half of all the rural area in Brazil; meanwhile, 50% of the properties cover only 2.3% of this area (2). Another consequence of the invasion of capital interests in the countryside—via land grabbing—was the often violent expulsion of small farmers. These farmers had to move to the cities—where 85% of the Brazilian population currently resides—and face more problems like unemployment and urban violence. In an inverse process, the struggle of the MST (Landless Workers' Movement) and other organizations managed to get Brazil to begin, at least timidly, a process of agrarian reform.

Land grabbing in Brazil is a perfect example of organized crime, of land and forest theft from small farmers, with the participation of a group of actors who benefit in some way from it. First, there are government agencies that encourage territorial occupation for certain projects at any cost. They are willing to break the law and provide significant financial support to companies and landowners through their development banks. Then, there are companies and landowners who grab land. There are also the owners of notarial firms that prepare fraudulent land deeds, as well as judges who turn a blind eye to this fraud and who often also possess land through illegal titles. Finally, there are private financiers—such as national and international investment funds—that invest in the companies' activities; and then there are landowners who use the lands that have been grabbed.

There are still more actors who collaborate in the crime, such as the international certification system for tree plantation companies' timber (the FSC). The consulting firms that perform the certification have been true “defense attorneys” for the land-grabbing companies, declaring that the wood is obtained using “socially just” practices (3).

Amapá Celulose (AMCEL) is one of the few large tree plantation companies located in the Amazon, which is one of the most conflictive regions in Brazil when it comes to land grabbing. AMCEL has FSC-certified eucalyptus plantations which produce and export wood chips, both for the pulp industry and as raw material for energy/electricity production in Denmark.

AMCEL was created in 1976 by mining company CAEMI, and it later belonged to the North American companies, Champion and International Paper. Since 2007, AMCEL has been controlled by the Japanese groups, NipponPaper Industries and NYK (Nippon Yusen Kabushiki Kaisha) (4).

WRM spoke with Father Sisto Magro, a member of the Pastoral Land Commission in Amapá (CPT), about AMCEL's land grabbing.

Question: Could you give a brief historical summary of the occupation of lands by small farmers, and the problems they have faced in the state of Amapá?

Father Sisto: The history of small farmers in the state of Amapá began along the river. They occupied the banks of the rivers and the ocean in what is called the Bailique archipelago, which joins the Amazon river, streams and part of the ocean. These people lived by hunting, fishing, gathering acaí and bacaba fruits, and subsistence agriculture—mainly based on cassava flour. They also raised cattle and buffalo in the flooded areas. This is how the story of the farming community in Amapá began, besides the indigenous peoples who were already in the territory. The farmers had a subsistence culture and did not seek wealth; they did not have fences, and they respected their neighbors' land. When roads opened up, other communities of small farmers began to settle along the roads.

Large projects started arriving in the area in the 1950s, in an attempt to connect Amapá with the rest of Brazil and the world. First, there was the Icomi mining project. And starting in the 1970s, there was the Amapá Celulose project, as well as a port for export. Many people from outside came to work on these projects. And, at the same time, a different logic also arrived: one that seeks to turn the small farmer into an entrepreneur, and that tries to introduce “modern” agriculture to “develop” the state. This means transforming the subsistence culture of these farmers into a capitalist culture based on money. This attempt was unsuccessful, because it is very different from the gathering- and subsistence-based culture of the rural people.

In order to understand the current land conflicts, it is important to remember that around 1900, when Amapá was part of the neighboring state of Pará, the government of Pará sent coronels to Amapá and granted them property titles to large tracts of land. They did this through notarial firms whose owners were sometimes the coronels themselves. The aim was to distribute these lands among ranchers and small farmers. This agrarian reform did not work, but it generated a series of old land documents from 1900, 1910 and 1920, which—though now obsolete—are used today by large landholders to try to take land away from small farmers.

Even now, there are attempts to bring workers from the South [of Brazil] who have different ideas about agriculture, the countryside, and producing wealth for export and GDP growth (Gross Domestic Product). Our farmers are not concerned with increasing GDP, but rather with producing food to feed themselves and at most sell crops at the Macapá market (the main city of the state). They are more humble, and the Amazon needs that humility. The more a capitalist mentality based on production and wealth is implanted in the Amazon, the more this important biome and ecosystem are destroyed. The farmers in Amapá know this all too well. It is the big capitalists, who devote themselves to the culture of money and who are not from here, who seem not to understand this.

Question: According to the company's FSC certification reports, AMCEL managed to appropriate almost 400,000 hectares of land in Amapá (5). About 167,000 hectares are certified, and according to the FSC, their titles were recognized by the INCRA (federal land management agency in charge of agrarian reform). Another 119,000 hectares are not certified, and according to the company, there are “illegal” occupations by small farmers. In 2005, the company reportedly returned another 105,000 hectares to INCRA. What is CPT's view on the legality of AMCEL's lands and the process of acquiring these lands?

Father Sisto: First, it is important to say that the AMCEL project is a project of the federal government itself. In an attempt to modernize the countryside, the government promoted the

distribution of public lands in Amapá and other Amazonian states, pretending like it was a fair distribution of land. The government held a land auction for an area in Amapá of great interest to AMCEL, which today includes part of the municipalities of Porto Grande, Ferreira Gomes, Cutias de Araguary and Itabaul. Each company could bid, but only on one lot. AMCEL belonged to the CAEMI group, a powerful mining company in the state of Amapá. CAEMI participated with six firms, some of which were ghost companies—because they were never heard of in Amapá. One of the six firms was AMCEL, but the others had nothing to do with timber plantations; they were linked to the mining sector. All of them participated, and they won the tender for a huge lot of 20,000 to 25,000 hectares. The bidding contract states that each company was to exploit that lot. However, immediately after obtaining the lands, every single one of the other companies leased the land to AMCEL—despite the fact that the bidding contract did not allow this. This is how AMCEL began its tree plantation project, which at first was with pine trees.

One of the items of the bidding contract stated that the company must conduct a topographical study and demarcate the area. All of the companies that won the contract did this, but they committed another malfeasance: they increased their areas even more. For example, land that was 20,000 hectares became 27,000 hectares after the demarcation. Another term of the contract was that the company who won the bid must not include places with inhabitants and small farmers in the demarcated area. But these companies did not do that. On the contrary, AMCEL began to promote outright evictions of people living in those areas. Most people were expelled in the early 1980s. In some cases, AMCEL compensated small farmers for the land—which was not allowed either, since the contract ordered for inhabited areas to be excluded, period. Then, between 1983 and 1985, INCRA awarded the titles to AMCEL and the other five companies that had won the tender, even though there were a large number of farmers on those lands. Later, the other companies sold their land to AMCEL. While this was good for AMCEL, to me this is major fraud, because AMCEL and the other companies acted jointly and breached the terms of the tender.

Today there are few inhabitants left, as most have already been expelled. But it is interesting that AMCEL says that there are no conflicts on the 167,000 hectares—that the conflict must be on the other 119,000 hectares. Because there are also conflicts in the area that has been certified [by the FSC], and the proof is that they are currently in the courts. On the Amapá Court of Justice website, one can easily see current disputes over areas that the company says legally belong to them. Inhabitants who still resist in these areas have been, and are being, judicially expelled; because AMCEL shows the titles of the companies that won the tender, which now comprise the single large deed to 167,000 hectares. It should be added that in the northernmost part of the territory, in Ferreira Gomes municipality, the company has already exceeded the area of the consolidated title it obtained. This was proven in a technical report that INCRA produced at the request of the judge in one of the legal proceedings. But the judge says that it only exceeded “a little bit.” However, that boundary was 28 km long, so any small variation ends up being a big difference.

Question: AMCEL claims that in 2000/2001, there was a Parliamentary Commission of Inquiry (CPI, by its Portuguese acronym) on public lands in the Federal Chamber in Brasilia, which concluded that AMCEL’s land acquisition process was legal. Do you agree with this statement?

Father Sisto: Then how is it possible that in 2005—after a 2004 CPI on public lands headed up by the Legislative Assembly of Amapá state—AMCEL had to return 105,000 hectares to

the Union [federal government]? It is a gigantic contradiction. The 2004 CPI report was almost written by a person who was later prosecuted and convicted for land grabbing. Fortunately, it was possible to appoint another deputy, Ruy Schmidt, who was not associated with the land grab. This CPI, in which the CPT played a key role, managed to reveal AMCEL's whole fraudulent land grabbing process. We have all of this documentation, and as a result, AMCEL had to hand over 105,000 hectares on the other side of the Araguari River. In reality, there was not a single title for that land, not a single deed! They were just documents of possession, sales receipts, any real estate document.

On the other hand, regarding the situation of AMCEL's lands, the company has a relatively small area with definitive titles. These are for lands purchased from people who held those titles, and they are recognized by INCRA and cannot be challenged. However, the rest of the land was obtained through another criminal process: so-called notarial appropriation. These were notaries from Amapá district and Tartarugalzinho municipality. These two notaries provided public deeds—registered with the notary public—of lands that are actually public lands, which INCRA never titled, sold or managed to regularize. If you go to INCRA, and they look at the map they have of these areas, they will say that those lands are theirs, that they still belong to the Union [federal government]. That's why we at the CPT challenge the legality of those areas, as alleged by AMCEL. They are registered areas totaling more than 100,000 hectares, but they have been registered in an illegal and irregular fashion. They are lands that should also be returned to the Union. In 2003, a Justice of the Peace and a Chief Magistrate asked the Amapá notarial firms to correct these fraudulent records, including those that registered the lands where AMCEL is located. But nothing happened after that, and the judges in the case argue that the Attorney General's Office (AGU by its Portuguese acronym) should take legal action to recover those areas and be able to create settlements under agrarian reform. But the AGU is not doing this. Today, AMCEL is negotiating these illegal titles with soybean agribusinesses, as a tactic to get rid of that land.

Question: Who financed AMCEL, including all of the land grabbing?

Father Sisto: The FNO (Constitutional Fund to Finance the North [region]), which is Brazilian public money, financed a large part of AMCEL's plantations. This is money that should also finance small farmers, but they do not have access to these funds because they lack the conditions to formulate and present a project. It is AMCEL, and other companies and landowners associated with soybean agribusiness, for example, that develop projects and have access to this money.

Question: The company claims it is “committed” to resolving conflicts with small farmers through “dialogue.” How do you evaluate the company's relationship with the inhabitants?

Father Sisto: The relationship is not respectful. AMCEL tears down residents' houses. Last year five houses were demolished in Ferreira Gomes municipality. This year they demolished another one in Tartarugalzinho municipality, with protection from the judge for that area, because they won a lawsuit against a small producer. Only this house was in the middle of a field. And what did AMCEL do? The judicial officer came to the site, AMCEL pointed out the house, and the officer ordered the demolition of this man's brother's house—which is on the street and was not part of the process! This seems to indicate that the company seeks to further expand its territory, in part because it lost several cases against inhabitants. I ask: Why does AMCEL, having lost several lawsuits, still possess the 167,000 hectares? It is

probably trying to recover the areas it legally lost in court. And faced with the farmer's request for compensation, instead of asking AMCEL to immediately rebuild the house, the judge in Tartarugalzinho said he would start a legal process, and that the first hearing would be next year. Against this backdrop, the farmer is afraid to rebuild his home, because the company has already demolished it once, and he is afraid the judge will order for it to be demolished again.

Question: Although some inhabitants won lawsuits, in most cases AMCEL was victorious. Can we expect justice from the Amapá judiciary?

Father Sisto: No. For example, in the case of the five houses that were demolished in Ferreira Gomes municipality, the judge himself was present during the demolition. According to inhabitants who were there, he said "I want to see those houses on the ground." The judge from Tartarugalzinho is even worse. In response to the unlawful demolition of homes, not only did he not recognize the error, he overlooked the issue, saying that it would be discussed in February / March [of 2021]. But he has already made it clear that absolutely nothing will happen to AMCEL. This same judge occupies a piece of public land. With state judges in place that AMCEL always calls upon to evict inhabitants, it is very unlikely that a favorable decision for small farmers will be made.

Question: Considering the fact that CPT acts from a social justice perspective, what is the path to take to resolve the land conflict that AMCEL created, starting in the 1970s? And what is your message to the people of the country of Denmark, where AMCEL sends FSC-certified wood chips?

Father Sisto: The Federal Judiciary should intervene and instruct Amapá state judges not to make any more decisions. If the Federal Judiciary gets involved, it is different; since it tends to analyze the property rights of an area, and whether it is an AMCEL territory or not. The Federal Judiciary will analyze property titles to see if it is a public land, and if so—even if it is just a millimeter of public land—AMCEL will have to return the land it appropriated. State judges, on the other hand, tend to assert that the lands belong to the state of Amapá and not to the Union. Several state judges even participated in the agribusiness project. Some have been on radio programs with agribusiness representatives. There are also federal judges who favor agribusiness, but their decisions tend to be more balanced. That is why AMCEL always tries to go to state courts, never to federal ones.

Right now there is a complicated process underway in the state of Amapá. Lands that belong to the Union are being transferred to the state of Amapá, which wants to regularize them and give them to agribusiness, not to small farmers. At the same time, the Bolsonaro government is not giving a cent to INCRA, precisely to avoid having to do anything. We are in a very challenging time, in which there is no political will to carry out territorial regularization that would benefit small farmers.

I would tell Danish citizens that it is time for you to plant trees in Denmark, and to harvest those trees, instead of harvesting trees here. We are already in a severe process of deforestation, devastation and destruction here, promoted by the government of Bolsonaro. He is bolstered when he can say that we are exporting timber to Denmark because they ask for it. Meanwhile, he is playing with fire, encouraging the burning and destruction of the forest to make way for cattle ranching, soybeans and agribusiness. And timber is a good excuse to

do it. It is high time that European countries plant the trees that they themselves destroyed in the past, that they replant [in Europe] and use their own timber, and not timber from the Amazon—as this causes more people to be evicted and more environmental crimes to be committed.

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Indonesia: Legalizing crimes under the slogan of “creating jobs”



Ph: Frans Ari Prasetyo

With the adoption of a so-called Omnibus Law on Job Creation in October 2020, the government of Indonesia has amended more than 75 laws. The biggest impact of this change is expected to be on the environment, for peasant communities and indigenous peoples' rights as well as for worker's rights. This Law modifies (and de-regulates) land-use planning and licensing processes for corporate operations. The Law also gives more power to the central government and the corporate sector –including the coal industry, which directly benefits from a bundle of incentives. For example, the Law exempts coal companies from paying royalties if they develop downstream facilities, such as coal-fired power plants.

This is particularly problematic in Indonesia. A recent article in the WRM bulletin (1) mentions how President Widodo and his family, his Vice-President and other close collaborators are involved in the coal mining industry. Moreover, 262 out of 575 parliamentarians in Indonesia are employee, owner, shareholder or CEO of some of the country's biggest extractive industries and trading companies. Strong signals that businesses have effectively taken over the apparatus of the central government. In this context, it is critical to highlight another key feature of the Omnibus Law: the central government rescinds the right of regional governments to veto an investment project already approved by Jakarta (the capital city

where the central government resides). This will increase the conflicts between existing local dynasties and the political elite in Jakarta. (2)

At the same time, the Law limits (and, in cases, even eliminates) the possibility of civil society and affected communities to consult on or challenge the approval of projects like large mines or industrial plantations. It also limits the public's right to file objections against environmental impact assessments once these are approved, even if it can be demonstrated that the approved project will cause ecological and social harm.

Indonesia's Environment Minister argued that this limitation is "based on findings that the interests of directly impacted local communities have often been diluted by indirect outside interests." Likewise, a lawmaker in the parliament's legislative committee which passed the Law, said that criticism from those not directly affected should be limited if they "aren't in line with national interests." (3) These statements are highly problematic. Affected communities are not only rarely informed in a timely and proper manner, and realize the extent of the impacts only when machinery or security agents appear in their territories; but also, what are these "national interests" that the government representatives talk about? Whose interests do they represent?

Since this proposal came to light, thousands of workers took to the streets to reject the Omnibus Law and hundreds of protesters were arrested. Workers' rights have been hijacked, in particular rights aimed at protecting women, who are more vulnerable to being subjugated and exploited. (4) Much has been written about the dangers and risks of the Omnibus Law, even from profit-seeking companies that are worried about their images being tainted as a result of the implementation of the law.

Nonetheless, few materials include voices of community activists from across the islands talking about the likely implications of the Law on their territories and lives. That is why the WRM reached out to a close ally in Indonesia, who dialogued with six community activists who are resisting –some for decades- various damaging investments across the islands. Each of these activists grew up witnessing their island, forests, rivers, coastal water, protein-providing animals, fresh air, being destroyed and seized with the sequences of aggression by the government and/or corporate investment projects. "For each", our Indonesian ally said, "the story and the groundwork which they are part of are deeply personal. Despite the resolute undertone in their voices, the dialogues were marked by a noticeable absence of joviality– something very strange in the local oral cultures in Indonesia. It is a reflection of how dark their inner state is at the moment".

These are their stories.

All names are kept anonymous for security reasons.

"Mama Na" fighting industrial oil palm and timber plantations

Mama Na belongs to the Muyu tribe. She lives in Kampung Subur, Boven Digul regency, Papua. Between 2013 and 2014, PT BCA (PT Berkat Cipta Abadi), a subsidiary of the Korean palm oil and timber conglomerate Korindo Group destroyed at least 12,300 hectares of forest. The Korindo Group is the biggest oil palm plantation company in Papua. Oil palm plantations company PT MRJ (PT Merauke Rayon Jaya), which supplies multinationals like Mars, Nestlé, PepsiCo and Unilever (5), is also threatening Mama Na's forests and land. In addition, her community's land is threatened by industrial timber plantations.

The plywood company was first established in 1990 and has changed owners three times. It used to extract timber, but because there is almost no more forest left, the company is now planting oil palms, aiming to expand to other parts of this land. The company later joined a timber plantation company [a category known in Indonesia as HTI] and changed its name so that it could be qualified for plantations. In Kampung Subur, the oil palm plantations company PT BCA has entered the Toweb, Tomba and Burok clans' territories. They have never entered my land. I oppose them because I would lose my land and livelihood. I have seen the impacts.

The water is polluted. Dead fish are all over the Bian and Digul river. When they came to the area, they built a hospital, the Korindo Hospital. It is literally a "sick house" (in Indonesian, Rumah Sakit, means "Sick House") as the company came to make us sick. The damage sinks underground, to the water. So the fish die. When we use the water for cooking, the pot is oily. Since the company entered, we feel that we have lost our culture. No longer do we have our traditions. For example, we have lost our artisanal skills, like making noken, enok, nyiru ayak, which are made using reed and bamboo.

I am now prepared and remain alert to confront the oil palm plantations company PT MRJ and other industrial timber plantations companies. Company people are putting their eyes on the land of the Ikoké clan to build a log pond. They come and say that they are there for tourism or conservation purposes, playing tricks on the community.

Someone from the PT MRJ came yesterday and said in the village hall, "We will make you prosper. We will build, provide clean water, good jobs, we will do that and that for the community." But it turned out that the people said NO to all of that, because they have already felt the real situation. The company tricks have been discovered. So we no longer accept those who want to persuade us. We are suffering more for doing that.

We all rely on forests for food and, nonetheless, we see how forests have been destroyed. We refuse so that we can use the forest that is left together, protecting it and caring for it. If not, where will my children and grandchildren go in the future?

I have six children and they all say that Mama Na is like a warrior for them. All of them are one heart with Mama Na. Our life is not easy. We are neither stubborn nor arrogant. They are wealthy and they never mean wellbeing for us. Time has run out.

Ey fighting a mining company's devastation

Ey is from the Aramsolki Village, in the Agimuga District, Mimika regency. Ey is very active creating a space for community members in three districts to voice their grievances due to the complete devastation of the rivers and estuaries in the area. This high pollution and damage is a result of the massive and direct tailing disposals into rivers and waterways from the mining company PT Freeport Indonesia. Freeport Indonesia operates one of the world's largest copper and gold mines in Papua. (6)

The people who live at the banks of rivers and by the sea have a culture of hunting and they depend on the sea or river. This irresponsible disposal of waste destroys people's lives. Animals start to die slowly as every day they inhale and consume water contaminated by the mud in the mine tailings. We also observed that many people suffer from itching and other health issues.

Freeport tailings waste also results in loss of community access to river transportation. The sedimentation of waste in the Ajikwa / Wanogong river has resulted in an extraordinary siltation along the Sampan river, Puriri Island and Kampung Pasir Hitam, towards the estuary. Previously, community members used this route to cross between islands or to go to the city to meet relatives, sell their crops or exchange economic products from hunting or harvests, and it has also been a route for children to access education. Nowadays people have to wait for the river water to become high enough so that boats or canoes can pass. Sometimes people wait for five hours and sometimes even for a day and a night. Desperate people push their boats over the river covered in waste, resulting in a lot of damage to their boats. Others choose to cross by the high seas, which is very dangerous.

We have lost one village: Kampung Pasir Hitam. And also five rivers: the Yamaima, Ajikwa / Wanogong, Sampan, Ajiira, and Manarjawe river. This is a very serious problem.

Peculiarly, in the middle of a shallow river that has dried up, Freeport is planting trees. We are very angry about this. The company claims to be reforesting, but no one knows that a river has disappeared there! The company plants trees and it also eliminates the evidence.

Ni fighting a geothermal energy project

Ni comes from Jailolo, in the Halmahera Island, North Maluku. Jailolo is an earthquake-prone cluster of villages, bordering a stretch of forests. It is also the name of a recently re-activated volcano. Over the past decade, strong earthquakes have been recurring every year. Since 2008, the PT Star Energy Geothermal Company, a subsidiary of PT Barito Pacific Tbk., was awarded the Jailolo geothermal field concession and began exploration in the 12,960 hectares concession area. The US Trade and Development Agency (USTDA) awarded a 733 thousand dollars grant to PT Star Energy Geothermal Halmahera to conduct a feasibility study for the project. (7) In 2017, however, the Ministry of Energy and Mineral Resources took back the concession from Star Energy, and from then on the exploration activities have been carried out by PT Sarana Multi Infrastruktur (SMI) - a joint venture of the Ministry of Finance, the World Bank and the Asian Development Bank. In early 2020, the government gave a strong endorsement to this investment.

In my opinion, the biggest threat in Jailolo is the government because the government doesn't care and they want to join the geothermal company. Star Energy started to enter since 2008, collecting information. There has been no development or construction yet. But the fear is that most of the people in Jailolo are fisherfolk or farmers. For example, there is one village, the village of Saria, where fishing is the main livelihood and the people farm on the side. There are villages that still depend on the forest, namely the villages of Payo, Pateng, Bobo, Bobo Joko, and Idamdehe. Idamdehe is planned to become a place to drill a geothermal well.

Our forest is still very healthy and we will not let the geothermal project clear away the forest. We have never received proper information about this power plant project. The new Omnibus Law will unquestionably have an enormous impact. The land will be invaded. Those who are fisherfolk and farmers will lose their livelihoods. With this new Law, the government is helping the company. But the villages have strong unity, especially the Indigenous Peoples of Saria and Idamdehe.

Na fighting a nickel mine

Na is from south-east Sulawesi, where they confront a nickel mining operation. (8) The community successfully blocked the mining activities in 2019 and pushed back their heavy equipment all the way to the project camp on shore. Na has been in the forefront of resistance.

For the community, mining does not do any good. Nothing. If the mining would arrive here, it would be dangerous. First of all, our plants will not bear fruit, because of the dust! There are coconuts, guavas, cloves, nutmeg, and pepper here. Secondly, water. Thirdly, where will the waste go? Into the sea? But this is a fishing village! Those who fish will obviously be hampered. So for us, mining is no good. The impact is huge; we have seen it. Mining is only for a moment. In the blink of an eye, the money will be gone. It is only for a moment because it is all a lie. And indeed, it is all about money. We are so traumatized because of this mining. We must be vigilant, especially not to give up. That is all.

But all lands around the mining site are affected. From the land of my parents to mine, everything is affected. For example, the access road, where vehicles go back and forth, dust is everywhere. We have to wash the banana leaves before using them. Besides, with the mine, the family has broken up. The impacts are obvious, but they weren't aware. There is already this effect. Previously, one stick of fish cost ten thousand Indonesian rupiahs, now it will go up to fifty thousand. Who can afford that price? And we cannot go fishing anymore.

Now, the new Law wants to make licensing easier for big companies, but we defend our rights. The base of my life is in my land. If there are crops, there is hope. We have our plants there. We can make some money from our crops. Without it, I cannot dream with my children and my grandchildren. The mine is so painful for us. Everything is being destroyed. We will cry blood later. But never! I will never give up the land.

Yati Dahlia fighting the plans for a new capital city

Dahlia comes from Penajam Paser Utara, East Kalimantan. Dahlia is an activist and a traditional performing artist who belongs to the Balik tribe, a small tribe located in the heart of where the new capital city of Indonesia is being planned, and near one of the biggest mining regions. There are approximately 5,000 Balik people who also speak their own language.

We don't want to differentiate between tribes. There are the Balik, the Paser and the Dayaks here. But with this enormous project, we feel like we are being set up. They want us to hand over the land... Then we are asked for a photocopy of our ID cards. The main reason is that they want to split the land. Some are thirsty for positions of becoming customary leaders or whatever ... We are really agitated. How can we be united if we are still being used by people who only care about themselves?

We have read about this new Law. But this is the land of our ancestors. We are very restless and distressed. The government will not stop until they persuade us to sell our land. They say, "Let's cooperate". I have told my family and friends, who own the land here, that our ancestors do not close their eyes and are watching us from above. Even though the Balik Tribe is a minority, we need to live in unity to defend the land.

Ah fighting a geothermal energy project

Ah is from Salingka Gunung Talang, Solok regency, West Sumatra. Ah is a community activist who belongs to a movement involving four mountain communities under threat by a

geothermal project run by the Turkish consortium PT Hitay Power Energy and PT Dyfco Energi. (9)

Almost all of the residents at the foot of Mount Talang, Solok District are farmers. Even civil servants [known as PNS in Indonesia] are involved in farming to earn additional income. We are proud of our vegetable products, and our delicious and famous rice, namely Bareh Solok. In general, it was a safe place, until 2017, when the geothermal mining project disrupted our lives. Even then, the project was not clear. But we knew that the electricity that they want to produce is not meant for the community. It would not benefit us. The company people forced their way in. Then, the arrests began due to the burning of a company car, although it was not clear who burned it because of the large number of people involved. The people imprisoned because of this incident were locked up from February 2018 to the first month of 2020. Nonetheless, we have consistently blocked the attempts of security brigades and armed forces to enter our area.

We have no news from the company now, and we also observe that there has been no attempt to enter our territory again. But we remain vigilant. With the Omnibus Law we know that there is a huge risk to our safety if the project is carried out.

Despite people's increasing alarm of having their land and livelihoods curtailed further and stolen with the approval of the Omnibus Law, these stories also show how communities will keep resisting the destruction of their forests and land.

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Law, Crime and Deforestation in the Thai Countryside



Villagers sued for trespassing of Sai Thong National Park Chaiyaphum Province, The court decides to imprison them and makes them pay damages to the state. Ph: Prachatai

[Available in Thai: กฎหมาย อาชญากรรม และการตัดไม้ทำลายป่าในพื้นที่ชนบทของไทย](#)

How are forest crimes defined? And who commits them? The following cases give a flavour of how the law has been applied against Thai forest-dwelling communities in recent years, and what the consequences have been.

Kaeng Krachan

In Kaeng Krachan National Park, in the west of the country, state officials have burned the houses and seized or destroyed the belongings of residents from the Karen ethnic group. Communities have demanded to be allowed to return to their original territories after living conditions in the new homes were they were relocated proved to be insupportable.

Kaeng Krachan is a large forest along the Burmese border and has been home to indigenous Karen communities for 100 years. In 2011, the Thai government proposed that the area become a UNESCO World Heritage nature site, although the application has not been approved. Since 2011, intimidation and violation of the human rights of local residents have been frequent, culminating in the pushing off of 98 Karen families from the park.

Grandfather Khaw-Ee Meemi, then aged 100, one of those who were evicted and saw their houses burned, testified in 2012 to the administrative court case in which he was one of the plaintiffs that “When I first opened my eyes as a newborn baby, there was the forest in front of me. That was the place I drank my first drop of milk.” Khaw-Ee was born in 1911 – 30 years before Thailand’s first forestry law was even promulgated, and 50 years before the first National Park law.



Pawlajii (“Billy”) Rakjongjaroen, Khaw-Ee’s grandson, who had been continuing the struggle for the rights of the Karen in Kaeng Krachan, disappeared in 2014. Five years later, the Department of Special Investigations uncovered bone fragments whose DNA matched that of Pawlajii’s mother in an oil drum beneath the surface of a reservoir in Kaeng Krachan.

Chaiyaphum

In 2016, Den Khamlae, a leader from the Khok Yao community in the land rights' struggle in the northeastern province of Chaiyaphum, also disappeared under mysterious circumstances. Bone fragments from a human skull were later found in the forest. DNA in the fragments proved to be similar to that of other members of Den's family.



Den had participated in the longstanding struggle, widespread across the northeast, against the official registry of a National Reserve Forest on land long occupied by small farmers and against its seizure for industrial eucalyptus tree plantations. His wife, Suparb Khamlae, was jailed for supporting the defense of the land of the of Kok Yao community under the argument of "encroaching state forest." (1)

Eviction and Imprisonment

In 2014, when the National Council for Peace and Order staged a military takeover of Thailand, it used its temporary constitutional powers to issue NCPO Order 64/2014, which empowered the military to return the seized forest land and institute proceedings against the businesses involved. In practice, however, it was poor villagers whose land had been taken who had to face criminal and civil charges. Only one year after the NCPO Order 64/2014 was issued, people across the country appealed to Thailand's National Human Rights Commission because the Order was being used to evict villagers in official forest areas, seize their lands and destroy their belongings without any oversight or verification of the facts.

Between 2014 and 2019, some 46,600 cases were brought against villagers for forest encroachment. At Chaiyaphum courts, for example, using the National Park Law, villagers have been imprisoned, evicted from their land, and had damages levied on them



A state public relations poster from Phitsanuloke province: "return forests to the country."

Criminal and civil lawsuits have been brought not only with regard to forest land, but with regard to other state lands as well, as with some of the approximately 410 cases that have been brought against activists with P-MOVE, a movement network for social justice. According to this network, here too, land inhabited by villagers has been seized, villagers have been imprisoned, or damages sought against them in civil court for harming nature.

According to Human Rights Watch, between 2016 and 2018, the National Human Rights Commission of Thailand received more than 100 torture allegations from the south provinces of Pattani, Yala, and Narathiwat, where the military routinely uses a combination of the Martial Law Act and the Emergency Decree on Public Administration in a State of Emergency to detain and interrogate people for up to 37 days without charge or access to legal counsel. (2)

And although the NCPO was formally dissolved in July 2019 when a new government took office, the current Thai constitution protects NCPO members and anyone acting on their orders from ever being held accountable for human rights violations committed during military rule. Many critiques argue though that the NCPO is still very much intact in powerful positions.

Rubber as a Criminal Tree

Rubber plantations in state forest areas have been declared illegal in accordance with the National Council for Peace and Order (NCPO) policy, but it is villagers' small-scale plantings that have been especially targeted. Military and civilian officials have cut villagers' rubber trees and forced them to sign agreements to turn over the land they live on to the state or be subject to legal action.

State officials justify these actions, and intimidate the rural people whom they target, by claiming that the villagers are actually capitalists or are being backed by big business.



State officials remove villagers' rubber trees.

Villagers as Scapegoats

In Thailand, logging concessions were given to British companies long before the founding of the Royal Forestry Department in 1896. Concessions for teak plantations continued to be given out to British companies until around 1954, when foreign concessions ran out, together with the bulk of the nation's teak resources. At that point, parastatal enterprises (that is, enterprises owned or controlled wholly or partly by the government) began working on hardwood logging concessions. Between 1961 and 1985, the forested area of the country shrank from 53 to 28 per cent. Between 1981 and 1985, deforestation rates in Thailand were among the top ten in the world, with state logging operations playing a leading role in the devastation.

In 1988, logging was banned in Thailand as a result of rural communities' efforts to protect forests together with a popular environmental mobilization following catastrophic floods in the south of the country. Yet, while the Agriculture Minister of the time, who ordered the ban, enjoyed wide public acclaim for his action, the sacrifices of the villagers who had pushed for this forest protection were largely overlooked. They, rather than the state and companies, became the scapegoats for deforestation. Official forest conservation became focused on applying the law against rural villagers.

Forest Laws for Whom?

In early 2018, the construction of a housing project for Thai government's judicial officials on the slopes of Suthep Mountain in Chiang Mai attracted strong public criticism for having destroyed an area of dense forest. The land had originally been in possession of the army and thus had not been gazetted as forest land under the law, but was close to a National Park that critics claimed had been encroached upon.

For local protesters, the double standard was clear: the state was constantly seizing ordinary villagers' land and community forests on "conservationist" grounds, yet was itself a key forest offender. In mid-2018, the government was forced to end the housing project and undertake reforestation of the site.

A Continuing History

The Thai government's attempts to force people off their land date back many decades. But they become especially violent during coup governments. For example, the government of the National Peacekeeping Council that came to power in the 1991 military coup launched a resettlement programme for impoverished villagers living on so-called degraded National Reserve Forest land. Similarly, the National Council for Peace and Order (NCPO) – now under siege by student-led protests although not formally in power – relies on the unjust application of military and state force in its policy to repossess forest land through the courts.

The implementation of forest policy in Thailand tends to base itself on un-sourced numbers that claim that the country "must" have 40 per cent forest cover – around 20.5 million hectares. Currently around 42 per cent is legally classified as forest land, even though much of that has few trees. That makes at least 1.9 million of the country's inhabitants, or around 636,000 households and an unspecified number of communities, into official lawbreakers whose rights can be legally violated without much recourse being available to them.

More imprisonments and land seizures are sure to come.

Pornpana Kuaycharoen, a social activist in Thailand with long working experience in forest and land issues. She is the coordinator of the NGO Land Watch Thai.

Land Watch Thai is a small organization working on land issues in Thailand at both local and policy levels.

[Available in Thai: กฎหมาย อาชญากรรม และการตัดไม้ทำลายป่าในพื้นที่ชนบทของไทย](#)

(1) WRM Bulletin 229, 2017, Forest Conflicts in Thailand: State vs. People, <https://wrm.org.uy/articles-from-the-wrm-bulletin/section1/forest-conflicts-in-thailand-state-vs-people/>

(2) Human Rights Watch, Thailand 2019, <https://www.hrw.org/world-report/2020/country-chapters/thailand>

RSPO: outsourcing environmental regulation to oil palm businesses and industry

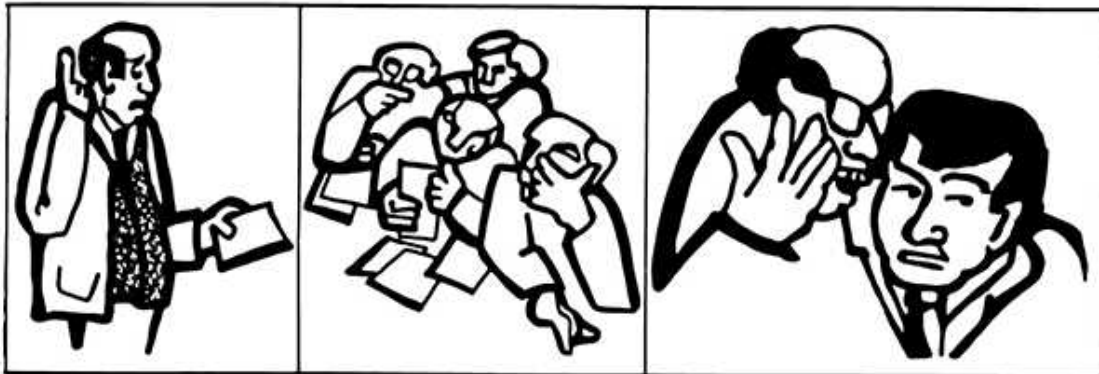


Illustration: Activist Rini Templeton. RiniArt.com

Skewed definitions of sustainability are turning smallholders into villains. Consumers are unintentionally endangering sustainability and helping funnel power into already-powerful hands, by complying with, and thereby legitimising the false standards of sustainability set by big business.

Eco-consumerism and voluntary corporate responsibility supposedly make the market more efficient, letting consumers nudge companies towards better production standards. The Roundtable on Sustainable Palm Oil (RSPO) is an example. RSPO is an industry watchdog for the palm oil sector, responding to community and NGO concerns about the environmentally and socially damaging practices of palm oil production, to act as a guarantor against destructive production practices. (1) RSPO arose from crisis. A crisis of ecological instability caused by corporate destruction has contributed strongly to a crisis of legitimacy of the practice and ideology of capitalism, challenging the hegemony of the system. RSPO, and programmes like it, are able to use these crises not to change or to build a more equitable or ecologically sound system, but to strengthen and reinforce the terrain to their own advantage.

Run by and for companies in the palm oil sector, the group defines the benchmark standards of sustainability by which production practices are judged. RSPO members are audited by the group and receive a certificate of sustainability, so that consumers, mostly from the global North, can shop with an easy conscience, knowing that the cookies, toothpaste, or shampoo they are buying have not caused deforestation, eviction of communities or the death of orangutans.

But there is a major flaw with programmes like RSPO. It is known as 'moral hazard' in economic theory: RSPO allows producers who have a vested interest in minimising the costs and complexity of production, to define ethical operating and production standards in a way which legitimises their operations. Producers who do not (or cannot) comply, are morally castigated and excluded from 'acceptable' market society. The producers themselves define the standards by which they are judged, and then consumers are given the 'freedom', but also (confusingly) responsibility for choosing products – within a value framework set by the people who want the consumer to buy the product.

To see how and why this is not a solution to deforestation, and why more broadly the whole model is misleading for understanding ecological sustainability, it is helpful to understand something about the concept and structure of RSPO.

The concept: A crime in the making

RSPO is a corporate-NGO arrangement. Most RSPO members are consumer goods manufacturers, oil palm processors, and traders, with majority membership in Europe and the US (2), including Walmart, Nestlé, Mondelez, and L'Oréal. (3) It started as an informal co-operation in 2002 between WWF (a major international environmental NGO) and Aarhus United UK Ltd (a producer of oils and fats), Migros (a Swiss supermarket chain), the Malaysian Palm Oil Association, and Unilever (a consumer goods company). Today it comprises agribusiness and major palm oil buyers, with WWF, Unilever, and the Malaysian Palm Oil Association carrying particular weight. (4) For Unilever and the Malaysian Palm Oil Association, clearly palm oil is central to their income, but readers might think “ah it's okay: WWF will hold them to account!”. But remember: WWF depends on corporate funding to survive, like most conservation NGOs, and it is hard to hold to account the people who provide your bread and butter. WWF has also been particularly influential in the construction of a narrative of responsible consumption through other certification schemes, including FSC for wood and paper products, MSC for fish and seafood, the Roundtable on Responsible Soy and others. The global environmental NGO has long been a proponent of pro-business and pro-growth initiatives. There again is that moral hazard problem.

The standard-setting process is riddled with moral hazard. RSPO is a standard-setting initiative. It is not a legal watchdog, or a legal enforcement agency, in which case it would be accountable to strict legal controls and codes of conduct. Instead, the market (that nebulous, shape-shifting concept) is the standard-setter, the watchdog, and the enforcement body.

The rule-makers (that is, the group of corporate and NGO members of the Roundtable) also manage the oversight and auditing process in RSPO. Oversight and auditing is done by industry- (not government-) appointed actors who are also paid by the industry stakeholders, a major conflict of interest. It is voluntary, in the sense that companies decide whether or not to join the programme, but being uncertified puts producers in a highly subjective moral grey zone, where their products are judged ‘bad’ according to standards set by actors who already dominate market share. At the other end of the production chain, this market-regulated standard-setting system also morally judges particularly middle-class consumers who don't buy their products: “you don't buy ‘sustainable’ palm oil? You don't buy a certified shampoo? What a moral reprobate you must be: remind me not to associate with you.”

Where to do the right thing?

To accept the concept of the well-informed consumer guiding corporate production networks through ecologically responsible decisions at the point of purchase, one also have to accept a whole way of thinking about 'freedom'.

To be fair, responsible (or eco-) consumption sounds like a good idea at first: if you believe in universal suffrage, then it makes sense to vote with your money. Here is the logic: if companies show that they are ‘sustainable’, they will win more market share; unsustainable ones will become market pariahs. The democracy of the market is leveraged, to make every

Euro, Dollar, and Franc count at the supermarket checkout. Unfortunately, this assumes that the choice is a commercial one.

The supermarkets, where consumers can choose sustainable palm oil products, are built for consumption and are 'non-creative and anti-choice' spaces, in which confined people are only 'free' to consume. They are places where shoppers (not people) come to buy stuff. They are not designed to improve the natural environment. Cleverly though, businesses have encouraged consumers to feel guilty for the environmental problems that, they are told, come from over-consumption; (6) but it is okay! There is a new thing called 'ethical consumption' which gives redemption for consuming too much! So the spaces designed and built for us to consume have been tweaked, and now offer forgiveness, for a price – rather like the collection plate at church. Apart from being morally rotten, this convenient solution is not even a very good commercial choice for the consumer, however: consumers judge products by the standards and values designed by the very companies who are selling the product. What could go wrong?! That is like fraudsters and murderers redefining fraud and murder, and then inviting a jury, made up of their friends and peers, to judge their behaviour.

The final, fatal flaw with the 'responsible consumer' idea is that most consumers do not have the knowledge, context, or time to confirm whether a product is correctly labelled, if the ingredients of that product have been sustainably sourced or processed, or if the 'sustainable' objectives of the producing companies are ecologically or socially reasonable. This is not a value statement: the whole process of production, and assessment of sustainability, is extremely complex.

For the 'responsible consumer' concept to work, consumers would also need to act collectively in very large numbers to change any product they did not like. Managing the ecological footprint of the planet so that infinitely-diverse global society lives sustainably is a complicated, specialist issue which cannot be solved with a 'one size fits all' approach. Its seriousness is undermined by the idea that the general public can be the watchdog protecting the environment and society, yet the consumer goods sector, palm oil producers, and NGOs suggest that consumers should be the end-point check of their code of conduct. Implying, as some industry participants do, that consumers are responsible for environmental degradation because of their consumption 'demands', encourages this logic. (7)

RSPO, at a glance, gives an appearance of 'doing something'; this is misleading however and acts as a smokescreen, concealing the ecologically damaging consequences of the whole network of production and consumption which underpin the oil palm industry.

A morally bankrupt system of logic

RSPO issues certificates guaranteeing standards of sustainability that are run by the same producers who are then judged by it. At the same time, the legitimacy of the state to set and arbitrate laws is weakened by the argument that the market should set and arbitrate standards of sustainability. Legally, then, there is less competition for the market as arbitrator of legality. Neat.

In a final twist of the knife, operating procedures written by big business are complicated and expensive for small businesses, smallholders, and independent workers. All too easily, the standards criminalize small, vulnerable operators who can't afford to comply with an economic and legal system that has actually been built to exclude them.

All this would be brutal enough if the outcome were a more ecologically sustainable system. But it doesn't even do that: it just redistributes more power into the hands of the already powerful, makes smaller actors more precarious, and weakens even further the concept of sustainability. Meanwhile, the forests continue to burn.

Dr. Bernice Maxton-Lee is the author of *Forest Conservation and Sustainability in Indonesia: A Political Economy Study of International Governance Failure*, [published in 2020 by Routledge](#), and *A Chicken Can't Lay a Duck Egg: How Covid-19 can solve the climate crisis*, [published in 2020 by Changemakers Books](#).

- (1) H. Rogers, *Green Gone Wrong: Dispatches from the Front Lines of Eco-Capitalism* (London: Verso, 2010), 185
- (2) RSPO
- (3) RSPO, 'RSPO - Who We Are', 2017, <http://www.rspo.org/about/who-we-are>
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- (7) K. Ellison and K. Wellner, 'Research, Ethics, and Society (RCR): Professionalism and Social Responsibility', CITI Program | Collaborative Institutional Training Initiative, 19 December 2013, <https://www.citiprogram.org/members/index.cfm?pageID=805&intModuleID=15203>

RECOMMENDED

African Peoples Tribunal against Industrial Plantation Companies

Friends of the Earth organised the First session of the African Peoples Tribunal in Lagos, Nigeria, in November 2020. Affected communities and civil society presented testimonies on cases of human rights violations and environmental degradation connected with monoculture tree plantations from ten countries across Africa. In all cases, development banks, private banks, investment funds and pension funds from all corners of the world were found to be controlling and financing the controversial rubber, palm oil and timber plantation companies. Among the accused companies were Socfin, Green Resources AS, Golden Veroleum Liberia (controlled by Golden Agri-Resources), SIAT SA, OLAM and PZ Wilmar. See more information in English and French here and here:

<http://africanpeoplestribunal.org/resources/documents/>

<https://foe.org/news/african-peoples-tribunal-to-dismantle-power-of-industrial-plantation-corporations-building-people-power/>

Likewise, there are many resources that deepen the critique of this concept of *development*, which has become a cross-cutting issue. We recommend the websites of The Corner House organization (in English)

<http://www.thecornerhouse.org.uk/>, Focus on the Global South (in English)

<https://focusweb.org/>, and GRAIN (mostly in Spanish, English and French)

<https://www.grain.org/>

2020: A year of resistance and defiance

Focus on the Global South recently released its newsletter with a message from Asia, where, despite the pandemic and all its consequences, the dominant mood is defiance—not despair. Braving the risk of infection and challenging emergency laws that prohibit mass protests and

severely curtail freedom of speech, people in India, Thailand, Indonesia, the Philippines and other countries have been gathering over the past several months to defend participatory democracy, justice and peoples' rights, and build resistance against increasing autocracy and corporate power. Read the articles included in the newsletter (in English) here.

<https://mailchi.mp/da11cb8dcda4/2020-a-year-of-resistance-and-defiance?e=825af4c4dd>

An explanation of the new financial markets on nature's destruction

Recent calls to action to address critical loss of biodiversity are both long overdue and very welcome, but a parallel debate on the 'how' is missing. Yet the 'how' is arguably as important as the headline objective. The NGO Green Finance Observatory has released a video explaining the threats that are behind the main mechanisms used to further financialize nature's destruction. Instruments and initiatives explained in the video include Offsetting, Nature Based Solutions, Zero Net Emissions, Natural Capital, among others. You can access the video (in French with English subtitles) at this link. https://www.youtube.com/watch?v=jhnZJOOJ_E0&feature=youtu.be

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Bulletin of the World Rainforest Movement

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