

Power, illegality and impunity in Indonesia's plantation zone

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“Please tell me how I can make companies obey the law,” the official said.

He was exasperated by the companies whose oil palm plantations saturated the sub-district he headed in Indonesian Borneo. Their managers refused to give him information, address complaints or even come to his office when called, he told me and my co-researcher Pujo Semedi.

His complaint was not unusual. Semedi and I were studying everyday life in [what we called the “plantation zone”](#)—part of the vast swathe of rural Indonesia that has been subsumed by oil palm plantations. One of our key findings, one reinforced by other academics and journalists, is that the companies that now preside over this zone routinely disregard the law.

A recent in-depth investigation by The Gecko Project, *Mongabay* and the BBC found widespread [non-compliance](#) with a 2007 regulatory requirement for companies to give a fifth of any new plantation to communities. [Scores of plantation corporations](#) provide less land—in plots known as “plasma”—than the law requires, develop it years late, or fail to provide any plasma at all.

This is no small matter. The government has issued oil palm plantation permits covering [22 million hectares](#), a third of Indonesia's total farmland. Corporations are expected to bring jobs and prosperity to rural areas, but they frequently prefer hiring migrant workers over local residents, claiming that they are more disciplined workers.

Plasma schemes are the principal means for villagers who have released their farm and forest land to oil palm corporations to obtain some benefit. If plasma does not materialise, villagers can be left with [nothing at all](#). If they are pulled into plasma schemes that are opaque or poorly managed they may be left only with debt, as corporations saddle them with the plantation's costs while paying out very little of the profits.

Their situation is not just radically unfair, it can be illegal—and yet it persists.

Companies ignore many other laws that have provisions to protect villagers and workers, researchers have found. In 2017, the Institute for EcoSoc Rights, a legal advocacy group, [compiled national laws and district-level regulations](#) that require companies to develop plantations at a distance from villages and waterways, clean up polluted rivers, and treat temporary workers fairly. It found that companies repeatedly ignored these laws, installing plantations right up to edges of hamlets, rivers and streams, failing to tackle pollution and refusing to make temporary worker contracts permanent after a probationary period, among other violations.

Indonesia has also signed many transnational treaties and covenants related to the environment and human rights. Yet according to [research by non-government organisations](#), companies' actions [violate these treaties and laws too](#).

Many plantation corporations do not even pay their taxes. In 2019, a senior official at Indonesia's anti-corruption agency, known as the KPK, [said that 40%](#) of palm oil companies were allegedly failing to do so. This month, the government [stated](#) that companies that control millions of hectares of oil palm plantations may be paying no tax at all.

Enforcement of labour law is [hampered](#) by the remote location of many plantations and the shortage of trained inspectors. Even egregious treatment amounting to [modern-day slavery](#) persists.

Corporate impunity, then, shapes the lives and livelihoods of millions of Indonesians, and causes irreparable harm to the environment. So, why are companies so rarely held to account?

How impunity manifests

Impunity does not mean the plantation zone is the Wild West. Rather than lawlessness, our research found that the law sits adjacent to a parallel system of informal rules that affect when and how the law is observed.

For villagers in the plantation zone, this means that although they technically have legal rights, they are unable to use them. A key challenge, we found, is that they lack the support of their village heads who provide crucial backing when they try to approach government departments, courts, or plantation managers.

Yet it is difficult for village heads to stand up for villagers. In the district where we conducted our research, village heads are formally appointed to "land release teams" and "coordination teams" set up to smooth corporate operations. The corporations pay them a monthly retainer, in addition to fees for services rendered. The village heads' superiors are members of similar coordination teams at the sub-district (*kecamatan*) and district (*kabupaten*) levels. Through these appointments, they join the payroll of companies that they are supposed to hold to account as villagers' representatives.

The sub-district head Semedi and I met had tried to use the law to advocate for villagers' rights. But he ran into companies that simply ignored the rules.

Before corporations can start developing plantations, they have to negotiate with villagers to acquire their land. Villagers sign "land release letters", a process overseen by the sub-district. With these letters in hand, the corporation can complete the licensing process, obtaining full rights to the land from the government and collateral for a set-up bank loan.

The sub-district head refused to sign a document needed to complete the land release process because, he said, the company had made no effort to comply with legal requirements. "There is supposed to be a plasma scheme, but the company has not made any commitments to [provide plasma] to the villagers," he told us. "There are no documents at all, although company bulldozers have already cleared the land."

Where companies made commitments to villagers, we found, they were verbal and vague. Villagers accepted them on trust because they had no capacity to insist that corporate promises must be legally enforceable. The sub-district officials whose job it was to oversee the process did not—or could not—perform their task. By taking a stand, the sub-district official we met risked antagonising his colleagues and superiors.

Officials from other sub-districts gave us similar accounts: when they attempted to insist on a point of law or support public demands for companies to follow the law, they faced transfer to other roles in which they would be even less effective. They were treated as mavericks, as people who somehow failed to understand the system.

What is this system of impunity?

How can we make sense of a regime in which the law is not implemented, and lawbreakers go unpunished?

Explanations centred on corruption fall short since impunity is systemic; it is not a matter of individuals and their misdeeds. Often no money changes hands, since there is no transaction but rather a failure to act. Specifically, there is a failure to verify that something that should have happened did in fact take place.

Collusion is closer to the mark, but it does not necessarily take the form of shadowy deals. A striking finding from our research is that collusion between the state and corporations also takes place through formal, institutionalised processes.

Corporations in our study site routinely paid out small sums of money to keep journalists, activist groups, villagers or officials who arrived at the plantation office at bay. But they also made significant payments in public.

As well as paying official retainers to “coordination team” members, they made “donations” to the staff of government offices at the district level, including those overseeing land, labour and the environment—the very agencies that should be overseeing them. They even made such payments to the police and army: bodies that routinely make an appearance when communities protest to defend their rights, sometimes with violent and fatal consequences.

The donations were not covert: department heads wrote to the plantation corporations on official letterhead in advance of religious holidays specifying the donations recommended for each staff member, according to their rank.

Such transactions create reciprocal relations that make officials reluctant to demand legal compliance from corporations, and still less to prosecute them. Their preferred course of action is to proffer advice and reminders, and not expect too much by way of response.

Many villagers and workers negatively affected by corporations have no faith in the law as a mechanism of redress. They have been schooled in the principles of what the political scientist David Bourchier calls the “[family state](#)”. Here, the state is the head of a family and citizens are wards with duties—notably the duty of obedience—but no effective rights.

In a family state, insisting on rights defined in law is a sign of disloyalty, as it questions the wisdom, authority and benevolence of the people in charge. Instead, villagers seek the protection of bureaucrats and politicians, and attempt to involve them as mediators.

Our research tracked several conflicts that villagers sought to resolve through mediation, none of which produced a successful resolution. [A recent major study](#) by academics from Indonesia and the Netherlands found a consistent pattern: of 150 plantation-related conflicts across four provinces, 73% were settled by mediation on an ad hoc basis, with scant reference to law.

The resulting settlements, the study found, rarely endured. Since the underlying issues remained unaddressed, villagers continued to demand their due while corporations refused to implement settlements that did not favour them.

As the global development scholar [Christian Lund](#) has argued, law is not irrelevant to plantation-related disputes. It is especially significant for villagers who are encouraged to take action because they are sure the law is on their side. Several villagers in our research site read laws and regulations

in detail, seeking protective clauses. But they had no capacity to insist that the law be implemented and were obliged instead to settle, temporarily, for what they could get.

Absence of counterforces

In the plantation zone, villagers' lack of capacity to insist on the implementation of protective law is partially rooted in the absence of organised counterforces, a consequence of the [catastrophic violence](#) meted out to members of the communist-linked Peasants' Front (*Barisan Tani*) and the plantation worker union Sarbupri in 1965-66.

During the 1950s these [unions](#) mobilised [successfully](#) to improve conditions for workers and supported the occupation of unused plantation concession land for settlement and farming. Their success was so significant that they reduced the profitability of the colonial-era plantations that had been nationalised and put under army management.

These were losses the army and its cronies were not prepared to tolerate, and union members were heavily targeted in the army-orchestrated massacres that consolidated the dictator Suharto's New Order rule. For the following decades, organised dissent was dangerous and to this day, the counterforces have not recovered.

Many Indonesian and international nonprofit groups offer villagers and workers legal aid, advocacy and mediation, but the size of the plantation zone and the frequency and severity of the problems far exceed their capacity. No organisation has the reach of the Peasants' Front, which reported [8.5 million members](#) before its annihilation in 1965.

One of the Front's most significant actions was to mobilise farmers to occupy land that should have been given to them [under the land reform provisions](#) of the 1960 Land Law. The Front insisted, in sum, that the law must be implemented. For this insistence, its members paid a terrible price.

Most contemporary oil palm plantations lack independent unions, and villagers have no village-level organisations or political parties to back them up when corporations fail to follow the law. Corporations use various [tactics to fragment villagers](#), notably by making false promises; identifying charismatic leaders and putting them on payroll as "company men"; or harassing and criminalising villagers until they give up the fight.

Worker and villager protests are ad hoc and difficult to sustain in the absence of organisational resources. Typically, they collapse when managers persuade protest leaders to agree to small concessions or pay-offs. Managers refer to this practice as "handing out Panadol", a medication to cool temperatures and make a headache go away without addressing the underlying source.

The result: corporate occupation

Routine illegality at the heart of Indonesia's state apparatus has been widely reported, and [researched in some depth](#). The scholars [Sarah Milne and Jacqui Baker](#) argue that, like several other Southeast Asian countries, Indonesia is not a "failed state". Rather, it is one run quite effectively—in ways that are antithetical to liberal ideals of the rule of law, transparency and accountability.

This observation does not make such a system acceptable, even in the eyes of its own citizens. The damage that impunity causes to villagers and workers in the plantation zone is severe. It is intensified by the spatial concentration of multiple corporations blanketing entire districts, and the significant flows of money they generate.

As [another investigation by The Gecko Project and Mongabay](#) showed, some major corporations have

obtained their licenses by supporting the election campaigns of district heads, generating relationships of reciprocal favours that are hard to break.

State-corporate, and often military, entanglement proceed at every level, down to the smallest hamlet. A state that does not stand outside the corporation cannot enforce the law. Semedi and I called the resulting formation “corporate occupation.”

Officials become collaborators of the occupying force. Villagers and workers who cannot remove the occupying force must learn to live with it, but they do not consider the outcome just. Our village interlocutors told us they had been betrayed by their government and the corporations which promised them benefits but brought only ruin. Their problem was that they had nowhere to take their grievances: corporations cause harm with impunity, and villagers and workers have no means of redress.

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