

The Toba Batak and Toba Pulp Lestari:

Seeking remedy through the International Labour Organisation



Briefing July 2020 | Marcus Colchester

Key Points

1. Toba Batak indigenous resin tappers

The Toba Batak, the indigenous people of highland North Sumatra, have harvested frankincense resin from their managed forests for millennia. The resin trade is ancient and lucrative and a mainstay of their economy.

2. Lands taken by Toba Pulp Lestari

Since 2004, the lands and resin forests of the Toba Batak community of Ompu Ronggur have been cleared and replaced by Eucalyptus plantations of Toba Pulp Lestari (TPL), owned by the Singapore-based Raja Garuda Mas group. Community protests have been ignored.

3. Violation of ILO Convention 111

This State-authorized land-grab and destruction of Ompu Ronggur's forests, constitutes a serious violation of ILO Convention 111, a core labour convention that prohibits discrimination in employment and protects 'traditional occupations'.

4. Ompu Ronggur complaint to ILO

With the help of the national plantation workers trades union, SERBUNDO, Ompu Ronggur has filed a representation with ILO. The case is now being adjudged by a special ILO panel.

5. Toba Batak demand return of their land

Ompu Ronggur is demanding the return of their customary lands and forests, in line with a precedent established by President Jokowi, who ordered the return of lands for the nearby community of Pandumaan-Sipituhuta, also taken by TPL.

6. Case is emblematic of Indonesian indigenous peoples

The case is emblematic of the situation of 70 million members of indigenous peoples in Indonesia, whose lands are routinely handed out as industrial concessions without consideration of their customary rights or traditional occupations.

Ompu Ronggur, a community of the Toba Batak, a highland people of North Sumatra with an ancient tradition of resin tapping from their agroforests, found in 2004 that all of their traditional territory had been allotted to a pulp and paper company, Toba Pulp Lestari, for establishing *Eucalyptus* plantations.



Signboard erected on the customary lands of the Toba Batak indigenous people which reads: State Forest Area - Work Area of Industrial Timber Plantation Permit of PT Toba Pulp Lestari Tbk Collaboration with the Ministry of Environment and Forestry and Provincial Forestry Office of North Sumatra Prohibited: clearing, burning, buying or selling land and other illegal activities in forest area.

Their repeated appeals to the Government for return of their lands have been ignored. TPL continues to clear their lands and forests, destroying their resin trees and other resources, thereby undermining their traditional occupations, and leaving them significantly impoverished.

With the help of the Toba Batak organisation, AMAN Tano Batak, the Indonesian Plantation Workers Union, SERBUNDO, and the international human rights organisation, Forest Peoples Programme, Ompu Ronggur has filed a complaint ('representation') with the International Labour Organisation (ILO) alleging that the Indonesian Government has violated its obligations under ILO Convention 111, one of the ILO's core conventions which protects workers from discrimination. By failing to protect the traditional occupations of the Toba Batak of Ompu Ronggur, which are underpinned and sustained by the lands

and natural resources in their traditional territory, and favouring the interests of industrial plantations, the Indonesian Government is contravening ILO C 111 as well as numerous other human rights standards it has agreed to uphold through ratifying international treaties.

Since the complaint was submitted, in August 2019, and although the ILO has accepted the submission, TPL has continued to clear Ompu Ronggur's lands and forests. Faced with this act of bad faith, the community has asked ILO to proceed to a 'decision on the merits' before it engages further with the government to resolve the land dispute. The case, which is emblematic of the situation of indigenous peoples throughout Indonesia, could be decided as early as June 2020.

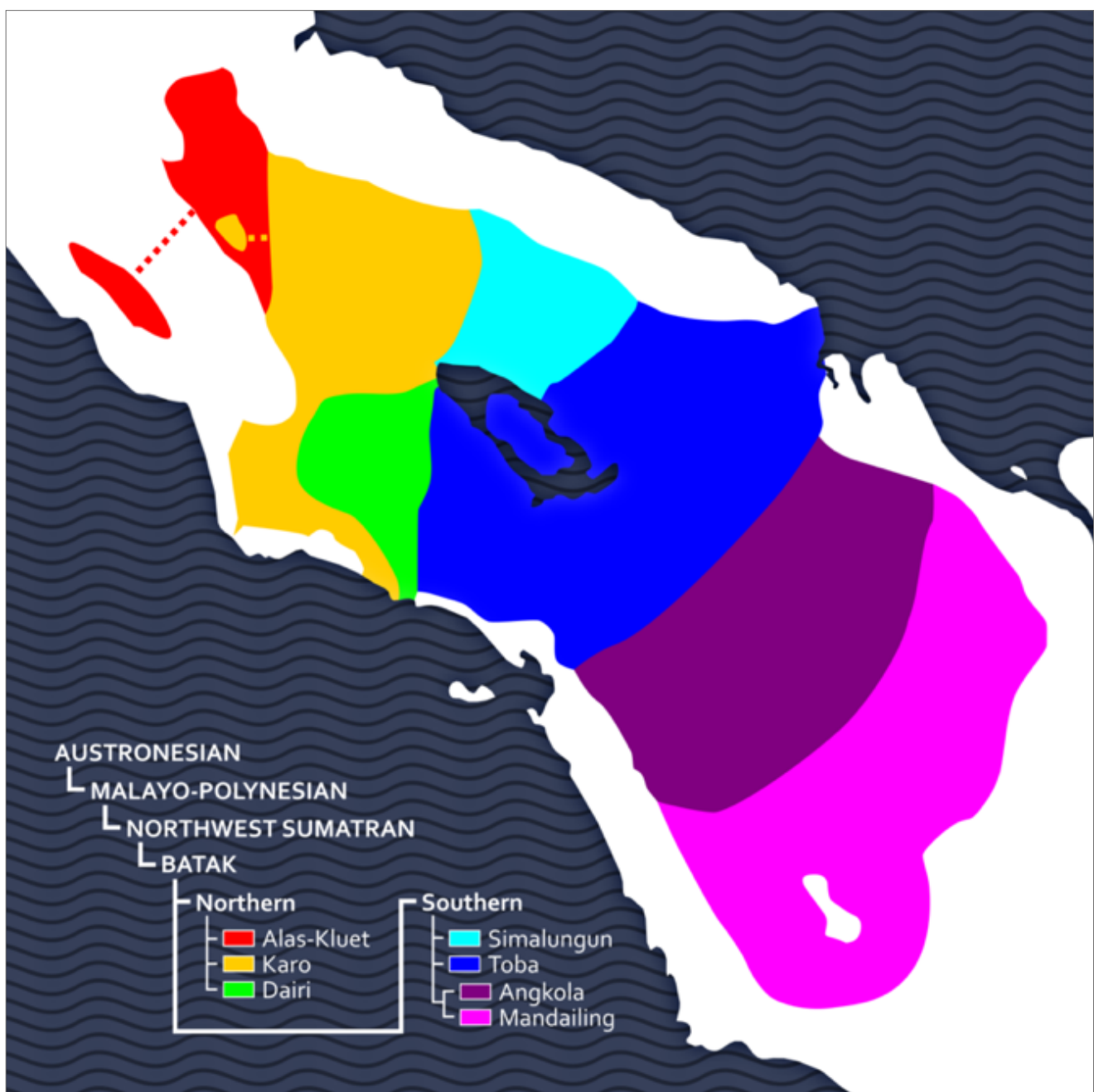
Toba Batak

The Toba Batak are one of six recognised Batak peoples who inhabit northern Sumatra. The Toba Batak are a highland people who live in the hills around the enormous volcanic caldera which has become Lake Toba. This highland area was long isolated from Dutch colonial control and as late as 1835 was formally recognised by the Dutch as an independent tribal area with defined boundaries.

However, as Dutch interests in land grew – the fertile upland area is very suited to tea, coffee and vegetable growing – the area came under increasing pressure. In the 1850s some lands nearer the west coast of Sumatra were annexed. In the 1870s, the Dutch offered to recognise local chiefs as Rajas in exchange for accepting colonial rule but the Batak refused and a series of short, brutal wars were undertaken to force the area to submit to Dutch rule. Despite numerous atrocities, armed resistance continued until about 1911. Dutch rule included concerted missionisation (most Batak are now Christians)

and the encouragement of coffee and cash crop production.¹ Forested areas were classed as forests but traditional resin production (see below) was relatively little affected as forest clearance and logging was not intense.²

Due to its isolation, the upland area was relatively little affected by the independence struggle of 1945-49 and it was incorporated into the Republic of Indonesia without the bloodshed that followed the Declaration of Independence elsewhere.⁴ During the rule of first President Sukarno some transmigration was promoted with the aim of encouraging the area's integration into the new nation state but otherwise the area enjoyed considerable autonomy. However, after Suharto assumed power in 1966 the area was opened to investors, of which one, the pulp wood company, Inti Indorayon Utama, later to become Toba Pulp Lestari (see below), was among the most prominent.



Map of Northern Sumatra showing the six Batak languages with Toba Batak area in dark blue.³



Most Toba Batak have mixed farming systems. Rice paddies complement forest-based livelihoods.

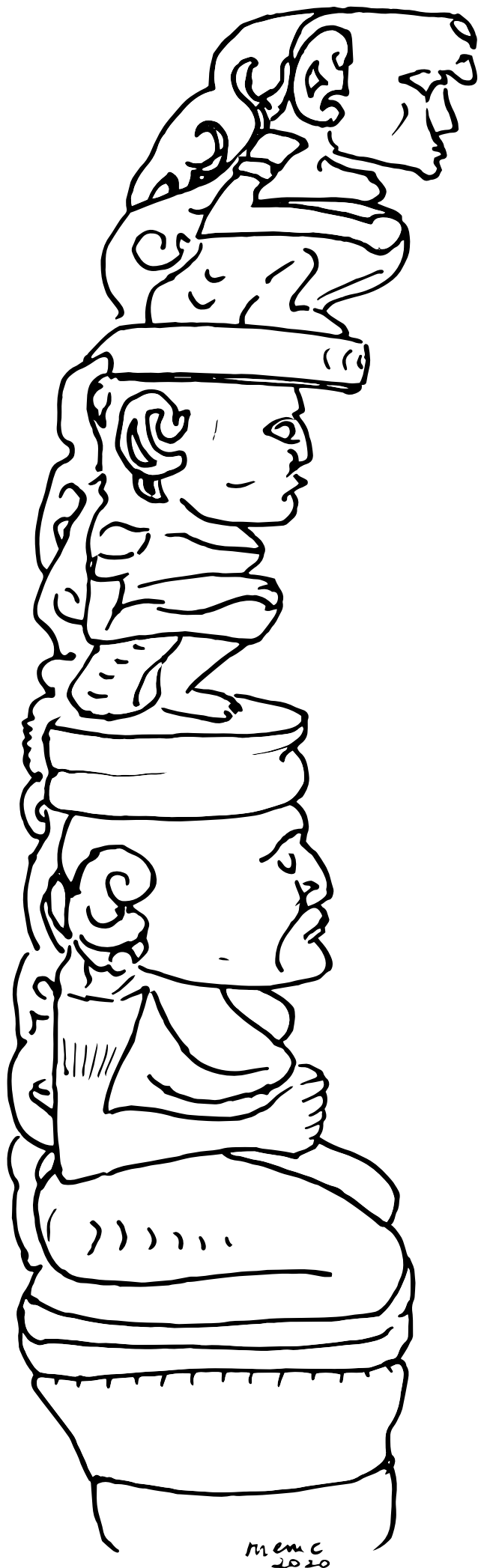
Toba Batak land management traditions

The Toba Batak have an intimate relationship with their traditional lands, which they manage through customary law and according to well cemented social norms of descent, kinship, marriage and inheritance. Defined villages (*huta*) established on previously unoccupied lands define the boundaries of village territories through prominent features agreed through negotiation and consent with neighbouring groups. The descendants of the original founder maintain the right to control these lands based on original occupation and customary laws.⁵ Within these village territories allocations of lands and forests are subject to agreements of village elders, collectively known as the *raja ni huta* (village rulers).

Unlike other coastal peoples in Sumatra, the Toba Batak have never had a tradition of being ruled through a single ‘king’ or ‘chief’ but have always maintained the autonomy of their villages under the authority of village leaders and councils. The only exceptions have come in times of war – notably when they rallied against the Dutch – when leaders of exceptional bravery and charisma have emerged as temporary chiefs of the whole people, at least in their dealings with outsiders and in organising common resistance.⁶



Toba Batak traditional house



Historically, the Toba Batak were a substantially independent people, reliant on their farmlands and forests to supply all their needs. Farmlands were allocated to the families who worked them and were inherited through the male line. Shifting cultivation of upland forests, combined with wet-rice cultivation in well irrigated valleys, supplied most of their staples, supplemented by fish and molluscs from lakes and rivers, game from the once-extensive forests, which also provided the medicinal plants and constructional materials they needed for making-houses, weaving baskets and floor mats and a myriad of other domestic purposes. The Batak also raised water buffalo, to help with ploughing rice paddies and to supply dairy products, and raised pigs, ducks and chickens.⁷ Grasslands were not just important for cattle-raising but provide grasses used for mulching, thatching and fodder.



After a brutal war the Toba Batak had to accept Dutch colonial rule

Most Toba Batak maintain these same ways of working their lands today. Although most Toba Batak have adopted various forms of Christianity, many also retain respect for their traditional beliefs. The Toba Batak's intimate ties with their lands are expressed through traditional proverbs and maxims, songs, myths and legends and an 'animistic' religion that seeks to maintain harmonious relations between the Toba Batak and the multi-layered spirit world around them composed of numerous deities, nature spirits and ancestral spirits. These beliefs and practices give meaning to, and provide sanction for, their social organisation and customary laws relating to acceptable behaviour and their use of the land. Decisions about marriages and other community concerns are approved by feasting, and when newcomers wish to settle in established territories they still seek the approval of customary authorities.⁹



Frankincense

Some of the earliest historical records of the Toba Batak relate to the lucrative trade in frankincense (benzoin) that the Toba Batak derive from the resin trees in their upland forests. Malay sultanates, set up on the west coast of Sumatra to mediate this trade between the highlands and India and the Middle East, trace these connection back to their origins in the 7th Century CE.¹⁰

These resin trees (*Styrax* spp) are native to Sumatra but the Toba carefully manage their forests to encourage their growth alongside other useful species, while thinning out others of less value to them. They also plant *Styrax* seedlings to further their proliferation. Over time, the forests (*tombak* in Toba) have thus become enriched with the valued resin trees. Specific stands have their traditional owners, those who manage the forests and gather the resin.¹¹

As much as 4,000 tonnes of benzoin resin are produced each year in the Sumatran highlands from an estimated 20,000 hectares of resin forests (*kebun kemenyan* in Indonesian). This provides an important income for some 18,000 households in some 120 Toba Batak villages. The resin is tapped by the tree farmers cutting the trees' outer bark once annually and then harvesting the exuded resin up to three times in the year. Trees start to be productive after 7 years and continue to produce for up to 60 years. Depending on the density of planting and the carefulness of management (the trees thrive when better cared for) resin tappers can harvest between 40 and 300 kilograms of resin per hectare. Various studies estimate that resin tapping provides between 30 – 70% of rural Toba Batak incomes.¹²

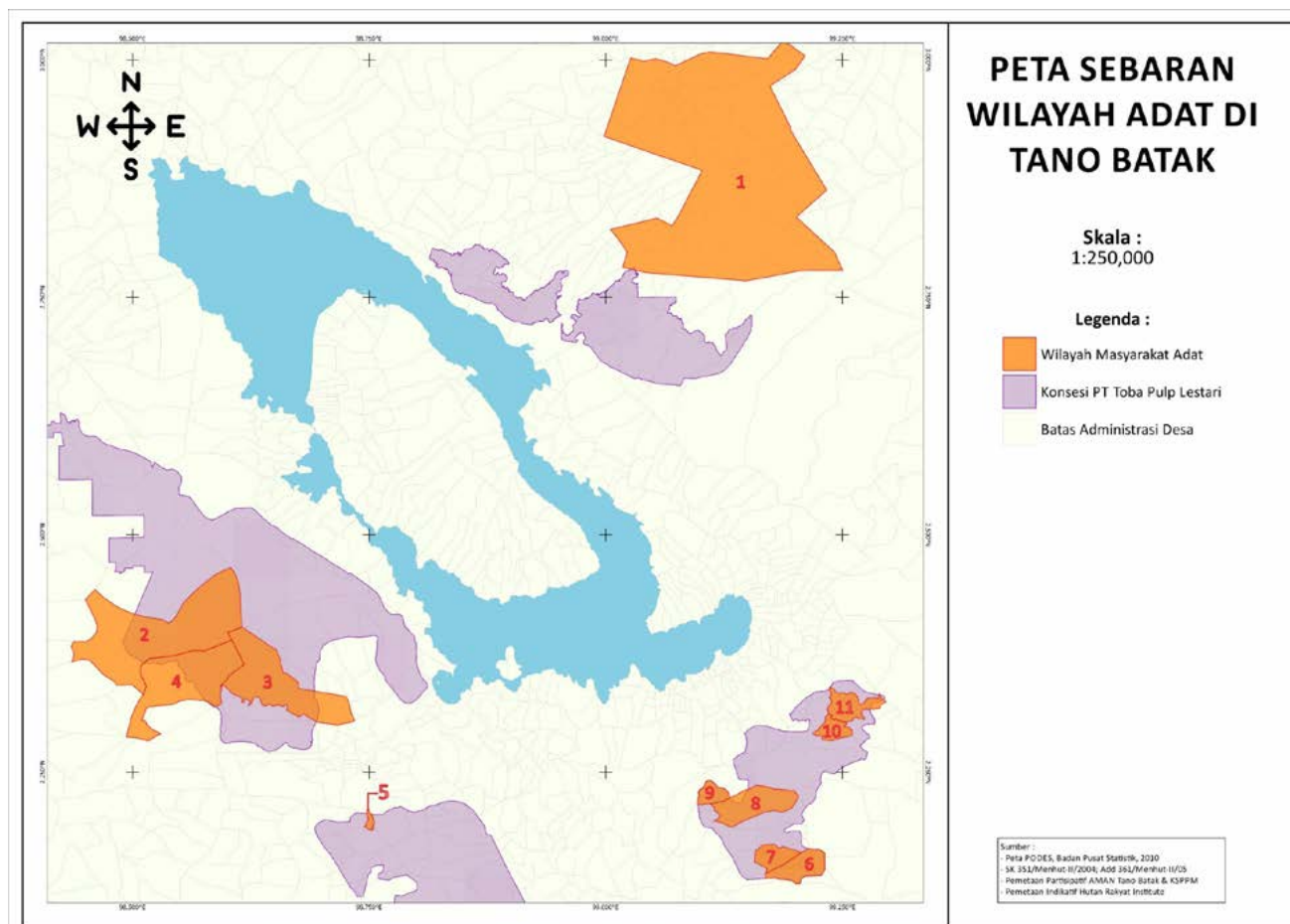
Toba Pulp Lestari

Toba Pulp Lestari was originally incorporated in Indonesia in 1983 as PT Inti Indorayon Utama as part of Indonesian billionaire Sukanto Tanoto's Singapore-registered Raja Garuda Mas (Royal Golden Eagle) group, which also owns the giant pulp and paper company, APRIL, operated in Indonesia by PT Riau Andolan Pulp and Paper in the Sumatran lowlands to the east.^{13 14} The company was set up to produce rayon from extensive *Eucalyptus* plantations.¹⁵ Beset by controversy from the start for pollution and land grabbing, and associated demonstrations and legal suits, the company was protected during the Suharto era. Protests by the Toba Batak were suppressed by police violence including beatings, shootings and even deaths.¹⁶ After the fall of the Suharto regime, the company changed its name to Toba Pulp Lestari tbk (TPL) but continued to produce paper pulp at its mill and to expand its *Eucalyptus* plantations, which currently extend over 184,000 hectares.¹⁷

Since the early 2000s, about 11 of the 33 Toba Batak communities whose traditional territories have been overlaid by Toba Pulp Lestari concessions have been vociferously demanding the return of their lands. With the help of the national indigenous peoples' organisation, AMAN, and local NGOs, they have taken their concerns to local government, to the Ministry for Environment and Forestry, to the national human rights commission and have made direct appeals to the President himself.¹⁸ Consequent to a historic ruling in Indonesia's Constitutional Court (MK 35/12), which recognised that where customary territories overlap forests these areas should be classed as 'customary forests' and not be considered 'State Forest Areas', the President ordered the recognition of the forests of one Toba Batak community, Pandumaan-Sipituhuta (no. 3 on the map), as 'customary forest' and that it be excised from TPL's concession.¹⁹ This order has been partially fulfilled but the lands of the other communities overlapped by TPL's concessions have yet to be restituted.



TPL's Eucalyptus plantations have replaced the Toba Batak's resin forests



Ompu Ronggur

One of the Toba Batak communities that has been most steadfast in its 15 years of resistance to TPL's plantations is the community of Ompu Ronggur, whose traditional territory, Huta Aek Napa (no. 7 on the map) is wholly overlapped by one of TPL's concessions. Assisted by the local chapter of the national indigenous peoples' organisation, AMAN Tano Batak, and researchers, anthropologists and lawyers from Forest Peoples Programme, in 2018 the community decided to file a 'representation' to ILO claiming that the Government of Indonesia, by handing over its lands to TPL without consideration of their traditional occupations was violating its obligations under ILO Convention 111 (see box).

International Labour Organisation and ILO Convention 111

The ILO is a Geneva-based intergovernmental organisation set up in the 1920s which develops, and seeks to enforce, international agreements ('conventions') about the rights and conditions of employment of workers. It is unique in having a tripartite structure, comprised of governments, companies ('employers') and workers ('employees'). Governments which ratify ILO Conventions thereby commit to make these part of national law and are expected to report every 2-4 years on how they apply them. Governments are subject to oversight by a Committee which reviews countries' performance. Serious violations may also be brought to the attention of the International Labour Conference, the body which governs ILO.

ILO has been concerned about the condition of indigenous and tribal peoples since the 1920s when it began making efforts to curb the grossest forms of exploitation of 'native peoples' during the colonial era. It was initially concerned to stop slavery and slavery-like practices. In 1957 ILO adopted a Convention (No. 107) on Indigenous and Tribal Populations, which has an integrationist orientation but acknowledges that Indigenous Peoples' land rights derive from custom and requires governments to respect these land rights. In 1989, a revised Convention (No. 169) on Indigenous and Tribal Peoples was adopted, more aligned with emerging human rights norms as applied to indigenous peoples. Indonesia has ratified neither ILO C 107 nor ILO C 169.

ILO 'Convention concerning Discrimination in Respect of Employment and Occupation' (ILO C 111) is one of six core labour conventions and was adopted in 1958. It came into force in June 1960. It seeks to prevent any discrimination against people in employment and other occupations.

The ILO interprets ILO C 111 as protecting the 'traditional occupations' of indigenous peoples and encourages the use of ILO 111 as a way for Indigenous Peoples to raise concerns about their conditions when countries have not ratified ILO C 107 or C 169. The ILO is aware that most 'traditional occupations' of indigenous peoples depend on them having access to their customary lands and the resources that they depend on.²⁰ Indonesia has ratified Convention 111.

Ompu Ronggur, named after its founder and member of the Simanjuntak clan, was established as a community long before the Dutch colonial presence. After the Dutch arrived some of the community moved down to live alongside the newly built roads that connected the Toba Batak to the coast but they maintained their farmlands and resin forests in their ancestral territory. After Indonesia gained its independence, the Toba Batak population increased rapidly resulting in land scarcity. In common with many other Toba Batak,²¹ during the 1950s the people of Ompu Ronggur agreed to share their lands with Toba Batak settlers from another lineage from the same Simanjuntak clan. While their economy diversified as a local market economy gradually developed and wage labouring opportunities drew many to towns and other parts of Indonesia, the majority maintained their mixed-farming economy. All that was to change when, in 2004, heavy machinery from Toba Pulp Lestari moved onto their lands.



After the clear cut of Eucalyptus, soil erosion pollutes local streams

Violations of ILO Convention 111 by the Government of Indonesia

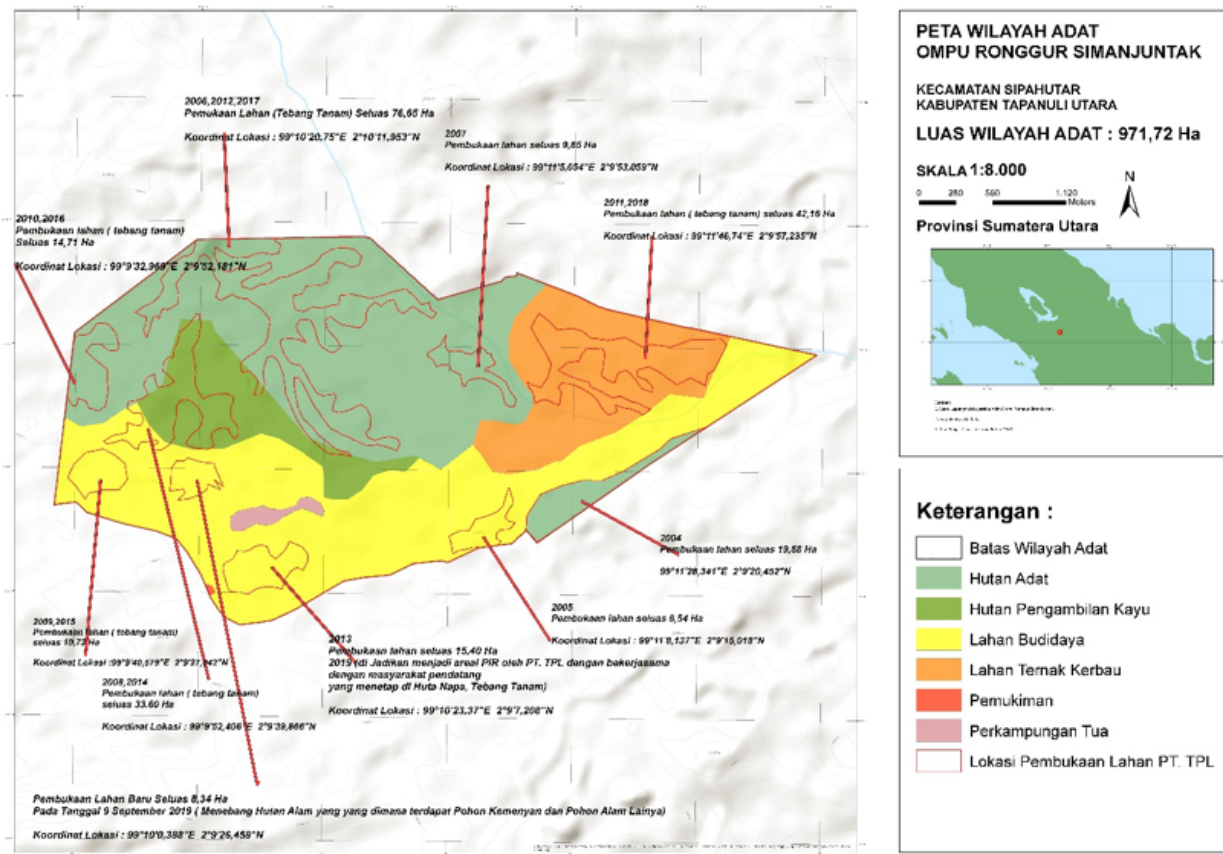
ILO C 111 protects workers, including those engaged in ‘traditional occupations’, from discrimination (see box above). The ILO signals that the Convention has special relevance to indigenous peoples. As the ILO notes:

*Access to land and natural resources is generally the basis for indigenous peoples to engage in their traditional occupations. Recognition of the ownership and possession of the lands which they traditionally occupy, access to land which they have used for traditional activities, and measures to protect the environment of the territories they inhabit are therefore crucial with a view to enabling indigenous peoples to pursue their traditional occupations.*²²

The exceptionally detailed representation submitted to the ILO summarises the legal framework in Indonesia and explains that other UN human rights bodies, and Indonesia’s own Human Rights Commission, have consistently found systematic discrimination against indigenous peoples in favour of the interests of industry, including discriminatory laws and procedures and the manner in which they are applied.

The Toba Batak of Ompu Ronggur have experienced exactly this kind of discrimination. Their Constitutionally recognised rights have not been protected. Their customary lands, which underpin and sustain their traditional occupations, have been handed over to TPL, without even consultation with the traditional owners. Repeated appeals by the community to the Government since 2004 to protect their rights have all been ignored. Their forests and farmlands have been cleared, making their traditional occupations, notably resin collecting by men, mat weaving by women as well as farming and wet rice cultivation, impossible. Consequently the people have been significantly impoverished. The people of Ompu Ronggur are also clear what they want, they want the Government to:

*Respect our rights, our customary lands, the lands belonging to Ompu Ronggur need to be returned. Our survival depends on these lands. Things are now very difficult and only look like they will get worse. There is no more land left and our ability to maintain and practice our traditional occupations, our livelihoods, are already very restricted, and in some cases impossible. If our lands are not returned, where are we going to go? If we cannot practice our livelihoods in peace and security in our own traditional lands, how we will live? What will be left for our future generations? Our culture and our identity, which are fundamentally related to our lands, are already threatened. Our names contain our clan and the name of our buta, that is how closely our lands are connected to our identity and survival. What will be left of us if we cannot securely enjoy our land and traditional occupations without living in constant state of fear and anxiety that today or tomorrow or next week TPL will come and cut down or take what little remains?*²³



Map showing the boundaries of traditional territory (Batas Wilayah Adat), the customary forests (Hutan Adat), timber collection forests (Hutan Pengambilan Kayu), cultivated area (Lahan Budidaya), buffalo grazing areas (Lahan Ternak Kerbau), settlement (Pemukiman) and old village site (Perkampungan Tua), the locations cleared by TPL for its Eucalyptus plantations between 2004 and 2020, as indicated by dated arrows.



Community members sign the petition to the ILO

Official Response

In accordance with ILO procedures, the community of Ompu Ronggur submitted its representation to the ILO through the Medan-based trades union, SERBUNDO, the Indonesian Union of Plantation Workers²⁴. Submitted in August 2019, the submission was deemed admissible by ILO in November the same year.

Also in accordance with ILO's procedures, ILO informed the Indonesian government about the representation which led to SERBUNDO being contacted by the Indonesian Ministry of Foreign Affairs, in October 2019, and then, in November 2019, to a demand from the Directorate General for Promoting Industrial Relations and Social Security of the Workforce of the Indonesian Ministry for Manpower for a meeting in Jakarta, attended by SERBUNDO and AMAN Tano Batak, at which the substantive concerns of the community were at least made clear.

When ILO contacted SERBUNDO officially accepting the submission, it also offered to initiate a procedure of 'voluntary conciliation' rather than immediately take the case forwards for a formal decision. The community of Ompu Ronggur however was adamant that they don't want to negotiate with the government until the ILO has made its decision on the merits of their case. 'This is yet another example of how the government does not recognize us or respect our rights. Despite the fact that we have been complaining for 15 years, since 2004, we have never had any response'²⁵, they wrote, noting that the Government had never heeded their demands and that, even after they filed their representation, TPL had re-entered their territory on 8th September 2019 and cleared more land for plantations. ILO has now formed a tri-partite committee to investigate the complaint and a decision could be reached as early as June 2020.



Although Toba Batak trace descent through the male line, women are respected community members

Ways forward

The Toba Batak of Ompu Ronggur are clear that what they want from the government and the company is the return of their customary lands and not empty promises of jobs and other purported benefits. The case of Pandumaan-Sipituhuta already provides a precedent for what should be done. As Indonesian Commissioner for Human Rights, Sandrayati Moniaga, declared in the previous case:

*The company should be transparent about their concession areas and open a dialogue with local people to verify the areas. Whether this is customary lands or not? If it is [a customary land], then there should be an agreement. If local people refuse, then they should leave, if they agree for partnership then proceed.*²⁶

As the area is the customary territory of the Toba Batak of Ompu Ronggur it too should be excised from 'State Forest Areas' and from TPL's concession and declared a 'customary forest'. There should then be a negotiation for the gradual withdrawal of the company from Huta Aek Napa once it has harvested its trees and compensation made for damages and losses.

The lessons from the TPL case also need to be heeded by the Ministry of Environment and Forestry. The situation of Ompu Ronggur is emblematic of the situation of indigenous peoples throughout the archipelago.²⁷ Customary rights must be respected. Lands must be restituted. Imposed concessions must be amended or annulled. Negotiated, good faith agreements must be reached between investors and communities before any further such business ventures are introduced, in line with the international human rights principle of Free, Prior and Informed Consent. The Toba Batak have been insisting that their customary rights should take precedence over imposed concessions ever since the Dutch first tried to impose tea plantations in Silindung in 1920s. In that case, too, the colonial government backed off.²⁸

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This work is supported by funding from
Norway's International Climate and Forest Initiative