

**act:onaid**

# **WOMEN'S RIGHTS VIOLATIONS**

## **IN DUTCH PALM OIL SUPPLY CHAINS:**

### **THE CASE OF GUATEMALA**

**OCTOBER 2020**

**The true cost  
of palm oil**

**A dire need for  
mandatory human  
rights due diligence  
legislation**



### About this report

This report was compiled by ActionAid Netherlands and ActionAid Guatemala. It presents documented human rights violations through palm oil production in Guatemala and the links that exist between these violations and the Netherlands through the palm oil value chain and the Port of Rotterdam.

This report is based on research conducted by Diana Quiroz, Barbara Kuepper and Eline Achterberg from Profundo, with contributions by Geisselle Sánchez Monge, Lourdes Gómez Willis, Danny Wijnhoud, Kelly Groen, Ward Warmerdam, and Jasmine Arnould.

This report was reviewed by Laura Hurtado, Maria van der Heide, Rachel Noble and Rachel Walker.

*Worldwide, the palm oil industry has a track record of devastating impacts on women, their communities and the environment. Systematic human rights violations, persecution of human rights defenders, and the loss of forests and biodiversity are threatening the way of life and wellbeing of people displaced by and living around palm oil plantations. These violations impact entire families and communities. However, not enough attention has been paid to how new dynamics, caused by the palm oil industry, have deepened gender inequalities and how the destruction of the natural environment and rights violations by the palm oil industry have hit women hardest. Women are experiencing deteriorating living conditions, increased workloads and destroyed livelihoods. On top of that, women also face increased levels of gender-based and sexual violence while being at the forefront of defending their own and their communities' rights. This report is a result of the collective work of ActionAid Netherlands and ActionAid Guatemala based on research conducted by Profundo. The testimonies presented here were compiled from interviews with Guatemalan women and other members of indigenous communities affected by palm oil production destined for the Dutch market via the Port of Rotterdam. The interviews were conducted between 2018 and mid-2020.*

**Photographs:** Rafael Gonzalez, Fabio Erdos & Jamy Osinga/ActionAid

The women and families portrayed are all from communities affected by the Guatemalan palm oil industry. ActionAid supports the communities in this area. The quotes in this report do not necessarily correspond with those portrayed.

### Acronyms

**ESG** – Environmental, Social and Corporate Governance

**FMCG** – Fast Moving Consumer Goods

**FoEI** – Friends of the Earth International

**GBV** – Gender Based and Sexual Violence

**HRDD** – Human Rights Due Diligence

**IACHR** – Inter-American Commission on Human Rights

**NDPE IRF** – No Deforestation, No Peat and No Exploitation Implementation Reporting Framework

**OECD** – Organisation for Economic Cooperation and Development

**OHCHR** – Office of the High Commissioner of Human Rights

**P&C** – Principles and Criteria

**RBC** – Responsible Business Conduct

**RSPO** – Roundtable on Sustainable Palm Oil

**RVO** – Dutch Enterprise Agency

**UN** – United Nations

**UNGC** – United Nations Global Compact

**UNGP** – United Nations Guiding Principles on Business and Human Rights

**WHRD** – Women Human Rights Defenders

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>04</b>
<b>1. Palm oil is everywhere!</b>	<b>08</b>
<b>2. The true cost of palm oil</b>	<b>14</b>
<b>3. Women's rights abuses in Guatemalan palm oil production</b>	<b>30</b>
<b>4. The role of Netherlands-based companies</b>	<b>38</b>
<b>5. A dire need for mandatory human rights due diligence legislation</b>	<b>62</b>

# EXECUTIVE SUMMARY



Over the last three decades, palm oil has become the most widely used vegetable oil worldwide. In the past five years, Guatemala became the sixth top producer of palm oil worldwide, producing 852,000 tonnes in 2019/20.<sup>1</sup> The Netherlands is the largest importer of palm oil in the European Union and Guatemala has become an important trading partner for the Netherlands. In 2019 the EU imported 438,000 tonnes of palm oil from Guatemala,<sup>2</sup> which is over half of Guatemala's total production. These imports were mainly handled by Netherlands-based companies,<sup>1</sup> importing through the Port of Rotterdam a total of 43% of all palm oil produced in Guatemala.<sup>3</sup>

However, the immense popularity of palm oil comes at a high environmental and social price. While multinational companies benefit from the low production costs of palm oil, this has come at the expense of workers, peasants, indigenous communities, and women in particular. Specifically, the production of palm oil results in severe human rights abuses, including land grabs, unfair treatment of workers, violence and retaliation against human rights defenders, and violations of indigenous people and women's rights. Moreover, palm oil plantations and palm oil mills can have devastating impacts on natural resources. Through deforestation, loss of biodiversity, water depletion and contamination, the plantations and mills in palm oil production further threaten the livelihoods of peasant and indigenous communities in Guatemala.

The evidence presented in this report reveals the human

rights violations associated with palm oil production in Guatemala, and in particular the disproportionate impacts of these violations on women:

**1.** Women are exposed to high levels of institutional and sexual violence.<sup>ii</sup> Women human rights defenders (WHRDs) who denounce violations by the palm oil sector and defend their rights are criminalised through prosecution, stigmatisation, and prejudice. These women also suffer institutional violence through the systematic infringement of their right to safety, wellbeing and bodily autonomy and integrity. Moreover, women and girls in these contexts are especially vulnerable to rape and sexual exploitation.

**2.** Palm oil production threatens women's livelihoods. Women living in the vicinity of plantations face increased

difficulty to source firewood or forest products, such as medicinal herbs, following the clearing of forests in order to make room for the palm oil plantations. They are also often forced to pay or to walk longer distances in order to access clean water, as the plantations use significant proportions of clean water for palm oil production and pollute the water that returns as residue. Women struggle to provide food for their families, as the plantations have grabbed the land women used for small scale food production and food prices have risen.

**3.** Palm oil production has increased women's already heavy workload. Women are finding that making a living and conducting care & domestic work has become a major challenge, and now costs much more time, in the newly restricted conditions since the arrival of the palm oil industry. The time women spend working at the plantation is added to the increased time they spend taking care of their families and doing domestic work, due to the new challenge of accessing nutritious food and clean water. Even when women are not employed at the plantations, they have seen their workload increase, not only because they have to care for their male relatives who work for the industry, but also as a result of their increased unpaid care & domestic work. Moreover, as their partner's income is often not enough to provide for their families, women are forced to find ways to earn additional money.

**4.** Women do not only suffer as a result of the negative impacts associated with palm oil production, they also have limited access to the few benefits that palm oil production yields for those living around a palm oil plantation, such as employment. There is a significant gender gap in labour force participation and decent work opportunities within the palm oil industry and palm oil producers employ mostly men. In Guatemala, women make up between 0.75 percent and 2 percent of the total workforce employed on palm oil plantations. Moreover, if hired at all, women are usually hired for jobs such as cooking and cleaning. Because these jobs are considered "low skilled", women get paid lower wages than other plantation workers conducting equally heavy tasks.

These women's rights violations take place in and around palm oil plantations in Guatemala, but can be linked to major multinational companies trading palm oil and related products around the world, through their supply chains. By continuing to source from violating palm oil plantations and palm oil mills without addressing the harm done, multinational companies are complicit in the ongoing adverse impacts on women's lives.

This research found links between seven palm oil mills in Guatemala, connected to documented evidence of human rights violations, and at least five Netherlands-based companies. The five Netherlands-based companies include three palm oil refineries located

within the Port of Rotterdam, namely AAK, Bunge and Cargill, as well as consumer brands, such as Unilever and Nestlé. Under the UN Guiding Principles on Business and Human Rights (UNGPR), all companies, including the five aforementioned, have a duty to respect human rights by conducting human rights due diligence (HRDD). HRDD is a process enacted to identify, mitigate, prevent and address adverse human rights impacts in their supply chains. Especially in this case, HRDD should be conducted in a gender responsive way given the enormous adverse impacts on women's rights associated with palm oil production. Governments have a duty to protect human rights under the same international guidelines and have a commitment to protect women's rights and further gender equality, under international law. However, the Dutch government has so far relied on voluntary measures, such as certification schemes, in order to ensure respect for human rights by companies. The evidence offered by this research report suggests that voluntary measures, such as the Roundtable on Sustainable Palm Oil (RSPO), fall short and that the five companies researched have failed to adequately conduct HRDD. Moreover, the evidence shows that these companies have not made sufficient efforts to identify and end adverse impacts on women's rights occurring in the production of palm oil in Guatemala of their supply chains. This is unacceptable. ActionAid is calling on Netherlands-based companies and policymakers to make sure palm oil supply chains are free of women's rights violations.

#### We urge Dutch policymakers to:

- Adopt and implement mandatory human rights due diligence legislation that is carefully designed to lead to transformative change for women and avoid gender equality and women's rights becoming a tick-box exercise within the due diligence processes of companies.<sup>4</sup>
- Integrate a gender perspective in the drafting of and negotiations for the UN binding treaty on Business and Human Rights, including mandatory gender impact assessments, gender-sensitive remedy mechanisms and the protection of human rights defenders.
- Require Netherlands-based companies that make use of government support to invest, operate or source from Guatemala to conduct gendered due diligence.
- Hold state-owned enterprises, such as the Port of Rotterdam, to a higher standard by requiring them to lead by example and fully meet their human rights obligations, to adopt policies and processes to address abuse, including a policy commitment to gendered human rights due diligence and gender-sensitive remediation when harm occurs, which are integrated throughout their operations.
- Monitor and respond to human rights violations and strengthen human rights defenders' protection mechanisms, in the Netherlands and abroad.

<sup>i</sup> Netherlands-based companies include all companies that operate in or have facilities in the Netherlands but are not necessarily Dutch enterprises.

<sup>ii</sup> Institutional violence is a form of violence whereby social structures and institutions may harm people through creating conditions preventing them from attaining their basic needs.



- The Dutch embassy in San José, Costa Rica should provide guidance and support on women's rights to Netherlands-based companies that operate in or source from Guatemala, particularly in the palm oil industry.
- The Dutch embassy in San José, Costa Rica should foster a close relationship with social and community organisations in Guatemala to understand the impacts of the palm oil industry on their livelihoods.

**We urge Netherlands-based palm oil refineries and manufacturers that use palm oil to:**

- Conduct gender responsive human rights due diligence of their palm oil supply chains in accordance with the six steps of the OECD Guidelines on Multinational Corporations and the UN Guiding Principles on Business and Human Rights.<sup>5</sup>
- Engage and work with suppliers to improve their practices and ensure they have the (financial) capacity

- to prevent and address harm.
- Suspend purchasing from palm oil suppliers that do not resolve issues and do not provide affected communities with access to effective remedy for damages suffered.
- Implement palm oil traceability standards and transparent monitoring that extend beyond the Roundtable on Sustainable Palm Oil certification standards.
- Guarantee compliance with national laws and international conventions and standards ratified by Guatemala, on the protection of human rights defenders.
- Develop and implement rigorous women's rights and labour rights policies to ensure that the rights and wellbeing of women are protected across the supply chain, whether as workers or as community members living among and around sites of production.



# 1. INTRODUCTION PALM OIL IS EVERYWHERE!

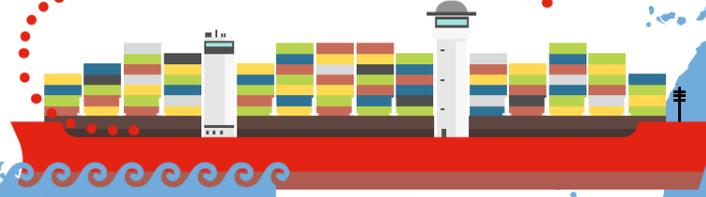
Living a single day without consuming palm oil has become nearly impossible. Shampoo, biscuits, pet food, cooking spray, coffee creamer, cosmetics, and biodiesel: palm oil can be found in products that we use every single day.

# PALM OIL SUPPLY CHAIN



GUATAMALA

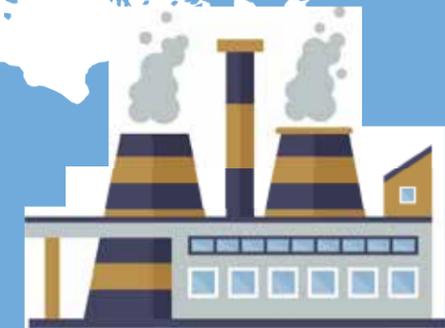
Once harvested, these fruit bunches are brought to mills in Guatemala for processing and storage



From there the crude palm oil is transported by boat



to refineries such as the ones near the Port of Rotterdam (43 percent) in the Netherlands



After the palm oil is refined, fat compounders in the Netherlands or elsewhere in Europe further process the oil to make it suitable for use in various products



The refined and processed palm oil is then used by producers of “fast moving consumer products”, such as Unilever and Nestlé, in the Netherlands– such as food we find in the supermarket, cosmetics and hygiene products – as well as for animal feed and biofuel.

Within three decades, palm oil has become the most widely used vegetable oil worldwide. Between 1989 and 2019, its global production increased from 9.3 million tonnes<sup>6</sup> to 74 million tonnes.<sup>7</sup> This is not surprising: palm oil can be harvested all year round and has a high yield per hectare of land, making it a relatively inexpensive crop to produce. On top of that, palm oil can be fried without spoiling<sup>8</sup> and blends well with other oils,<sup>9</sup> and its saturation level is ideal for creating products that can be kept at room temperature. Palm oil also behaves as a natural preservative in food, as a foaming agent in hygiene products, and as a powerful adhesive.<sup>10</sup> All of this makes palm oil an efficient crop that can be used in a wide variety of products, which explains its popularity. But this cheap oil comes at a great cost, and the people displaced by and living around palm oil plantations are paying the price.

## From plantation to consumer: the palm oil supply chain

How does palm oil end up in the products we consume? The road from plantation to consumer is complex, and involves many different plantations, mills, transporters, refiners, traders, processors, manufacturers, retailers and, lastly, consumers.<sup>11</sup>

Between 1989 and 2019, the global palm oil production increased from 9.3 million tonnes to 74 million tonnes.

## From plantation to consumer: the palm oil supply chain

Palm oil is obtained from the fruits of the African palm tree (*Elaeis guineensis*), which is grown on plantations in tropical countries. Palm trees start to produce large clusters of fruit after about three years. When the tree is four to six years old, it produces about 15 fresh fruit bunches a year, each weighing about 20 kg. Production begins to decline after 20 years.

Once harvested, these fruit bunches are brought to mills for processing and storage, and from there the crude palm oil is transported to refineries such as the ones near the Port of Rotterdam in the Netherlands. After the palm oil is refined, fat compounders in the Netherlands or elsewhere in Europe further process the oil to make it suitable for use in various products.<sup>12</sup>

The refined and processed palm oil is then used by producers of “fast moving consumer goods” – such as the food we find in the supermarket, cosmetics and hygiene products – as well as for animal feed and biofuel. Not all the palm oil that is imported through the Port of Rotterdam ends up in products sold in the Netherlands, since much of the refined and processed oil is exported to other EU countries.



### Methodology

The goal of the research presented in this report is to expose the adverse impacts on women's rights through palm oil production in Guatemala and to draw attention to the responsibility of Netherlands-based companies linked through the palm oil supply chain to prevent and address these adverse impacts in order to affect meaningful change in the lives of these women. To investigate those links, we conducted extensive desk research, including a supply chain analysis of Netherlands-based companies that trade in or use palm oil. In addition, we conducted interviews with affected women from communities in Guatemala, as well as focus group discussions with women from five communities, and confirmed their claims through secondary sources. All companies were actively engaged for feedback and due hearing. In this report, the names of the women who participated in our study, are anonymised to guarantee the safety of the communities.



## 2. THE TRUE COST OF PALM OIL

While in Europe people are able to buy cheap peanut butter that does not need stirring first and silky shampoo that foams perfectly, companies are making immense profits at the expense of the rights of Guatemalan women and their communities. The global demand for palm oil has led to large-scale deforestation, water contamination and entire communities losing their lands and becoming displaced.



The palm oil industry is guilty of violating a wide range of human rights. Human trafficking, land conflicts, violence against rights defenders and other systematic abuses severely impact communities in palm oil producing areas.<sup>13</sup> Adding insult to injury, palm oil plantations often choose to clear forests, rather than plant on readily available fields. This is a major catalyser of the climate crisis and the extinction of plant and animal species.

This report highlights the detrimental effects that palm oil production has on local and indigenous communities in Guatemala, whose human rights to land, health, clean water, food, decent work, and self-determination are continuously under attack and violated. Their lands have been taken away from them and turned into massive monocultures that threaten both the environment they depend on and their human rights. Based on the interviews with affected women, this research has found seven palm oil mills in Guatemala accused of human rights violations, which are linked to Netherlands-based companies through their supply chain.

#### **The loss of Guatemalan lands and forests**

Palm oil production first came to Guatemala in 1988, when plantations that previously produced cotton and bananas switched to palm oil, as it was seen as more profitable. Within three decades, palm plantations extended over a surface of 180,479 hectares, an area of about 300.000 football pitches or 1.2 times the size of the Dutch province Utrecht. Guatemala is divided into 22 departments which in turn are divided into 340 municipalities. About 80 percent of all palm plantations in Guatemala are concentrated in the department of Petén and in the Northern Lowlands, which consists of the departments of Alta Verapaz, Quiché and Izabal. This region is mostly the territory of the Mayan Q'eqchi, an indigenous community. Much of the land that is now occupied by palm oil monocultures was once in the hands of indigenous communities. Using different forms of land grabbing – such as buying the land from individuals or large-scale appropriation using violence and deceit – palm oil producing companies have grabbed the land of the communities that have historically lived on these lands.

#### **Palm oil mills in Guatemala associated with human rights violations**

- **Corporación Uniaceites:**

Corporación Uniaceites Sociedad Anónima (Corporación Uniaceites) is one of several ventures belonging to the Moran family – one of Guatemala's economic elites and a major player in the country's extractive industries. The company has its headquarters in Guatemala City and is part of the 'soap and other detergent manufacturing' industry. The company reportedly has a total of 12 employees across all of its locations and generates US \$ 4.17 million in sales.<sup>14</sup> Its palm oil mill was established in 2015 in the municipal limits of Sayaxché and the new municipality of El Chal, on the San Jorge Los Magueyes farm, near the San Juan River.<sup>15</sup> Currently, Uniaceites is not a member of GREPALMA<sup>16</sup> and neither is it RSPO-certified (nor is it in the process of becoming RSPO certified).

- **Industria Chiquibul (Unisource Group):**

Industrias Chiquibul began operations in 2011. It operates a mill located on the border of the Petén and Alta Verapaz departments with a processing capacity of 120 MT FFB per hour.<sup>17</sup> The company reportedly has 300 total employees across all of its locations and generates US \$ 54.49 million in sales.<sup>18</sup> As of July 2020, Industria Chiquibul is not a member of GREPALMA<sup>19</sup> and neither is it RSPO-certified (nor is it in the process of becoming RSPO certified).

- **Palmas del Ixcán (Braden Group):**

Palmas de Ixcán Ltda. is a subsidiary of Braden Group S.A. Since 2017 Palmas de Ixcán has operated a processing plant and its main plantations at Finca Chiriviscal, in the Franja Transversal del Norte, within the municipality of Chisec, Alta Verapaz. In 2010, the mill had a yearly processing capacity of 212,000 tonnes of crude oil.<sup>21</sup> Since 2016, the company joined RSPO.<sup>22</sup> However, neither the company nor its parent group are listed as GREPALMA members.<sup>23</sup>

- **Panacté (Naturaceites):**

According to the information available, this is a RSPO certified mill; The RSPO ACOP sheet states that 94.2% of its Certified Sustainable Palm Oil is sold to Europe. European markets identified by the company include Germany, Italy, Spain and the Netherlands.<sup>24</sup>

- **Procesadora Quirigua (IDEAL S.A.):**

Procesadora Quirigua S.A. (PROQUISA) together with Nacional Agro Industria S.A. (NAISA) is part of the IDEAL S.A. conglomerate, property of the Köng Family.<sup>25</sup> It is reported that the company has eight total employees across all of its locations and generates US \$ 966,000 in sales.<sup>26</sup> Currently, Uniaceites is not a member of GREPALMA<sup>27</sup> and neither is it RSPO-certified (nor is it in the process of becoming RSPO certified).

- **Reforestadora de Palmas de El Petén (Repsa) (Grupo Hame):**

Repsa is another venture of the Moran family together with Uniaceites and Palmas del Horizonte. Repsa became RSPO certified in March 2020.<sup>28</sup>

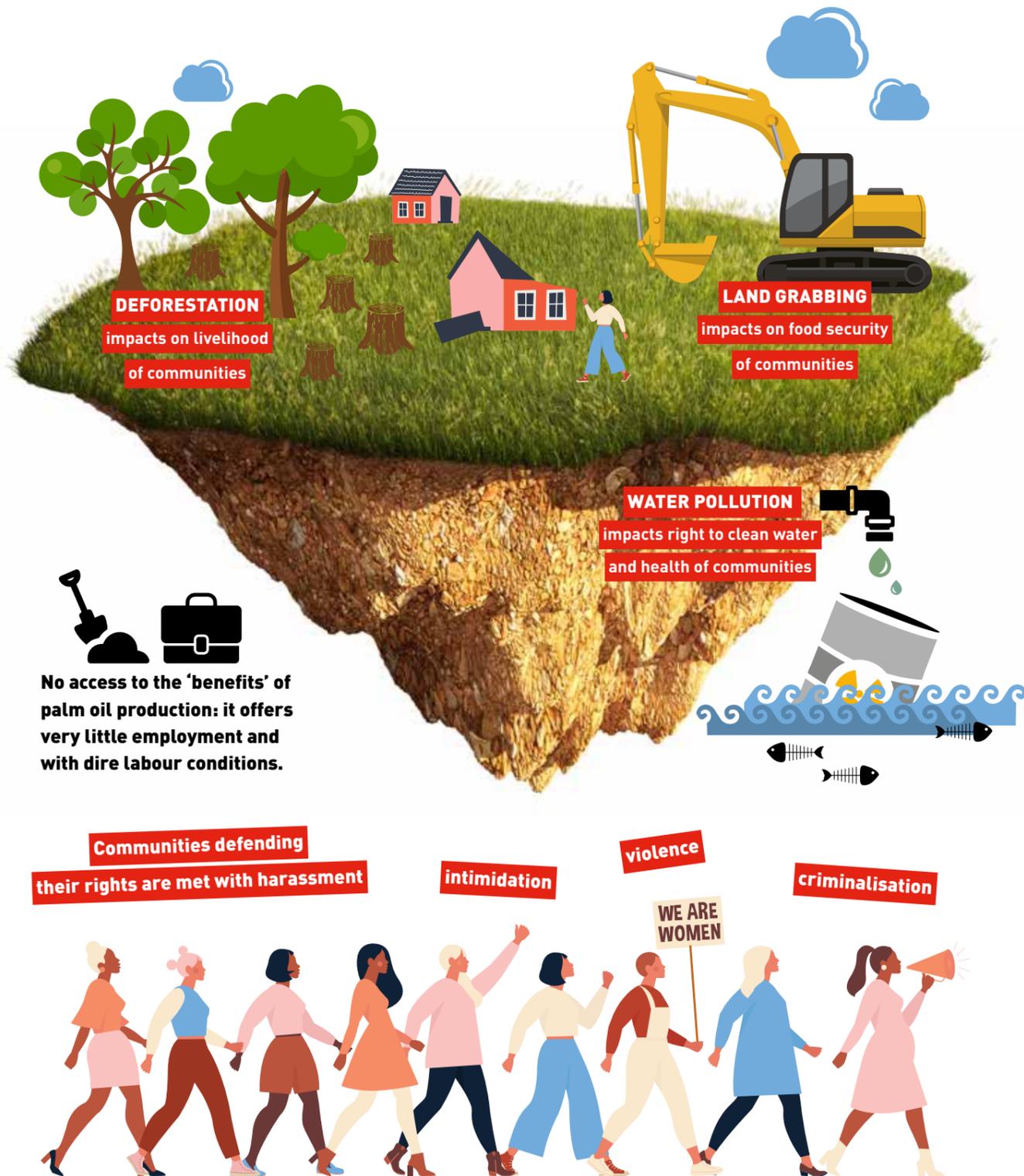
- **Yalcobé (Naturaceites):**

The Yalcobé, NaturAceites farm occupies a surface of 633.9 ha and is located in the municipality of Fray Bartolomé de las Casas, Alta Verapaz, Guatemala.<sup>29</sup> In some lists, this mill is referred to as a Fray mill, owing to its physical location. Although Naturaceites had been a RSPO member since 2012, as of 2018, none of its palm oil mills is certified under RSPO P&C.<sup>30</sup>

# NEGATIVE IMPACTS OF PALM OIL PRODUCTION

## On people and the environment

Communities also don't have access to the 'benefits' of palm oil production: it offers very little employment and with dire labour conditions. Communities defending their rights are met with harassment, intimidation, violence and criminalisation.



### What is Land Grabbing?

One of the major human rights violations committed by palm oil producers in Guatemala is the grabbing of land being used by local communities and women. Land grabbing occurs when states, companies or individuals acquire lands without the consent of local communities who inhabit or depend on those lands. Land grabbing is driven by corporate profit agendas due to the commodification, financialisation and speculation of both land and the agricultural or mineral (export) commodities cultivated and extracted, including palm oil.

Land grabbing is possible when local communities lack proof of their formal legal land rights or when their position is weak due to the government or investors wishing to acquire the land being used by communities. Communities cannot stop land and water grabbing when they are not consulted, do not have right to disagree with land transactions or when they become the victims of violence and deceit (at the hand of government officials, companies or sometimes corrupt community leaders). Companies can circumvent communities and directly acquire and register the land, organise certificates for ownership, as well as long-term lease or user rights of concessions.

Land grabs often have a disproportionately negative impact on women. Women are systematically excluded from decision-making, for example by not being consulted over a land deal or having to sign legal documents that they are unable to read. Women bear the heaviest burden after the land has been grabbed because they are held primarily responsible for unpaid care & domestic work<sup>iii</sup>, which strongly relies on the access to and control over land and water, including growing and preparing food for their families and communities, fetching potable water, collecting firewood and other tasks relying on natural resources.

The biggest palm oil expansion took place in the Petén department, in the North of Guatemala. By 2011, almost 45 percent of the land, legally owned by the communities in Petén, was grabbed by agro-industrial companies who obtained the rights to establish palm oil monocultures. In the Northern Lowlands departments of Quiché, Alta Verapaz and Izabal, less land was grabbed in total, but the effect on local communities has been equally devastating.<sup>31</sup>

In addition, between 2001 and 2010, over 35 percent of the forests in the departments of Petén, Quiché, Alta Verapaz and Izabal was cleared to establish palm oil plantations. Over 32,860 hectares of forest were lost, an area equal to the size of the cities of Munich in Germany or Dhaka in Bangladesh. Within this period, most of the deforestation occurred between 2001 and 2006, with the regions of Sayaxché in the Petén department being the most affected. Moreover, between 2006 and 2017, the municipalities of Chisec and Raxruhá, in the department of Alta Verapaz, reported the most significant loss of native trees, losing over 164,000 hectares of forest – a surface roughly the size of greater Amsterdam, the Netherlands. The conversion of land, from forest to palm oil, caused the fragmentation of habitats and threatened multiple species of flora and fauna.<sup>32</sup>

once owned the land. Communities have lost the land they depended on to grow crops, and now there is not enough land available – either to rent or purchase – that is suitable for subsistence farming. In short, Guatemalan communities can no longer produce their own food. One woman from Sayaxché explains:

**“The problem we face today is that there is no land to grow maize, and maize is our staple. We are not fine if we don't have plots to produce our food.”**

Food insecurity as a result of land grabbing is further exacerbated by palm oil companies clearing forests. This threatens livelihoods and access to food, as forests provide a wealth of resources for the communities including timber, firewood, herbal medicine and food through hunting and gathering that what grows and lives within the forests. On top of this toxic combination of land grabbing and deforestation comes the contamination of clean water sources. The contamination caused by palm oil plantations poses further risks to communities' food security, as it makes livestock ill and poisons fish. In one woman from Panzós words:

### When land is lost, food security is threatened

Land grabbing for palm oil plantations has alarming consequences for the food security of communities who

<sup>iii</sup> The ILO defines unpaid care work as “non-remunerated work carried out to sustain the well-being, health and maintenance of other individuals in a household or the community”. The UN General Assembly report by Sepulveda in 2013 used a definition of unpaid care work that includes “domestic work (meal preparation, cleaning, washing clothes, water and fuel collection) and direct care of persons (including children, older persons and persons with disabilities, as well as able-bodied adults) carried out in homes and communities”.



**“Now, we don’t even let the animals drink from that water because they will die. The banks of the rivers are full of dead fish. It is not fair that we have no option but to drink from this polluted water.”**

**Water depletion and contamination**

Palm oil production also has a devastating impact on communities’ access to water. Palm oil plantations use large amounts of water and as a result deplete water sources, leaving less for the communities to use. A single palm tree requires at least 150 to 200 litres of water per day in the winter. During the summer months, it needs up to 300 litres of water a day. This is a lot of water, especially considering that the average palm oil plantation contains between 130 and 150 palms per hectare of land and that these palms have a productive life ranging from 24 to 28 years.<sup>33</sup>

What’s more, the palm tree’s water requirements increase along with its productive life, as water increases the tree’s productivity. In Guatemala, an irrigation-free plantation produces six bunches per palm tree, but an irrigated plantation produces almost four times as much. In order to meet the high water requirements, palm oil producers resort to drilling extra boreholes and wells for the provision of water to the plantations. These additional boreholes and wells may provide the necessary water for the palm oil plantations, but lead to a significant decline in groundwater levels, which in turn affect the wells of surrounding communities, who no longer can rely on their own wells to provide water. Especially in the summer, when the flow of water sources is further reduced, this has devastating impacts. Women have repeatedly flagged the alarming insufficiency of water for communities to the responsible palm oil companies and locally-present human rights organisations.

In addition to water depletion, the women interviewed in the Northern Lowlands have reported that at least 18 water sources exhibit signs of pollution. The water contamination has caused a massive death of fish

and further decreasing availability of drinking water. According to the communities, the palm oil sector is responsible for this water contamination. A report by the Office of the Attorney General for Human Rights supports these claims and describes how the waste from palm oil mills is deposited in ponds or pools, and how the decomposing waste then causes not only the contamination of water bodies but also a proliferation of insects.<sup>34</sup>



**“Water pollution is a big problem caused by the oil palm. Polluted water becomes a dirty brown and smells terrible. We should no longer drink from that water. But we have no choice as it is one of the water sources closest to the community and the others are also contaminated.”**

**(Woman from Panzós)**

The communities have reported most of these contaminated water sources to local authorities and have also participated in dialogues and roundtables with palm oil producers in an effort to solve the water depletion and contamination problems.

In 2015, industrial pollution from palm oil extraction caused extreme pollution of La Pasión River, flowing through the Northern Lowlands and the Petén department. The pollution was attributed to a palm oil mill<sup>iv</sup> located upstream. The extreme pollution caused 22 different species of dead fish on the banks of the river, affecting the food security and health of more than 13 communities and at least 5,691 families.

Despite the evidence, the case of the pollution of La Pasión River is still in court. Before and after the extreme pollution resulting in the mass death of fish, communities living along La Pasión River had reported the pollution of several water sources and signs of fish being poisoned on a large scale. They held the palm oil sector responsible for this.<sup>35</sup> The most recent episode of severe water pollution occurred in July 2019 on the San Román, a river in the same area.<sup>36</sup> This further significantly compromised one of the communities’ main food sources. Women have also reported that the contaminated water has led to an increase in diseases, especially affecting children and the elderly.

### **Carolina and the pollution of the San Román River**

Carolina is a community located in the municipality of Chisec, in Alta Verapaz. It is populated by 285 families, who were previously awarded ownership of the land under the framework of the Collective Agricultural Heritage.<sup>37</sup>

Pollution caused by the cultivation of palm oil has brought many problems to the community. There are reports of bad odours, pollution of water sources, and diversion of rivers, resulting in the massive death of fish and health issues in children after drinking the water.<sup>38</sup> The community has tried to engage with the palm oil plantation to solve these problems, but to no avail. This is why the inhabitants of Carolina decided to join forces with other communities and request the support of the Human Rights Ombudsman and the Office of the High Commissioner on Human Rights (OHCHR). The communities are now requesting precautionary measures related to the pollution of the San Román River, before the Inter-American Commission on Human Rights (IACHR).

The communities state that the impossibility to produce food for their families is especially afflicting women, as women are held responsible for fetching water and providing food. When these tasks become more difficult due to pollution, it doubles women’s workload and limits women’s available time to spend on other activities. In short, palm oil production has hugely negative impacts on women’s quality of life.<sup>39</sup>

Lucía García Caal (47), explains how women’s lives have been affected by the expansion of the palm oil plantations: *“When I was a small girl, there were mountains and rivers. And there were no diseases. 41 years ago there was water and all the mountains looked green. Now, as a result of the past ten years, since the African palm came to our village and the arrival of the palm oil companies, there are no more mountains and there is no water. We are suffering due to a lack of water, everything has dried up. Before it was fine. There were not many diseases, our crops grew well, we had our milpas. But now, our crops hardly grow because there is drought. What’s more, the owners of that company have even reported us.*

*This situation affects children, the elderly, and people in general. We get skin rashes and diarrhoea. The flies make us sick. We, women, are the most affected. The water has become stagnant and looks too dirty to drink or to wash with. In the summer, everything’s dry. What I would like is for the company to go away because this situation is affecting us terribly. We no longer have potable water, and our children have become increasingly ill. Even now, the elderly die faster because they can’t stand to be continually vomiting after drinking contaminated water. Our children get skin diseases, they get larvae-anchoring welts and that’s not fair.*

*I would like the cultivation of the oil palm to stop. I want this to stop affecting the community and us women. I feel sad because water is our life, and I feel sad that nothing is being done to solve these problems. We are hurt by the smear campaign that the company has started against us because we are not criminals. All we do is defend our right to land and a dignified life for our families.”*

<sup>iv</sup> Palm oil mills extract crude oil from the fresh fruit bunches. This is typically done close to the plantation before transportation to refineries abroad, which in turn further process the oil before it can be used in products.

<sup>4</sup> Milpa is a crop-growing system used throughout Mesoamerica.



### Decent work and labour rights

The production of palm oil requires little human labour. In fact, the palm industry only generated 28,575 direct jobs in 2019 for the 180,000 hectares of established crop and the 21 palm mills established throughout Guatemala.<sup>40</sup> This means that it generated only one job for every 6 hectares of palm, or 15 jobs for each square kilometre of palm oil plantation. Guatemala has an average population density of 162 inhabitants per square kilometre, of which 62 percent – or on average 100 persons – per square kilometre, are economically active (the unpaid care & domestic work carried out by women are not included in this figure).<sup>41</sup> In other words, this is equivalent to 85 persons having no job prospects – neither in the palm oil sector nor in agriculture due to the land being occupied – for every square kilometre of palm oil plantation.

Additionally, Guatemalan palm oil producers prefer to hire workers, who are mostly male, from regions far away from where the plantation is located (referred by the women who were interviewed as “trabajadores de lejos” or “workers from afar”).<sup>42</sup> The fact that these workers move to the palm oil plantations for only short periods makes it difficult for them to organise themselves and negotiate better working conditions,

allowing producers to pay the workers lower wages.<sup>43</sup> Moreover, this means that communities living near palm oil plantations suffer the consequences of loss of livelihoods and pollution, without benefiting from job creation.

### Criminalisation and violence against human rights defenders

Criminalisation, or the misuse of criminal law against human rights defenders, is one of the most recent strategies used by extractive industries,<sup>vi</sup> such as the palm oil industry, in Guatemala to get away with breaching the rights of indigenous communities and women.

Many companies identify community human rights defenders who denounce pollution, land grabbing or other human rights violations, and initiate criminal prosecution against these individuals and their organisations. At the same time, companies promote the delegitimisation of rights defenders through smear campaigns. These practices have been denounced and thoroughly documented by a large number of Guatemalan human rights organisations, as well as the UN Special Rapporteur on the Rights of Indigenous Peoples.<sup>44</sup>

vi Mining and large-scale agribusiness, such as the palm oil plantations.

**“The oil palm plant came to our community twenty years ago. Back then, life here was good because the industry still created jobs. But now this is no longer the case. There are no jobs and we are facing terrible poverty. We have to look for additional sources of income to survive. The mill is our community’s only point of access to employment, yet, many workers come from afar to work here. Our young people would like to work, but there are no opportunities anymore. As women, we worry about our children. We made a lot of sacrifices for them to get an education and now they cannot find jobs. It is difficult, because we need to find ways to still eat every day. We could run up an account at the store but, eventually, we will have to pay.”**

(Woman from El Estor)



In recent years, the number of arrests and criminal prosecution orders against Guatemalan rights defenders has been increasing. Abelino Chub Caal is one of the leaders prosecuted as a result of the growing criminalisation of human rights defenders. The Guatemalan Court later acknowledged that Abelino's activism against palm oil producers had been wrongfully prosecuted due to the judges' improper use of criminal law.<sup>45</sup> In 2018, there were between seven and nine arrest warrants for the community leaders of seven communities in the municipalities of El Estor and Panzós.

#### **Migration as a last resort**

Because of the incredibly difficult situation that has caused extreme poverty, the destruction of sacred lands and forests, the inaccessibility or absence of clean water and the loss of livelihood opportunities in palm oil production areas, migration has become the main resort for many communities. In recent years,

people, especially men, have been migrating to find jobs elsewhere, often taking a son or a daughter along. Raxruhá is a municipality in the department of Alta Verapaz, where the cultivation of palm oil boomed in the period from 2011-2017. According to César Castro, Raxruhá's mayor between 2016 and 2019, over 85% of Raxruhá's population lives in poverty or extreme poverty. This has pushed many inhabitants to migrate to the USA. Over 200 families with young children have now left the municipality, and most of them have made it to the USA.<sup>46</sup>

The Caal Maquin family is one of Raxruhá's many migrant families. On November 30, 2018, Nery Caal and his seven-year-old daughter, Jakelin Caal Maquin, left their community in the village of San Antonio Secortez. Claudia Maquin de Caal, Nery Caal's wife, told the press:

**“He left because of the extreme poverty in which we live. There are no resources to support the family. The price of maize is low, and we can't live on maize alone.”<sup>47</sup> Domingo, Nery Caal's father, adds: “Forests to the north have been converted into oil palm plantations and there are fewer deer and wild boars for hunting. River fish catches have declined too. He [Nery Caal] told me that he wanted to work. I couldn't stop him because we don't have the jobs in our community. They don't pay well here. You make between 40 and 50 GTQ a day [4.70 to 5.9 EUR]. That's not enough to support a family. When children get sick, we can only count on God's will. We treat ourselves with herbal remedies and sometimes, if we can, with pills.”<sup>48</sup>**



Both Nery Caal and Jakelin Caal Maquin, seeking a better future for the family, crossed the border near Antelope Wells, New Mexico, a desert area in the Southwestern region of the United States. They were arrested by the US Border Patrol on December 6, 2018 together with another 163 migrants.<sup>49</sup> Two days later, Jakelin Caal Maquin got sick and was transferred to Providence Children's Hospital in El Paso, Texas, where she died a few hours later from septic shock.<sup>50</sup> On Christmas Eve her corpse was repatriated to Raxruhá, where she is buried. The family grieve their daughter's death, while also being faced with paying off the steep debt they acquired to travel to the USA.

### **Sonora and its right to self-determination**

In 2010, a palm oil company bought 88 hectares of land that belonged to Sonora, an indigenous community in the municipality of Ixcán, in the department of Quiché. The land was acquired without the community's consent, causing conflict. Soon after, the company introduced itself to the community and on their request, pledged to spare an area of 15 meters along both sides of the stream. However, as soon as the company began its operations, it abandoned its commitments to the community and cut down the fringe vegetation alongside the stream. Next, it built about 200 deep ditches which were destined for the disposal of palm fruit refuse. Since then, whenever it rains, the water washes the debris and mud into the stream that the community uses for drinking, bathing, and washing.

The community denounced the expansion of palm monoculture in their territory and feared that the chemicals used by the company would eventually kill the stream. In response, the palm oil plantation signed an act in which it pledged to stop the works until the community's grievances were settled. Shortly after, however, the company sued twelve community members, arguing that they had violently harassed company workers. The pollution also persists. Because of the pollution, families in the community can no longer engage in fishing activities, jeopardising the families' food security. On August 30, 2018, the community of Sonora filed a complaint about the contamination of freshwater sources.

Clara Caal, 33, president of the local women's organisation, in an interview with ActionAid, denounces the impacts that palm oil production has had on the community:

*"I've lived in this village for 15 years. When I moved here, there were three streams we could go to fetch drinking water from and wash our clothes in. Little by little, we realised that a big company had taken over a large piece of land and that it was harming our community. The streams began to dry up and when we went to wash our clothes we noticed that there was an oily sheen on the water. A group of five women formed and we went to see where they [the company] were working. While we were on our way to talk to the workers, we noticed the oil barrels that were lying on the filters. We decided to ask the Community Development Committee for support, because our children were getting ill. We asked the company to do something about the water, but they sent us to the municipality. They didn't want to take responsibility for what they were doing to our community.*

*Because of the water pollution, the stream looks like sewage water, it smells bad, it looks like mud, and it has polluted our environment. We have to go to a river 12 kilometres away to fetch water [and] we have to pay to do our washing in the Chixoy River. We go there twice a week. We are the ones who suffer the most from the pollution of our stream. We need the water for our children and to wash. Now we have to go to another river in order to be able to do our household chores. And, what do we do if we can't pay the charge? I'm so sad. I am fighting for the future of our children, not for myself, but for our children. I tell the mayors of the community to rise up against the entrepreneurs and not let them hurt our community. I feel sad to see my fellow moms crying about the lack of water. It hurts. A jug of water costs GTQ 20 [2.30 EUR], but not everyone has money to buy it. And, the institutions don't listen to us, we've been fighting for three years, but they don't support us."<sup>51</sup>*



# 3. WOMEN'S RIGHTS ABUSES IN GUATEMALAN PALM OIL PRODUCTION

While the palm oil industry affects entire communities, its impacts have been particularly severe for women, and especially women from indigenous communities.



Due to existing gender inequality women are affected differently and disproportionately by the human rights violations of the palm oil plantations and mills. With very few employment opportunities for women in the palm industry and less land to grow crops due to land grabs, the loss of livelihoods and burden on women to take care of their families has become heavier. Women are forced to devote more time to finding clean water and food. Therefore, they have even less time to be active participants in community decisions that affect them, to realise their right to personal autonomy and for recreational activities.

These gender-specific harms can exacerbate existing unequal gender roles and structures within a community and can create further discrimination, based on intersecting identities, such as race, class, migrant status, indigenous status, sexual orientation, gender identity and geographic location. For instance, women who live in the Northern Lowlands, where much of the palm oil industry is active in Guatemala, are mainly from indigenous communities. Therefore they face an additional level of social, political and economic marginalisation and language barriers in accessing justice. Women in the Northern Lowlands are mainly monolingual and speak Q'eqchi, which makes it difficult for them to access the Spanish speaking decision-making spaces outside of their community.

Because women are affected disproportionately, this report pays special attention to the impact of the palm oil industry on women in Guatemala, and how Netherlands-based companies enable these abuses through their supply chains. The research for this report has found disproportionate impacts of the palm oil production on women's unpaid care burden, women's access to decision-making and economic resources, women's right to self-determination, criminalisation and sexual and gender-based violence.

#### Impacts on women's unpaid care work

Globally, women take on three times as much unpaid care work and domestic work as men.<sup>52</sup> Similarly, women are held responsible for the majority of the unpaid care & domestic work within the communities living in the vicinity of palm oil production plantations and mills in Guatemala. This work includes caring for the sick, elderly and children and carrying out domestic work, such as procuring and producing food, collecting water and cooking. The devastating consequences of palm oil production, such as deforestation, grabbing of land, the pollution and depletion of water, affects these activities and therefore has a different impact on women in comparison to men.

- As seen in the previous chapter, the palm oil companies are responsible for large-scale deforestation in order to clear space and generate fertile soil for the palm oil plantations. As a consequence of the forests being cleared for the establishment of palm oil plantations, women of the neighbouring communities now have to walk several hours to collect firewood and the medicinal plants they need to treat illnesses.

**“Finding firewood is problematic because we have to walk up to five hours to look for it. If we are lucky, we find some, but sometimes we return home empty-handed because even after a long walk, we do not always find firewood.”**

(Woman from Panzós, Alta Verapaz)

- Land grabbing for palm oil plantations further adds to women's unpaid care & domestic work. When there is limited land available for the communities' food production, the burden falls on women to procure food from elsewhere. This is highly challenging. Even if it is possible to import food, this is often too expensive, not fresh or nutritious, adding to women's care burden as family members become malnourished.

- The pollution and depletion of water sources also add to women's unpaid care work. Women are traditionally held responsible for water management both at the family and community level, when there is limited clean water available the time women spend on collecting water increases. As the palm oil production both pollutes and depletes the water, women have to spend a greater proportion of their time collecting water.

**“We women now have a hard job with collecting water, because we often have to walk more than an hour, balancing a bucket full of water on our heads. This is our life.”**

(Woman from Panzós)

- The pollution of the water as part of palm oil production also adds to women's unpaid care work in another way. As stated in the previous chapter, the contamination of water has led to a prevalence of diseases, particularly in the elderly and among children. The increased incidences of people falling ill affects women more severely because caring for sick family members is also seen as a woman's duty.

**“Drinking contaminated water is particularly harmful to children and the elderly who get ill more often and are at higher risk of the disease being fatal. They are frequently vomiting and have a high fever, which causes new diseases. Now even we women are getting sick. We can't even wash our clothes on the banks of the river, because there's brown-coloured sediment. Having water fountains near the community doesn't make a difference either, because all the rivers are close to the [palm oil] concessions.”<sup>vii</sup>**

vii “Oil palm concession” refers to an area allocated by a government or other body for industrial-scale oil palm plantations.

# WOMEN ARE IMPACTED DISPROPORTIONATELY

By human rights violations associated with palm oil production

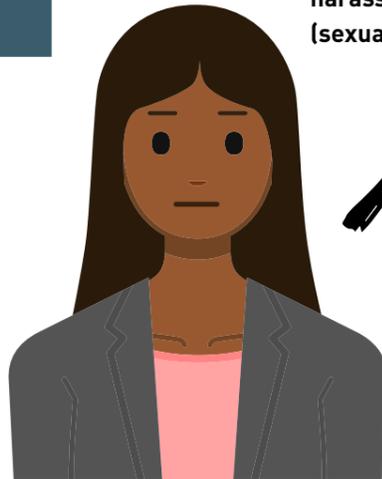
## IMPACTS ON UNPAID CARE WORK

Women have to walk further to collect (clean) water, to produce and procure food for their families, and take care of family members who have falling ill due to the pollution and depletion of water, deforestation and land grabbing by the palm oil companies.



## INSTITUTIONAL AND SEXUAL VIOLENCE

Women who defend their rights against palm oil companies are met with harassment, stigmatization, intimidation, (sexual) violence and criminalisation.



## IMPACTS ON LIVELIHOODS

Women have reduced access to economic and cultural resources, such as land and forest products due to deforestation and land grabbing by the palm oil companies. Yet women are often not included in the decision-making about these resources.



The increased care & domestic work burden decreases the time women have available for engaging in other activities, such as income generating activities or leisure time. As such, the impact of the palm oil industry on women's unpaid care & domestic work has a knock-on detrimental effect on women's enjoyment of other human rights, such as the right to decent work. Even though the women are impacted more severely by the pollution, land grabbing and deforestation associated with the palm oil production, when the community engaged in dialogue with the local authorities and the palm oil companies, their needs were not taken into account. Neither by the palm oil companies nor by the authorities – and the women claim that no meaningful actions have been taken to improve the situation.

### Impacts on women's access to land

In many contexts around the world, it is more difficult for women to own, control or have access to land, culturally, socially, economically and legally. According to the FAO globally less than 15% of all landholders are women.<sup>53</sup> As seen in the previous chapter before, the palm oil plantations have greatly reduced indigenous communities' access to and ownership over land, by grabbing the land using various means. According to the women interviewed for this report, the impact of the land grabbing has been particularly severe for women. Despite co-owning the lands,

often even being cited as co-owners on land titles, women are often not given a chance to participate in decision-making regarding the sale of lands at the family or community level. When they are able to voice their concerns, they face backlash from agro-industrial companies, men in their community and state-sponsored investment defence forces. Women in the Northern Lowlands have reported being the victims of threats, deceit, coercion and violence for refusing to sell or to "surrender" their land. Women are rarely compensated for their land and the 'corporate social responsibility' projects implemented by the palm oil industry are often oriented towards infrastructure and negotiated with community leaders, mainly men. In the interviews, the women stated that they have opposed the sale of their lands from the beginning and were devastated when the deal was closed, as the land is crucial for their emancipation and autonomy. In the words of one woman:

**"I didn't want our land to be sold. We travelled from another place to this area and when we got some land here, we were very happy. I even cried when they sold my land."**



#### Impacts on women's access to decent work

As is the case regarding most extractive industries, the palm oil industry leads to disproportionately negative impacts on women's lives and women enjoy highly limited access to the 'benefits' of such activities, such as decent work. In the previous chapter it was pointed out that for every square kilometre of palm oil plantation, 85 persons have no job prospects - neither in the palm oil sector nor in agriculture, as palm oil producers prefer to hire 'workers from afar' to prevent the workers organising themselves.

For women, work prospects in the industry are even worse. In the early days of Guatemalan palm oil production, women were mainly employed on the plantations to work for the palm nurseries. But now that the crop is well-established and nurseries are no longer necessary, the percentage of women hired in palm oil plantations ranges between 0.75 percent and 2 percent of the total workforce.<sup>54</sup> Sexist norms and gender stereotyping means that most jobs go to older men who have benefitted from an education. If employed at all, women are hired for tasks such as cooking, cleaning or in the plant nurseries of the plantations. Because these jobs are considered "low skilled", women get paid lower wages than other plantation workers conducting equally heavy tasks.<sup>55</sup>

**"It would be good if they gave us jobs. Even if only to collect the fruits that fall on the ground. But the [palm] concessions prefer to hire older men who have been to school."**

**(Dolores, woman from El Estor)**

The preference for educated employees generates a further barrier for people from indigenous communities who are less likely to have enjoyed an education than non-indigenous communities, and especially for indigenous women who are even less likely than indigenous men to have enjoyed an education.<sup>56</sup>

Even where women are not employed at the plantations, they also share the burden of palm oil production. Women have seen their workload in the domestic sphere increase, not only because they have to care for their male relatives who work for the industry, but also as a result of their restricted access to water, food, and firewood, which forces them to spend more time finding these resources.

**"I get up every day at 2am. I do this out of necessity because if I don't get up, my children can't go to work at the plantation. That's why I make sacrifices. Palm work is hard for our children and for us."**

For the wives of the workers employed at the plantations, their partner's income is not enough to provide for their families. This puts an increased burden on women to earn additional money or to find enough food to sustain the family, in addition to their other unpaid care & domestic tasks. Some local women have reluctantly been turning to sex work because they feel they have no other economic options.

#### Criminalisation and gender-based & sexual violence

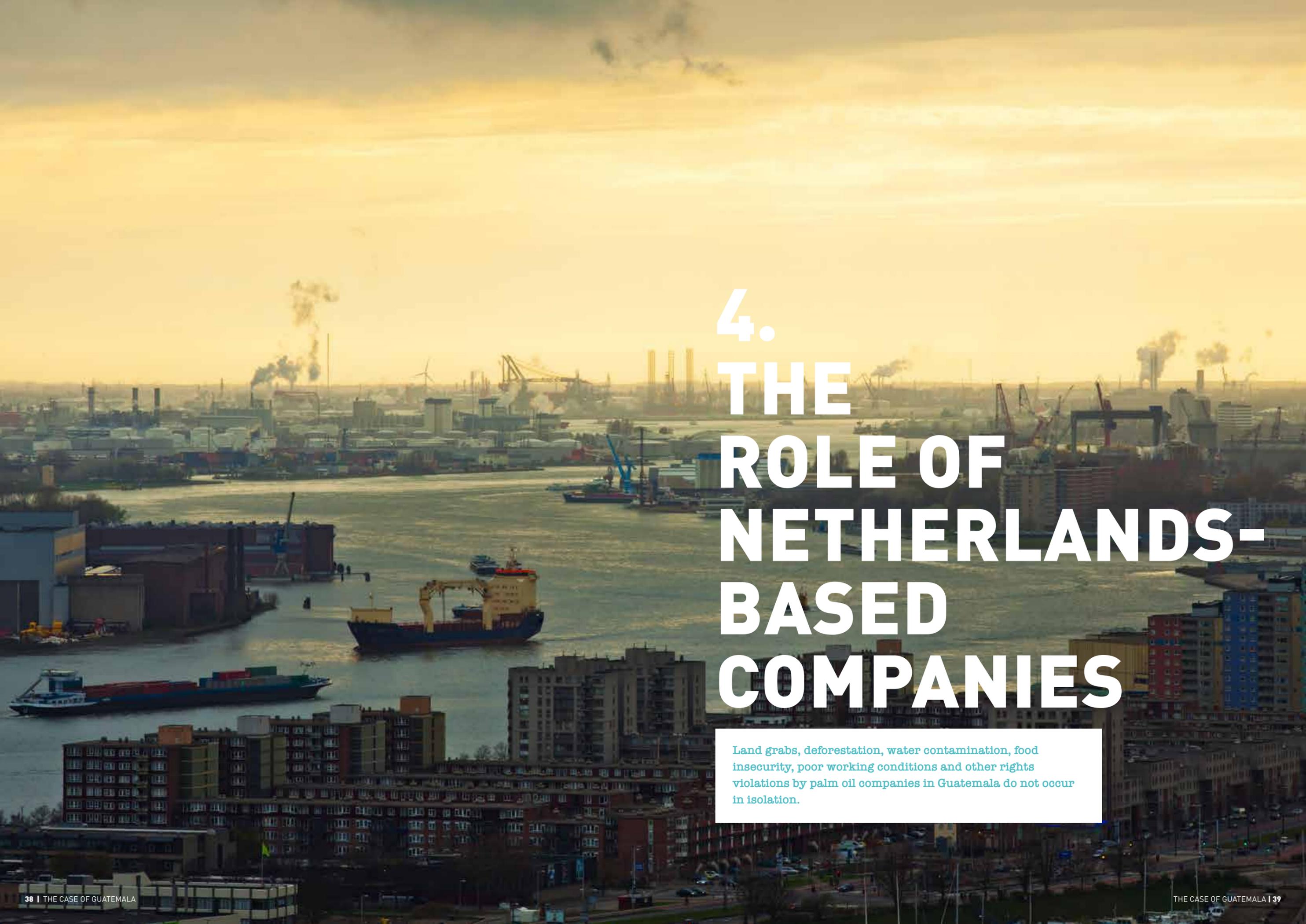
When people stand up to corporate human rights violations, they face threats, intimidation, violence, repression, smear-campaigns, criminalisation and even murder. Women human rights defenders often are confronted with additional gendered threats and subjected to gender-based and sexual violence, on top of the aforementioned attacks. In contexts where it is not accepted for women to speak out, women are met with stigma and prejudice centred on the role they are expected to play in society.

The criminalisation strategies, or the misuse of criminal law against human rights defenders, employed by the extractive industry in Guatemala are documented in the previous chapter. Criminalisation affects women by subjecting them to prosecution, stigmatisation, and prejudice. Moreover, they face additional pressures from their community, stemming from expectations of the role that women should play in society, as well as pressure from their families to leave their activism for fear that they too will be imprisoned or murdered. Criminalisation affects women indirectly too. Through the persecution of their husbands, children or siblings, women lose their partners or relatives' income. This is an indirect impact not to be considered lightly. Women interviewed consistently highlighted how the lack of financial support had a high impact on their emotional health and often caused them to consider suicide.

In addition, women who try to regain access to their land face stigmatisation and backlash from community members as well as from public servants. For example, one woman from Panzós explained how health workers retaliated against her efforts to regain her land:

**"When we go to the health centre, the health workers call us land invaders and refuse to give us medicine. They tell us to go back to our communities to get medicine and vaccinate our children. They don't even want to give our children a vaccination booklet."**

Women and girls in the communities are also particularly affected by other forms of violence and exploitation, such as sexual violence and being trafficked into sex work. Palm oil plantation companies, as mentioned earlier, prefer to hire workers who come from municipalities and/or departments other than where the plantations are located. This has caused the arrival of groups of lone men from other parts of Guatemala seeking work. Their arrival, within the broader context of patriarchal norms in Guatemala that condone the oppression of and violence against women, has been associated with increased levels of sexual assaults. Moreover, the proliferation of bars near the places where plantation workers receive their pay check has resulted in an increase in alcohol abuse and sexual violence in the communities. Women and girls who are survivors of sexual assaults state that their perpetrators are mostly workers for palm oil plantations.



# 4. THE ROLE OF NETHERLANDS- BASED COMPANIES

Land grabs, deforestation, water contamination, food insecurity, poor working conditions and other rights violations by palm oil companies in Guatemala do not occur in isolation.



Palm oil refineries, distributors and producers of fast-moving consumer goods (FMCGs) based in the Netherlands, are linked to these rights abuses through their supply chains, by sourcing from plantations in Guatemala that violate human rights.

Palm oil has been the most important export product from Guatemala to the Netherlands since 2016. In 2019, the EU imported a total of 7.3 million tonnes of palm oil, of which 6 percent (438,000 tonnes) came from Guatemala. For Guatemala, the Netherlands is its most important export partner: 43 percent (188,340 tonnes) of all palm oil produced in Guatemala is exported to the Netherlands and enters the EU market through the Port of Rotterdam.<sup>57</sup> The Port of Rotterdam, Europe's biggest seaport, is a key logistics hub for the transport, storage and transshipment of palm oil.<sup>58</sup> Following arrival at the Port of Rotterdam, crude palm oil is stored and refined at nearby facilities, and then sold to manufacturers of biofuel and producers of consumer goods.

**For Guatemala, the Netherlands is its most important export partner: 43 percent of all palm oil produced in Guatemala is exported to the Netherlands.**

### **The Port of Rotterdam: Responsibility & Governance**

As the main entry point of palm oil into the European Union, the Port of Rotterdam plays a key role in the palm oil supply chain from Guatemalan plantations to European consumers. Not only is the Port of Rotterdam a key point of import of palm oil, it is also the hub for export.

The Port of Rotterdam is a public company owned by the Municipality of Rotterdam (70 percent) and the Dutch State (30 percent).<sup>59</sup> The port has three main functions: a **landlord function** renting out harbour space and facilities, an **operator function** to provide services tied to the port, and a **regulator function**, which is dedicated to enforcing rules and regulations among its customers and partners. While the port is not directly a supplier in the palm oil supply chain, it provides the transport facilities and infrastructure necessary for the palm oil supply chain's operation, and does so in return for rent and harbour fees. It acts as a landlord and regulator within the palm oil supply chain.

The Port of Rotterdam, however, sees itself as separate from the supply chains operating within its boundaries and does not take an active stance on human rights violations in the supply chains of products that enter the European market through the Port.<sup>60</sup> However, as a state-owned enterprise, the Port Authority should lead by example and not only meet but exceed the government's Responsible Business Conduct requirements. Currently, the Dutch government requires all Dutch companies to endorse the OECD Guidelines on Multinational Enterprises. The Port Authority should act as a role model for other Dutch companies, implementing the OECD Guidelines and the six steps of the due diligence process that the guidelines prescribe.



**Five Netherlands-based companies linked to human rights violations in Guatemala**

This research found links between the seven palm oil mills in Guatemala that were accused of human rights violations, and five Netherlands-based companies, including three palm three palm oil refineries located near the Port of Rotterdam: AAK, Bunge and Cargill, and consumer brands such as Unilever and Nestlé. These companies have a duty to conduct human rights due diligence, a process to identify, mitigate, prevent and address adverse human rights impacts in their supply chains. This should be done in a gender responsive way given the enormous impacts on women’s rights associated with palm oil production. However, the evidence in this research suggests that these companies have failed to adequately conduct due diligence and have not made sufficient efforts to identify and put an end to the adverse impacts on women’s rights occurring through their supply chains in Guatemala.

**This research found links between palm oil mills that were accused of human rights violations, and five Netherlands-based companies: AAK, Bunge, Cargill, Unilever and Nestlé.**

**Netherlands-based refineries with links to Guatemalan palm oil**

**Bunge:** Bunge Lodders Croklaan (Bunge) is a refinery with facilities in Rotterdam and Wormerveer that was acquired in 2018 by the American company Bunge.<sup>61</sup> Bunge purchases palm oil from three Guatemalan mills (Corporación Uniaceites, Yalcobe and Repsa) that were associated with allegations of women’s rights violations.<sup>62</sup> It stopped purchasing from a fourth mill (Chiquibul) in 2018, that was also associated with allegations of women’s rights violations. This is not the first time Bunge has been accused of failing to address abuses in their supply chain. Bunge has been associated with large scale deforestation and violence in soy production in Brazil,<sup>63</sup> violence towards human rights defenders in Guatemala,<sup>64</sup> and attacks on indigenous peoples protesting sugarcane plantations in Brazil,<sup>65</sup> amongst others.

**Cargill:** Another Netherlands-based refinery, Cargill Refined Oils Europe, was also linked to six of the Guatemalan mills accused of women’s rights violations.<sup>66</sup> Cargill directly purchases palm oil from four of those mills (Palmas del Ixcán, Panacté and Yalcobe, whereas the other mills (Corporación Uniaceites and Procesadora Quirigua) appear in Cargill’s supply chain through intermediary suppliers. Cargill claims to have suspended sourcing from two of the mills (Chiquibul and Repsa) associated with the women’s rights violations. While Cargill claims to be “unconditionally committed to protecting human rights”, the company has been associated with abuses in its supply chains on multiple occasions. That includes the failure to take adequate steps to protect workers during the COVID-19 pandemic,<sup>67</sup> large-scale deforestation in Indonesia, Papua New Guinea and Brazil,<sup>68</sup> and wastewater spills in Australia and the USA.<sup>69</sup>

**AAK:** AAK, a refinery located near the Port of Rotterdam, is a Swedish-owned company that was found to source from six of the seven accused mills (Chiquibul, Palmas del Ixcán, Panacté, Procesadora Quirigua, Yalcobe and Corporación Uniaceites).<sup>70</sup> AAK has also been previously linked to adverse environmental impacts and human rights violations. In Indonesia, AAK was linked to indigenous rights violations in Borneo and a failure to address those violations in their due diligence.<sup>71</sup> AAK has also been found to be insufficiently implementing its policies against deforestation.<sup>72</sup>

**Netherlands-based Fast Moving Consumer Brands with links to Guatemalan palm oil**

**Unilever:** Unilever is one of the largest food, soap and beauty product manufacturers in the world with over 400 brands. It has several production facilities in the Netherlands where products such as peanut butter and Ben & Jerry’s ice cream are made.<sup>73</sup> Six of the seven investigated Guatemalan mills linked to women’s rights abuses also appear on Unilever’s list of palm oil suppliers (Chiquibul, Palmas del Ixcán, Panacté, Procesadora Quirigua, Repsa and Yalcobe).<sup>74</sup> One of the mills is a direct supplier (NaturaCeites), while the other mills are linked to Unilever indirectly – that is, through intermediary suppliers. Unilever is often seen as being at the forefront of implementing responsible business conduct policies. Yet the company has been linked to human rights violations through its supply chain, for example in Kenya where Unilever has been accused of not doing enough to protect workers against violence at a tea plantation operated by a subsidiary.<sup>75</sup>

**Nestlé:** Nestlé is the world’s largest food producer, with a range of baby food, breakfast cereals, ice cream and other products among its 2000 brands.<sup>76</sup> This research found supply links between Nestlé and six of the seven accused Guatemalan mills through Bunge and Cargill. Although Nestlé claims a “commitment to respect and promote human rights in our business activities,” the company is regularly associated with severe abuses of human rights and environmental destruction. Nestlé is in an ongoing court case for alleged water grabbing and contamination of a river in France,<sup>77</sup> as well as allegations of modern slavery and child labour in its supply chains of seafood in Thailand,<sup>78</sup> palm oil in Indonesia,<sup>79</sup> and hazelnuts in Turkey.<sup>80</sup>



### Why gendered human rights due diligence is crucial

International supply chains such as the palm oil chain are incredibly complex, with multiple players and intermediaries all over the world. It is therefore crucial that multinational companies monitor their supply chain and use their leverage to ensure that all suppliers in the chain act ethically to prevent and stop human rights violations, and support access to effective remedy for victims of violations. As corporate human rights violations are not gender-neutral, it is important that these processes take into account a gender perspective. The responsibility of businesses to respect human rights and the responsibility of states to protect human rights has been recognised internationally. In 2011, the United Nations Human Rights Council unanimously endorsed and published the United Nations Guiding Principles on Business and Human Rights (UNGP), which forms a normative standard on the responsibility of multinational companies to conduct businesses in an ethical, sustainable manner. That same year, the Organisation for Economic Co-Operation and Development (OECD) revised its Guidelines for Multinational Enterprises, which had already existed for over 40 years, and introduced a new framework for Responsible Business Conduct. The United Nations Guiding Principles on Business and Human Rights (UNGP) further identifies expectations for the duty of states to protect, and the responsibility of companies

to respect human rights, and to prevent and remedy human rights violations. In particular, the UNGPs outline the human rights due diligence process that companies are expected to undertake to identify, address and mitigate human rights violations in their supply chains. In recent years there has been greater recognition for the fact that governmental commitments to gender equality and women's rights under international law, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), should extend to their policymaking in the business and human rights sphere. In particular, states should require businesses to take gender and women's rights into account when implementing their responsibilities under international standards such as the OECD Guidelines and UNGPs. The UN Working Group on Business and Human Rights (2019) explicitly states that *"the ongoing human rights due diligence should cover both actual and potential impacts on women's rights that a business enterprise may cause or contribute to, or that may be directly linked to its operations, products or services by its business relationships."*<sup>81</sup>

Human rights due diligence (HRDD) is a way for companies to actively monitor, mitigate, prevent, and remedy potential and existing abuses and violations happening within their supply chain. In order to advise companies on how to conduct HRDD, the OECD has outlined six steps that companies should follow when conducting due diligence.<sup>82</sup>

### What is gender-responsive human rights due diligence?

Gender-responsive human rights due diligence means that businesses, in their efforts to assess and address the adverse impacts of their activities, operations and value chains on human rights, take into account that different rightsholders, particularly women, are affected in different ways.

Gender-responsive due diligence goes further than simply putting a gender lens on human rights due diligence: it is about recognising a company's relationship to and impact on gender norms, complex cultural biases and power imbalances. Integrating a gender lens to due diligence means putting the concerns of rightsholders at the centre, recognising that they are not a homogenous group. Because of intersecting and multiple forms of discrimination, different women may be affected differently by business activities depending on their age, caste, class, ethnicity, religion, language, literacy, access to economic resources, marital status, sexual orientation, gender identity, disability, geographical location or migration, indigenous or minority status, and other forms of identity. Thus, to effectively ensure the prevention, mitigation and remediation of adverse human rights impacts connected to business activities for all, businesses should:

1. Conduct gender-sensitive risk and impact assessments, through meaningful consultations with affected women, gender experts and women's rights organisations
2. Implement a range of gender-responsive measures to prevent and mitigate the risks and impacts
3. Communicate adequate and easily accessible information on the risks and impacts to possible affected rightsholders, including information on possible impacts on women
4. Track the effectiveness of the response by collecting gender-disaggregated data. Ideally this data should also be disaggregated by other factors such as age, ethnicity, disability or migrant status to ensure an intersectional understanding
5. Remedies should be effective, timely and gender-transformative, taking into account the specific barriers women face in accessing justice
6. Grievance mechanisms should be gender-sensitive, accessible to women and taking into account barriers such as literacy levels, language, access to information and digital technology, mobility and time poverty due to care responsibilities

**Are Netherlands-based companies doing enough to identify, prevent and address human rights violations in their palm oil supply chains?**

The Netherlands is by far the most important trade partner in palm oil for Guatemala. Therefore Netherlands-based companies, have an important role to play in demanding that their suppliers – the palm oil plantations and mills in Guatemala and transporters – comply with human rights and women’s rights standards and undertake gendered human rights due diligence in order to identify, prevent and mitigate harm, and ensure access to effective remedy. As one of the 44 countries that have endorsed the OECD Guidelines, the Dutch government expects Dutch companies to adhere to the OECD guidelines and carry out the due diligence process, to prevent and mitigate negative impacts in supply chains.<sup>83</sup>

To shed light on the human rights due diligence processes of Dutch companies, we assessed the level to which the six HRDD steps are implemented by the

three major refineries in the Netherlands that source palm oil from the accused mills in Guatemala. These refineries are Bunge, Cargill and AAK.

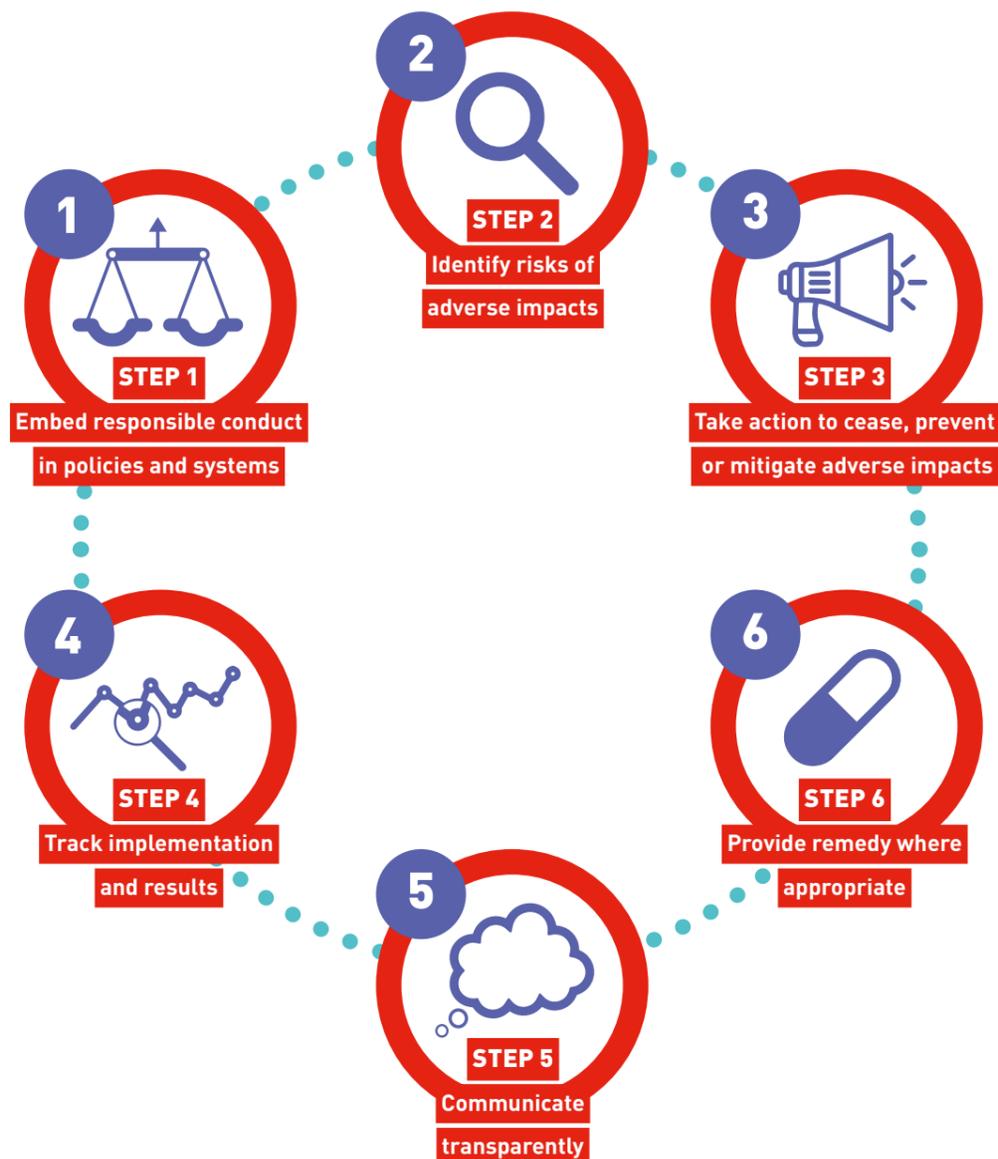
**The due diligence policies and practices of palm oil refineries AAK, Bunge and Cargill**

All three of the companies are expected by the Dutch government to implement rigorous HRDD processes. Even though the three refineries are aware of the OECD guidelines and the six steps of the due diligence process, none of them indicate that they implement the guidelines. In response to our inquiries, Cargill states that it refers to the OECD Guidelines and the six steps. Bunge and AAK indicate to be aware of the OECD guidelines but have not implemented them yet. This research found that all three companies seem to have neglected to identify and address the risks for women’s rights in Guatemala, but also seem to have neglected to fully implement the six steps of the HRDD process to tackle this.



**THE 6 STEPS**

**Of the human rights due diligence process**



**Step 1: Embed responsible conduct in policies and systems**

As a first step in the OECD Guidelines, companies need to adopt and disseminate a combination of policies that articulate their commitment to human rights principles and ethical standards for their operations, their supply chains, and other business relationships. AAK, Bunge and Cargill all have several policies in place to guide the sustainable sourcing of palm oil and other raw materials, including human and labour rights policies, codes of conduct, No Deforestation, No Peat, No Exploitation (NDPE) frameworks<sup>84</sup> and commitments to source palm oil certified by the Roundtable on Sustainable Palm Oil (RSPO) (see box on page X). However, each of the three companies seem to have significant gaps in applying these policies across the entire supply chain and extending respect for human rights to women and their wider communities when they are negatively affected by the palm oil plantations.

When reviewing the policies Bunge has available on its website, Bunge only applies its Labour Policy & Human Rights Policy to employees and contractors and does not extend this policy to affected communities who are not employed within the chain. While Bunge states that it “maintains strict policies on promoting the rights of other individuals and communities in the value chain,” those policies are not publicly specified.<sup>85</sup> In response to our questions regarding this, Bunge indicated that it has policies concerning community development and social impact that extend to the communities. However, this is not the same as identifying possible risks to the communities and mitigating these. AAK does require all external suppliers to “support and respect the protection of internationally proclaimed human rights and ensure

that they are not complicit in human rights abuse.”<sup>86</sup> However, based on the evidence found in this report and AAK’s response to the allegations, it is clear that despite these policies there are serious issues at the mills from which AAK sources.

Cargill outlines stronger commitments to respecting human rights across the supply chain. In the company’s supplier code of conduct, Cargill outlines expectations for suppliers to protect water resources, respect indigenous and community land rights, and to prioritise “the safety, well-being and dignity of all individuals, whose talents and hard work help us deliver our products and services.”<sup>87</sup>

The promising commitments of these companies are in stark contrast to the realities on the ground. The ongoing women’s rights abuses in Guatemala, as well as other cases in the supply chains of AAK, Bunge and Cargill suggest a severe failure to implement these policy commitments into practice.

Moreover, a specific weakness in all three companies’ policies is the complete lack of integration of women’s rights considerations. AAK, Cargill and Bunge make no explicit references to the specific, potential adverse impacts on women. In response to the evidence in this response, Cargill claims that “women’s rights are human rights”. However, when gender issues are not explicitly investigated in due diligence processes, there is a risk that they will never come to light and women will continue to suffer harm.<sup>88</sup> While all three refineries address tenure and land rights of indigenous and local communities, none of the companies acknowledges that women suffer disproportionately from land grabbing and are not consulted in decision-making about their lands.



**If AAK, Cargill, and Bunge fail to explicitly address women's rights and implement adequate human rights policies then they are further exacerbating the adverse impact of palm oil production on women.**

**Step 2: Identify the risk of adverse impacts**

To adequately address human rights violations in supply chains, companies need to assess risks at every segment of the supply chain in a gender responsive way, identify the potential adverse impacts of those risks on women and men, and how the company contributes to these impacts, and prioritise the most critical risks. The palm oil supply chain is generally classified as a high-risk business activity due to its immense impact on the environment and on communities. On top of that, the human rights situation in Guatemala and the lack of protection and high levels of retaliation and violence against human rights defenders makes adverse impacts all the more likely in the production of palm oil. Despite having assessment systems in place, none of the three companies monitor for all the human rights violations associated with palm oil production, including impacts on women's rights.

Bunge claims to assess human rights risks in its supply chain, but these assessments do not appear to be made publicly available. According to Bunge's Sustainable Palm Oil Sourcing Policy, both direct

and indirect suppliers are proactively monitored and risk-assessed for policy non-compliance.<sup>89</sup> However, because Bunge's policies are very limited in terms of human rights scope, it is likely that a strong human rights component – let alone one with a gender lens – is also lacking in this risk assessment. Bunge has more robust risk assessment policies in place for environmental risks, such as deforestation<sup>91</sup> and water contamination.<sup>90</sup> The company has identified the palm oil supply chain as a high-risk activity and publicly shares traceability and tracking results on its Palm Oil Dashboard, but none of these metrics includes more than minor mentions of human rights impacts.<sup>92</sup>

Similarly, Cargill seems to lack a comprehensive and sufficient human rights risk assessment. Cargill assesses risks within the palm oil supply chain, including a component of labour and human rights risks. However Cargill does not monitor explicitly for gender-specific risk as they claim that monitoring for human rights is sufficient. In addition, Cargill seems to only monitor a limited number of direct supplier mills and the detailed results are not publicly available.<sup>93</sup>

AAK shares its risk assessments for the palm oil supply chain through its Progress Reports on Sustainable Palm Oil.<sup>94</sup> AAK's assessment includes environmental and social risks based on sourcing locations, volumes sourced, and supplier-specific information. However, the social risks only focus on child labour, forced labour and working conditions. While important, this does not address other human rights impacts, such as the rights to food, land and water of women in the communities affected by palm oil plantations and mills.

**Human Rights Due Diligence needs to go beyond the labour rights of employees and contractors. By not including a meaningful assessment of the risks that palm oil poses for local and indigenous communities in Guatemala, as well as the differentiated and exacerbated risks potentially faced by women, it seems that AAK, Bunge, and Cargill are neglecting their responsibilities.**

**Step 3: Take action to cease, prevent or mitigate adverse impacts**

In line with the OECD Guidelines, companies need to immediately stop activities that are causing adverse impacts, or use their leverage on suppliers to make them stop, and implement action plans to mitigate and prevent abuses linked to the company's activities. Bunge purchased palm oil from three mills (Repsa, Corporación Uniaceites and Yalcobe) in Guatemala that were associated with the women's rights violations. Bunge also sources indirectly from two of those mills (Corporación Uniaceites and Yalcobe) through an intermediate supplier. Bunge also purchased palm oil from a fourth mill (Chiquibul), but suspended sourcing from them in 2018. In response to the evidence offered in this report, Bunge claims to be in dialogue with the mill Chiquibul to improve the situation and to be conducting an independent assessment to verify the allegations. However, it is not clear what Bunge will do to mitigate the adverse impacts and whether it will result in remediation for the affected Guatemalan women. AAK purchased palm oil from six of the seven mills (Corporación Uniaceites, Chiquibul, Palmas del Ixcán, Panacté, Procesadora Quirigua and Yalcobe) that were associated with the women's rights violations. AAK stated that it does not buy oil directly from some of these mills, but that the Guatemalan palm oil ends up in their supply chain through indirect suppliers. That does not absolve AAK from its responsibility to ensure that these third-party suppliers take action and suspend contracts with companies that violate human rights. AAK claimed to have reached out to the mills to gather more details on the issues raised, but it remains unclear whether and how the risks and abuses are actually mitigated.

Cargill purchased palm oil from five of the seven mills (Corporación Uniaceites, Palmas del Ixcán, Panacté,

Procesadora Quirigua and Yalcobe) that were associated with the women's rights violations. Three of those mills, namely Yalcobe, Panacté and Palmas del Ixcán, are direct suppliers. When we presented Cargill with the findings of violations in Guatemala, Cargill responded that they have suspended one of the mills, namely Corporación Uniaceites, and that they are in the process of evaluating the other mills through field visits and an open dialogue as part of their supplier engagement programme.

Companies should as a first step actively engage with the supplier and cooperate to improve the situation, because simply suspending a supplier does not mean the human rights violations will stop, nor does it guarantee that remedies will be provided to the affected communities. However, ActionAid Guatemala and the human rights defenders working to address the rights violations in Guatemala have noted that the suspension of trade and commercial relations by influential companies such as the refineries in the Netherlands, has helped with making sure that the mills improve their practices to comply with human rights. As such, the refineries should follow the OECD Guidelines which recommends that suspension should be applied as a last resort.

**AAK, Bunge and Cargill need to take timely action to cease and prevent the negative impacts of their palm oil sourcing, a strong risk assessment mechanism will increase timely identification of risks.**

**Step 4: Track implementation and results**

Taking action without follow-up will render action meaningless. The fourth step of the OECD framework requires companies to track the implementation of their actions and continuously monitor the results to ensure the issue is solved and the risk mitigated. Bunge, AAK and Cargill each track data in their palm oil supply chains, which includes deforestation data, traceability metrics and certification status to monitor suppliers. This is made public through so-called Palm Oil Dashboards that are available on the websites of Bunge<sup>95</sup> and Cargill,<sup>96</sup> and in the case of AAK, through regular progress reports.<sup>97</sup> However, the monitoring mechanisms are insufficient to continuously track women's rights violations, since meaningful indicators on the impact on women and communities are missing. Instead, it seems AAK, Bunge and Cargill mostly rely on external complaints – such as those from NGOs, employees and local communities – to raise human rights concerns. It is not enough to solely rely on



communities and civil society to raise concerns and puts an undue burden on these groups. According to the UN Guiding Principles and the OECD Guidelines, the HRDD process requires a proactive and continuous monitoring process for human rights impacts in the supply chain. When we presented our findings, AAK and Cargill indicated that they were engaging with the mills through previously established procedures but did not indicate whether they were aware of the women's rights violations or if they were doing anything to cease, mitigate or remediate these impacts.

**Companies cannot solely rely on external claims to address human rights abuses in their supply chain. Bunge, AAK and Cargill have to actively monitor and ensure that the activities of its suppliers do not harm communities.**

#### **Step 5: Communicate transparently**

Transparency is key. Companies need to publicly communicate policies, processes, activities and outcomes of due diligence processes as well as the results and findings of these actions. Based on our research of the publicly available company documents, none of the three companies' due diligence documents,

policies or progress reports mention Guatemala or Guatemalan suppliers. Nor do they mention the risks of adverse impacts, such as the threatened food security caused by deforestation and water pollution, the violence and retaliation against rights defenders and the impacts on women's rights as described in this research.

All three companies publicly share key documents that describe due diligence processes and adverse impacts in their palm oil supply chains, including policies, traceability information, grievance procedures and mill lists. Yet, AAK, Bunge and Cargill are highly vague regarding the human rights situation in Guatemala linked to the palm oil mills and plantations. In fact, none of the companies' due diligence documents, policies or progress reports mention Guatemala or Guatemalan suppliers. This despite the significant negative impacts on Guatemalan women and indigenous communities that have been extensively documented by Guatemalan CSOs, such as ActionAid Guatemala.

Bunge claims that transparency in their supply chains is an important way to build trust in their company and to help lead the industry forward.<sup>98</sup> Cargill states a commitment to *"improving the traceability of our palm oil supply chain and visibility around our sourcing practices,"*<sup>99</sup> and AAK writes that *"to us, being responsible is also about being clear and transparent."*<sup>100</sup> Efforts towards transparency and traceability are crucial first steps, but significant gaps need to be addressed. While AAK, Bunge and Cargill touch on land rights of

local communities, none specify what their palm oil suppliers must do to prevent breaches of these rights. Additionally, these companies are silent on other adverse human rights impacts of palm oil production and do not address women's rights issues in Guatemala, such as threatened food security caused by deforestation and water pollution, or the violence and retaliation against rights defenders as described in this research.

**Transparency requires openness on all aspects of business impact. Although AAK, Bunge and Cargill have made attempts to be more transparent about their palm oil supply chains, their public policies and statements need to include efforts made to report human and women's rights abuses in Guatemala.**

#### **Step 6: Provide a remedy where appropriate**

When an adverse impact has occurred, the company needs to provide access to effective remedies and reparations or ensure that the suppliers responsible

for the violations provide remediation for the affected individuals or communities. According to our analysis of available documents and interviews with affected communities, it seems that none of the three companies have provided remedy or reparations to the women in Guatemala, nor have they ensured that their suppliers provided remediation.

AAK, Bunge and Cargill manage remedy through their grievance procedures, which outline how suppliers or trading partners are engaged when a violation is identified. However, the grievance procedures only apply when a supplier is accused of company policy non-compliance. In other words, the scope of the grievance procedures of AAK<sup>101</sup>, Bunge<sup>102</sup> and Cargill<sup>103</sup> is mostly limited to abuses that fall within the company's policies, which only have a weak integration of human rights. The three refineries each mention in their grievance procedures that the supplier will be required to provide remedies or reparations when appropriate. What is problematic, however, is that the companies do not specify any requirements for these remedies, such as under what conditions remedies need to be provided or in what form. The responsibility to provide a remedy is also placed entirely on the supplier, and it is not clear if AAK, Bunge and Cargill follow up to make sure appropriate remedies are provided. Yet under the OECD Guidelines, companies are required to apply their leverage on suppliers to make sure remedies are provided.

Bunge claims in its Labour Policy & Human Rights policy that it will *"block any supplier that has been credibly*



accused of human rights violations.”<sup>104</sup> Not only does this statement imply a level of passivity – an external party needs to accuse a supplier of violations rather than a proactive approach and monitoring by Bunge – the use of “credibly accused” begs the question: What constitutes a credible claim? Moreover, it is unclear who can make a claim, how to make a claim or whether there is a level of evidence necessary to qualify the claim as credible. Further, making an accusation, whether “credible” or not, and placing the burden of proof on the affected communities and individuals, is particularly problematic in Guatemala, one of the most dangerous countries to be a human rights defender.<sup>105</sup> Besides this, language barriers and a lack of access to legal support, information and resources can also hinder indigenous communities, especially women, to make such claims. In line with the OECD Guidelines, companies need to actively use their leverage on suppliers to ensure that remedies are provided where necessary. Failing to do so means that these companies have not adequately implemented the sixth step of due diligence. Simply suspending any supplier that is facing backlash is a dangerous way of avoiding accountability.

**With insufficient grievance and remedy procedures in place, there is no guarantee that Guatemalan women will receive the justice and reparations that they are owed. Netherlands-based companies should use their influence to ensure Guatemalan-based suppliers remedy harm.**

#### **What about consumer brands?**

Consumer brands and producers of Fast Moving Consumer Goods (FMCG) that use palm oil in their products are also responsible for conducting HRDD and addressing, preventing and mitigating abuses in their supply chains. Many of these companies do not directly purchase palm oil from Guatemala, but purchase palm oil from indirect suppliers – for example by buying Guatemalan palm oil through traders and refineries like AAK, Bunge and Cargill. Yet, consumer brands still have a responsibility to ensure that this palm oil does not come from suppliers involved in human rights violations, which is why in the following chapter we researched whether the consumer brands adequately do so. Consumer brands and FMCGs should conduct gendered human rights due diligence for their entire supply chain and engage with their suppliers to ensure that human rights and the environment are respected throughout the supply chain. This report also investigates the links between major Netherlands-based FMCG producers and Guatemalan palm oil from the seven mills that were accused of women’s rights abuses.

Six of the seven investigated Guatemalan mills linked to women’s rights abuses also appear on Unilever’s list of palm oil suppliers (Chiquibul, Palmas del Ixcán,

Panacté, Procesadora Quirigua, Repsa and Yalcobe).<sup>106</sup> One of the mills is a direct supplier (NaturaCeites), while the other mills are linked to Unilever indirectly – that is, through intermediary suppliers. Based on our research of Unilever’s publicly available documents and policies, Unilever has left significant gaps in its due diligence. These gaps could be the reason that Unilever seemingly has not identified the impacts on women’s rights in its supply chain in Guatemala.

In contrast to AAK, Bunge and Cargill, Unilever does explicitly mention the importance of inclusion and participation of women as a priority, and states that “our approach starts with the respect of the rights of women and extends to their promotion as well as helping to develop skills and open up opportunities, both in our own operations and our value chain.”<sup>107</sup> Yet the women interviewed in Guatemala explain that there is a lack of consultation of women in decisions about land acquisitions next to a range of other impacts on their rights, which affects women living near plantations and mills in Guatemala that produce palm oil within Unilever’s supply chain. If Unilever is truly committed to its own human rights policy, it needs to ensure that the principles of women’s rights and gender equality are respected throughout their entire supply chain. A significant gap in Unilever’s HRDD process is that



the company fails to adequately apply human rights principles to both direct and indirect suppliers. Whether purchasing palm oil directly from Guatemalan suppliers or through intermediary suppliers like AAK, Bunge and Cargill, Unilever has a responsibility to extend their human rights commitment along the entire supply chain and to make sure this is done in a gender-responsive way. This means that Unilever must ensure that suppliers follow human rights policies and monitor actions along the supply chain with particular attention to gendered impacts. That Unilever has apparently neither identified nor taken action to address the women's rights violations central to this research, indicates that their current mechanisms have been insufficient.

In reaction to the findings, Unilever has shared that they have reached out to their direct suppliers NaturaCeites to verify the allegations and ensure compliance with their policies. They have also reached out to other direct suppliers, such as Cargill, on the cases where there are indirect links with Unilever. Unilever indicates that they will take action after they have verified the information we provided in this report, stating that action could possibly include time-bound remediation, but that they are increasingly asking their suppliers to disengage from problematic sources to incentivize responsible business conduct. As a powerful company that has the reputation of being a leader in responsible business

conduct and HRDD, Unilever has a responsibility to be more transparent about its actions to respect human rights and remediate human rights violations in its supply chains. Yet, none of the Guatemalan mills that supply Unilever directly and indirectly and are linked to violations in Guatemala, appear on Unilever's latest Palm Oil Grievance Tracker.<sup>108</sup> Unilever should be transparent about its direct and indirect suppliers, address the issues raised in this report and use their leverage on other suppliers to uphold the same values, to provide remedies for the women and communities affected by the violations, and ensure that future adverse impacts are prevented.

This research found supply links between Nestlé and six of the seven accused Guatemalan mills through Bunge and Cargill. Nestlé follows the OECD Guidelines but leaves significant gaps in their HRDD. Nestlé does not refer to human rights in its Code of Business Conduct, and in other documents Nestlé mostly focuses on labour rights, such as child labour, or fair compensation, but fails to adequately address other human rights impacts. For example, Nestlé's Responsible Sourcing Standard refers to women's rights, but only in relation to their role on farms and plantations and regarding equal pay by suppliers. Other adverse impacts that women experience – such as their increased workloads to find water and food due to deforestation and water

contamination – are not addressed despite being present in Nestlé's supply chain. In addition, in response to the evidence found in our research, Nestlé indicates to only verify compliance by direct suppliers. Yet, under the OECD Guidelines Nestlé is required to do this for its entire supply chain.

Nestlé also fails to appropriately apply the OECD Guidelines for HRDD. For one, Nestlé's reporting system for grievances is difficult to navigate – it has an "Integrity Reporting System" for internal complaints and a "Tell Us" portal for external grievances rather than a common term such as 'grievance' or 'complaints.' What's more, as Nestlé does not have a country website for Guatemala and the policies are only available in English, this reporting system is particularly hard to make use of for Guatemalan communities, who need to access the system through other Latin American country websites, with a link that is difficult to find.

In response to the human rights violations in Guatemala described in this report, Nestlé claimed to have suspended one of the mills due to previous allegations of violations of labour rights. Moreover, Nestlé said it was engaging another mill through its grievance procedures to address accusations and monitor improvements. In response to the evidence found in this report, Nestlé cited several workshops and projects it has run in

Guatemala to improve the local human rights situation but did not indicate how it will address the violations by the three mills from which the company sources.

Furthermore, Nestlé does not appear to sufficiently use its leverage to ensure that its suppliers mitigate negative impacts and provide remedies to affected parties.<sup>109</sup> In response to earlier allegations by the Corporate Human Rights Benchmark<sup>110</sup> that Nestlé lacks a strong commitment to remedy violations, Nestlé declared that they are committed and referred to its documentation on child labour.<sup>111</sup> Yet Nestlé failed to clarify how their commitments and processes address other types of human rights violations. Nestlé does actively work with NGOs and has funded several workshops for the Guatemalan palm oil industry, with which they engaged some of the mills central to this report. This, however, does not diminish the need for continuous monitoring, tracking and engagement to mitigate and prevent human rights violations in Nestlé's supply chain with a strong gender lens. The fact that Nestlé continues to source from the accused mills without providing evidence of ongoing grievance procedures and efforts to improve the situation directly, suggests that Nestlé's HRDD is failing to protect women's rights in Guatemala.



### A smart mix of measures to protect human rights in supply chains

The Dutch government is requiring 90% of large companies to adhere to the OECD guidelines by 2023,<sup>112</sup> in order to reduce negative impacts in the supply chains of Dutch companies. Yet the evidence in the previous chapter shows that Dutch companies that are linked to significant negative impacts in their supply chains, either do not adhere to the OECD guidelines at all, or leave big gaps in their implementation. A benchmark study, carried out by the Dutch government in 2020, found similar results, namely that only 35 percent of Dutch companies adhere, in any way, to the guidelines.<sup>113</sup> Moreover, the benchmark study found that only 1.7 percent of companies carry out all six steps of the due diligence process, which means only a select few companies actually provide effective remedy to victims of violations. This is a far cry from the 2023 goal set by the Dutch government. In the fall of 2020, the Dutch government will decide on the right mix of measures needed to ensure that Dutch companies comply with international standards and respect human rights in supply chains. As of now, the Dutch government has largely relied on voluntary measures to persuade Dutch companies to respect

human rights throughout their supply chains, such as the RBC-sector agreements, voluntary multi-stakeholder initiatives for previously identified high-risk sectors,<sup>viii</sup> and certification schemes such as the Roundtable on Sustainable Palm Oil (RSPO). However, the little progress that Dutch companies have made towards implementing the OECD guidelines, the limited number of Dutch companies which have signed up to these voluntary initiatives and the fact that there is almost no impact from these efforts in production countries, such as Guatemala, point to the insufficiency of such measures.<sup>114</sup>

In response to the evidence found in this report, many of the companies we addressed pointed to their adherence to responsible sourcing standards, such as the RSPO, to help them identify and address risks. One Netherlands-based dairy multinational sourcing from the mills associated with the violations even stated that their suppliers source “100% RSPO-certified palm oil.” However, this does not mean that their supply chain is free of human rights violations. Several RSPO-certified companies have been accused of severe abuses.<sup>115</sup> Moreover, voluntary certification schemes like RSPO leave significant gaps in their due diligence (see the next section, ‘RSPO certification is insufficient to address the

adverse impacts of palm oil’). The due diligence of these companies must go beyond RSPO-certified palm oil and include active monitoring of gendered human rights impacts across the entire supply chain.

### RSPO certification is insufficient to address the adverse impacts of palm oil

Although the environmental damage and human rights violations caused by the palm oil industry has been known for at least two decades, strong policies and legislative frameworks to regulate the sector are still lacking. To address the drawbacks of palm oil production worldwide, voluntary initiatives have emerged. The most well-known of these is the Roundtable on Sustainable Palm Oil (RSPO). RSPO is a not-for-profit organisation that was established in 2004 to promote the growth and use of sustainable palm oil. The RSPO brings together seven groups of stakeholders in the industry: producers, processors or traders, fast moving consumer goods companies, retailers, banks/investors and environmental and social non-governmental organisations.<sup>116</sup> One of the key components of the RSPO is the certification system, which assesses compliance against the sustainability and human rights standards

in the RSPO’s Principle and Criteria (P&C). Though this certification is used worldwide, there are several significant weaknesses in the RSPO’s performance that limit its credibility.

**A benchmark study found that only 35 percent of Dutch companies adhere to the guidelines.**

viii The risk sectors include construction, chemicals, retail, energy, finance, wholesale, timber and paper, agriculture and horticulture, metal/electronics, oil and gas, textile and garment and food products.



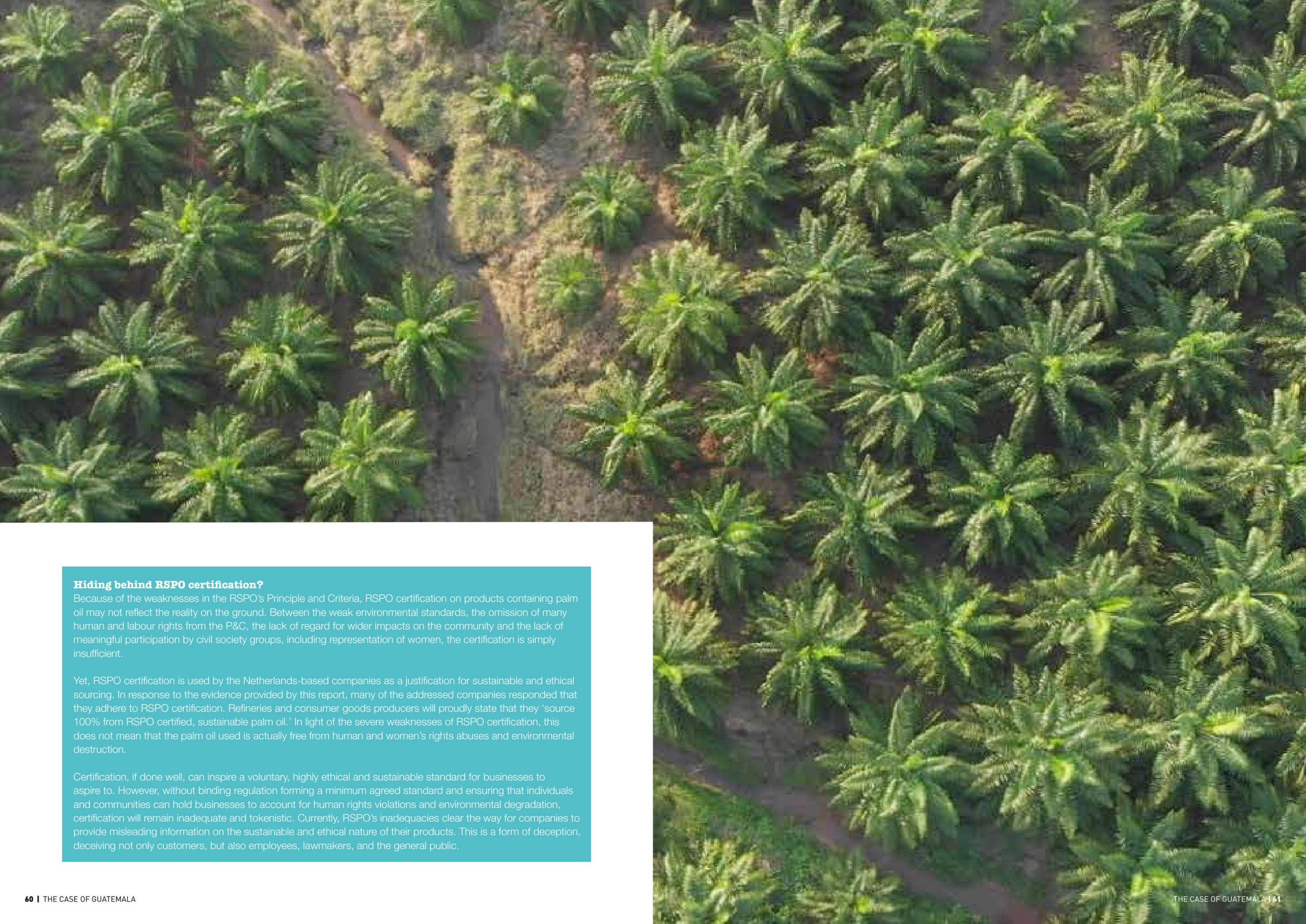
#### Weaknesses of the RSPO certification scheme for sustainable palm oil

- **Unbalanced representation of stakeholders:** The RSPO is dominated by the business sector, with marginal participation by NGOs and civil society organisations<sup>117</sup> and without representation of plantation workers and indigenous peoples.
- **Unmet development goals:** RSPO has failed to adequately assess and mitigate core labour rights issues in its certified plantations and mills, such as child labour, forced labour, discrimination, and other abuses.<sup>98</sup> Moreover, open communication with smallholders and local communities is not prioritised in RSPO's Principles and Criteria (P&C).<sup>119</sup>
- **There is no end in sight to the expansion of palm oil estates:** Despite RSPO commitments to halt deforestation and limit the adverse impacts of palm oil production, RSPO members and certified concessions continue to expand rapidly at the cost of the environment, domestic food production, and the communities.
- **Questionable environmental goals:** The RSPO system has been repeatedly criticized for insufficiently implementing the standards to truly uphold commitments to the environment.<sup>120</sup> Only in 2018, the RSPO adopted a new P&C that explicitly prohibits deforestation of high conservation value forests, but the clearing of secondary forests continues as well as plantations on peatlands, despite their importance from a conservation and climate perspective.<sup>121</sup>
- **RSPO's criteria are limited:** Certain types of environmental and human rights considerations are not covered in the P&C. In the latest P&C, gender-sensitive criteria were introduced, but they are limited in scope and do not address impacts on resettled or neighbouring communities. Women's livelihoods and safety continue to be affected, in particular if they are not workers of the member estates and mills. Moreover, there are insufficient guarantees that remedies will be provided for past, current and future damages caused by mills and plantations.
- **RSPO has been repeatedly accused of green washing:** In 2018, Friends of the Earth International (FoEI) launched a campaign and issued a statement highlighting how in its 14 years of existence, RSPO has failed to eliminate violence and destruction from the industrial palm oil sector. Moreover, FoEI stated that RSPO's promise of "transformation" has become a powerful green washing tool for corporations in the palm oil industry. From this perspective, RSPO grants the industry a positive, sustainable image, even though palm oil remains responsible for violent land grabbing, environmental destruction, pollution through excessive use of agro-toxins, and the destruction of peasant and indigenous livelihoods.<sup>122</sup>

These significant weaknesses in the RSPO certification system raise concerns that the ongoing environmental destruction and human rights violations are hidden behind a veneer of supposed sustainability. Several civil society organisations have raised concerns about inadequate monitoring and failing audits,<sup>123</sup> the lenient transition periods that companies get to address non-compliance,<sup>124</sup> and lengthy complaints and remedy processes that rarely reach satisfactory solutions for the affected communities.<sup>125</sup>

The fact that many companies around the world rely on the RSPO to offset their due diligence obligations, forms a major obstacle to the achievement of the palm oil sector's sustainability. RSPO's shortcomings are further compounded in Guatemala, where the framework to address environmental and human rights abuses is even more volatile. Within the RSPO certification scheme, Guatemala is a small producing country,<sup>126</sup> which means that the National Interpretation, a document that guides the implementation of the RSPO P&C on the national level, is more limited and less comprehensive.<sup>127</sup> Some of RSPO's specific flaws in the Guatemalan context include:<sup>128</sup>

- Newly RSPO-certified companies do not have to fully comply with RSPO regulations for several years after obtaining certification.
- For affected communities and/or other stakeholders, the main access point to the RSPO is through its complaint mechanism, which is difficult to utilise because these complaints need to be filed in English, but many local community members, only speak Q'eqchi, the local indigenous language. Moreover, communities must present scientific evidence of their complaint, for example, an analysis of water samples. Communities do not have the capacity or resources to provide such evidence. Thus, without the support of an NGO it is hard to file complaints and the outcomes are uncertain.
- RSPO does not recognise the self-organisation of the communities, for example the community assemblies where concerns are addressed and where companies are asked to improve their practices.
- RSPO does not address historical injustices, as the displacement of communities with ancestral rights over their territories. This means that no remedy can be provided for human rights violations that occurred in the past.<sup>108</sup>



### **Hiding behind RSPO certification?**

Because of the weaknesses in the RSPO's Principle and Criteria, RSPO certification on products containing palm oil may not reflect the reality on the ground. Between the weak environmental standards, the omission of many human and labour rights from the P&C, the lack of regard for wider impacts on the community and the lack of meaningful participation by civil society groups, including representation of women, the certification is simply insufficient.

Yet, RSPO certification is used by the Netherlands-based companies as a justification for sustainable and ethical sourcing. In response to the evidence provided by this report, many of the addressed companies responded that they adhere to RSPO certification. Refineries and consumer goods producers will proudly state that they 'source 100% from RSPO certified, sustainable palm oil.' In light of the severe weaknesses of RSPO certification, this does not mean that the palm oil used is actually free from human and women's rights abuses and environmental destruction.

Certification, if done well, can inspire a voluntary, highly ethical and sustainable standard for businesses to aspire to. However, without binding regulation forming a minimum agreed standard and ensuring that individuals and communities can hold businesses to account for human rights violations and environmental degradation, certification will remain inadequate and tokenistic. Currently, RSPO's inadequacies clear the way for companies to provide misleading information on the sustainable and ethical nature of their products. This is a form of deception, deceiving not only customers, but also employees, lawmakers, and the general public.

An aerial photograph of a rural agricultural area. On the left, there is a structure with a corrugated metal roof supported by wooden poles. The ground is dirt and covered with agricultural debris. In the center, a person is crouching and working with a large pile of yellowish material, possibly palm fronds, and a green bowl. To the right, another person is visible working in a field of green plants. The background shows a vast field of green crops under a clear sky.

# 5. A DIRE NEED FOR MANDATORY HUMAN RIGHTS DUE DILIGENCE LEGISLATION

Evidently, Netherlands-based companies have a significant role to play in reinstating and protecting the human rights and livelihoods of Guatemalan women, owing to their huge stake in the Guatemalan palm oil industry and their links with palm oil plantations and mills in Guatemala through the Port of Rotterdam.



Through their supply chain links with mills perpetrating human rights violations in Guatemala, Netherlands-based companies are complicit in the human rights violations and women's rights abuses in their supply chain.

This enabling behaviour of Netherlands-based companies and the Port of Rotterdam in systematic human rights abuses, violence against women, and environmental destruction, in addition to the startling inadequacy of the RSPO system and companies' due diligence processes, should form an urgent concern for Dutch policymakers. Through national, EU-level and international legislation, the Netherlands can regulate companies and ensure they comply with human rights and sustainability standards in a gender-responsive way through gendered mandatory due diligence. This would force Netherlands-based companies to work in partnership with suppliers, to listen to the communities dealing with the adverse impacts of palm oil production and ensure that palm oil is produced ethically and sustainably. The Netherlands needs to demand that its companies do better, in order to meet their commitments under international human rights and gender equality law, as well as to meaningfully contribute to achieving the Sustainable Development Goals. Dutch government agencies and representatives also

have an important role to play. The Dutch Embassy in San José, Costa Rica and consulate in Guatemala City, the Netherlands Business Support Offices (NSBSOs) and the Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland - RVO), all support Dutch companies to secure business relationships in Guatemala.<sup>129</sup> Officials at the embassy and consulate, as well as the NBSOs,<sup>130</sup> help businesses through connecting partners and providing advice on conducting business in Guatemala. The RVO, which is the official agency for entrepreneurs, further supports these efforts with access to financing, as well as providing assistance and information on trading in Guatemala.<sup>131</sup> As facilitators of trade, these government representatives play a role in the palm oil supply chain and forming the links between Netherlands-based companies and women's rights abuses in Guatemala. In order to comply with the Dutch government's commitments under international human rights law, they need to ensure this trade happens with respect for human rights.

### **Dutch policy makers and government representatives must enact strong policy frameworks that ensure human rights are respected throughout supply chains.**

As Guatemala's largest purchaser of palm oil, the role of the Netherlands in the wellbeing of Guatemalan women is undeniable.<sup>132</sup> The Dutch government has to implement stronger policy frameworks to regulate the import of sustainable palm oil. Relying on voluntary and ineffective mechanisms such as the RSPO is not enough to prevent human rights abuses overseas.

To ensure that Netherlands-based companies and Dutch consumers do not contribute to the systematic hardships imposed on Guatemalan women, the Netherlands needs to take responsibility. Domestic legislation and monitoring measures that are binding and enforceable are key.

Additionally, the Netherlands should press for regional and international legislation to regulate business activities regarding human rights. This includes EU-

level laws on gendered, mandatory human rights due diligence and corporate accountability, but also specifically a binding treaty on business and human rights at the United Nations (see Box on page 66).



### A legally binding instrument on Business and Human Rights

In 2012, diplomatic representatives of South Africa and Ecuador submitted a joint statement to the United Nations Human Rights Council calling for a legally binding instrument on transnational corporations. The resolution to elaborate on this binding instrument passed during the 26th session of the Council in 2014, and since then, annual negotiations on the text of a binding business and human rights treaty have been held between governments. Such a treaty would function as an international legally binding instrument to regulate businesses in regard to human rights law. Specifically, this means that the treaty would impose human rights obligations on companies worldwide and take away the barriers to justice that victims of these violations face.

Together with many civil society organisations, movements and human rights defenders from all over the world, ActionAid is calling for the adoption of a UN-binding treaty on Business and Human Rights. As part of the Feminists for a Binding Treaty Coalition, ActionAid advocates to structurally embed women's rights and gender equality in the treaty. As this report has shown, the adverse impacts of business activities affect entire communities, but often have a deep and disproportionate impact on women. Strengthening women's rights as part of a business and human rights treaty is therefore crucial.

However, the progress for a binding treaty at the UN-level has been slow. In August 2020, a second draft of this legally binding instrument was released, but the adoption of a treaty still seems several years away.<sup>133</sup> Major economies in which many multinationals are based, such as the USA, Canada, the European Union and Australia do not officially take part in the negotiations, despite their commitments on human rights, promoting gender equality and realising the Sustainable Development Goals. ActionAid continues to call on all governments to support the UN treaty process, as the instrument could make a major difference in the lives of women and their communities suffering from corporate human rights violations.

### Recommendations

Having identified vulnerabilities and rights violations within Guatemalan palm oil chains supplying the Netherlands, the next step is to put these findings to immediate use, given the urgency of halting human rights and women's rights violations. Policymakers and the government of the Netherlands have a duty to intervene and ensure that Netherlands-based companies comply with international human rights standards.

#### Recommendations to Dutch policy makers:

- Adopt and implement mandatory human rights due diligence legislation that is carefully designed to lead to transformative change for women and avoid gender equality and women's rights becoming a tick-box exercise within the due diligence processes of companies<sup>134</sup>.
- Integrate a gender perspective in the drafting of and negotiations for the UN binding treaty on Business and Human Rights, including mandatory gender impact assessments, gender-sensitive remedy mechanisms and the protection of human rights defenders.
- Require Netherlands-based companies that make use of government support to invest, operate or source from Guatemala to conduct gendered due diligence.
- Hold state-owned enterprises, such as the Port of Rotterdam, to a higher standard by requiring them to lead by example and fully meet their human rights obligations, to adopt policies and processes to address abuse, including a policy commitment to gendered human rights due diligence and gender-sensitive remediation when harm occurs, which are integrated throughout their operations.
- Monitor and respond to human rights violations and strengthen human rights defenders' protection mechanisms, in the Netherlands and abroad.
- The Dutch embassy in San José, Costa Rica should provide guidance and support on women's rights to Netherlands-based companies that operate in or source from Guatemala, particularly in the palm oil industry.
- The Dutch embassy in San José, Costa Rica should foster a close relationship with social and community organisations in Guatemala to understand the impacts of the palm oil industry on their livelihoods.

#### Steps to take for Netherlands-based palm oil refineries and manufacturers that use palm oil:

- Conduct gender responsive human rights due diligence of their palm oil supply chains in accordance with the six steps of the OECD Guidelines on Multinational Corporations and the UN Guiding Principles on Business and Human Rights<sup>135</sup>.
- Engage and work with suppliers to improve their practices and ensure they have the (financial) capacity to prevent and address harm.
- Suspend purchase from palm oil suppliers that do not resolve issues and do not provide affected communities with access to effective remedy for the damages suffered.
- Implement palm oil traceability standards and transparent monitoring beyond the Roundtable on Sustainable Palm Oil certification standards.
- Guarantee compliance with the national laws, international conventions and standards ratified by Guatemala, on the protection of human rights defenders.
- Develop and implement rigorous women's rights and labour policies to ensure that the rights and wellbeing of women are protected across the supply chain, whether as workers or community members.

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