

Earthworm Foundation Quarterly Report
for the Action Plan with Wilmar Operational Unit in West Sumatera

August 2020

Published: 14 September 2020

Since September 2018, Earthworm Foundation (EF) has been intensively supporting Wilmar International Limited (Wilmar) and local communities in the Pasaman Barat district of West Sumatra in Indonesia to achieve resolution over tenurial disputes in that area. By March 2020, PT Permata Hijau Pasaman Unit 2 (PHP 2), a subsidiary of Wilmar in the Pasaman Barat and Maligi community has successfully reached an agreement that concluded the long-standing conflict. In April 2020, EF released [a public report](#) detailing the resolution process and the outcome.

In this 4th public report, EF will provide updates on the current situation with the Maligi community following the agreement signing, as well as detail progress on other activities including the action plan to strengthen Wilmar's grievance procedure and the grievance resolution process involving Koto Baru and Kinali community and Wilmar's subsidiary PT Primatama Mulia Jaya (PMJ). EF's work on the ground has identified complex underlying factors influencing the many land conflicts active in this region, which invariably complicates the nature of the grievances levelled at Wilmar subsidiaries. One of the contributing factors to the land conflicts is the lack of requirements for robust social and tenure rights assessments when the plantations were established around 40 years ago. Not only that, the dynamic within the community has often led to internal community disagreements that trigger conflict and complicate the resolution of these cases. This illustrates that tenure conflict is often far more complex than just assuming there is an issue between just the company and the community. As with most social units, each community has tensions that arise as a result of complex social interplays, power relations and other forms of social interaction

In order to proceed forward more effectively, EF's approach has therefore been to thoroughly map the relationship between relevant stakeholders with a view to transparently understanding the historical facts, the community circumstances, viewpoints and aspirations before mapping potential resolution options. This approach will enable more effective engagement with relevant stakeholders and continue with mapping of decision makers within the communities with the

aim of supporting the relevant parties to find the best resolution and outcome for the communities and the company.

1. Agreement Follow Up with Maligi Community in PT PHP 2

Following the Agreement, PT PHP 2 has already transferred the full compensation amount agreed to the nominated *penerima kuasa*¹ on behalf of the Maligi community. Following this transfer, the Ninik Mamak² have already distributed and utilized the money in line with the terms and conditions that were agreed internally within the community. The receipt and dispersion of the compensation has been documented and these records have been shared to the Kerapatan Adat Nagari (KAN)³ and EF. Following approval by the Ninik Mamak, EF then shared a copy of these records to both PT PHP 2 and the Local Government of Pasaman Barat. The sharing of these records are key to maintaining transparency and accountability in this ongoing process, and demonstrate that both the company and community leaders have conducted their responsibilities in a manner that directly benefits the community.

In addition to sharing these records with both company and local government, EF met with the Ninik Mamak to emphasize the need for the Ninik Mamak to transparently disclose these records directly with their community. This inclusive action with the community is key to ensure that the compensation is spent transparently for the best interest of the community members, as well as to avoid any possible misunderstanding between community, Ninik Mamak, and the company. The Ninik Mamaks agreed with this recommendation and will schedule a community meeting whereby EF has been requested to attend as a facilitator.

¹ *Penerima Kuasa* literally translates to “authorized” and here refers to persons nominated by the *Ninik Mamak* and given authority to act on their behalf in certain matters.

² *Ninik Mamak* is the customary clan leader whose role is to provide leadership and traditional decision making on aspects of *Nagari*/village’s culture and customs.

³ In Minang culture, Kerapatan Adat Nagari (KAN) is the parent of the customary system.



Figure 1 Discussion with Ninik Mamak Maligi in the Earthworm Foundation base in Pasaman Barat about the agreement follow up

The Ninik Mamak and their *penerima kuasa* as community representatives also highlighted the importance of implementing Corporate Social Responsibility (CSR) programs as soon as possible, as set out in the Agreement. Wilmar and EF agree and add that it is critical to ensure that the CSR plan is developed in a participative manner.

Status:

Closed

Next steps:

Although this conflict has been resolved, EF will continue to support Ninik Mamak Maligi, the community member, and PT PHP 2 to develop the CSR program.

2. Resolution Process with Koto Baru and Kinali Community and PT PMJ

Overlapping Claim of Customary Leadership

In December 2019, EF released [a report](#) explaining the result of its assessment of the conflict in PT PMJ. EF detailed that there is an overlapping claim of customary leadership within Nagari Koto Baru, whereby three persons individually claim that they are the legitimate Pucuk Adat⁴. Koto Baru is a Nagari using the Babingka Adat system⁵, where the

⁴ Pucuk Adat is the leader with the higher authority in a Nagari.

Pucuk Adat is the principal land tenure rights holder. Therefore, engagement with the rightful Pucuk Adat is important to legitimately resolve the land dispute.

Traditionally, Pucuk Adat is determined through *ranji*⁶ to show the incumbent relationship and his nephew from the maternal side. In the context of Koto Baru, the late Pucuk Adat Syaferuddin Said wrote a will on 18 October 2016 to test that his illness was getting worse, so he would like to appoint his nephew as the next Pucuk Adat. However, the crown leader was underage at that time, so the position was mandated temporarily to Syaferuddin's biological younger brother. This younger brother is now known as one of the Pucuk Adats in Nagari Koto Baru.

At the same time, the Nagari community is navigating through the tenurial conflict against PT PMJ. This situation causes the community to search for a trusted leader who can represent them in their struggle. This was when one of the community figures raised as commander. Later in 2012, the Ninik Mamaks of Koto Baru issued a letter to appoint this new figure as the Pucuk Adat. The appointment happened while the late Syaferuddin Said was still in active leadership. This figure is also currently known as one of the Pucuk Adats in Nagari Koto Baru.

The third overlap is likely caused by the entanglement between the traditional system of Nagari and the modern village, where the District Government has authority over the area instead of the traditional leader. In 2014, the Bupati of Pasaman Barat appointed another community figures as the Pucuk Adat. This figure makes up the third-known of current Pucuk Adat in Nagari Koto Baru.

EF has made contact with all three Pucuk Adats and commenced the initial engagement process. Each of the Pucuk Adat have stated that their claims are supported by valid proof whether through *ranji*, government appointment and/or community acknowledgment. EF will continue to intensively engage with all three Pucuk Adat, to ensure that the desired resolution process includes the legitimate stakeholders and target areas

⁵ The Minang culture has two types of land tenure rights systems, which are the *Babingka Adat* and the *Babingka Tanah*. In the *Babingka Adat* system, the *Pucuk Adat* is the principal land tenure rights holder in a Nagari. However, in the *Babingka Tanah* system, the *Ninik Mamak* is the owner of and decides on matters related to land tenure rights in a Nagari while the *Pucuk Adat* is the customary leader of the Nagari.

⁶ In Minang culture, *ranji* is a document of family lineage, explaining the line of descendants.

Verification of allegations of use of force by PT PMJ in Southeast Asia Globe Publication

On 26 June 2020, Southeast Asia Globe published [an article](#) describing the conflict in PT PMJ which involves the Koto Baru community. The article also includes [footage](#) of community member testimonies regarding the intimidation that they received from the company. In light of this article, EF conducted verification with a view to understand the reported incident further.

EF met one of the women who appeared in the footage. The woman confirmed that she was protesting because she was forced from her cornfield, which has since been planted with oil palm managed by the smallholder cooperative which is a supplier to PT PMJ.⁷ She also informed EF about how she was intimidated by security forces during the protest. There are different views about who hired security forces during this event. The woman believed that it was PT PMJ who hired them, but PT PMJ has denied the allegation citing that they are not a party to the conflict as the land was managed by the smallholder cooperative instead of PT PMJ. She then subsequently brought EF to the disputed land, allowing EF to record the coordinates of the target area and overlay these boundaries with the concession map of PT PMJ. The results concluded that the disputed land is actually outside of the concession boundaries, and also that the palm oil that was previously planted has now burned by the community who were protesting. Further analysis is now required to determine which other stakeholders are involved in this dispute.

⁷ The cooperative here means the cooperative that was established to manage the company *plasma*. For several years, PT PMJ supported the cooperative both financially and in terms of management. During this period, the cooperative has to supply their fruits exclusively to PT PMJ mill. The cooperative has now become a fully independent organization with no managerial or financial supervision and assistance from PT PMJ. This organization remains as the fruits suppliers for PT PMJ mill.



Figure 2 This is the area which Koto Baru community members claim as their cornfield. The oil palm plantation has been burned and poisoned by the community around 2015 as a form of protest.

Status: Ongoing

Next steps: EF will continue to conduct further analysis of the case, and identify relevant stakeholders with the aim of supporting all the disputing parties to find the best resolution and outcome for this existing grievance.

3. Ongoing engagement with stakeholders and representative organizations in West Pasaman

The initial verification of the allegations from Koto Baru community members in section 2, demonstrates that tenure conflict is often far more complex than just assuming there is an issue between a company and the community. As with most social units, each community has tensions that arise as a result of complex social interplays, power relations and other forms of social interaction. Therefore, EF's strategy is to thoroughly map the relationship between relevant stakeholders with a view to transparently understanding the historical facts, the community circumstances, viewpoints and aspirations before mapping potential resolution options.

A key stakeholder that EF has engaged is the Nagari Institute (NI). The West Sumatra-based NGO has long worked with local communities in this area to protect their tenure rights. During the initial discussion, NI mentioned that while they acknowledged Wilmar's policy on No Deforestation, No Peat, and No Exploitation (NDPE), they also observed many inconsistencies associated with the implementation of the policy on the ground. It is critical for NI and other relevant stakeholders to share more details of his observation with Wilmar/EF, so that the company is able to effectively address any concerns and or potential grievances. NI believes that strong leadership from Wilmar's top management backed by capacity building for the company field teams is critical to closing the gap between the NDPE policy and implementation. EF is keen to continue communicating with NI, both in resolving the current grievances and to map other potential tenurial issues in Pasaman Barat.

Status:

Ongoing

Next steps:

EF will continue to engage with Nagari Institute and relevant stakeholders to map out other potential issues in the region

4. Strengthening Grievance Procedure

This activity aims to strengthen the existing procedures for the subsidiaries of Wilmar (unit level) and to improve the effectiveness of the grievance handling process. During the review process, EF and Wilmar will also align unit-level procedures with the No Exploitation grievance handling protocol that has been developed in partnership with labour rights and land rights specialists from Verite, Landesa, and Earthworm Foundation. A series of meetings have been conducted to agree on the process, timeline, and document sharing.

Status:

Ongoing

Next steps:

Continue the process. The procedure is expected to be finalized by the end of September, after which the procedure will be disseminated to Wilmar subsidiaries and relevant stakeholders.