

Earthworm Foundation Report of Resolution Case Study in Pasaman Barat

PT Permata Hijau Pasaman and Maligi Community

April 2020

PT Permata Hijau Pasaman Unit 2 (PHP 2), a subsidiary of Wilmar International Limited (Wilmar) in the Pasaman Barat district of West Sumatra in Indonesia, was involved in a long-standing conflict with the Maligi community. The conflict peaked in January 2019 when the Maligi community encroached and illegally occupied the PT PHP 2 concession area, blocking all workers from entering PT PHP 2. The company commenced various engagement efforts with the Maligi community to try and resolve the active encroachment and blockade.

In August 2019, Earthworm Foundation (EF) was commissioned by Wilmar to facilitate a conflict resolution process and dialogues between PT PHP 2 and the Maligi community. The objective was to agree on a resolution through a process conducted in accordance with Free, Prior and Informed (FPIC) principles, as contained within the RSPO P&C, in order to secure a long-term resolution between the company and the community.

Context: The Customary System in Maligi Nagari

The Maligi community, which is a *Nagari*¹ neighbouring PT PHP 2, is part of *Kerapatan Adat Nagari (KAN)*² *Sasak*.

EF commenced field research activity to understand the customary system in the Maligi community in August 2019. The work also aimed to identify the correct rights holders or claimants, and the appropriate representatives of the community using FPIC principles.

According to the Minang culture, the *Pucuk Adat* is the leader with the higher authority in a Nagari while the *Ninik Mamak* are the customary clan leaders whose role is to provide leadership and traditional decision making on aspects of *Nagari* culture and custom.

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.

The Maligi community adopts the *Babingka Adat* system, and therefore all discussions should involve the *Pucuk Adat* of Sasak as the land tenure rights owner of the Sasak customary land, which includes the Nagari community.

Through our on-ground efforts, EF identified three *Ninik Mamak*; two community members who obtained authority from *Ninik Mamak* to mediate on land conflict issues, and one representative of the *Pucuk Adat*. All three had been previously selected as a representative of the 1,500 community members in the Maligi community.

¹ Nagari is village (*desa*) in Minang (local West Sumatra) language.

² In Minang culture, *Kerapatan Adat Nagari (KAN)* is the parent of customary system.

Engagement and Discussion Process: 1st Negotiation Meeting

After continuous and intensive engagement with the Maligi community for a month, EF facilitated a mediation and discussion between PT PHP 2 and the Maligi community on **12 September 2019**. The discussion was held in a neutral venue, as it was important to establish trust on both sides. This first meeting was held in a restaurant in Pasaman Barat.



During this first meeting, PT PHP 2 and the Maligi community representatives were able to identify and agree on four main issues, including:

- (i) land conflict;
- (ii) provision of aid for Bapak Hendro Baro, a Maligi community member;
- (iii) community programme for the Maligi community, and;
- (d) the resumption of operational activities at PT PHP 2.

The first two issues were identified as priorities by the Maligi community.

Engagement and Discussion Process: 2nd Negotiation Meeting

EF continued engaging with the Maligi community and PT PHP 2. In order to clarify the total area of the land dispute, EF carried out ground checks with Maligi community on **26 and 27 November 2019**.



Based on the verification result, a total area of 764 hectares (ha) was identified as the object of the land dispute with the following details:

1. 149 ha located in PT PHP 2 HGU³;
2. 225 ha located in plasma area of PT Gersindo Minang Plantation;
3. 390 ha located in plasma area of PT Gersindo Minang Plantation

As a follow-up, EF facilitated a second mediation and negotiation between PT PHP 2 and the Maligi community on **13 December 2019** in Pasaman Barat. Again, a neutral venue was selected. At the meeting, the Maligi community demanded compensation from PT PHP 2 on the 764 ha disputed land.

PT PHP 2 clarified that the first area of the land dispute (149 ha) was located within the HGU, which was obtained legally from the BPN⁴. In addition, the *silih jariah*⁵ was already provided and paid to the previously appointed *Ninik Mamak*.



For the second disputed land claim area, PT PHP 2 requested for additional time to discuss the status to find alternative solutions. PT PHP 2 also confirmed that they were willing to provide the requested aid for Bapak Hendro Baro.

PT PHP 2 recommended that the Maligi community engage with the Tanjung Pangkal community, who are also claiming the third disputed land area, to discuss and come to an agreement on the status of the area. PT PHP 2 will then be willing to join the dialogue on the status of this area once the Maligi and Tanjung Pangkal communities reach an agreement.

³ *Hak Guna Usaha* (HGU) is the operations permit

⁴ *Badan Pertanahan Nasional* (BPN), which is the National Land Agency of Indonesia

⁵ *Silih jariah* is a type of compensation paid to the *Ninik Mamak* for the customary land

Engagement and Discussion Process: 3rd Negotiation Meeting

The third negotiation meeting between PT PHP 2 and the Maligi community was held on **10 January 2020** in a neutral venue in Padang and facilitated by EF. During this meeting, PT PHP 2 agreed to provide financial aid to the family of Hendro Baro. This commitment was fulfilled by PT PHP 2 on **4 February 2020**.



After a full-day of discussion and negotiation, PT PHP 2 and the Maligi community agreed to resolve the land conflict through a compensation mechanism. Both parties agreed to have an additional negotiation meeting on 10 February 2020 to agree on the amount of the compensation.

Resuming Operational Activity in PT Permata Hijau Pasaman Unit 2

EF conducted a socialization meeting with all community members in the village from **12 to 14 January 2020** to inform that PT PHP 2 and the Maligi community were close to reaching an agreement. As part of the FPIC process, EF asked the community members if they were willing to agree to remove their blockade and allow PT PHP 2 to resume operational activity, as an act of goodwill. EF provided assurance to the Maligi community that the conflict resolution process would be based on the agreement reached with PT PHP 2 on 10 January 2020. The community consented to this, and operations at PT PHP 2 resumed on **15 January 2020** in accordance to the agreement with the community.



Engagement and Discussion Process: 4th Negotiation Meeting

As a follow-up from the previous meeting held in January 2020, EF facilitated a fourth meeting between PT PHP 2 and the Maligi community on **9 February 2020** at a neutral venue.

In this meeting, PT PHP 2 conveyed the total amount of compensation that they would provide. The Maligi community decided that they required more time to agree on the amount of compensation requested. Both parties agreed to reschedule a follow-up meeting before 20 February 2020.



Engagement and Discussion Process: 5th Negotiation Meeting



On **18 February 2020**, EF facilitated the final negotiation meeting between PT PHP 2 and the Maligi community at a hotel in Padang. During this meeting, the Maligi community agreed and accepted a total compensation amount that had been pre-negotiated to resolve the land conflict between the two entities. This decision concluded the final resolution of land conflict between PT PHP 2 and the Maligi community.

Signing of Memorandum of Agreement & Compensation Payments Made

To conclude the final resolution between PT PHP 2 and the Maligi community, EF arranged a formal event for the signing of a Memorandum of Agreement (MoA) on **10 March 2020** at the Pasaman Barat Local Government Office. The content of the MoA had already been discussed and agreed by both PT PHP 2 and the Maligi community beforehand.

The event was attended by *Mamak Gadang Hakim Bandaro*⁶, *Daulat Parit Batu*⁷, Head of Regional Police, and *Bupati*⁸ of Pasaman Barat, among others. The MoA was signed by PT PHP 2, representatives of the Maligi community, Maligi's *Ninik Mamak*, Sasak's *Pucuk Adat*, Earthworm Foundation and the *Bupati* of Pasaman Barat.



With the signing of MoA, the land conflict between PT PHP 2 and Maligi community was officially resolved and closed. On 14 April 2020, PT PHP 2 transferred the full compensation amount to one of the nominated *penerima kuasa*⁹ on behalf of the Maligi community.

⁶ Mamak Gadang Hakim Bandaro is the prime minister of Pasaman customary community.

⁷ Daulat Parit Batu is the king of Pasaman customary community.

⁸ Bupati is the head of local government at district level.

⁹ *Penerima Kuasa* literally translates to “authorised” and here refers to persons nominated by the *Ninik Mamak* and given authority to act on their behalf in certain matters.

Next Steps

This resolution of conflict between PT PHP 2 and the Maligi community was achieved through the willingness by both parties and through constructive facilitated discussions. They were able to do this due to the establishment of mutual trust in conducive conditions for open and constructive discussions. Mutual trust was achieved through transparent practices, including intense consultation, dialogue, and negotiation with local people on the basis of the FPIC process, as contained within the RSPO P&C. The success of this intense negotiation provides a blue print for Wilmar to overcome such cases in other subsidiaries in line with the company's NDPE commitments.

Under the commitment made in the MoA, EF will continue to support the Maligi community to ensure that the compensation fund is utilized for the best interests of members of the entire community. This process has been on-going remotely since 10 April 2020 due to COVID-19 movement restrictions. EF will also continue to work together with Wilmar to engage other local communities and other Wilmar operations that are facing similar issues and conflicts in Pasaman Barat. EF will provide details associated with these engagements in subsequent updates.