

October 10<sup>th</sup> , 2024

## **Urgent Action Alert in support of Nagari Kapa community, West Sumatra, Indonesia**

### **Background information**

MINISTRY OF AGRARIAN AND SPATIAL PLANNING/NATIONAL LAND AGENCY, WEST PASAMAN DISTRICT LAND OFFICE, WEST SUMATERA PROVINCE, 2024-07-23. Notice of Implementation: Activities of Data Collection and Field Review of the Agrarian Reform Task Force of West Pasaman Regency Year 2024 ( *Pemberitahuan Pelaksanaan Kegiatan Pendataan dan Peninjauan Lapangan Gugus Tugas Reforma Agraria Kabupaten Pasaman Barat Tahun 2024*)

Mongabay.co.id/Djaka Hendra Baitri, 2024-10-08. Konflik Lahan Masyarakat Kapa dan Perusahaan Sawit Wilmar Memanas (Land Conflict between Kapa Community and Wilmar Palm Oil Company Escalates). < <https://www.mongabay.co.id/2024/10/08/konflik-lahan-masyarakat-kapa-dan-perusahaan-sawit-wilmar-memanas/> >

Mongabay.com/Rachel Diaz-Bastin, 2017-02-16. Wilmar grabbed indigenous lands in Sumatra, RSPO finds. < <https://news.mongabay.com/2017/02/wilmar-grabbed-indigenous-lands-in-sumatra-rspo-finds/> >

Mongabay.com/Rachel Diaz-Bastin, 2017-05-17. Wilmar appeals RSPO ruling that it grabbed indigenous lands in Sumatra. < <https://news.mongabay.com/2017/05/wilmar-appeals-rspo-ruling-that-it-grabbed-indigenous-lands-in-sumatra/> >

Mongabay.com/Djaka Hendra Baitri, 2022-11-09. Tensions boil in Sumatra over a palm oil promise villagers say has yet to be kept. < <https://news.mongabay.com/2022/11/tensions-boil-in-sumatra-over-a-palm-oil-promise-villagers-say-has-yet-to-be-kept/> >

## **Appendices.**

### **1. Key excerpts, Padang Legal Aid Institute, Brief Legal Opinion, no date, translated from Indonesian (original document in Indonesian is available on request)**

#### **Brief LEGAL OPINION**

#### **ALLEGED CRIMINALISATION OF 5 (FIVE) KAPA FARMERS IN WEST PASAMAN**

#### **LEGAL PERSPECTIVE**

##### **LAND CONFLICT BETWEEN FARMERS AND PT PHP 1 SINCE 1997 AND CONTINUES TO THIS DAY**

The land conflict between the Kapa community and PT PHP 1 has been ongoing since 1997 for 27 years with latent and often manifest (open) conflicts. Land conflicts occur due to unequal land tenure between companies and farmers. The company controls a lot of land while farmers do not have land for future survival. The problematic process of transferring land without the consent of all the children during the construction of the plantation makes the legitimacy of the legal process problematic. Moreover, it was coupled with arrests and criminalisation at that time. This manifest conflict situation can roll out at any time so that the conflict manifests massively again in 2020. So that it encourages the process of restoring direct rights by the community together which is also based on the difficult economic situation when Covid-19 occurs.

On the other hand, the government was also aware of this situation of injustice in land utilisation, so President Jokowi issued Presidential Regulation No. 86/2018 on Agrarian Reform, which has been revised into Presidential Regulation No. 62/2023 on Accelerating the Implementation of Agrarian Reform. Agrarian Reform is a rearrangement of the structure of control, ownership, use, and utilisation of land that is more equitable through asset structuring and access structuring for the prosperity of the people. Meanwhile, Agrarian Reform Object Land, hereinafter abbreviated as TORA, is land controlled by the state and/or land that has been owned, controlled, and/or utilised by the community to be redistributed or legalised. In Presidential Regulation Number 62 of 2023, especially in Article 4, the types of TORA include TORA from forest areas, TORA from non-forest areas and TORA from the settlement of Agrarian Conflicts. The conflict between the Kapa community and PT PHP 1 was advocated to TORA from the settlement of agrarian conflicts originating from agrarian conflicts in non-forest areas (vide Article 18 of Presidential Regulation Number 62 Year 2023).

The Presidential Regulation regulates the stages of resolving agrarian conflicts as follows:

#### **Agrarian Conflict Resolution Mechanism**

- Receipt of Agrarian Conflict Report/Complaint
- Verification of Agrarian Conflict
- Recommendation for Agrarian Conflict Resolution
- Implementation of Agrarian Conflict Resolution

Kapa farmers are fighting for the resolution of land conflicts with PT PHP 1 by using the mechanism of Presidential Regulation No. 62 of 2023 which has implemented the Agrarian Reform Priority Locations mechanism as stated in Article 48 paragraph (1). Kapa farmers have passed two stages, namely Receiving Agrarian Conflict Reports/Complaints (as per Article 49) and Verification of Agrarian Conflict (as per Article 51). This can be proven by the following letter:

Letter of complaint from SPI Basis Kapa West Pasaman with a special number containing SPI Basis Kapa's request to make 925 Ha land as Land Object of Agrarian Reform (Exhibit -1);

Letter from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Directorate General of Agrarian Arrangement Number: 168/500.22.LR.03.01/VII/2024 dated 29 July 2024 regarding the List of Priority Agrarian Reform Locations Proposed by the Indonesian Farmers Union (SPI) in which number 8 includes SPI Basis Kapa as a priority location for agrarian reform (Exhibit-2);

Letter from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Land Office of West Pasaman Regency, West Sumatra Province, Number: NT. 02.03/1219-13.12/VII/2024 dated 23 July 2024 requesting SPI Basis Kapa to participate in the data collection and field review activities of the West Pasaman Regency agrarian reform task force in 2024 which was held on Tuesday, 30 July 2024 (Exhibit-3).

### STRONG ALLEGATIONS THAT PT PHP 1 BUILT OIL PALM PLANTATIONS IN VIOLATION OF THE LAW

The development of oil palm plantations by PT PHP 1 began in 1997. The requirement to build an oil palm plantation requires a Cultivation Rights Title certificate. PT PHP allegedly has two, namely a certificate of Cultivation Rights Title (HGU) Number 54 located in Nagari Sasak District Sasak Ranah Pasisie covering an area of 9,320,000 m<sup>2</sup> issued on 20 November 2014 (Exhibit-4) and a certificate of HGU Number 55 located in Nagari Sasak District Sasak Ranah Pasisie covering an area of 3,150,000 m<sup>2</sup> issued on 20 November 2014 (Exhibit-5). None of the HGUs that we found were specific to Nagari Kapa from the documents we have.

Cultivation Rights are rights to cultivate land directly controlled by the State granted for a maximum period of 35 years, extended for a maximum period of 25 years and renewed for a maximum period of 35 years (as stipulated in Article 28 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles). Article 9 of Law No. 18/2004 on Plantations reads 'In the context of implementing the plantation business, plantation business actors in accordance with their interests may be granted land rights needed for the plantation business in the form of property rights, business use rights, building use rights, and/or use rights in accordance with laws and regulations'. From 2004 until 2014, PT PHP1 did not have land rights in the form of business use rights and or use rights, so it can be categorised as PT PHP1's plantation development violating the applicable laws.

Whereas in MOA Number: REGULATION OF THE MINISTER OF AGRICULTURE OF THE REPUBLIC OF INDONESIA NUMBER 98/Permentan/OT.140/9/2013 concerning Guidelines for Plantation Business Licensing, especially in Article 34 number 1, plantation companies that already have IUP, IUP-B or IUP-P as referred to in Article 13, must complete land rights no later than 2 (two) years from the issuance of IUP-B, IUP-P, or IUP. After we submitted a request for information to the Information and Data Management Officer (PPID) of West Pasaman Regency, we were given that PT PHP's IUP document only exists through the Decree of the Head of the Investment Coordinating Board Number: 425/I/Pertanian/2005 concerning Plantation Business Permit to PT PHP dated 1 June 2005 covering 2,615 Ha (Exhibit-6). Based on the documents we have, we strongly suspect that PT PHP 1 is building oil palm plantations in Kapa nagari in violation of the law.

## STRONG POTENTIAL FOR CRIMINALISATION OF FIVE KAPA FARMERS

The conflict between farmers who are members of SPI Basis Kapa and PT PHP 1 has resulted in criminal law. There are at least 6 (six) police reports due to this land conflict.

Of the 6 (six) criminal cases, 2 (two) cases reported by PT PHP were processed by the West Pasaman Resort Police while 4 (four) cases reported by Kapa Farmers were not processed and are currently at a standstill.

The use of Article 107 of Law Number 39 of 2014 concerning Plantations which has been revised by Law Number 6 of 2023 is not in sync with the rules of Presidential Regulation Number 62 of 2023 concerning the Acceleration of Agrarian Reform Implementation.

This criminalisation occurred when SPI Basis Kapa farmers were carrying out conflict resolution mechanisms. Whereas in the regulation the police have the authority to become the National Agrarian Reform Task Force Team (Article 62 and Article 64 paragraph (3)), Provincial Agrarian Reform Task Force Team (Article 68 paragraph (2)) and District Agrarian Reform Task Force Team (Article 69 paragraph (2)) which have the obligation to resolve agrarian reform conflicts, not criminalise farmers involved in conflicts with companies. The West Pasaman Resort Police as the District Agrarian Reform Task Force Team is regulated in the Decree of the West Pasaman Regent Number: 100.3.3.2/252/BUP-PASBAR/2024 on the Agrarian Reform Task Force of West Pasaman Regency for Fiscal Year 2024 (Exhibit-7).

## CONCLUSION

Agrarian conflicts have occurred since 1997 until now between the Kapa community and PT PHP 1 which then currently reappears with the entity of SPI Basis Kapa Farmers in West Pasaman Regency;

Currently, SPI Basis Kapa Farmers of West Pasaman Regency are fighting for the resolution of agrarian conflicts as stipulated in Presidential Regulation Number 62 of 2023 concerning the Acceleration of Agrarian Reform Implementation;

The process of developing oil palm plantations by PT PHP 1 is suspected of violating the law and the object is still unclear because there is no specific HGU for Nagari Kapa;

There is a difference in the attitude of the West Pasaman Resort Police in processing the police report between PT PHP 1 and the West Pasaman Kapa Basis Farmers report;

The Police Agency and the West Pasaman Resort Police are the Agrarian Reform Task Force which is obliged to support the resolution of agrarian conflicts.

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**2. MINISTRY OF AGRARIAN AND SPATIAL PLANNING/NATIONAL LAND AGENCY, WEST PASAMAN DISTRICT LAND OFFICE, WEST SUMATERA PROVINCE, 2024-07-23. Notice of Implementation.**



**KEMENTERIAN AGRARIA DAN TATA RUANG/  
BADAN PERTANAHAN NASIONAL  
KANTOR PERTANAHAN KABUPATEN PASAMAN BARAT  
PROVINSI SUMATERA BARAT**

Jl. Muhammad Natsir Pasaman Baru-Simpang Empat Telp. 07537464223 - Fax.7464222 email: kab-pasamanbarat@atrpbpn.go.id

Nomor : NT.02.03/1219-13.12/VII/2024                      Simpang Empat, 23 Juli 2024  
Lampiran : 1 (Satu) lembar  
Perihal : Pemberitahuan Pelaksanaan  
          Kegiatan Pendataan dan  
          Peninjauan Lapangan Gugus  
          Tugas Reforma Agraria Kabupaten  
          Pasaman Barat Tahun 2024

Kepada Yth.  
..... (daftar terlampir)  
di  
Tempat

Sehubungan dengan pelaksanaan kegiatan Gugus Tugas Reforma Agraria Kabupaten Pasaman Barat Tahun 2024 sebagaimana terdapat di dalam Surat Keputusan Bupati Pasaman Barat Nomor 100.3.3.2/252/BUP-PASBAR/2024 tanggal 20 Maret 2024 tentang Gugus Tugas Reforma Agraria Kabupaten Pasaman Barat Tahun Anggaran 2024, untuk itu kami memberitahukan Bapak/Ibu/Saudara untuk mengikuti kegiatan Pendataan dan Peninjauan Lapangan Gugus Tugas Reforma Agraria Kabupaten Pasaman Barat Tahun 2024. yang akan dilaksanakan pada:

Hari/tanggal : Selasa, 30 Juli 2024  
Waktu : 09.00 WIB  
Lokasi : PT. Permata Hijau Pasaman (PHP) 1  
Titik Kumpul : Kantor Pertanahan Kabupaten Pasaman Barat

Demikian surat undangan ini kami sampaikan, atas perhatian dan kerjasamanya kami ucapkan terima kasih.

Kepala Kantor Pertanahan  
Kabupaten Pasaman Barat

Ditandatangani secara  
elektronik

Yunaldi, A. Ptnh., MM  
NIP. 19670729 199003 1 001

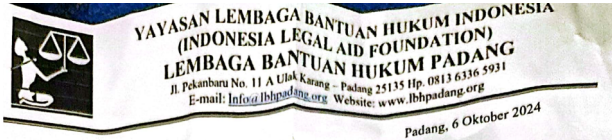


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*Melayani, Profesional, Terpercaya*

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### 3. Indonesia Legal Aid Foundation • Padang Legal Aid Institute, 2024-10-06. Notification of Action between 7 October 2024 and 7 November 2024, addressed to the Chief of



Nomor : 280/SK-E/LBH-PDG/X/2024  
Lampiran : -  
Perihal : Pemberitahuan Aksi

Kepada Yth,  
Kepala Kepolisian Resort Pasaman Barat  
di-  
Jl. Soekarno Hatta No.60, Lingkuang Aua, Kcc. Pasaman, Kabupaten Pasaman Barat,  
Sumatera Barat 26566, Indonesia

Dengan hormat,  
Doa dan harapan kami semoga Bapak berada dalam keadaan sehat dan sukses dalam menjalankan aktifitas sehari-hari.

Lembaga Bantuan Hukum (LBH) Padang merupakan Organisasi Bantuan Hukum (OBH) yang telah ditetapkan oleh Menteri Hukum dan Hak Asasi Manusia Republik Indonesia dengan Nomor: M.HH.-01.HH.07.02 Tahun 2018 tertanggal 27 Desember 2019 sebagaimana telah diperbaharui melalui surat Keputusan Menteri Hukum dan Hak Asasi Manusia Nomor: M.HN-02.HN.03.03 Tahun 2021 tertanggal 29 Desember 2021 sebagai implementasi Undang-Undang Nomor 16 Tahun 2011 tentang Bantuan Hukum yang bisa memberikan bantuan hukum baik di dalam persidangan maupun di luar persidangan.

LBH Padang adalah Kuasa Hukum dari perwakilan masyarakat Kapa Pasaman Barat. Situasi saat ini, sebagian masyarakat Kapa masih berkonflik dengan PT. Permata Hijau Pasaman 1 hingga sekarang. Oleh karena itu, masyarakat akan melakukan aksi simbolik berupa mimbar bebas yang akan dilaksanakan pada :

Tanggal : 7 Oktober 2024 hingga 7 November 2024  
Lokasi : dilahan reklamings masyarakat di Nagari Kapa Pasaman Barat.  
Bentuk Aksi : diantaranya aksi doa bersama, aksi jaga sumber daya, aksi nyanyi bersama dan aksi-aksi lainnya demi mempertahankan ruang hidup dan kehidupannya.  
Alat Peraga : alat pertanian, pengeras suara (jika ada), spanduk dan sebagainya.  
Jumlah Peserta : Jumlah peserta aksi perhari akan berbeda-beda.


Oleh sebab itu, kami bermaksud untuk mengajukan pemberitahuan menyampaikan pendapat di depan umum sebagaimana diatur berdasarkan Undang-Undang Nomor 9 Tahun 1998 tentang Kemerdekaan Menyampaikan Pendapat di Muka Umum.

Demikianlah kami sampaikan, atas perhatian dan kesediaannya kami ucapkan terima kasih.

Halaman 1 dari 2

Silahkan konfirmasi pada Wista Yurda (083167142114) dan Nurliza (082275960885).

Hormat Kami,  
LBH Padang

  
YAYASAN LEMBAGA BANTUAN HUKUM INDONESIA  
LEMBAGA BANTUAN HUKUM PADANG  
Indira Suryani, S.H., M.H.  
Direktur

Tembusan Kepada YTH,  
1. Kepala Kepolisian Daerah Sumatera Barat;  
2. Masyarakat Kapa, Pasaman Barat;  
3. Cc.file.

Simpang Empat, 06 OKT 2024  
BANIT II SPBT

MASRIAN  
AIPDA HRP.7918143

**West Pasaman Resort Police (Pemberitahuan Aksi 7 Oktober 2024 hingga 7 November 2024, ditujukan kepada Kepala Kepolisian Resort Pasaman Barat)**