



# Forest Peoples Programme

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Roundtable on Sustainable Palm Oil  
Unit A-37-1, Menara UOA Bangsar  
Number 5, Jalan Bangsar Utama 1  
Kuala Lumpur 59000  
Malaysia

20<sup>th</sup> May 2015

Dear Darrel, Ravin and Amalia,

## **Criminalization of Complainants to RSPO Complaints Panel**

I am writing to draw your attention to serious developments in the case of the Kapa community, whose customary lands are affected by oil palm plantations of Wilmar subsidiary PT PHP1 in Pasaman Barat District, West Sumatra.

Since 2006, FPP has engaged with the Kapa community and PT PHP1 in Pasaman Barat, and we have provided detailed documentation about this case including in two publications *Promised Land: Palm oil and land acquisition in Indonesia – Implications for local communities and indigenous peoples*, 2006, and, *Conflict or Consent? The oil palm sector at a crossroads*, 2013. These publications document the way PT PHP1 has acquired the lands of Minangkabau communities in Pasaman Barat without respect for their customary land rights and traditional authorities and systems of land allocation.

On 30<sup>th</sup> October 2014, the chief customary leader of the Kapa community, Mr Alman SH Gampo Alam, filed a complaint with the RSPO on behalf of his community concerning PT PHP1 and its failure to obtain community consent to release their rights in land in order for the company to obtain an oil palm development permit (HGU).

In November 2014, with the support of Forest Peoples Programme, Mr Alman and Kapa community member Mr Zulkifli travelled to the RSPO Round Table in Kuala Lumpur, and were able to meet with managers of Wilmar and its subsidiary PHP1. The meeting, which was organised by FPP, was attended by the staff of both the RSPO and FPP. In making his case at the meeting Mr Alman made clear that he was not seeking to get PT PHP1 to leave the community lands but was concerned that, if the company acquired a HGU over their lands, their rights in land would be permanently extinguished. The Kapa community was thus

seeking an alternative tenurial arrangement to allow them to retain their rights in land while permitting the company to continue occupying their lands for the production of palm oil. Agreed minutes of the meeting include a statement by Wilmar managers that they will seek to resolve the dispute through finding agreement with the Kapa community, and not to pursue its application for a HGU license until such an agreement has been reached. Wilmar also agreed to hold a joint meeting with the local land office in Padang (BPN) to explore legal options whereby the company could legalise its plantation without extinguishing the customary rights of the Kapa community. This meeting was scheduled for mid-December 2014.(see minutes attached)

Despite these assurances, since November 2014, PHP1 has failed to engage with the Kapa community to resolve the dispute over use of their lands and to reach agreement on a way to recognise the Kapa land rights. However, PHP1 did go ahead and acquire a HGU over the Kapa community lands despite the known objections of the community and their detailed complaint to the RSPO Complaints Panel. We consider this action to be damaging to the credibility of the RSPO Complaints Panel process and contrary to the principle of Free, Prior and Informed Consent.

In December 2014, the district police came to the Kapa community seeking information relating to a complaint they had received about the administration of funds by Kapa elders derived from sale of oil palm fruit from a Kapa community oil palm plantation of 123 hectares. Funds from the sale of oil palm fruit go to members of the cooperative that manage the plantation area, with about ten per cent of the funds (in the range of \$1000 a month) being managed by the customary elders and distributed to the needy within the community (to assist poor families to cover their basic costs including food, medicines, school fees, etc.).

In January 2015, this case was taken up by the West Sumatra Provincial Police and remains an ongoing investigation. During the month of April, 13 of the 18 customary leaders of the Kapa were required to report to Padang to be interrogated by the provincial police about this case. Most of the leaders have been required to report for interrogation in Padang more than once. This requires a five to seven hour journey each way and associated costs. Mr Alman Gampo Alam, as the highest customary leader of the Kapa community, was initially interviewed in this case and then detained as a suspect on 29 April. He remains in jail in Padang.

During Mr Alman's interrogations, police repeatedly suggested that they would drop the case against him if he signed a statement renouncing his leadership of the Kapa community. The police also requested that he cancel his contract with the lawyer who has been his legal representative. On 14 May, under duress Mr Alman signed a statement to say that he has ended his contract with the lawyer. Mr Alman remains in jail, and by Indonesian law can be detained for another week (total of three weeks). His detention can be extended based on the decision of a judge, which would allow his detention for an additional 40 days.

Mr Alman has said that when he first arrived in Padang to be interrogated by the Provincial Police, he observed the legal representative of PT PHP1 in the Padang police station meeting with the Provincial sub Director of Police.

On 10 March 2015, the RSPO Complaints Panel made an interim determination against the complaint lodged by Mr Alman. On 19 March, Mr Alman responded to the RSPO to say that

the ruling was inadequate, and that PHP1 had sought and had now obtained a HGU over Kapa lands without community consent.(both letters attached)

In May, Mr Alman and Mr Zulkifli were required to report to Padang to be interrogated by the Provincial police about their attendance at the RSPO RT in Kuala Lumpur, with police questioning them about why they attended the RSPO meeting and where they obtained the funds to obtain passports and to travel to Malaysia.

FPP requests that RSPO to raise directly with the Wilmar group, these concerns about the intimidation and attempted criminalisation of leaders of the Kapa community, who are seeking to resolve their dispute with Wilmar subsidiary PT PHP1 peacefully and without intimidation.

We look forwards to learning shortly how you have acted on this urgent matter

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marcus Colchester', written in a cursive style.

Dr Marcus Colchester  
Senior Policy Advisor

cc. Mr Alman, Mr Zulkifli, Complaints Panel, NGOs