Lessons Learned from the Conflict, Negotiations and Agreement between Senyerang Village and PT Wira Karya Sakti

Typical Sumatran landscape with diverse system of land use.

Acacia mangium plantations replace diverse forests.
Introduction

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Acknowledgements

Thanks to members of the negotiation team from the village of Senyerang and to the management of PT Wira Karya Sakti (WKS) and Asia Pulp and Paper (APP) for agreeing to be interviewed for this report. A list of those interviewed can be found in Appendix 1.

Background

In early 2013, Asia Pulp and Paper (APP) released its Forest Conservation Policy (FCP). It informed concerned NGOs that resolving the conflict between Senyerang village and the industrial pulpwod concession of its subsidiary PT Wira Karya Sakti (WKS) would be a priority in applying its new policy. After more than a decade of disputes, the two parties engaged in negotiations and reached agreement concerning 4,004 hectares of the WKS concession. The community gained access to one thousand and one hectares so that they could plant rubber, and entered into a benefit-sharing agreement covering an additional three thousand and three hectares of WKS’ Acacia plantations.

Purpose of this report

This study was undertaken to learn from the negotiation process and the resulting agreement, in order to optimise future negotiations between communities and APP based on lessons learned from the Senyerang–WKS case. In particular, this report has been submitted to the National Forestry Council, which is chairing the team for Monitoring and Follow-up Implementation of the Partnership between the Senyerang community and plantation license holder Wirakarya Sakti (SK. DG BUK 04 / VI-BUHT / 2012), as learning material and for the improvement of mediation processes in the future.
History of Senyerang Village

Senyerang village is the largest area and one of the oldest villages in the Senyerang sub district. The majority of its population are Melayu, along with Bugis, Banjar, and a few families from Java. All live in harmony and share the good and bad times. The name of Senyerang village originated from its location in between the tributaries of Nyerang Kecil on the boundary of Landak River, and on the west side of Nyerang Besar River. The two rivers met and became Kemang River, on the boundary of Sungsang village.

The ancestors of the Senyerang community came from the Kuantan region in Riau Province, Sumatra. During the 19th century, they expanded from Kuantan upstream along the Indra Giri River. Some families settled in Reteh, near the current location of Senyerang village, in the late 19th century.

In 1905, the first Dutch records refer to a village by the name of Senyerang. The village paid taxes to the Dutch colonial government from the early 1900s, and the people were recognised as taxpayers and landholders from that time. In 1927, the Netherlands colonial government acknowledged the existence of the Senyerang community through an entitlement letter to clear forest issued to H. Abdurrahman, who was head of the community. The entitlement letter was passed to Abdurrahman via the Demang (the head of several villages) of Kuala Tungkal. The Tuo-Tuo (customary elders) congregated to discuss and reach consensus in determining the delineation within the customary areas to define the low land that belonged to Senyerang village and the high land that belonged to Tebing Tinggi village.

Starting in the 1950s and proceeding until the 1980s, the 33,000 hectares of land were divided among several villages. The village of Senyerang retained an area of roughly 8,000 hectares – land that its residents continue to regard as their customary territory. The Indonesian government recognised the village of Senyerang and much of its customary lands were classified as APL (non forest lands). The community economy was based on fishing and agriculture including rice and coconuts, and harvesting forest products including resins and fruits.
The 1996 Spatial Plan for Jambi classifies Senyerang village lands as non-forest lands. In 1999, the District of Tanjung Jabung Barat reserved these lands for WKS to establish an industrial pulpwood plantation. In 2001, the District Spatial Plan reclassified the village lands as part of the forest estate. In 2004, the Ministry of Forestry awarded WKS an Industrial Tree Plantation license (HTI) covering Senyerang village lands within a 293,812 hectare concession in northern Jambi. The HTI license is valid until 2035. WKS’ HTI includes much of the lands of four villages that had subdivided the original 33,000 hectares recognised by the Dutch authorities, and most of the 7,224 hectares of customary lands belonging to Senyerang village itself. While the rest of this study only addresses the situation of the main village of Senyerang itself, the situation of the other villages in this cluster remain a matter of concern.

The Village of Senyerang forms part of the administrative territory of Senyerang Subdistrict within the jurisdiction of Kabupaten Tanjung Jabung Barat, Jambi Province. Senyerang Sub district has an area of 42,663 hectares. It shares a boundary to the north with Riau province, to the east with the Pengabuan District, and to the south and west with Tebing Tinggi District. Administratively, Senyerang Sub district consists of seven areas equivalent to villages with two kinds of administration: Kepala Desa (employed by and on payroll of local government) and Lurah (head of Kelurahan who is provided with a parcel of land or rice fields to generate income). The river provides access to the village and there is road access through the HTI plantation of PT. WKS. There are 27 neighbourhood associations (RT) in Senyerang Village.

The community of Senyerang has used and controlled its lands since their ancestors first arrived in the area more than 100 years ago. Population growth over the generations led to expansion of land use and more claimants over parcels of land. Members of the Senyerang village inherit land occupied by their parents and relatives without discrimination based on their ethnic background. Families clear the land in accordance with the territory appointed by their elders, delineated by boundaries set by the village council of elders. In general, most community members do not understand the status of Production Forest (Hutan Produksi/HP), Peat Protected Areas (HLG), Protected Forest (HL), Areas for Other Purpose (APL) and other land status as defined by the government. Communities only know that all their forests are administered by their village government (they do not consider their forests part of State Forest Area).
Chronology of conflict and conflict resolution between Senyerang and WKS

Discussions between WKS and the Senyerang community regarding company access to the community’s lands started in 2001. This resulted in an agreement in 2004, which was signed by the village head, a member of the village representative body (BPD) and a village community leader.

However, many members of the Senyerang community were not consulted about the plan for WKS to develop an Acacia plantation on their customary lands. Some in the village only learned about WKS’s plans when its bulldozers started to build canals through village forest and gardens in 2006.

In 2009, Senyerang villagers joined PPJ, the Jambi Farmers’ Union. They participated in the National Farmers Day, demanding that their land be returned to them. Members of the village protested to the government authorities and to WKS to say that they did not want their lands taken over by WKS. Ongoing protests and occupation of community lands in 2010 led to beatings and shootings by police and company security.

At the height of the conflict, many members of the Senyerang community were subjected to intimidation and pressure. The leaders of the Senyerang farmers group were enticed by the company with the offer of luxurious facilities as well as being offered bribes by parties that they assumed to be related to WKS. However, all these attempts failed and the community maintained its struggle to get back its lands.

On 1 November 2010, a meeting took place including the Chief of Jambi Local Parliament and Tanjung Jabung District, the Province Government Council (Muspid) and Tanjung Jabung Barat District, along with resource persons from the Ministry of Forestry and WKS. Three options were offered to Senyerang village to resolve their conflict with WKS: (1) A partnership between the community and the company; (2) HTR (Community Plantation Forest); (3) Changing the land classification of the Senyerang village lands from Production Forest into APL.

On 8 November 2010, the communities blockaded Pengabuan River. Ahmad Adam, a member of Senyerang community, was shot dead by the mobile police brigade at this blockade.
On 18 November 2010, the options put forward by the government and WKS were discussed by Senyerang village and the community agreed to accept option one of the *Kemitraan* or partnership with WKS.

Due to the conflict between WKS and Senyerang village, some areas of WKS’s concession could not be planted with Acacia, and other areas could not be harvested. The company and the community sought assistance from the government to resolve the conflict. A mediation process in 2010 involved the District Government and the National Forestry Council (DKN). The parties to the negotiations were WKS and 2,002 families from Senyerang village. The object of the negotiations was 7,224 hectares of village land, which were mapped in a rapid assessment by the DKN.

On 6 May 2011, the Ministry of Forestry requested DKN to serve as mediator. On 21 December 2011, communities occupied the PT. WKS area from Channel 16-19, due to the slow pace of resolving the conflict. Towards the end of this phase of the negotiations, however, WKS withdrew, stating that it had already resolved its conflict with the community back in 2004.

In 2012, a new framework for the negotiations was established through a decree from Forestry Minister Zulkifli Hasan, which provisionally assigned 4,004 hectares of the WKS concession to the Senyerang farmers, based on the ratio of two hectares per family, an entitlement derived from the 1960 Basic Agrarian Law.

**Negotiations following the release of APP’s Forest Conservation Policy**

In January 2013, APP released its Forest Conservation Policy, and held a public meeting in Jambi City to announce its new policy. One or two representatives of Senyerang village were invited. A new round of negotiations took place in 2013, based on the Minister’s framework (two hectares per family), and facilitated by The Forest Trust (TFT), which was contracted by APP to assist with the implementation of the Forest Conservation Policy including conflict resolution. Their conflict resolution approach was piloted by facilitating the negotiations between WKS and Senyerang village.
Despite the launch of the FCP, the negotiations between WKS and Senyerang did not follow the policy commitments contained in the FCP. The object for the negotiations remained allotting two hectares per family (4,004 hectares), rather than addressing the community claim to all the lands of the Senyerang village (7,224 hectares). A process of participatory mapping of all of the lands of Senyerang village did not take place. The Senyerang community members that the authors spoke to were not aware that they had the right to choose their own institutions to participate in the negotiations, and that the negotiations could be conducted at a place and timing chosen by the communities.

The villagers were not consulted about High Conservation Value (HCV) and High Carbon Stock (HCS) assessments. In fact, members of the negotiation team from Senyerang were not involved in the HCV or HCS assessments at all, and remained unaware that these studies had been conducted when the authors met with members of the negotiation team in March 2013. The HCV assessments did not include a survey of areas important to community livelihoods and identity (HCVs 5 and 6) that existed before the area was planted by WKS with Acacia. However carrying out such studies is required by the Charter of the High Conservation Value Network to which APP had publicly committed itself. The land-zoning proposals of the HCV and HCS assessments were not included in the negotiations, although these would be bound to have implications for which lands could actually be used both by the farmers and by the company.

Limited by the imposition of the two hectare-per family ceiling by the Ministry of Forests, the Senyerang negotiation team sought to have the 4,004 hectares that were the object of the negotiation all made available to the community to plant rubber. WKS rejected this on the grounds that its forestry industry permit (HTI) was issued by the government for use as a pulpwood plantation, despite repeated requests from the Senyerang team. In the end WKS was only willing to allow 1,001 hectares of its concession to be developed as rubber by members of the Senyerang cooperative.
Results of the negotiations

The negotiations took place roughly monthly over the first half of 2013 and led to a Social Conflict Resolution Agreement between WKS and the Cooperative of Senyerang Community on 5 July 2013. The Senyerang community is only recognised in the Agreement as having a collective right of utilisation and management through a cooperative, not to land title for individuals, organisations or groups.

The Agreement notes that, by signing the agreement, the Parties declare that the Senyerang communities’ claims for lands within WKS’s concession have been resolved, despite the fact that the Agreement only covers about half of the lands traditionally owned by the community.

The Senyerang negotiators had extremely limited access to independent advice before and during the negotiations with WKS. Although a representative of the Union of Jambi Farmers was able to assist the negotiation team, detailed technical, economic, agronomic, environmental and legal advice to assist the community negotiation team was almost completely lacking. WALHI, Greenpeace and Wahana Bumi Hijau (WBH) did meet with the community negotiation team during the negotiations but were only able to offer limited advice. The draft Agreement was reviewed by legal experts from the government but apart from this limited assistance, the Senyerang negotiation team was left without access to expert advice.

The benefit-sharing agreement detailed in the Agreement was the subject of intense negotiations, but the Senyerang negotiation team had no information on the costs and profits that WKS was making from the Acacia planted on their lands, and had limited information on the costs and profits of alternative developments (e.g. rubber) which could help them determine a fair benefit-sharing arrangement. A preliminary assessment by FPP indicates that the benefit-sharing agreement, if upheld, is likely only to provide Senyerang with 5 to 10 per cent of the profit that WKS could be expected to derive if it was to sell the Acacia logs grown on the 3,003 hectares of Senyerang lands at market prices to APP’s mill in Jambi.

The process of negotiations was facilitated by TFT, which also effectively served as the mediator. However APP and TFT had not informed the
community that they had the right to request that the negotiations be undertaken with an independent mediator. This was confirmed by one of the community leaders interviewed by the authors.

In summary, while the Agreement between WKS and Senyerang village is a first step towards resolving an outstanding conflict, it does not conform to the public commitments made in APP’s Forest Conservation Policy, and elaborated in APP’s Standard Operating Procedures.

**Recommendations**

APP, TFT and WKS are currently preparing for negotiations with more than one hundred villages also affected by the WKS concession. It is important that the commitments in the APP’s Forest Conservation Policy and its Standard Operating Procedures are fully implemented so that the failings and problems this report has identified in relation to the Senyerang WKS negotiations and Agreement are addressed. In particular, the right of communities to use, manage and control their customary forests and lands must be respected, including their right to compensation and or restitution for any areas taken over by the company. Community mapping, HCV and HCS studies must fully involve the affected communities, and communities should have a decisive voice in the development of management recommendations and plans to manage HCV and HCS areas. The right of communities to access expert advice in preparation for and during negotiations should be ensured, as should their right to choose their own representatives and institutions to engage with APP.

APP, TFT and WKS should return to Senyerang village to communicate APP’s policy commitments and to offer the Senyerang community the opportunity to negotiate again, in line with the commitments in the FCP.
Appendix I.

People interviewed:

TFT - Agung and Berdi

SPJ - Aidil Putra, Sahrijal

Senyerang Community: Syahrul Khairi, Zainal Efendi, Ahyar, Abdul Kholil

WKS - Slamet Irianto

Walhi - Rudi, Nauli

Agra - Ipang, Fauzen

APP – Elim, Dewi Bramono

Appendix II.

Maps
Map showing Jambi Province in red in the island of Sumatra, Indonesia

1. Map of the Province of Jambi and the location of the lands of Senyerang village, in red.
2. Map of the customary lands of Senyerang village: 7,224 Ha

3. Map of the lands covered by the agreement between Senyerang village and WKS 4.004 Ha (bordered by red line)
Authors with community leaders outside the Senyerang cooperative office (authors: Patrick Anderson and Harry Oktavian)

Ahmad Adam Street, in Senyerang village, named after the community member killed by police at a protest against WKS on 8 November 2010.