

Geneva, 4 May 2022

Dear Sir,

With reference to your letter no. AL IDN 1/2022 on 8 March 2022 presented in your capacity as Special Rapporteur on extreme poverty and human rights, on the implementation of the Mandalika urban development and tourism project, we would like to convey to you herewith information, explanation, and clarification on the observations you assembled with regard to the current situation and four outstanding issues which you underlined, as follows:

I. Latest Development and Achievements of the Mandalika Special Economic Zone Project

1. Since its establishment in 2014 based on Government Regulation Number 52/2014, the 1.175 hectares area of Mandalika Special Economic Zone (SEZ) urban tourism and development project has been constructed in an eco-friendly manner, combining clean solar energy and green open spaces. The construction of 4300m² Mandalika Street Circuit as well as the main important constructions have been completed. Supporting infrastructures for the communities have also been developed, including road access, mosque, and Sea Water Reverse Osmosis (SWRO) technology to ensure access to clean water which benefit the surrounding community.
2. Mandalika's success in hosting both World Superbike (WSBK) in November 2021 and MotoGP in March 2022 has resulted in positive economic impacts for local and Adat communities living around the area, Lombok province, and Indonesia's national development in general.
3. The MotoGP event in particular has involved more than 800 Small and Medium Enterprises (SMEs) owned by the locals, and provided job opportunities for more than 10.000 locals (only for the Gran Prix). It is estimated that the event generated more than 300 billion Rupiah (21 million US dollar). This definitely has boosted the local economy in the Mandalika and Lombok Provinces which has suffered for more than two years as a result of the COVID-19 Pandemic.
4. The Government of Indonesia is truly committed to upholding the core objective of improving the livelihood of surrounding communities through Mandalika SEZ infrastructure development. Our commitment further reflected in the success of the people-centered land acquisition process and the integration of local and Adat communities in various economic opportunities that come along with the development.
5. Altogether, the investments in tourism-related infrastructure are expected to bring forth tens of trillions of Rupiah to revitalize the local economy. The Project will not only promote sustainable development but also equally contribute to provide a locomotive for poverty alleviation in the eastern part of Indonesia, especially in Lombok Island, West Nusa Tenggara Province.

Mr. Olivier De Schutter, Special Rapporteur on extreme poverty and human rights

6. Indonesia's State-Owned Enterprises, including the Indonesian Tourism Development Corporation (ITDC), prioritize good corporate governance that is transparent, accountable, responsible, and operating based on national law/regulations and valid data. It is regulated in the State-Owned Enterprises Ministerial Regulation Number PER-01/MBU/2011 concerning Good Corporate Governance.
7. Furthermore, as an international state-owned project executed by a State-Owned Company and financially supported by the Asian Infrastructure Investment Bank (AIIB) under a comprehensive standard and procedure, the Mandalika SEZ project continues to be guided by human rights consideration. Not only in accordance with national regulations, the development of the project is also in line with international standards on human rights, including the United Nations Guiding Principles on Business and Human Rights (UNGPs). Some of the keys to success of the construction and implementation of the Mandalika Project, including the MotoGP, are to carry out land acquisition procedures as stipulated under Law 2/2012 and to establish good relationship with the local community.
8. In our response to the first letter/joint communication by eight Special Procedures, we have conveyed to you the complete and comprehensive history, details and procedure of land acquisition since the Mandalika SEZ Project is initiated. In our first response, we have responded in crystal clear the allegation of human rights violation at the Mandalika SEZ Project. Thus, we suggest you to take our first response as reference, to thoroughly understand the details procedure and our efforts to fulfill the rights of the affected communities, under the applicable law based on the primary needs of the communities as the main priority.

II. Response to the Four Outstanding Issues Identified by the Special Rapporteur

a. The conditions under which the alleged forced evictions took place

9. The land acquisition process of the enclave land has been carried out persuasively and respectfully toward the affected community in accordance with Law 2/2012 on Land Procurement for Public Utilities Construction. The Law 2/2012 mandated that the land acquisition shall be executed without any compulsion and aims to pursue the welfare and prosperity of the nation, state and society, by respecting the rights and the needs of the affected parties, including but not limited to the Adat law community. The Government and the ITDC would like to reiterate that the development of Mandalika SEZ had never resorted to any land grabbing nor forced eviction as alleged by the Special Procedures.
10. Human rights principles and standards are at the heart of Indonesia's Constitution (which specially stipulated human rights principles under Article 28), laws (including law No. 39/1999 on Human Rights), and regulations. As we have conveyed in the first response, the Law 2/2012 has regulated various protection of the rights of the affected community which enable them to enjoy and claim their rights, including but not limited to the procedure of land acquisition, ranging from objections to the amount of compensation or mechanisms if there are parties who object to the land acquisition.
11. Consequently, respect towards Human Rights principles is at the center of the Law 2/2012. It is stipulated in the Article 2 that land acquisition process is fundamentally based on the "principle of humanity", which is further elaborated in the explanation of the Article 2 as "land acquisition which must provide protection and respect for the human rights, dignity and worth of every Indonesian citizen".

12. As we clearly highlighted in the first reply, the ITDC has also received 28 lawsuits through the court, two of which were won by the plaintiff under the applicable law. This attests that the lawsuits are fairly tried by the court under applicable law and the court's authority, without any intervention from the Government nor the ITDC.
13. In regards to the 49 claims by the community on the lands that are part of the ITDC Land Mastery Rights ("HPL"), mediation has been carried out with the help of the Regional Police of Nusa Tenggara Barat in July 2019. Out of the 49 claims, 17 had attempted to make another claim in 2020 with the assistance of the National Commission on Human Rights (Komnas HAM). Currently, there are only 4 claims left in the process of settlement.
14. The regional government has conducted a nationally standardized census of the affected households. However, it is important to note that the local communities in Mandalika are semi-nomadic due to their cultural background and livelihood system, which depend on the land and natural resources. The different number of affected families between the census data and the Resettlement Action Plan is likely to be caused by this characteristic. The final number of the affected families is 190, according to the latest census done by the Government and ITDC from 3 to 15 March 2021.
15. The allegation that there are 100 or more families living in Mandalika project area that is fenced off to prevent public access is baseless. All of the families living around the Street Circuit area have been relocated and public access remains widely open through Art Tunnel 1 and 2 that have become an attraction for the public and tourists. This Art Tunnel is a connecting tunnel decorated with graffiti and painted murals as a form of support and collaboration produced by local artists from the West Nusa Tenggara province and other regions in Indonesia.

b. The consent of the affected households and communities

16. As we have conveyed in our first response, the *Majelis Adat Suku Sasak / Sasak Tribe Customary Council* has affirmed that the process of development and land acquisition related to the Mandalika SEZ is carried out humanely and persuasively, with respect to the law. The Sasak Tribe Customary Council also confirmed that there is no forced land grabbing, eviction, or forced relocation executed by the Government Authorities, ITDC, or Police/security.
17. Legally and based on historical documents of land acquisition, there was no land belonging to Adat law community affected by the development of Mandalika SEZ. There has been no regulation from the regional government regarding land ownership of the Adat law community in the area. However, the Sasak Tribe Customary Council has always been involved in the consultation and socialization process.
18. The Sasak Tribe Customary Council is a representative institution, even though there is no "legal title", but they have been living and representing the Sasak Tribe Community for many years. Notwithstanding the absence of "legal title", they are trusted and respected as the representative of the Sasak Tribe Community.
19. The existence of the Adat law community in Indonesia is acknowledged, valued and highly respected in policymaking and national legislations. However, there is no presence of the Sasak Adat community residing inside the Mandalika project area. Despite this, ITDC has continuously been in close coordination with the local

government to establish and maintain good relations with the leaders of the Sasak Adat community, other local communities as well as religious leaders around the project area.

20. Furthermore, we would like to underline that the presence of security forces is solely a basic requirement of security procedures for an area that is categorized as a National Strategic Region and acts as a preventive measure instead of a repressive one.
21. During the process, police officers with proper training on community engagement are delegated to conduct the process to ensure a humanist approach as a priority and create a conducive situation. This approach is in line with the Regulation of the Head of the State Police of Indonesia Number 1/2019 concerning "System, Management, and Successful Operational Standard of the Police of the Republic of Indonesia" which places human rights principles at the center of security operations.
22. Community dialogue and communication are at the forefront in carrying out land clearing, while also consistently avoid any criminalization. ITDC always put land clearing as last resort. In this matter, the ITDC will not clear the land before any construction on the land is needed.
23. Multiple consultations and socializations have been carried out inclusively, targeting both relevant regional governmental institutions (provincial government, district government, sub-district head, village head) and directly with the affected communities through a series of consultation forums.
24. Land Disputes Resolution Task-Force (SATGAS) was formed in 2020 under the Governor Decree Number 050.12-542/2020, consisting of all relevant stakeholders including the National Land Agency ("BPN") and community leaders as well as police and military officers, as reflected in the organizational structure of the SATGAS as attached.

c. The compensation for the loss of land, properties, and livelihoods

25. The National Commission on Human Rights (Komnas HAM) has submitted a set of recommendations to the ITDC, including paying the compensation for the loss of land, properties and livelihoods of the affected communities. The recommendations were followed by the ITDC as a commitment to the Mandalika SEZ Project in respecting the rights of the affected communities.
26. All land acquisition process, including compensation payments to those entitled, has been carried out according to the legal procedures as stipulated in Law No. 2/2012. The Law regulates the obligation of the Government to value the land through an independent assessment carried out by a certified Independent Land Appraiser (non-government), which is based on and takes into account the land value in the surrounding areas. The value shall include the spaces, building, plants and other valuable losses.
27. The affected communities who disagree with the value were also provided with rights to engage in dialogue and to file lawsuits against the Government in the Court. Government and ITDC does not shy away from encouraging any party which did not agree to the independent appraisal to take appropriate legal measure. In addition, the Government and ITDC are committed to follow and implement the court verdict under the court's authority as the legal basis, to further process payments and settlement of outstanding claims in an accountable manner. In

essence, the Government is fully committed to providing all parties with access to justice and equal recognition before the law.

28. For the parties who were unable to show the authentic certificate of land ownership as recommended by the Komnas HAM, the ITDC has been providing compensation to the affected communities, which includes compensation money and in-kind compensation as stipulated under the Law 2/2012. It is important to underline that compensation is given properly and proportionally based on the decent living rate in the area. Thus, it is important to highlight that compensation is given properly and proportionally both to people who have proof of legal ownership and those who manage the land without a legal land ownership document.
29. They received compensation from the ITDC under the supervision of the Indonesian Financial and Development Supervisory Agency, in the amount of IDR 4,500,000 per are (per 100 m²) to 96 residents. This amount is adjusted based on the number of the decent living rate at the area. The affected communities also received in-kind compensation in the form of rent costs for temporary housing, electricity access, and transportation to relocate. To ensure the psychological well-being of the affected communities, post-relocation psychological assistance is also available for those in need.
30. For the community which uses Mandalika's Land for their livelihood, the ITDC provide compensation for their farm, which the amount is determined by an independent consultant based on the survey and census. The payment of the compensation has been completed.
31. The payment and compensation in the amount of IDR 10.000.000,- for the 31 primary farmers and 10 secondary farmers has been done and for the other 54 families are in the payment process. Among the 54 families on process, payment to 6 families is unintentionally delayed because 4 of them rejected the payment and the other 2 have moved from their address. In the spirit of good faith and respecting the rights of the affected communities, the ITDC has issued a letter to the 6 families to request them to claim their rights until the deadline of September 2024.
32. For any complaint related to the violation of the rights of the affected communities, including the payment and the compensation, the ITDC has provided remedy mechanism at the ITDC office in Mandalika. This remedy mechanism is mandated by Law 2/2012 and the AIIB in the process of financing the Mandalika SEZ Project.
33. The Nusa Tenggara Barat Provincial Office of the Ministry of Law and Human Rights also provides free legal aid services for the community as well as *Pos Yankomas* (*Pos Layanan Komunikasi Masyarakat/Public Communication Service Post*) located throughout the Ministry of Law and Human Rights Regional Offices in NTB Province (including prisons and immigration offices), which can serve as means for the community to achieve remedies.
34. Related to the allegation regarding the fisherfolk in the Batu Kotak Bay, we would like to inform you that based on field monitoring, it is confirmed that there is no fisherfolk found in the Batu Kotak bay and the fisherfolks are only found in the Gerupuk and Kuta area, which have no activity in the Mandalika SEZ area.
35. The Mandalika Gran Prix in 2022 has brought more than 120.000 people to the Mandalika SEZ with an estimated turnover generated more than 300 billion Rupiah (around 21 million US dollars). That amount of money has not only benefited the tourism industry in the Mandalika SEZ but also been enjoyed by the Small and

Medium Enterprises (SMEs) on Lombok Island, including the smaller traders and hawkers.

36. The Mandalika Gran Prix also involved more than 800 SMEs owned by the locals and provided job opportunities for more than 10.000 locals. This number has not included the locals who work in the tourism industry and SMEs on the wider Lombok Island area which also supports the success of the Mandalika Gran Prix.
37. ITDC has established an integrated community development program called "*Program Bina Lingkungan/Community Development Program*" since 2016. The program consists of various trainings for local communities in the field of, among others, SMEs development, hospitality, foreign language, and waste management. "*Program Bina Lingkungan*" has involved more than 800 participants from 6 different villages, namely Kuta, Sukadana, Sengkol, Mentak, Rembitan, and Prabu.
38. Furthermore, the ITDC always supports the small traders and hawkers in the Mandalika SEZ, by providing support as follows:
 - a. Soft Skills Development programs in collaboration with other State-Owned Companies, Government Agencies and Private institutions in raising their CSR program for the surrounding community through mechanical skill and digital marketing training, as well as training in waste utilization.
 - b. Provide space for the Mandalika Bazaar which is located in the strategic area at the Kuta Beach with a capacity of 303 stalls for the SMEs, smaller traders and hawkers. The ITDC also build 10 Amenity Core locations across the Mandalika SEZ area, where the stalls could be used by SMEs, smaller traders and hawkers.
39. In regard to the wages of construction workers, cleaners, and those working for the operation and maintenance of ITDC, proper wages have been paid to the workers in accordance with the Regional Minimum Wage of West Nusa Tenggara Province. Furthermore, the workers also receive health and social security insurance.

d. The conditions of resettlement

40. The ITDC has facilitated the permanent relocation of the affected communities to the new residence in the Dusun Ngolang or Ngolang Village (including parties who were unable to reveal authentic certificate of land ownership). The Village is currently in the finishing process (as of 27 March 2022, the progress has reached 84,12% of completion) by the Local Government, Ministry of Public Works and Community Housing and the Ministry of Tourism and Creative Economy. The construction's finalization will be done in the middle of 2022 and the communities which currently living at the HPL 94, will be moved to their permanent relocation at the end of 2022.
41. This area provides 107 permanent houses for the affected communities, and also facilitated access, clean water and other public needs for the communities. The Dusun Ngolang was also constructed under the concept of "*Sarana Hunian Pariwisata*" or "*Sarhunta*" (Tourism Village Facilities). The ITDC provides training for future residents to develop a thriving tourist village, as substitution or alternative to their livelihood. The ITDC also supports the affected communities for their traditional livelihood. In the temporary resettlement area of HPL-94 and its surrounding area that has not been cultivated, the communities are allowed to do cattle farming and other forms of livelihood.

42. This area is located on a hill with an altitude of 76-109 meters above sea level with a direct view of the beach and sea. The natural beauty and charm of Dusun Ngolang are part of the plan to build an area with inclusive economic activity involving the locals. The development of the area is expected to attract visitors to stay in tourist accommodations owned and managed by the local residents. This will benefit the community by bringing a positive impact on their livelihoods and creating a supporting area for the Mandalika project.
43. While waiting for the completion of construction of the permanent residences in the Dusun Ngolang, the ITDC provides temporary housing in the ITDC owned land of 2,5 hectares in the HPL 94 Area for the 121 families who have been occupying the land owned by ITDC. HPL 94 is equipped with access to public utilities (water, sanitation, and electricity), a community center, mosque, roads and lighting, toilets, as well as pens and livestock to support their livelihoods.

III. The synergy between Central Government, Local Government, ITDC, and the role of Komnas HAM as a Mediator

44. The synergy between the Government of Indonesia, Local Government, ITDC and the NHRIs or *Komnas HAM* as an independent mediator, has always been the main key to the implementation of human rights principles at the Mandalika SEZ.
45. *Komnas HAM*, an A status member of the Global Alliance of National Human Rights Institutions' (GANHRI) has submitted sets of recommendations to the ITDC related to the Mandalika SEZ Project. These recommendations include advice regarding compensations, document verification of the land, ensuring the existence of communication channels, prioritizing the use of dialogue, and refraining from using security forces in dispute settlement.
46. The recommendations of Komnas HAM are highly valued and have been implemented accordingly by the ITDC, as follows:
 - a. Compensation payment is ensured to have been fulfilled by the ITDC. All land acquisition process, including compensations payment to those entitled, has been carried out according to the legal procedures as stipulated in Law 2/2012 by the Land Procurement Team of the National Land Agency in Central Lombok and the process thoroughly respects the rights of the community, without any unnecessary security forces.
 - b. The ITDC along with the Team for the Acceleration of Settlement of Disputed Lands in the Mandalika has concluded verification on 17 land portions owned by ITDC but claimed by 15 community members.
 - c. Advise to prioritize dialogue and refraining from using security forces have also been adhered to. The humanist approach has consistently been applied by the ITDC and dialogues with the community members are highly prioritized to find applicable solutions to various problems that may arise in the field. The ITDC also refrains from using security officers in settling any disputes, or approaching any problem, as the role of the security officers is solely to protect and secure the project site.
 - d. Provides dispute resolution mechanisms through both litigation and non-litigation paths:

- i. Non-litigation, by giving compensation in the form of cash allowance as a form of compensation and providing land for relocation in Dusun Ngolang, including the temporary relocation in HPL 94; and
 - ii. Litigation, by allowing community members who claims land rights to file a lawsuit as stipulated in the Law 2/2012.
- e. Provides access to the fulfillment of social and economic needs of the relocated community, including through various training, as well as education and health services implemented through CSR and community empowerment programs.
- f. CSR programs are being carried out in various programs with a focus on education, social, and culture that will support the needs of the community, and support modalities to enable the community to gain economic benefits from the Mandalika project and take part in the development of the Lombok region in general. Some of the programs undertaken include the construction of community facilities such as toilets, mosques and schools, the creation of entrepreneurship and tourism training programs, English language training, gardening and accounting, health and nutrition assistance, as well as support in overcoming the impact of the COVID-19 pandemic. ITDC also supports the community during its recovery after the earthquake in Lombok in 2018.
- g. Uphold human rights values in the business and development processes and establishing channels of dialogue with the community. ITDC agrees to continue to intensify communication with all parties to address complaints from the community and prevent misinformation relating to the development of the Mandalika in the future. ITDC has stated its willingness to cooperate with Komnas HAM in applying business principles that are centered on the value of respecting human rights.

IV. Supporting Data/Information

47. To support the explanatory points as formulated by the Government of Indonesia and relevant stakeholders in the current and precedent responses, please find attached documents which contain photos, data and other related evidences for your perusal.

To conclude, we would like to once again reiterate the Government of Indonesia's commitment to constructively work together with all relevant stakeholders in the protection and promotion of human rights to ensure that the benefit of development can reach and be mutually enjoyed by all people. We also appreciate your commitment to maintaining dialogue with the Government of Indonesia.

Please accept, Sir, the assurances of my highest consideration.

Yours sincerely,

Febrian A. Ruedyard
Ambassador Extraordinary and
Plenipotentiary / Permanent
Representatives



SUPPORTING DATA/INFORMATION

1. Organizational Structure of Land Disputes Resolution Task-Force (SATGAS)

Unofficial Translation

**Governor Decree Number 050.12-542/2020 on
Land Disputes Resolution Task-Force (SATGAS)
in Mandalika SEZ, West Nusa Tenggara Province**

No.	Name/Title/Institution	Role in the Task Force	Note
1.	Governor of West Nusa Tenggara	Commissioner	
2.	Deputy Governor of West Nusa Tenggara	Commissioner	
3.	Speaker of the House of Representatives of West Nusa Tenggara Province	Commissioner	
4.	Head of the High Court of West Nusa Tenggara	Commissioner	
5.	Regional Police Chief of West Nusa Tenggara	Commissioner	
6.	Military Commander 162/Wira Bhakti	Commissioner	
7.	Chief High Prosecutor of West Nusa Tenggara	Commissioner	
8.	Regional Head of National Intelligence Agency of West Nusa Tenggara	Commissioner	
9.	Commander of the Indonesian Navy Base in Mataram	Commissioner	
10.	Commander of the Indonesian Army Base in Rembiga	Commissioner	
11.	Regent of Central Lombok	Commissioner	
12.	General Director of PT. ITDC	Commissioner	
13.	Secretary of the West Nusa Tenggara Provincial Government	Head	
14.	Assistant for Government and People's Welfare, Secretariat of West Nusa Tenggara Provincial Government	Deputy Head I	
15.	Director of Operations and Construction of PT. ITDC	Deputy Head II	
16.	Secretary of the Central Lombok Regental Government	Deputy Head III	
17.	Head of Legal Bureau, Secretariat of West Nusa Tenggara Provincial Government	Secretary	

18.	General Manager of Mandalika SEZ	Deputy Secretary	
Legal Issues			
1.	Deputy Chief High Prosecutor of West Nusa Tenggara	Coordinator	
2.	Head of Legal Department of PT. ITDC	Deputy Coordinator	
3.	Head of National Land Agency in West Nusa Tenggara	Member	
4.	Public Court of Praya	Member	
5.	Head of National Land Agency in Central Lombok Regent	Member	
6.	Head of Legal Assistance and Human Rights of the Legal Bureau, Secretariat of West Nusa Tenggara Provincial Government	Member	
7.	Assistant for Governmental Administration and Welfare, Secretariat of West Nusa Tenggara Provincial Government	Member	
8.	Head of Legal Department, Secretariat of Central Lombok Regental Government	Member	
9.	Assistant for Special Crime (Aspidsus), Office of the High Prosecutor of West Nusa Tenggara	Member	2 (two) people
10.	Assistant for Intelligence (Asintel), Office of the High Prosecutor of West Nusa Tenggara	Member	2 (two) people
11.	Assistant for Civil and State Administration (Asdatun), Office of the High Prosecutor of West Nusa Tenggara	Member	2 (two) people
12.	Assistant for Inspection (Aswas), Office of the High Prosecutor of West Nusa Tenggara	Member	2 (two) people
Security Issues			
1.	Regional Police Vice Chief of West Nusa Tenggara	Coordinator	
2.	Head of Municipal Police (Pol PP) of West Nusa Tenggara	Deputy Coordinator	
3.	Military Chief of Staff 162/ Wira Bhkati	Member	

4.	Head of Operational Bureau of Regional Police of West Nusa Tenggara	Member	
5.	Police Chief of Central Lombok Regent	Member	
6.	Unit Commander of Mobile Brigade Corps, Regional Police of West Nusa Tenggara	Member	
7.	Director of Samapta, Regional Police of West Nusa Tenggara	Member	
8.	Head Section of Intelligence in Military Base 162/ Wira Bhakti	Member	
9.	Commander of Team for Intelligence in Military Base 162/ Wira Bhakti	Member	
10.	Military District Commander 1620/Loteng	Member	
11.	Head of Municipal Police (Pol PP) of Central Lombok Regent	Member	
Community Development			
1.	Head of National Unity and Domestic Policy Department, Provincial Government of West Nusa Tenggara	Coordinator	
2.	Head of Governmental Bureau, Secretariat of West Nusa Tenggara Provincial Government	Deputy Coordinator	
3.	Head of Mediator Unit (Bale Mediasi) of the West Nusa Tenggara Province	Member	
4.	Head of National Unity and Domestic Policy Department, Central Lombok Regent	Member	
5.	Head of Governmental Administration of the Secretariat of Central Lombok Regental Government	Member	
6.	Subdistrict Head of Pujut	Member	
7.	Village Head of Pujut	Member	

2. Public Consultations of Mandalika SEZ Project with the Affected Communities

Socialization of Land Acquisition and Relocation (2019)



Public Consultation on the Relocation of Graveyard

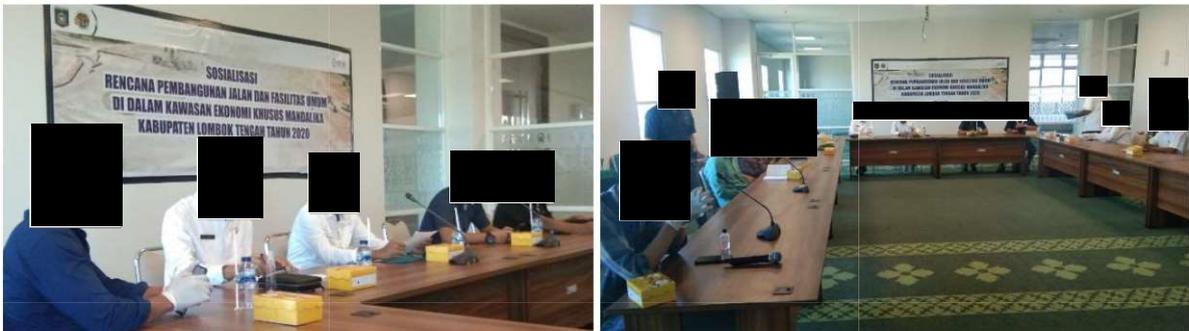


3. Series of Public Consultations on Enclave Land Settlement and Compensation with the Affected Communities in 2020

Public Consultation of Penlok 1



Public Consultation of Penlok 2



Compensation Payment of the Enclave Land

