

TABLE OF CONTENTS

02 —	EXECUTIVE SUMMARY
03 —	INTRODUCTION, SCOPE & METHODOLOGY
05 —	PART 1 CLAIMS, REMEDIES, PARTIES & PARTICIPANTS
06 —	THE CLAIMS
08 –	THE REMEDIES
09 —	PARTIES & PARTICIPANTS
	A Indigenous Peoples and Local Communities (IPLCs)
	B Companies
	c Government
	D CSO/NGOs
	Mediators / Facilitators / Adjudicators
13 —	PART 2 THE MECHANISMS
	A Direct Dialogue / Negotiation
	B Courts
	c Corporate Internal Mechanisms
	D Mediation & Facilitation
18 –	PART 3 FINDINGS
	A The Nature of Conflicts Predominates
	B A Dearth of Quality Mediators
	c Proper Initial Assessments are Vital
	An Incentive for Conflict Escalation and Violence
	Implementation + MEL (Monitoring, Evaluation, and Learning)
	F Additional Issues & Considerations
22 —	PART 4 RECOMENDATIONS
	A Access to Information: Know Your Rights / Know Your Options
	B Access to Experts: More Better Mediators
	c Independent Clearinghouse (either CRU or other)
	D Other Considerations
28 —	CONCLUSION
29 —	ENDNOTES



At the request of Unilever, The Forest Institute (TFI) conducted an assessment of the typology of land conflicts related to palm oil plantations in Indonesia and the state of formal and informal conflict mechanisms currently in use, in order to provide specific recommendations on whether, where, when, and how the private sector could meaningfully engage to help resolve such conflicts.

This Summary and Theory of Change report summarizes and builds upon several key findings and recommendations from The Forest Institute's full report, Transformasi: The Private Sector's Role in Resolving Land Conflicts in Indonesia (March 2021). The reports outline a typology of conflicts substantially derived from the largest quantitative assessments conducted to date, including a detailed study of 150 conflicts with results only very recently made available. One key finding that emerged from the assessment is that the nature of a conflict (i.e. its character across a number of different criteria), rather than the type of conflict (e.g. the type of claims, parties involved, etc.), is most predictive of its likelihood of being resolved. Indeed, contrary to expectations, the quantitative studies demonstrate that at present, there are no particular types of conflicts that are more or less likely to be resolved based on standard typological categories.

The research found instead that certain more nuanced or discrete factors seemed to increase the likelihood of successful resolution of conflicts, such as whether indigenous peoples and local communities (IPLCs) were united and well represented by their leaders, whether company senior managers and leaders were engaged in the conflict, etc. Therefore, the development and use of a more extensive set of criteria to identify and test which conflicts should be prioritized for resolution seems the most pragmatic path forward.

Another key finding is that the most commonly used conflict resolution mechanisms in Indonesia have been largely ineffective in resolving conflicts. Furthermore, the lack of effective conflict resolution mechanisms has created and/or exacerbated an incentive toward conflict escalation and violence amongst communities and companies engaged in plantation-related conflicts which are expected to increase over the coming years given population growth and the increased scarcity of available land. This finding is relevant to the selection of adversarial or collaborative approaches to conflict resolution mechanisms.

Critically, the report identifies one notable exception to the overall failure of the prevalent mechanisms used in Indonesia: highly trained expert mediators and CSO/NGOs (civil society organizations / non-governmental organizations) appear to be very successful in resolving conflicts (particularly in relation to all other available mechanisms). As a result, this assessment coins a new phrase – IMPNAT mediators – to describe the independent multi-party natural resource-adept (IMPNAT) mediators vital to the successful resolution of conflicts in Indonesia.

Unfortunately, another significant finding of this research is that there is a major capacity gap in IMPNAT mediators insofar as they largely do not exist in Indonesia. Therefore, this assessment recommends that the private sector support efforts to increase the capacity of IMPNAT mediators in Indonesia and support an independent conflict clearinghouse (hereinafter "Clearinghouse," potentially the Conflict Resolution Unit or other) to connect conflicts to IMPNAT mediators and Mobile IMPNAT Mediator teams (MIMs) for attempted resolution. It is predicted that significant pooled funding into a blind trust in support of a Clearinghouse and IMPNAT mediator capacity-building would have a marked effect on reducing and resolving land conflicts related to palm oil plantations in Indonesia.

The report further recommends technologies be used to increase knowledge around social responsibility policies, rights, and access to remedies through a one-stop-shop "Know Your Rights / Know Your Options" website that provides information from upstream and downstream companies in a language and format catered to I indigenous peoples and local communities in order to improve their ability to access information relative to their rights and possible remedies. This report also argues that improved free, prior, and informed consent (FPIC) efforts and corporate social responsibility (CSR) programs should be more closely examined and improved. In particular, CSR programs should be aligned with efforts likely to reduce (rather than further incite) conflict, particularly through the advancement of sustainable livelihood projects that align with communities' capacities and needs, and help connect their goods and services to greater markets. Finally, an online portal that could enhance transparency around smallholder contracts and operations (which was surfaced as a major source of current conflicts) should also be further examined.

There is a widespread belief that conflicts related to land in Indonesia are intractable. The research conducted by TFI debunks this belief and shows how a strategic private sector intervention would be expected to substantially impact the quantity, intensity, and trajectory of such conflicts in Indonesia. Such an intervention would not only be good for communities, but would reduce the significant costs incurred by companies engaged in conflicts, and support ongoing government efforts to mitigate such disputes.

ABOUT

The Forest Institute (TFI) is a global solutions lab which serves to incubate ideas and advance innovative strategies and solutions for the world's leading philanthropies, non-profits, and companies committed to environmental sustainability and social responsibility. TFI and its principals have worked with many leading philanthropies, non-profits, and companies operating in Indonesia to develop new strategies and incubate and accelerate pilot projects that promote sustainable and responsible development and achieve real change on the ground.

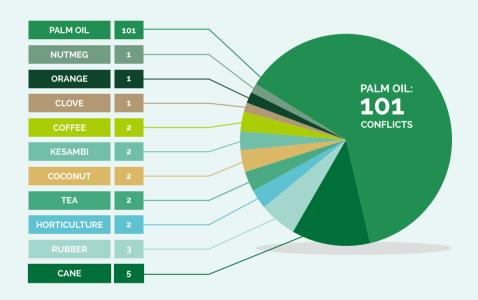
Unilever is one of the world's largest consumer goods companies. Established over 100 years ago, Unilever is known for its great brands, a global footprint and a belief in doing business the right way. Unilever's ambition is to make sustainable palm oil commonplace. To achieve this, Unilever is stepping up its work with partners to create a deforestation-free supply chain by 2023. Unilever's four principles for sustainable sourcing are: (1) Protecting natural ecosystems from deforestation and conversion; (2) Respecting and promoting human rights; (3) Transparency and traceability; and (4) Being a force for good for nature and people.

INTRODUCTION, SCOPE & METHODOLOGY

Rich with natural resources, Indonesia stands at the forefront of the world's developing economies, particularly in 1 the forestry and plantation sectors. Yet, the world's largest palm oil producer¹ is also a nation riddled with land 2 conflict, with some estimating that as much as 40% of Indonesia's land is affected by land disputes.² Palm oil 3 plantations in Indonesia, which cover approximately 22 million hectares of land,³ accounted for 42% of all new law 4 conflicts in 2020, more than any other sector.⁴ The direct costs of these conflicts has been estimated to range from USD 70,000 to USD 2,500,000 per site, equivalent to 51-88% of total plantation operational costs and 102-177% of 5 investment costs per hectare per year.⁵ As a result, a recent survey found that international investors considered 6 "local community land disputes" to be the primary risk to investment in Indonesia.⁵

New Agrarian Conflicts in the Plantation Sector

Source:
Konsorsium Pembaruan
Agraria (KPA), Catatan Akhir
Tahun 2020: Pandemi
COVID-19 dan Perampasan
Tanah Berskala Besar,
Edisi Peluncuran I: Laporan
Konflik Agraria di Masa
Pandemi dan Krisis Ekonomi,
Dec 2020, Figure 4:
Plantation Agrarian
Conflict 2020



TFI conducted 34 interviews over five months with 45 experts representing 12 of the largest producer, trader, and consumer companies in the palm oil sector; 12 local and international civil society organizations / nongovernmental organizations (CSO/NGOs) working on palm oil in Indonesia; and 8 third-party experts on international conflict resolution and/or palm oil (e.g. from academia, consultancies, etc.). TFI relied heavily on qualitative studies as well as the three large quantitative assessments: the Palm Oil Conflict and Access to Justice in Indonesia (POCAJI, 2021) project; the Center for International Forest Research (CIFOR, 2016); and the Centre for Policy Research's Namati Environmental Justice Program (NAMATI, 2018). In sum, over 100 academic articles, reports, magazines, news media, and other sources were examined as part of the research.

PART 01

CLAIMS, REMEDIES, PARTIES & PARTICIPANTS

"Conflict is extensive and widespread. Moreover, land-use conflict will likely be exacerbated as oil palm and other human land uses continue to rapidly expand."





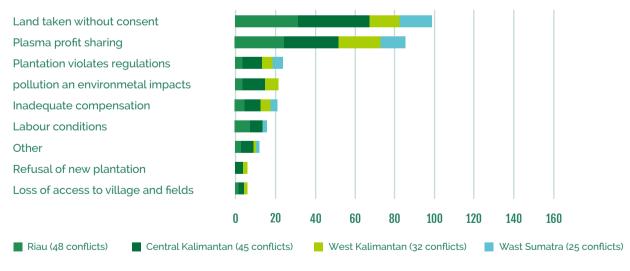


1

THE CLAIMS

Land conflicts are often complex with multiple claims and a variety of social, cultural, financial, and historical dimensions. Most land conflicts are multi-party conflicts with indigenous peoples and local communities (IPLCs) wielding several allegations as to how their rights have been violated. Land grabbing claims, encompassing traditional land loss allegations as well as the placement of restrictions on or use of land without free, prior, and informed consent (FPIC), are the most frequent type of claim made in land conflicts. Improper or inequitable benefit sharing claims, including claims rooted in a company's failure to properly share earnings from plasma or smallholder lands, are the second most common. Overlapping and divergent claims to land rest at the heart of most land conflicts, and there is often significant overlap between land loss and benefit-sharing claims. For instance, the POCAJI study (which distinguished "land grab" claims from smallholder benefit sharing claims) found that "almost in all cases people express the feeling that they are not getting enough in return for the land that they have lost." Other types of less common claims include environmental degradation and pollution, regulatory violations, loss of access to village and fields, destruction of sacred sites, labor conditions, trespassing, and criminalisation.

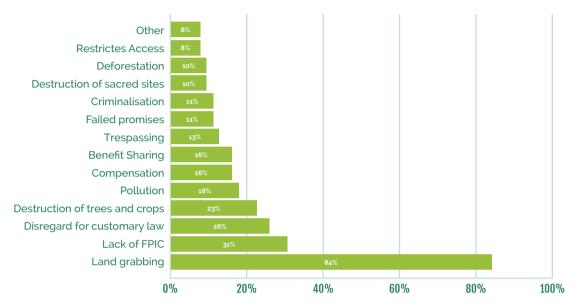
POCAJI: Types of Claims Raised in Conflicts (150 Palm Oil Conflicts)



Source: POCAJI Policy Reports 1-4 (2020) (compilation of data) NJ CONFIRM/EXPLAINADD:

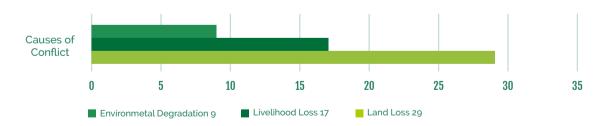
CLAIMS, REMEDIES, PARTIES & PARTICIPANTS

CIFOR: Causes of Conflict (62 Plantation Conflicts)



Source: Company community conflict in Indonesia industrial plantation sector, Meri Persch-Orth and Esther Mwangi, CIFOR Info Brief No 143 May 2016, at 3, Figure 2 (Causes of Conflict).

NAMATI: Causes of Conflict (50 Palm Oil Cases)

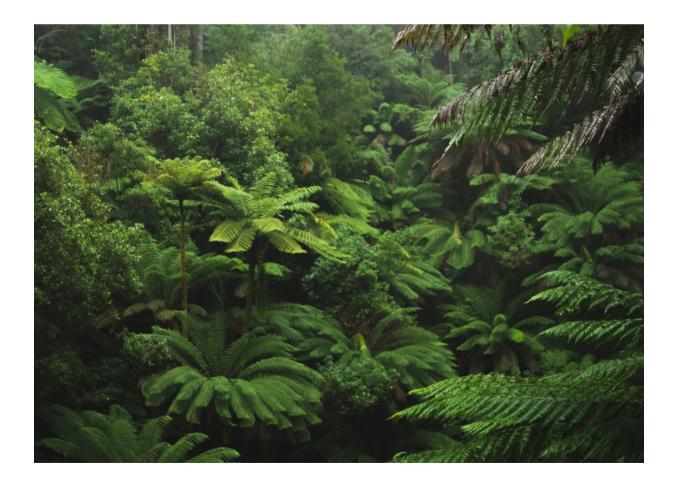


Source: Midcourse Manuovers: Community Strategies and Remedies for Natural Resource Conflicts in Indonesia, Meenakshi Kapoor et al, Centre for Policy Research (CPR), Namati Environmental Justice Program, Jun 2018, at 30, Figure 13 (Causes of Conflicts from 50 palm oil cases).

2

THE REMEDIES

Additional compensation and the return of (at least some) land, access to land, and/or use of land were the most common remedies sought by indigenous peoples and local communities, and often there was significant overlap amongst such requests. Based on interviews and the literature, it was found that compensation (i.e. simple cash payments) was often provided as a remedy in lieu of more complex remedies related to land clarity, access, use, etc. However, in most of the cases examined, remedies were not provided to the communities, either because the companies were not found responsible (or did not agree to provide remedies), or because the remedies agreed or compelled simply were not delivered (e.g. court decisions not being enforced). For instance, the POCAJI study concluded that the current state of conflict resolution mechanisms in Indonesia rarely result in the satisfactory resolution of palm oil-related conflicts as 68% of cases were characterized by local communities as barely achieving success or achieving no success at all. The NAMATI study similarly found that no remedies were provided in 75% of cases it examined.



PARTIES & PARTICIPANTS

Effort to understand the nature of land conflict in Indonesia must take into account the parties and participants engaged in the conflicts as well as the history and dynamics amongst particular individuals and groups. Below, the primary parties to these disputes as well as their interests are summarized.



Indigenous Peoples and Local Communities (IPLCs)

"Conflicts that never get resolved are ones where the community never agrees amongst itself." 5

In most land conflicts, the aggrieved parties are indigenous peoples and/or local communities (or members thereof) living in, near, or adjacent to a plantation or proposed plantation area. Proper representation of indigenous peoples and local communities has proven to be a significant challenge in land conflicts, particularly within the context of the large-scale industrialization of lands throughout Indonesia, which historically has often occurred without the free, prior, and informed consent of local indigenous peoples. Areas once exclusively or primarily held by distinct indigenous peoples and/or local communities, have come to include resettled migrants, transmigrants, and other ethnic groups and populations, each of which may have its own sub-groups who disagree on matters related to a plantation company (making broad agreement amongst these constituencies difficult to achieve). Misrepresentation by indigenous and community leaders and corrupt dealings amongst these leaders with government and company officials further exacerbate the issue of proper representation and consent.









"Currently the industry is playing whack-a-mole with palm oil conflicts."

Palm oil companies are generally interested in resolving conflicts quickly, efficiently, and with minimal public attention, in order to not halt or slow costly operations. Once involved in a conflict, companies largely prefer to resolve conflicts through internal or informal bilateral mechanisms (such as through negotiations, internal grievance mechanisms, etc.), which offer greater flexibility and control. However, the research found that there can be differing views (and incentives) for field staff as compared to senior staff with regard to the proper acknowledgment and handling of a conflict (despite explicit policies on the issue). For instance, corporate social responsibility funds, which have the potential to provide sustainable livelihood programs for indigenous peoples and local communities that can reduce conflict, have at times been used by field staff in a "weaponized" manner that exacerbates conflict.



"It is extremely unlikely that District governments will issue regulations calling for the recognition of indigenous peoples' rights to protect them from further expansion of oil palm plantations."

Government action (or inaction) has been a major contributing factor to conflicts: from national level policies and programs to provincial, district, and village level regulations. Efforts to advance fomal conflict resolution mechanisms, the recognition of indigenous rights and customary lands, and agrarian reform have been pushed by civil society organizations for decades, with the occasional progressive initiative launched by the Government (such as the agrarian reform program, TORA), but with limited changes to the overall ownership of lands and the trajectory of ongoing industrial land conversion. Similarly, discrepancies between customary and codified law as well as differing national, provincial, and district designations for land are a significant indirect cause of conflict, ¹⁹ yet Government efforts to resolve these issues (such as the One Map project launched in 2010) have yet to produce meaningful results for plantation-related conflicts. ²⁰ Nevertheless, seeing few options when land conflicts arise, local communities often direct their grievances to local government officials, with less than satisfactory results. ²¹



"It's like a he said, she said problem, and we never know who is right."²²

The role of CSO/NGOs in these conflicts is as varied as the conflicts themselves. Because indigenous peoples and local communities often lack the capacities and resources needed to effectively advocate for their interests, some NGOs support them by raising awareness about conflicts and helping communities mobilize, seek, and gain remedies to conflicts, while others help them map their customary lands, access new lines of credit, or even engage in mediation efforts.²³ However, at least some local CSO/NGOs have not been productive agents in conflict resolution matters, increasing resentment amongst parties. Numerous examples were given of CSO/NGOs who either served to foment or escalate conflicts as well as CSO/NGOs who advertised themselves as mediators or representatives from local communities only to "take the money and run" or otherwise substantially fail to deliver work.²⁴ Further, some CSO/NGOs that focus on delivering broad legal and systemic remedies for the widespread injustices caused by the large-scale transfer of customary and indigenous lands to the government and companies may view mechanisms (and mediations) providing remedies that do not alter the underlying ownership and use of the lands as furthering the injustices caused by powerful corporate and government actors vis-à-vis indigenous peoples and local communities.



Mediators / Facilitators / Adjudicators

"There are not enough qualified mediators in Indonesia.

We need more capacity and someone to facilitate

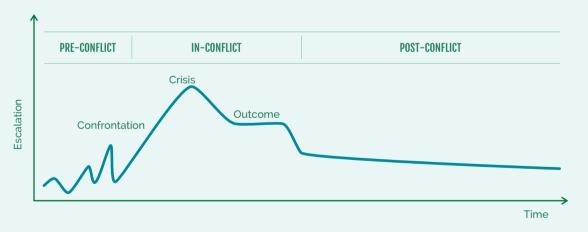
the process of bringing parties together."²⁵

Many parties have sought to facilitate, mediate, arbitrate, and adjudicate conflicts between indigenous peoples and local communities and companies (including government officials, CSO/NGOs, certified mediators, judges, policy advisors, etc.). However, the vast majority of individuals taking on this role have lacked significant training in multiparty natural resource mediation, and the resultant track record of these efforts has been rather unimpressive. ²⁶ The lone exception appears to be conflicts in which professional mediators (or CSO/NGOs) with significant training and experience in multi-party natural resource conflicts were employed.²⁷

TIMING AND INTENSITY OF CONFLICTS

There appear to be at least some patterns with regard to the timing and intensity of conflicts. Claims typically arise when a new permit is issued and discussed with community leaders and members, followed by new and additional claims arising when the land is cleared, and then again around the 3-5 year mark when the trees begin bearing fruit (as plantations begins to see a return on investment). Further claims may arise thereafter, but it was noted that such claims regularly are next anticipated near the time when the 25-35 year leasehold expires (and is generally renewed).²⁸ Experts have also discerned patterns in the escalation or intensity of conflicts, most notably that conflicts reaching a violent acme are more likely to be resolved than those which do not.²⁹ Such escalation tend to result from the failure of parties to effectively communicate as well as the failure of existing conflict resolution mechanisms to offer meaningful remedies capable of resolving disputes for the long term.³⁰

Conflict Trajectory



Understanding preventing and solving land conflicts A practical guide and toolbox Babette Wehrmann at 55 Figure 5, citing Fisher, S., Abdi, D. I., Ludin, J. Smith, R., Williams, S., Williams, S.: Working with Conflict. Skills and Strategies for Action. London 2000



THE MECHANISMS

"The main finding of this policy report is that currently, available conflict mechanisms are largely ineffective in solving palm oil conflicts." "

"In all four provinces communities rarely succeed in realizing their claims vis-a-vis palm oil companies.

These findings suggest that all three of the main conflict resolution mechanisms - the courts, RSPO's complaint facility as well as informal mediation by local authorities - are rather ineffective.³²





Direct Dialogue / Negotiation

To date, indigenous peoples and local communities have relied heavily on the use of informal conflict resolution mechanisms in seeking remedies, with the plurality of conflicts being "mediated" or "facilitated" by local government officials, but many in practice being not more than a simple negotiation between indigenous and community leaders and company representatives (with government officials present). While 'negotiation' was utilized in a substantial percentage of case studies, the interviews and qualitative literature revealed that communities and CSO/NGOs have had limited success (and remain wary) of approaching companies directly at the onset of a conflict due to their inherent or perceived bias and unequal bargaining power.³³ Not seeing an impartial mechanism that can help them access remedies, communities often try to increase their leverage vis a vis companies by seeking the support of local officials, engaging in public protests, etc. Most negotiations (or mediation/facilitations) do not result in satisfactory remedies for local communities; and the most common remedies, when provided, are cash payments (which tend not to resolve the conflicts over the long term).



The formal judicial system is generally used only as a late-stage resort when many other means of resolving a conflict have failed. Indonesian courts are not seen as a good option by companies, IPLCs, or CSO/NGOs relative to the alternatives given their costs, the lack of predictability, corruption, and the lack of implementation of judicial decisions. Furthermore, indigenous peoples and local communities are disadvantaged in judicial proceedings as their customary claims to land often pre-date the State's codified ownership claims, and they lack the formal and legal documentation that is pervasive and persuasive in such processes (and is in the possession of most companies who went through long bureaucratic processes to acquire formal legal rights to the land).

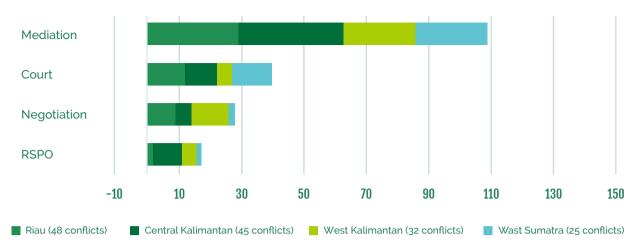


Corporate Internal Mechanisms

Corporate internal grievance mechanisms have an important role to play in helping to resolve certain grievances and complaints raised by workers and community members; and the systems of the most sophisticated actors have undergone significant changes and improvements over the last decade. Nevertheless, there has been relatively minimal use by local communities of companies' formal internal grievance mechanisms to file complaints in relation to nearby plantations (and direct suppliers), but substantially more in relation to third party supplier plantations (likely because IPLCs and CSO/NGOs believed the company was more likely to act in the latter instances). IPLCs and supportive CSO/NGOs remain wary of utilizing such mechanisms given their real or perceived bias. The structure of such mechanisms seems to render them more appropriate to the resolution of worker and labor issues, rather than larger, more complex disputes with indigenous peoples and local communities.

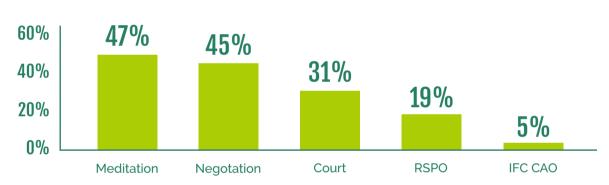
2 3 4

Mechanisms Utilized (POCAJI)



Source: POCAJI Policy Reports 1-4 (2020) (compilation of data)

Mechanisms Utilized (CIFOR)



Source: Company community conflict in Indonesia industrial plantation sector, Meri Persch-Orth and Esther Mwangi, CIFOR Info Brief No 143 May 2016, at 5, Figure 4 (Conflict Resolution Mechanisms Used).

Mechanisms Utilized (NAMATI)



Source: Midcourse Manuovers: Community Strategies and Remedies for Natural Resource Conflicts in Indonesia, Meenakshi Kapoor et al, Centre for Policy Research (CPR), Namati Environmental Justice Program, Jun 2018

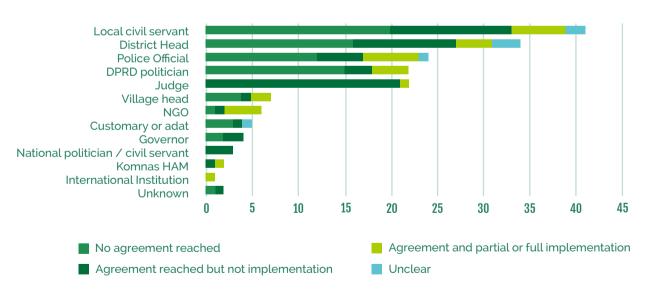
THE MECHANISMS



Mediation & Facilitation

The most common conflict resolution mechanism utilized for palm oil related land conflicts to date has been informal mediation and facilitation efforts led by local government authorities and officials. Unfortunately, the data clearly shows that informal mediation efforts led by local authorities have been "remarkably unsuccessful." For instance, in the POCAJI study, only 15% of the 150 conflict resolution efforts led by local authorities resulted in "agreements that were either fully or partially implemented." Informal mediation – "musyawarah" – has a rich history in archipelago culture, and has even been incorporated into Pancasila, the State's official ideology based on five overarching principles. However, the practice is widely mislabeled and misunderstood in present-day Indonesia, where it is often confused with "facilitation" or "conciliation." As one stakeholder noted: "Bad practice defines the field and undermines the approach."

Pocaji: Outcomes by Type of Mediator (Total Attempts with Mediator = 173)



THIRD-PARTY MEDIATION & FACILITATION

Numerous third-party institutions have provided mediation and facilitation services to parties engaged in land conflicts related to palm oil in Indonesia, and in most instances, efforts to access these mechanisms were not been the first (nor the second) option sought by communities (who often did so with the assistance of international CSO/NGOs). The International Finance Corporation's (IFC) Office of the Compliance Advisor Ombudsman (CAO) was widely viewed as being unable to bring about a definitive end to three major conflicts it was involved in and has very limited applicability to plantations in Indonesia (i.e. those receiving IFC funding).⁴⁰ The Roundtable on Sustainable Palm Oil's (RSPO) Dispute Settlement Facility (DSF)⁴¹ appears to be a noble effort to fill an obvious gap in conflict resolution, however, the mechanism received nearly unparalleled criticism and cynicism from stakeholders, and the RSPO's structure and operations seem better focused on its Complaints Panel. The Conflict Resolution Unit (CRU) seems a potential outlier. Formed in 2016 as an initiative of the Indonesian Chamber of Commerce (KADIN), to provide support services and serve as a mediation convenor between companies and indigenous peoples and local communities,⁴² its staff have mediated a number of conflicts (resulting in an impressive record of resolutions and learnings),⁴³ developed a National Register of Assessors and Mediators, sponsored trainings, and initiated a junior mediator internship program (to boost the number of gualified mediators nationally).⁴⁴

United Nations Guiding Principles (UNGP)

The United Nations Guiding Principles on Business and Human Rights (UNGP) requires states and businesses to provide "appropriate and effective remedies" when rights are violated. The UNGP specifically calls out: "Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available. The UNGP state that a "legitimate" mechanism should have "an appropriate degree of independence from the business enterprise(s) and other actors whose activities may be the subject of grievances;"; and to be considered "accessible," mechanisms should to the extent possible "promote dialogue-based methods for resolving grievances." In 2020, the United Nations elaborated on the UNGP, noting that at present "few non-State-based grievance mechanisms are fulfilling their envisaged role," and encouraging "greater cooperation and coordination" amongst businesses to "work collaboratively" and pool resources in developing, implementing, and improving non-State-based grievance mechanisms.



FINDINGS

"Conflicts are best thought of as dynamic (ever-changing), interactive social processes. No two conflicts are the same. However, conflict analysis makes it possible to examine the structure and dynamics of conflicts in a systematic way. From this, it becomes clear that conflicts often share similar patterns and stages of development." 49

The report outlines a typology of conflicts but finds that the nature of a conflict, rather than the type of conflict, is most predictive of its likelihood of being resolved. Another key finding is that the most commonly utilized mechanisms in Indonesia have been largely unsuccessful in resolving conflicts (and providing remedies to communities). The report identifies one notable exception to the overall failure of the prevailing mechanisms: highly trained expert mediators (or CSO/NGOs). As a result, the report coins a new phrase – IMPNAT mediators – to describe the independent multi-party natural resource-adept (IMPNAT) mediators vital to the successful resolution of conflicts in Indonesia. This finding is aggravated by the fact that the exact type of expert capacity needed to assess the nuances of conflicts and work closely with parties to develop creative solutions to them is currently lacking in Indonesia. Barriers and gaps in relation to conflict resolution mechanisms in Indonesia are identified, alongside opportunities to utilize new technologies and methods to prevent future and resolve current conflicts.



The Nature of Conflicts Predominates

The report provides a typology based largely on the typology used by the largest quantitative study on palm oil conflicts in Indonesia (POCAJI). However, the quantitative assessments on this topic to date have not provided statistically significant links between major typological variables and the likelihood of a specific conflict being resolved. In other words, there appear to be no specific types of conflicts or claims which are materially easier (or more difficult) to resolve than others, contrary to expectations. The way forward, therefore, appears to be with flexible mechanisms and experts who can dive more deeply into the nature and veracity of a conflict (and access any number of tools to address and resolve it).



A Dearth of Quality Mediators

There is an urgent and severe gap in IMPNAT mediators in Indonesia, which has contributed to the insufficient remediation of conflicts related to palm oil and which, if left unaddressed, may soon worsen. While the Indonesian government's requirement that parties to a civil law action engage in mediation led to an explosion in the number of "certified mediators" nationally, the resultant class of mediators is almost entirely devoid of the sort of impartial highly skilled experts needed to resolve the complex multi-party land conflicts that are prevalent throughout the country's natural resource sectors. In short, while there is no shortage of "mediators" in Indonesia, there is a severe shortage of experienced impartial multi-party natural resource-adept or "IMPNAT" mediators.



Proper Initial Assessments are Vital

The importance of properly assessing the dynamics within a community, the quality of its representative leaders, and the engagement of the parties to a dispute, as well the history and character of the claims, was underscored by numerous stakeholders and identified as a common feature of successful resolution processes. One stakeholder even argued that "the initial assessment is almost 60% of the enterprise." Therefore, conflict resolution mechanisms are needed that have the flexibility to conduct proper initial assessments of a conflict and the claims being raised in order to determine the veracity of the claims and the scope of the parties involved, prior to the start of mediation sessions. ⁵¹

1. Identifying and Securing Proper Community Representation

The interests of indigenous peoples and local communities are at times poorly represented by their leaders, which is a major aggravating factor in conflicts. Furthermore, even in instances where leaders genuinely represent and advocate for their community's interests, they often lack the skills and resources to effectively negotiate with companies and/or to properly raise a grievance. Companies seeking to acquire lands, in some instances, take advantage of the fact that an indigenous or community group may lack strong representation and leadership. Unless a conflict resolution process includes a thorough preliminary assessment indigenous or community group's membership, the common and disparate views and interests of the membership, and the quality of their representatives or leaders in advance of negotiation/mediation/arbitration/adjudication, the discord may not come to light until after the process concludes when indigenous or community members express dissatisfaction with or even protest the results.

2. Handling Illegitimate or Extortionist Claims

A significant issue flagged by multiple stakeholders was the raising of illegitimate or extortionist claims and the importance of having a conflict resolution mechanism capable of identifying, distinguishing, and addressing such claims. One stakeholder explained that it was common practice in the past (and in some places it remains common practice today) for companies to pay community members to settle quickly any complaints or contestations over land.⁵⁵ On occasion, little time was taken to verify the complaints as the problem could be made to go away for a nominal sum. Over time, this led to a recognition by community members and others that compensation could be gained by bringing claims regardless of their veracity. This resulted in the emergence of opportunistic actors (including spurious speculators and investors who would enter a community offering to raise a claim against the plantation company on the community's behalf, regardless of whether there was a legitimate basis for the claim. In exchange for raising the claim, the actor would receive a portion of any settlement paid by the company. Some stakeholders described these individuals as "professional agitators," and at least one speculated that thousands, if not tens of thousands, of claims have been brought in this manner. The community is a stakeholders described these individuals as "professional agitators," and at least one speculated that thousands, if not tens of thousands, of claims have been brought in this manner.



An Incentive for Conflict Escalation and Violence

A disturbing finding from the research is that the escalation of conflicts, including through the use of violence, appears from the perspective of parties to be an economically "rational" and predictable tactic either for plantation operators to suppress protests or for local communities to escalate a conflict to a level where it is more likely to be resolved. ⁵⁸ As noted above, both the literature and interviews supported the claim that conflicts that reach a violent acme are more likely to be resolved than those which do not. ⁵⁹ Thus, there is a perverse incentive for parties to act in a manner that increases the risks of violence because such actions are more likely to result in resolutions and remedies than those without. Consequently, the result of the lack of accessible and impartial conflict resolution mechanisms in Indonesia is violence and more conflicts.



Implementation + MEL (Monitoring, Evaluation, and Learning)

Decisions and agreements reached through the conflict resolution mechanisms most frequently utilized in Indonesia today tend to produce decisions or agreements that are unlikely to be implemented. The adjudicated and arbitrated decisions as well as agreements reached through mediation performed by local authorities (who are often biased and untrained in mediation) have failed, on a wholesale level, to deliver meaningful results. While mechanisms and processes that produce agreements authentically reached by parties and/or decisions that will be respected by all parties are desperately needed, continuous post-agreement engagement between indigenous peoples and/or local communities and companies is also needed. The purpose of such engagement is not only to ensure effective implementation of agreements reached between communities and companies but also to ensure companies stay apprised of the local context and understand issues that may give rise to future claims (and be alerted early when the problems are still latent and likely easier to address). Flexible systems that allow for the use of multiple tools and means by which to resolve conflicts may also build up a database of experiences that over time results in more refined and detailed assessments and recommendations.



Additional Issues & Considerations

The report also identified several additional areas of consideration in relation to a private-sector initiative on conflict resolution: First, a smartly framed (e.g. conflicts v. challenges) step-wise approach that demonstrates success over time will have a major impact on the uptake of local stakeholders. Second, despite the prevalence of social and sustainability policies within the sector, the implementation of FPIC remains lacking particularly at the frontiers of development (which should be addressed). Third, well-designed sustainable livelihood programs and CSR can help reduce conflicts and decrease community's reliance on government and corporate handouts, ⁶² while "weaponized" CSR has exacerbated conflicts. ⁶³ Fourth, technological advancements (mobile phones, apps, etc.) present the opportunity to bring information about corporate social and sustainability policies, rights, and possible remedies to local communities impacted by plantation development in a manner that is accessible: in local languages presented in a manner and at a level appropriate for their literacy rates. Finally, COVID-19 pandemic has introduced additional challenges to ongoing conflict resolution efforts in Indonesia (e.g. by making it harder for mediators to get into the field), ⁶⁴ highlighting the importance of a dispersed conflict resolution network.



RECOMMENDATIONS⁶⁵

"Mediation is an underexploited and useful tool that is often well suited to prevent and manage conflicts linked to natural resources." 66

Land and social conflicts related to plantation development in Indonesia may seem an intractable issue. The history of conflict resolution mechanisms in Indonesia and their failure to deliver predictable and reliable results for communities and companies underscores this estimation. But a closer examination of the problems and issues alongside the progress made over the last few years in relation to conflicts in Indonesia provides a far more optimistic outlook as to how quickly change could occur.

Stakeholders broadly agreed on the need for viable conflict resolution mechanisms (with many urging the development of a new mechanism), and several corporate stakeholders expressed an interest in exploring opportunities to collaborate with other industry partners and pool resources in support of more effective conflict resolution.⁵⁷

The report finds that most efficient and meaningful action the private sector can take to help resolve conflicts related to palm oil is via a phased approach that builds up a resolution ecosystem consisting of a national network of highly qualified IMPNAT mediators working through conflicts assigned to them via an independent conflict clearinghouse (which also continuously improves the system through ongoing monitoring, evaluation, and learning efforts). These efforts would be supported via a website that provides indigenous peoples and local communities access to information with regard to their rights and remedies (as well as better aligned CSR programs and technologies). These elements of a resolution ecosystem are further elaborated below.

RECOMMENDATIONS

THEORY OF CHANGE (TOC)

Vision: Conflict-free supply chains Solution: A resolution ecosystem in Indonesia empowers indigenous peoples and local communities and companies to systematically resolve (and reduce) conflicts over time. Strategic Priorities **Access to Information Access to Experts Independent Clearinghouse** IPLCs living on or near IPLCs and companies Clearinghouse resources Outcomes plantations can easily access can readily access impartial mediations providing a safe space expert mediators to help them for IPLCs and companies to information regarding their rights and remedies for alleged harms resolve conflicts. resolve conflicts via a continuously improving system • Website in language & format Mediation education & trainings Pooled investments in the accessible to locals with an impartial, multi-party, Clearinghouse and mediators ensure impartiality (Blind Trust) • Acknowledged by upstream natural resource (IMPNAT) focus In-field mentoring and learning • Clearinghouse connects conflicts & downstream companies Process for disseminating programs to mediators the information Number of qualified IMPNAT • Clearinghouse monitors, evaluates, mediators increased and made and learns, continuously improving available across geographies practices & results No one-stop-shop for • Insufficient numbers & not No trusted independent source for parties in conflict to utilize IPLCs to know their rights geographically dispersed and how to access remedies Unsuccessful "mediation" for assistance & remedies Dispersed population; low literacy efforts have given mediation History of failure and distrust in many places (incl "mediation"); no systems a bad name • Existing materials often in long Government / judicial positions learning form written English on customary and traditional Lack of investment land rights impede progress There is no well-established IPLCs are unaware of The current number of conflicts system to resource and connect their rights and options to far exceeds the tiny number of access remedies for alleged expert mediators capable of parties in conflict to expert harms, and the current helping parties achieve resolution. mediators, nor to learn from system incentivizes conflict and continuously improve escalation and violence. resolution efforts over time. Most conflicts between IPLCs and companies related to land are not being resolved Problem: (and the conflict resolution mechanisms predominantly utilized in Indonesia have been very unsuccessful in resolving conflicts and providing remedies to harmed communities).

RECOMMENDATIONS

23



Access to Information: Know Your Rights / Know Your Options

We propose the creation of a static Know Your Rights / Know Your Options website or other online platform that provides indigenous peoples and local communities access to information on their rights, relevant grievance mechanisms, and other relevant information in a simple understandable format in the local language. This action should encompass the highest percent possible of the market, with upstream and downstream companies having their relevant corporate policies and grievance mechanisms readily available on the website. The content should be presented in a manner most accessible to the broadest number of IPLCs (often with lower educational and reading levels), such as through the use of short videos in local languages to describe the various policies and options.

More detailed policies should also be made available through the website for those interested and able to access them and learn more about their rights and available options.

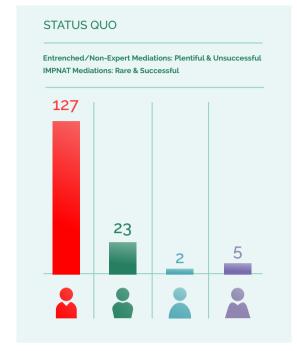


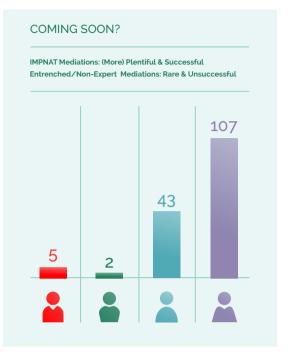
Access to Experts: More Better Mediators

The private sector could swiftly act to fill one of the largest gaps identified in this assessment: the lack of qualified IMPNAT mediators throughout Indonesia. If combined with an independent conflict clearinghouse, this capacity boost could have both an immediate and long-term impact on the ability of IPLCs and companies to constructively resolve their conflicts while mitigating the current incentives towards escalation and violence. Furthermore, by investing in the types of conflict resolution capacities that were disproportionately responsible for the successful resolution of conflicts in the recent POCAJI study, the capacity boost would provide some hope of "flipping the script" on the current status of resolution efforts from roughly 2/3rd failure & 1/3rd success to 1/3rd failure and 2/3rd success (see Flipping the Script below).

RECOMMENDATIONS

Flipping the Script on Conflicts related to Palm Oil in Indonesia





Source: Based on TFI compilation of POCAJI 4 studies showing that out of 150 conflict resolution efforts by local authorities, only 23 (15%) resulted in an agreement that was partially or fully implemented, with 127 (85%) resulting in no agreement, an agreement that was not implemented, or an unclear result. By contrast 5 of 7 (71%) conflict resolution mediation efforts by professional mediators or highly trained NGOs resulted in agreements that were partially or fully implemented.



Independent Clearinghouse (either CRU or other)

Significant private sector investment in an independent conflict clearinghouse is also proposed in response to the findings. An independent clearinghouse is needed to serve as a neutral intake/outtake system to relay requests for assistance to impartial expert mediators, and to develop best practices within a continuous learning environment. Such an institution in this context would not only be expected to meet the highest international standards for oversight of a multi-party natural resource conflict mediation scheme, but to develop and advance standards and practices in Indonesia that could serve as a model for other geographies and sectors. The private sector should explore opportunities with CRU to have it serve as the independent clearinghouse, but should CRU prove unwilling or unable to properly fill this role, an alternative clearinghouse should be established. Proper consideration should be given to the framing of the Clearinghouse and its work, in order to maximize support. The Clearinghouse, mediator capacity, and informational website would be expected to serve as a "no regrets investment," proffering a flexible and adaptive informal mechanism that would bring value to parties engaged in conflicts regardless of the development of any future formal mechanisms; and attracting investment from other sectors (and likely governments) as the docket of successfully mediated cases, best practices, and lessons learned develop. Several critical components and related considerations for the proposed clearinghouse are further discussed below.

RECOMMENDATIONS

1. Preliminary Assessment & MEL - Vital & Overlooked **Elements of IMPNAT Mediation**

The clearinghouse should be an efficient, streamlined vehicle with several key components, notably an emphasis on thorough preliminary assessments of conflicts (e.g. to determine the veracity of claims, legitimacy of claimants, proper community representation, etc.) and a monitoring, evaluation, and learning (MEL) framework that better assesses the implementation of agreements and emphasizes continuous learning and improvement of best practices. Support to increase the number of mediators alone (either individually, or via CSO/NGOs or networks) would not provide the structure needed to demonstrate meaningful progress in relation to this issue, nor would it allow for the development of best practices and MEL frameworks that would benefit the overall learning of all parties and practitioners engaged in conflicts.

2. A Timebound, Limited Scope Pilot

A five-year pilot project⁶⁸ supporting the operations of the conflict clearinghouse is proposed. The investment would seek to develop, refine, and expand the operations of the independent conflict clearinghouse (the CRU or other) and provide a service to indigenous peoples and local communities and companies experiencing conflicts related to palm oil in Indonesia. The investment should be tied to delivery against key performance indicators and efforts to secure additional funding and support; and ideally be launched in combination with one or more FMCGs, one or more major producers, or ideally both. A given number of producers (and potentially CSO/NGOs) would hopefully offer or agree to divert a certain number or percentage of their legitimate conflicts to the clearinghouse, rather than seeking to first resolve them internally (or through other means). The government should also be approached to seek their endorsement and/or to potentially to serve as an observer to conflicts it has prioritized for resolution.

3. A Blind Trust with Pooled Funding

TFI proposes the creation of a blind trust, funded with pooled resources from consumer, trader, and producer companies, and other sources (including private corporations, governments, donor agencies, foundations, nonprofits, etc.) to finance the clearinghouse's efforts to convene the mediations related to the palm oil supply chains of these companies. With a blind trust, the funding for a specific mediation effort supported by the clearinghouse would not be directly linked to the company engaged in the mediation, providing IMPNAT mediators greater independence in their activities and providing the communities and companies involved in any given conflict greater assurance of the mediator's neutrality/impartiality. The independence of the clearinghouse and IMPNAT mediators is vital to the fair resolution of disputes, including the acceptance and implementation of resolutions and agreements by the IPLCs and companies involved in the conflicts.



Other Considerations

Strategically designed and implemented corporate social responsibility (CSR) programs that help reduce and mitigate conflicts (as opposed to exacerbating them) by increasing the economic well-being and resilience of local communities should be implemented at a larger scale. Additional scoping and consideration should be given to some sort of online smallholder portal which could help clarify and lend greater transparency to the contracts and benefit sharing made in relation to smallholder schemes (which give rise to a significant percentage of conflicts). Finally, discussions should occur with FPIC-centered organizations to determine a strategy that would improve the implementation of FPIC sector-wide in order to reduce the number of future conflicts caused by present-day activities (particularly at the frontiers of industrialization).



RECOMMENDATIONS

CONCLUSION

An evaluation of the primary conflict resolution mechanisms utilized in Indonesia with regard to land use change conflicts yields sobering results. As one stakeholder noted: "It is very difficult to find any dispute that has been satisfactorily resolved." However, a closer assessment of progress made in relation to both conflict research and conflict mediation provides not a light but a glaring beam at the end of a tunnel: professional IMPNAT mediation would help resolve a significant number of conflicts if properly organized and empowered to do so.

The gap in IMPNAT mediators at present and the number of mediators needed looms large. Similarly, a Clearinghouse must be supported to connect conflicts to IMPNAT mediators, continuously learn from and improve the systems, and build best practices amongst all parties to bend the curve on conflicts and provide more meaningful examples of how parties can have safety and security in shared spaces and utilize (and protect) increasingly sparse land and natural resources together.

Mediation is not a panacea. All conflicts cannot be resolved, and as one stakeholder ominously noted: "some conflicts need to be maintained." But a flexible mechanism held to the highest international standards for mediation, and utilizing mobile IMPNAT mediation teams and a network of decentralized IMPNAT mediators provides the natural resource sectors in Indonesia some hope that the surge of conflicts can be directly confronted and remediated (if not fully resolved).



RECOMMENDATIONS

ENDNOTES

- ¹ See Pemerintah Terapkan ISPO untuk Industri Hilir Sawit, Investor Daily Indonesia, at https://gimni.org/pemerintah-terapkan-ispo-untuk-industri-hilir-sawit/ (last visited 30 Mar 2021) (indicating Indonesia controls 55% of the world's palm oil market).
- ² How Indonesia's national mapping project got off course, Editorial, ASEAN Today, 2 Oct 2020, at https://www.aseantoday.com/2020/10/how-indonesias-national-mapping-project-got-off-course/ (last visited 30 Mar 2021); see also Indigenous people sceptical of Indonesia mapping project, Jessica Washington, Syarina Hasibuan and Eliazar Ballo, Al Jazeera, 30 Sep 2020, at https://www.aljazeera.com/news/2020/9/30/indonesia-indigenous-land-rights (last visited 30 Mar 2021).
- ³ See Indonesian govt urged to resolve mounting agrarian conflicts, Konradus Epa, UCA News, 19 Feb 2021, at https://www.ucanews.com/news/indonesian-govt-urged-to-resolve-mounting-agrarian-conflicts/91472# (last visited 30 Mar 2021).
- ⁴ Konsorsium Pembaruan Agraria (KPA), Catatan Akhir Tahun 2020: Pandemi Covid-19 dan Perampasan Tanah Berskala Besar, Edisi Peluncuran I: Laporan Konflik Agraria di Masa Pandemi dan Krisis Ekonomi. Dec 2020, at B.1-2 (palm oil responsible for 101 of 241 new conflicts in 2020).
- ⁵ The Cost of Conflicts in Palm Oil in Indonesia, Virginia Barreiro, Mohiburrahman Iqbal, Godwin Limberg, Rauf Prasodjo, Aisyah Sileuw and Jim Schweithelm, Daemeter, Nov. 2016.
- ⁶ Supporting Conflict Sensitive Development: Insight from Mediation Practitioners in Indonesia, GIZ Forests and Climate Change Programme, IBCSD Conflict Resolution Unit, Agus Mulyana et al., Dec. 2020, at 147.
- ⁷ Oil palm community conflict mapping in Indonesia: A case for better community liaison in planning for development initiatives, Nicola Abram, Erik Meijaard, et al., Applied Geography 78 (2017), at 42.
- 8 Interviews on file with author. 1013, 1020, 1022.
- ⁹ See e.g. Manifestation of conflict escalation in natural resource management, Yurda Yasmi et al, Env. Sci. and Pol., 9:538 546, 2006 (in a review of 118 conflict cases, noting that conflicts involve multiple stakeholders, issues, and interests); Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia, Ward Berenschot et al., 2021 (currently under review; on file with author) (noting it was "commmon" for conflicts to involve multiple claims.).
- ¹⁰ Pocaji Policy Report No. 1 (West Sumatra 2020), at 4.
- ** See Asserting Community Land Rights Using RSPO Complaint Procedures in Indonesia and Liberia, Forest Peoples Programme and IIED, Tom Lomax, 1 Dec. 2015, at 16-17; see e.g. An analysis of forestry sector conflict in Indonesia 1997-2003, Yuliana Cahya Wulan, Yurdi Yasmi, Christian Purba and Eva Wollenberg, CIFOR Governance Brief No. 1, 2004. (*the case studies demonstrated complex histories of latent conflict and conflict resolution through compensation payments that proved unsuccessful in reducing long-run conflict." Id. at 1): and Interviews on file with author.
- ¹² See Pocaji Policy Reports No. 1-4 (2020).
- 13 Pocaji Policy Report No. 2 (Riau 2020), at 11.
- ¹⁴ Source: Midcourse Manuovers: Community Strategies and Remedies for Natural Resource Conflicts in Indonesia, Meenakshi Kapoor et al, Centre for Policy Research (CPR), Namati Environmental Justice Program, Jun 2018, at 45-46.
- 15 Interview on file with author, 1022.
- ¹⁶ Resolving Land Conflicts in Indonesia, Afrizal and Ward Berenschot, Review Essay, Bijdragen tot de Taal-, Land- en Volkenkunde 176 (2020), at 568-569 (A review of five book-length studies on plantation related conflicts in Indonesia found that a "key theme in these studies is the rather severe problem of community representation. A topic recurring depressingly often is weak interest representation and sometimes outright betrayal of communities by their leaders."); POCAJI Policy Reports No. 1-4 (2020); Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia, Ward Berenschot et al., 2021 (currently under review; on file with author); Ghosts on our own Land, Forest Peoples Programme. Sawit Watch, et al. 2006.
- ¹⁷ Interview on file with author. 1003.
- ¹⁸ Indigenous Peoples and Oil Palm Plantation Expansion in West Kalimantan, Martua Sirait, University of Amsterdam and Cordaid, May 2009, at 38.
- ¹⁰ See Whoever Wins Indonesia's Presidential Election, Indigenous People Will Lose: Millions of Indonesians lack basic protections. The presidential contenders don't seem to care. by Juliana Nnoko-Mewanu, April 16, 2019, at https://foreignpolicy.com/2019/04/16/whoever-wins-indonesias-presidential-election-indigenous-people-will-lose/ (last visited 23 Mar 2021); Positive and negative aspects of forestry conflict: lessons from a decentralized forest management in Indonesia, Yurda Yasmi et al., International Forestry Review Vol.11(1), 2009; Supporting Forest Conflict Resolution in Indonesia through Mediation, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Jul. 2016.
- ²⁰ See Whoever Wins Indonesia's Presidential Election, Indigenous People Will Lose: Millions of Indonesians lack basic protections. The presidential contenders don't seem to care. by Juliana Nnoko-Mewanu, April 16, 2019, at https://foreignpolicy.com/2019/04/16/whoever-wins-indonesias-presidential-election-indigenous-people-will-lose/; see also Blog Posts: One Map, WRI Indonesia, 24 Apr 2020, at https://wri-indonesia.org/en/blog-tags/10271; see also The Ministry of Energy and Mineral Resources: Geoportal, at https://geoportal.esdm.go.id/ (last visited 30 Mar 2021).
- ²¹ Pocaji Policy Report No. 2 (Riau 2020), at 5.
- ²² Interview on file with author. 1001.
- ²³ See Pocaji Policy Reports No. 1-4 (2020) noting success from NGOs trained in mediation; see e.g. Scale-up aka Mengubah Konflik Menjadi Kemitraan Sejajar, at at https://www.scaleup.or.id/home/ (last visited 22 Mar 2021).
- ²⁴ Seka Sengketa: Pergulatan Pengalaman Resolusi Konflik, Agus Mulyana et al., Conflict Resolution Unit, Indonesia Business Council for Sustainable Development, 2020; Interviews on file with author, 1008, 1009.
- ²⁵ Interview on file with author. 1025.
- ²⁶ See Pocaji Policy Reports No. 1-4 (2020).
- ²⁷ See Part 2 below.
- ²⁸ Interviews on file with author. 1007, 1008.
- ³⁹ Indigenous Rights vs. Agrarian Reform: A Case Study from Jambi, IPAC Report No. 9, 14 Apr 2014, at 1,25; Interview on file with author. 1025.
- ³⁰ Company community conflict in Indonesia industrial plantation sector, Meri Persch-Orth and Esther Mwangi, CIFOR Info Brief No 143 May 2016, at 5.
- ³¹ Pocaji Policy Report No. 3 (West Kalimantan 2020), at 16.
- ³² Pocaji Policy Report No. 1 (West Sumatra 2020), at 9.
- ³³ See e.g. Pocaji Policy Report No. 1 (West Sumatra 2020), at 8 ("As companies generally avoid engaging in direct negotiations with communities (taking place only in 12% of the total cases), communities most commonly relied on mediation and facilitation (involved in 92% of the total cases"); Environmental Dispute Resolution in Indonesia, David Nicholson, KITLV Press, Leiden, 2009 ("In many cases, the first response of community members is to approach either factory management or local government figures to discuss the problem of pollution and attempt to negotiate a solution. Such informal attempts at negotiation or mediation are not usually successful however, and are often met by indifference or inaction on the part of industry or government." Id. at 274).

ENDNOTES

- 34 See e.g. Interview on file with author. 1005.
- ³⁵ Pocaji Policy Report No. 1 (West Sumatra 2020), at 8; Pocaji Policy Report No. 2 (Riau 2020), at 8; POCAJI Policy Report No. 3 (West Kalimantan), at 8; Pocaji Policy Report No. 4 (Central Kalimantan 2020), at 9.
- ³⁶ Mediation success of local authorities compiled from POCAJI Policy Reports 1-4 (2020), including results from village heads, judges, DPRD politicians, police officials, district heads, and local civil servants).
- ³⁷ See e.g. Developing appropriate environmental conflict management procedures in Indonesia. Christopher Moore, Mas Achmad Santosa, Cultural Survival Quarterly, Sep. 1995, at https://www.culturalsurvival.org/publications/cultural-survival-quarterly/developing-appropriate-environmental-conflict-management (last visited 4 Mar 2021); and Transforming conflict in plantations through mediation: Lessons and experiences from Sumatera, Indonesia, Ahmad Dhiaulhaq et al., Forest Policy and Economics 41, 22–30, 2014 ("Mediation is not a new practice in Indonesia, with it having deep roots in the nation's culture of musyawarah (an informal group deliberative process whose objective is to reach mufakat or consensus) as a traditional way of transforming conflict (Moore and Santosa, 1995; Syukur and Bagshaw, 2013)" Id. at 28.).
- ³⁰ Conflict mediation in industrial tree plantations in Indonesia Status and prospects, Yusuf Bahtimi Samsudin and Romain Pirard, CIFOR Info Brief No 108 Dec 2014, at 3.
- 39 Interview on file with author, 1018.
- ⁴⁰ See Non-Judicial Grievance Mechanisms as a Route to Remedy an Unfulfilled Opportunity, Hannah Storey, Forest Peoples Programme, Briefing, Nov. 2020.
- ⁴¹ Roundtable on Sustainable Palm Oil, The Complaints System, at https://askrspo.force.com/Complaint/s/ (last visited 30 Mar 2021).
- ⁴² Conflict Resolution Unit: Overview, at https://www.conflictresolutionunit.id/en/overview (last visited 13 Mar 2021); Conflict Resolution Unit: Roadmap, at https://www.conflictresolutionunit.id/en/cru-roadmap (last visited 13 Mar 2021).
- ⁴³ See e.g. Supporting Conflict Sensitive Development: Insight from Mediation Practitioners in Indonesia, GIZ Forests and Climate Change Programme, IBCSD Conflict Resolution Unit, Agus Mulyana et al., Dec. 2020; and data on file with author.
- ⁴⁴ Indonesia Business Council for Sustainable Development, at https://www.ibcsd.or.id/work-program/people/conflict-resolution-unit-cru-cost-of-conflict/ (last visited 13 Mar 2021); Conflict Resolution Unit: Overview, at https://www.conflictresolutionunit.id/en/overview (last visited 13 Mar 2021).
- ⁴⁵ United Nations Guiding Principles on Business and Human Rights (UNGP): Implementing the United Nations "Protect, Respect, and Remedy" Framework, United Nations and UN Human Rights Office of the High Commissioner (UNOHCR), 2011, at 1.
- ⁴⁰ United Nations Guiding Principles on Business and Human Rights (UNGP): Implementing the United Nations "Protect, Respect, and Remedy" Framework, United Nations and UN Human Rights Office of the High Commissioner (UNOHCR), 2011, at 33.
- ⁴⁷ United Nations High Commissioner for Human Rights (UN OHCHR) Report: Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, United Nations General Assembly A/HRC/44/32, 19 May 2020, at 11-12.
- ⁴⁹ United Nations High Commissioner for Human Rights (UN OHCHR) Report: Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, United Nations General Assembly A/HRC/44/32, 19 May 2020, at 3, 18-19.
- 49 UN FAO Negotiation and Mediation Techniques for Natural Resource Management, Antonia Engel and Benedikt Korf, 2005, at 37.
- ⁵⁰ Interview on file with author. 1018 (see also 1030).
- ⁵¹ Interviews on file with author, 1006, 1008, 1009.
- Resolving Land Conflicts in Indonesia, Afrizal and Ward Berenschot, Review Essay, Bijdragen tot de Taal-, Land- en Volkenkunde 176 (2020), at 568-569; POCAJI Policy Reports No. 1-4 (2020); Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia, Ward Berenschot et al., 2021 (currently under review; on file with author); Ghosts on our own Land, Forest Peoples Programme, Sawit Watch, et al., 2006.
- 53 Interview on file with author. 1012.
- ⁵⁴ Interview on file with author. 1018.
- 55 Interview on file with author. 1013.
- ⁵⁶ Interview on file with author, 1008. See also section on gray actors, etc.
- ⁵⁷ Interview on file with author. 1008. See also section on gray actors, etc.
- ⁵⁸ While violence that reaches the level of severe bodily harm or death can often trigger increased media and other scrutiny, the vast majority of acts of violence, intimidation, and threats are of a variety that largely go unreported in popular national and international media.
- 99 Indigenous Rights vs. Agrarian Reform: A Case Study from Jambi, IPAC Report No. 9, 14 Apr 2014, at 1,25; Interview on file with author. 1025.
- $^{\rm 60}$ See e.g. A Deeper Dive: Transformative Change in Muara Kilis case study in the full report.
- $^{\mbox{\tiny 61}}$ Interviews on file with author. 1008, 1022.
- $^{\mbox{\tiny 62}}$ See e.g. Interview on file with author. 1020.
- ⁶⁾ See e.g. Interview on file with author. 1020; but see No Silver Bullets: Closing the \$10 billion income gap in cocoa calls for cross-sector action, Manuel Kiewisch and Yuca Waarts, Mondelēz International and Wageningen University, 17 Nov. 2020.
- 64 Interview on file with author. 1030.
- ⁶⁵ Although the recommendations in total are the same, the order and emphasis of the recommendations in this summary are marginally different from those in the full report (whose recommendations include More Better Mediators, An Independent Conflict Clearinghouse, CSR That Helps (Not Hurts), Harnessing Tech, and Better FPIC Quality Assurance Sector-wide). This is due to the fact that the Theory of Change was developed after the full report was completed, leading to a slight change in strategic emphasis to better align the recommendations with the concept of a Resolution Ecosystem.
- ⁶⁶ UNDPA & UNEP, Natural Resources and Conflict: A Guide for Mediation Practitioners, Feb. 2015, at 10.
- 67 Interviews on file with author. 1002 and 1006.
- ⁶⁸ Five years was the timeframe afforded the district-level Conflict Resolution Desk project described earlier. The CRU has just finished its initial five-year startup period, and this therefore seems a valid timeframe for such a pilot.
- ⁶⁹ Interview on file with author. 1009.
- 70 Interview on file with author. 1021.

