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Local brokerage and international leverage: NGOs and land conflicts in Indonesia

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Abstract

The rapid expansion of oil palm plantations in Indonesia has generated a large and growing number of conflicts between rural communities and palm oil companies over, mainly, access to land. Employing a detailed documentation of 150 such conflicts in four Indonesian provinces, this paper assesses and evaluates how local, national and international NGOs help communities address their grievances. We find that rights-based activism characterises only a small portion of NGOs working on land conflicts, as a more common strategy revolves around political brokerage. NGOs generally fail to achieve significant impact, with the partial exception of (those connected with) international NGOs.

KEYWORDS

brokerage, civil society, Indonesia, land conflicts, NGO, transnational activism

1 | INTRODUCTION

On 11 November 2009, several farmers of the village of Kijang Rejo (Riau Province) and activists of a local NGO, Riau Farmers Union (Serikat Tani Riau, STR), undertook a hunger strike in front of the House of Representative (DPRD) of Riau Province to protest against PT Arindo Tri Sejahtera (ATS). This palm oil company had occupied their land since 2006. As repeated protests failed to have any effect, the villagers turned to STR for help. STR advised villagers about how to organise and how to be more strategic in their struggle to recover their land. As a villager described in an interview, 'STR gave us direction to the right path'. STR also helped by lobbying politicians at local and national level and by getting a national senator to advocate their case. STR had proposed the hunger strike as a

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means to get the attention from politicians. A former leader of STR explained this unusual strategy; thus, 'People have become accustomed to demonstrations (...) The question is: what can be done to make people believe that these demands should be heard? Our campaign should get noticed so that we can penetrate the government'.

Such protests are filling the pages of regional newspapers across Indonesia. As communities are losing their land to the rapidly expanding palm oil plantations with little or no compensation, they are engaging in lengthy and complex struggles with companies involving not just demonstrations but also blockades, court cases, politician-led mediation and, occasionally and violence. A particularly salient feature of these land conflicts between communities and companies is the importance of outside NGOs, from local ethnic associations to international NGOs like Friends of the Earth. Since land conflicts in Indonesia require the navigation of significant procedural complexity as well as considerable stamina and organisational capacity, affected communities often end up involving and seeking help of NGOs. As in the case of the village of Kijang Rejo, these NGOs tend to have considerable impact on the strategies that communities adopt. Yet they do so in surprisingly varied ways. While some NGOs present these land conflicts as a violation of the land rights of communities and pursue legal avenues, a peculiar feature of STR's approach was that their campaigns avoided a discourse of rights while aiming explicitly at cultivating the pity and support of politicians.

This article discusses the nature of NGO involvement in land conflicts in Indonesia, aiming to describe not just the varied character of civil society in rural Indonesia but also the character and effectiveness of strategies that NGOs pursue. Employing an expansive definition of NGOs as any kind of civil society organisation addressing issues of public concern, we explore the role, character and potential of NGOs in dealing with the grievances and injustices generated by processes of land use change.

In doing so, we provide an assessment of whether and how civil society in the global south can help address the injustices associated with the intensifying processes of land use change and associated practices of large-scale land acquisitions ('land grabbing') by (international) companies (Borras & Franco, 2013; Hall et al., 2015; Schoenberger et al., 2017). While the optimism about the potential of NGOs has faded somewhat (cf. Fisher, 1997), they are still considered to be critical in improving democratic accountability, improving governance and strengthening citizen rights. In this literature the contribution of NGOs is often described in terms of strengthening the capacities and skills of marginalised communities in order to realise and expand their citizen rights. Such a 'rights-based approach' revolves around a strategic invocation of (and focus on) state laws and regulations to pressurise power holders to improve the state's recognition of citizen (land) rights. Yet, as a growing literature on 'the politics of the governed' (Chatterjee, 2004; De Wit & Berner, 2009) points out, such 'rights-based' form of empowerment is not necessarily the most effective way of solving problems. Particularly in the context of weakly institutionalised state institutions with limited capacity to implement laws and regulations in an impersonal manner, the cultivation of influential contacts is often easier and more effective than the invocation of laws and rights (see also Berenschot & van Klinken, 2018; Lazar, 2008).

While these debates about the nature of civil society in the global south are generally waged in theoretical terms, it is in itself an empirical question of whether NGOs are indeed mostly carriers of a rights-based approach or, conversely, prefer to address grievances through negotiated, informal exchanges of favours taking place in 'political society'. Yet, as most studies on land conflicts (or other similar struggles of marginalised communities) tend to rely on a limited number of case studies, they cannot assess such questions about general patterns. Furthermore, as these case studies tend to focus on well-publicised conflicts involving international attention and tend to ignore the less glamorous toiling of small local NGOs, they risk overemphasizing the importance of the rights-based approaches adopted by such international organisations. The materials we use in this study give us a rare opportunity to avoid this pitfall. Offering a rare combination of quantitative and qualitative material, we use our documentation of 150 conflicts across four provinces to provide a broad, more representative assessment of the kinds of NGOs involved in land conflicts in Indonesia, the strategies that they tend to employ, and the effectiveness of these strategies.

We contend that the kind of civil society activism most commonly celebrated in the literature—the rights-based activism that uses international connections and formal institutions to get companies to respect (land) rights—characterises only a relatively small element of the strategies pursued by civil society organisations working on land conflicts in Indonesia. As most organisations not only lack international connections but also harbour considerable distrust towards legal institutions, a more common strategy revolves around ‘political brokerage’—that is, the facilitation of interaction between communities and politicians and bureaucrats with the aim of boosting their bargaining power *vis-à-vis* companies. Yet these efforts have little effect, as we find evidence that NGOs in rural Indonesia are surprisingly ineffective in addressing land conflicts.

We develop these arguments on the basis of our documentation of 150 land conflicts between communities and palm oil companies in four Indonesian provinces—West Sumatra, Riau, West Kalimantan and Central Kalimantan. As part of a large collaborative research effort of Dutch and Indonesian academic institutions and six Indonesian NGOs we worked together with a group of local researchers¹ to engage in 283 interviews with community leaders (generally two per case) while also collecting written sources (newspaper articles, online sources, government and NGO documents and academic studies) on each of these conflicts. The cases were selected in a largely random manner from a long list of 544 conflicts prepared by our local partners. To further acquire insights into specific dynamics, we also engaged in more lengthy fieldwork for in-depth studies on 14 of these cases, and we interviewed 17 representatives of 13 NGOs. We use this range of material to analyse the nature and strategies of the 106 civil society organisations we encountered, while also—through a comparison with cases without NGO involvement—analysing their impact on the outcomes of conflicts. See the online annex for a more detailed description of our methodology.²

This article proceeds as follows. After a short overview of academic debates about ‘actually existing civil society’ (Mamdani, 1996) and a brief introduction to the nature of conflicts sparked by palm oil expansion, we first provide an overview of the range of NGOs involved in these conflicts. We subsequently discuss the strategies that these organisations employ. We then evaluate their impact on actual outcomes. We end by discussing the implications of our findings for both NGO activism and debates about the nature of civil society in the global south.

2 | CIVIL SOCIETY, EMPOWERMENT AND BROKERAGE

Amidst a broader literature on ‘land grabbing’ a growing number of studies is studying the ‘reactions from below’ (Borras & Franco, 2013; Hall et al., 2015; Rutten et al., 2017) of communities trying to resist incoming companies taking control over their land. These studies are painting a relatively bleak picture as this resistance rarely leads to success, despite lengthy struggles involving various forms of collective action (e.g., Acciaioli & Dewi, 2016; Colchester & Chao, 2013). This article picks up on a recurrent theme in these studies: the considerable dependence of affected communities on NGOs (e.g., Gilfoy, 2015; Verkoren & Ngin, 2017). These studies find that struggles against land grabbing often take place simultaneously in both local as well as international arenas, as NGOs broker international connections and build ‘Transnational Advocacy Networks’ (TAN’s, see Pye & Bhattacharya, 2013) and ‘Transnational Agrarian Movements’ (TAM’s, see Borras, 2010) through which organisations and individuals from different countries cooperate to address the injustices associated with land grabbing. The brokerage of NGOs thus facilitates an ‘internationalisation’ or ‘upscaling’ of these land conflicts which can greatly empower a local community as it strengthens their capacity to pressurise companies (see also Tarrow, 2005). In that light we study how common such international connections actually are.

These interactions between affected communities, local NGOs and national NGOs raise important questions, not only about whether and how civil society can succeed in empowering these communities but also about whether and how the discourse and strategies employed by (international) NGOs ‘lands’ in local settings. In that light, a range of studies have raised critical questions about the effectiveness of NGOs such as their tendency to depoliticize social struggles or the disconnect between NGO-speak and local contexts (Mosse, 2005; Rutten et al., 2017). A common theme in even these critical studies is that NGOs are generally depicted as promoters of rights-based collective

action: they empower marginalised communities by boosting their capacity to claim and realise their rights as citizens. In this light, for example, studies paid considerable attention to the role of NGOs in disseminating a global discourse of (human) rights (Levitt & Merry, 2009), and the way in which such 'rightful resistance' serves communities to defend their land (Kerkvliet, 2014; O'Brien & Li, 2006). Such a strategic usage of citizen rights and state regulations also often informs programs of development agencies aimed at 'empowerment', 'capacity building' and 'making the law work' for marginalised communities. In this vein programs on land rights generally revolve around a provision of legal assistance in order to help communities use the law to defend their interests.³

But to what extent do such rights-based approaches actually resonate with the local political context as well as attitudes and preferences of targeted communities? An adjacent literature on access to public services in the global south is arguing that such assertion of citizen rights is a luxury beholding to only privileged sections of society. In this view the 'politics of the governed' (Chatterjee, 2004) is, instead, characterised by a strategic use of informal connections and exchanges of favours. Conceptualising civil society as a relatively narrow sphere of state-citizen interaction mediated by formal institutions, authors like Chatterjee (2004: 40) and Mamdani (1996) have argued that such interaction mostly takes place in 'political society' where 'negotiations of [citizen] claims [take place] on a political terrain (...) according to calculations of political expediency'. In this context civil society organisations also operate as brokers, but of a different kind: instead of forging international connections as 'development brokers' (cf. Lewis & Mosse, 2006), their capacity to empower communities stems from their ability to facilitate the interaction (and exchanges of favours) between communities and powerholders (see Diprose, *this issue*). For the purpose of this paper, we will refer to such strategies involving the mediation of interactions between communities and political actors as 'political brokerage'. The reliance on political brokerage is both a response to, and a reinforcement of, the informalised nature of state institutions. When state laws and formal procedures are perceived to have limited impact on actual outcomes due to their regular undermining through informal networks and personal exchanges of favours, rights-based activism is perceived as being relatively ineffective compared to political brokerage (see De Wit & Berner, 2009).

This political brokerage differs in character from above-mentioned international brokerage. International brokerage involves local NGO's brokering connections between communities and international NGOs in a way that impose relatively few obligations on communities. Political brokerage, in contrast, involves brokering connections that come with (implicit) clientelistic obligations for both communities and NGOs, as political actors expect to receive electoral (and campaign-) support in return for their help. Furthermore, while international brokerage often comes with a discourse that invokes laws and citizen rights, political brokerage sometimes ends up undermining these rights: even if successful, political brokerage conveys the message to citizens that citizen rights are not impersonal entitlements but rather personal favours which are granted on the basis of one's capacity to cultivate political connections and to fulfil the (clientelistic) obligations that imbue these connections. Political brokerage 'vernacularises' citizenship, in the sense that citizen rights come to be experienced not in terms of an impersonal relationship with the state, but rather in terms of personal relationships and attendant obligations between citizens, political actors and brokering NGOs (see Berenschot et al., 2018; Berenschot & van Klinken, 2018). As such political brokerage reinforces the tenuous and negotiated nature of citizenship in most parts of the world (see Lazar, 2008).

In addressing this debate about the nature of civil society in the global south, we also aim to contribute to discussions about the strengths and weaknesses of civil society in Indonesia. After NGOs were tightly controlled under Suharto, in the early 2000's a revitalised civil society was described in relatively glowing terms, as civil society (student) organisations paid an important role in bringing down Suharto's authoritarian regime (Aspinall, 2005), while Indonesia's relatively vibrant associational life (Lussier & Fish, 2012) was considered important for democratic consolidation (Nyman, 2006). Yet in recent years analysts have become notable downbeat as civil society organisations are seen as failing in bringing about meaningful reform (Törnquist, 2013) or preventing the backsliding of Indonesia's democracy (Mietzner, 2021). These weaknesses of NGOs are attributed to their relatively unorganised and elitist nature (Aspinall, 2005) as well as the ease with which they are co-opted by Indonesia's dominant economic elites as companies started to employ and pay NGOs (Hadiz & Robison, 2014). Our analysis offers another (complementary)

explanation: we contend that the reliance of NGOs on political brokerage prevents a critical engagement with political elites and discourages efforts to strengthen formal institutions and the rule of law.

3 | A BRIEF INTRODUCTION TO LAND CONFLICTS IN INDONESIA

Before diving into the nature of NGO involvement in dealing with land conflicts in Indonesia, it is important to provide a brief introduction into the nature of these conflicts. An important root cause of these conflicts concerns Indonesia's weak land tenure system and particularly the way in which the Indonesian state curtails the land rights of Indonesian citizens (see Afrizal, 2007). Building on Dutch colonial laws, after independence the Indonesian state has restricted private ownership of land in areas officially designated as *kawasan hutan* or forest estate. In these areas—currently encompassing around 63% of Indonesia's territory—Indonesian citizens cannot obtain formal ownership of the land, while land-titling as well as registration of public ownership records in non-forest areas—where most palm oil concessions are allocated⁴—is limited. Most rural Indonesians are, consequently, forced to rely on customary law and more informal methods of land registration to organise their land dealings. This restricted land ownership has allowed the Indonesian state to give (palm oil) companies access to land through concessions. As the Indonesian state is providing companies with concessions for land on which rural Indonesians have been living and working for generations, this situation inevitably sparks conflict: while palm oil companies have a firm legal basis for appropriating land, communities feel that this land is being stolen from them. Yet their position is vulnerable: lacking formal land titles, they stand little chance in court.

To address this problem, both the Indonesian government and the palm oil industry have prescribed two types of solutions. On the one hand, companies are required to obtain informed consent from affected communities before commencing operations. This includes an obligation to provide monetary compensation. Companies are expected to approach communities with their plans, and obtain written consent that communities agree to the incorporation of their land into a plantation. Secondly, companies incorporating community land into plantations are required to set up profit-sharing schemes, often referred to as *inti-plasma* schemes in Indonesia. Here the *inti* refers to the company share, while *plasma* refers to the part of the plantation (currently around 20% of the total land ceded by communities) provided to communities. Communities are in theory entitled to all the profits of this land minus the expenses the company incurred in planting and cultivating the oil palm trees.

Both these 'solutions' turned out to be a major source of conflicts. As we discuss in greater detail elsewhere (see Berenschot et al., n.d.), companies often obtain community consent in a very haphazard manner, focusing their efforts (and inducements) on getting a signature from the village head who often neglects to involve the rest of the community. Not infrequently this means that affected individuals get no, or very little (between 80 and 250 dollars per hectare) financial compensation. Similarly messy is the implementation of these joint-venture schemes. Not infrequently companies renege on their promise to provide the community a share of the (profits from) a plantation (i.e., *plasma*), or this scheme is implemented in a highly non-transparent manner leaving communities with very little profit.

While there are other grievances, these complaints about land grabbing and the implementation of profit-sharing schemes constitute the two main sources of conflict. As we document elsewhere, these grievances generate lengthy conflicts whereby during (on average) 11 years communities engage in demonstrations, road blockades, public hearings, press conferences and occasional court cases to pressurise companies to cede to their demands. As our own research as well as a range of case-studies have documented (e.g., Afrizal, 2007; Colchester & Chao, 2013), communities tend to fail in these efforts as land is rarely returned to communities while companies rarely meet demands for (more) monetary compensation or the provision of promised plasma land.

As many (but not all) palm oil companies operate on a global market and face both Indonesian laws as well as international (industry-) standards (such as those formulated by the RSPO), these conflicts are *potentially* multi-levelled (cf. Maddison, 2017) in the sense that they can involve advocacy and conflict resolution efforts at

international, national and local fora. At the local level, this intractability of palm oil conflicts should be interpreted in the light of the character of Indonesia's democratisation process. The governance of oil palm expansion is marred by Indonesia's highly clientelistic political system, which incentivises palm oil companies to engage in collusive exchange relations with state officials in order to navigate regulatory procedures (see Aspinall & Berenschot, 2019). Indonesia's democratisation process after the fall of Suharto (in 1998) and the availability of democratically elected members of local parliaments (DPRD) and, since 2004, district heads has provided protesters with new avenues to advance their grievances. Yet at the same time these new, competitive elections have intensified the relationships between politicians and business actors. As politicians face the challenge to finance increasingly expensive election campaigns, political elites have often turned to economic elites—including owners of palm oil companies—for help. In return for such campaign donations, elected politicians help palm oil companies to circumvent existing regulations including protections of citizen rights.⁵ Indonesia's highly clientelistic politics thus greatly complicates the resolution of conflicts. It is frequently argued that Indonesia's democracy is an 'oligarchy' since many politicians are either wealthy entrepreneurs themselves, or reliant on such rich campaign donors (cf. Ford & Pepinsky, 2014). In that light some scholars have argued that local power-constellations have a considerable impact on the outcomes of palm oil conflicts and others highlight the impact of clientelistic exchanges between companies and politicians (e.g., Rasch & Köhne, 2016; Varkkey, 2015). As we will explore in greater detail below, this particular political economy—highly informalised state institutions and regular collusion between palm oil companies and state authorities—is discouraging NGOs from pursuing strategies of claiming (or strengthening) citizen rights as, instead, many of them focus on cultivating personal connections with powerholders to strengthen the bargaining position of communities *vis-à-vis* companies.

4 | NGOS AND LAND CONFLICTS IN INDONESIA: AN OVERVIEW

In this rather difficult context, how often do communities turn for help to NGOs, and what kinds of NGOs do they turn to? To address this question, we used our documentation of 150 conflicts to identify the names of organisations involved in supporting communities. We subsequently studied the background of all the organisations thus identified, focusing on three very general characteristics: the type of organisation, their scope of operation and their connections with other NGOs. To do so we relied on their websites, their (annual) reports and occasional other studies describing their activities. We provide the full results—the full list of the (backgrounds of the) identified NGOs and the sources we used—in the online appendix to this article.

It turns out that for 67 conflicts (or 44.7%) communities themselves had set up organisations themselves for the purpose of organising the struggle against the company, with names that generally contain words like 'forum' or 'union' (*serikat*). These organisations are generally very small (often little more than a chairman and a few members) and facilitate the mobilisation of the community and the organisation of demonstrations. Such organisations also help solve the otherwise thorny issue of community representation as it bestows the chairperson with some credibility in negotiating with company and government representatives. Given the complexity of these struggles, it is somewhat surprising that in over 55% (83 cases) of the studied conflicts, communities do not opt to (or fail to) set up some sort of organisation—even more so given the efforts of outside NGOs to engage in community organising.

Now turning to the involvement of outside NGOs, we found that—given the complexity of land conflicts—the support from outside NGOs was relatively limited: as Table 1 indicates, in 92 studied conflicts (61%), communities receive support from outside NGOs. There are in total 190 outside NGOs involved (on average 2.1 different organisations per conflict, involving 106 different NGOs). In 56 cases (37%) communities did not receive support from any outside organisation (and for two cases we could not establish this). The level of involvement of these NGOs varied greatly. As Table 1 illustrates, of these 92 conflicts with NGO involvement, in 43 cases this involvement was limited to occasional advice, while in 49 cases community leaders indicated that they had been in touch at least monthly with NGO representatives. In other words, we found that out of 150 cases in 101 cases communities had no—or

TABLE 1 Palm oil conflicts and NGO support

Intensity of support	West Sumatra	West Kalimantan	Riau	Central Kalimantan	Total
1. No NGO involved	11	10	20	15	56
2. Gave occasional advice	8	6	16	13	43
3. Contact every 2 months	1	0	1	0	2
4. Once every month	2	3	1	5	11
5. Weekly	0	11	2	8	21
6. Almost daily	1	0	4	3	8
7. Intensity of support unclear	2	2	4	1	9
Total number of cases	25	32	48	45	150

very little—outside support in their struggle against palm oil companies. This finding supports our impression from fieldwork that civil society in rural Indonesia lacks the manpower and resources to take up the many land conflicts engulfing rural Indonesia.

Table 2 provides an overview of the character of the NGOs involved in addressing land conflicts, focusing on the 49 cases involving 58 NGOs that were—again according to our informants—at least in monthly contact with their communities. We found considerable variation: an indication of the wide ramifications (and importance) of palm oil conflicts is that organisations with wide-ranging aims—from environmental organisations to legal aid, labour, human rights, student and ethnic organisations felt compelled to work on these conflicts.

To understand the nature of NGO involvement in palm oil conflicts, it is useful to briefly discuss this highly varied group of NGOs in some more detail. A first important category concerns local NGOs, that is, organisations whose scope of operation does not extend beyond a single province and who lack connections with NGOs elsewhere. Carrying a range of colourful names reflecting their local focus—such as Yayasan Riau Madani and Yayasan Bentang Borneo, these organisations are relatively numerous. They are usually relatively small with generally not more than a handful of activists who are generally not paid any salary.

Many of these organisations have been set up by committed activists who endeavour to help communities in their struggle without receiving any personal benefits. Yet some organisations—sometimes referred to with the derogatory term *bodrex* NGOs (*bodrex* being an all-purpose medicine)—make money by posing as community representatives in order to solicit bribes from palm oil companies. The modus operandi of such *bodrex* NGOs is generally as follows: after hearing about a particular conflict, they contact community leaders and offer their help which, because of the above-mentioned challenges, community leaders are generally happy to accept. An enthusiastic phase of cooperation ensues, leading to the organisation of a demonstration or, occasionally, a court case. At this stage, however, it seems that these local NGOs sometimes accept money in exchange for either dropping the case or even convincing the community to stop their agitation. In this interview a community leader described his experience with such a local NGO called ‘Brigade 08’:

‘When we occupy land, the state can come down [and cause problems] so we thought that they could help to protect us. They came and promised to help us, but then it was a question of [asking to the company] ‘how much’ [will you pay us]. The leader received an offer from the company to drop the case. NGOs need to live, they need budgets, they need to eat. The issue is integrity’.

The underlying cause of this unreliability of local NGOs lies in the fact that in the context of widespread land conflicts, the capacity to (pretend to) represent a community is valuable, as it creates possibilities of extorting bribes from companies. We encountered stories of community leaders engaging in similar behaviour.

Such behaviour is rare among the smaller group of local NGOs that worked together with (and, often, received funding from) national and international organisations. Thanks to this funding, many of these organisations can employ (a handful of) staff members. Some of these organisations—such as the provincial legal aid organisations

TABLE 2 NGOs actively involved in palm oil conflicts (between brackets: no. of studied cases)

Type of NGO	Local	Local with national/international links	National	International
Environmental & Sustainable Development organisation	LSM Mitra Lingkungan Hidup (1), Pokker SHK (1)	Walhi Kalbar (4), Save Our Borneo (5), Walhi Kalteng (6), Gemawan (1), 7 more organisations (10)	Friends of the Earth Indonesia (Walhi) (6),	Milieudefensie (FoE Netherlands) (1)
Legal aid organisation	Rumah Bantuan Hukum Padang (1)	Provincial legal aid associations (7)	YLBHI (2), HuMa (1)	PiINet (1)
Labour/farmers union	Serikat Tani Kubu Raya (STKR) (1), Federasi Serikat Buruh (FSB) Kamiparho (1), Serikat Tani Riau (1)	Konfederasi Serikat Buruh Sejahtera Indonesia (KBSI) Kabupaten Landak (1)	Serikat Petani Indonesia (1)	
Human rights/agrarian reform organisation	Jaringan Masyarakat Peduli HAM Sumbang (1), Yayasan Bentang Borneo (2), Brigade 08 (1), JPIC Kalimantan (1)	PPSDAK (1)	Sawit Watch (10), AGRA (3), Elsam (2), TUK Indonesia (1), 3 more organisations (3)	Forest Peoples Programme (3)
Adat/ethnic organisation	Lembaga Dayak Panurung (1), Masyarakat Adat Kaharingan (3)	Institut Dayakologi (1), Aliansi Masyarakat Adat Indagiri Hulu (Inhu) (1), AMAN Kalbar (1), Yayasan Petak Danum (4)	Yayasan Pusaka (3)	
Student organisation	Gerakan Gabungan Mahasiswa (1)		Himpunan Mahasiswa Islam (1)	
Other/unclear	6 organisations (7)			

(*Yayasan bantuan hukum*) or the branches of Walhi—are members of a larger, national umbrella organisation (YLBHI and Walhi). For most of the other organisations these connections are more temporary as they generally involve participation in a project funded by an international donor.

The group of national NGOs contains some of Indonesia's most well-known organisations, such as Walhi (friends of the earth Indonesia) (28 conflicts), AMAN (the alliance of Indonesia's indigenous people, involved in five conflicts (with limited intensity)), YLBHI (the association of legal aid boards) as well as national labour unions such (SPSI, one case) and the Serikat Petani Indonesia (SPI, Indonesia's farmer's union, two cases) as to be taking up conflict cases. Next to Walhi, two national organisations were found to be particularly active: Sawit Watch (10 cases) and AGRA (Alliance for Agrarian Reform, five cases). Sawit Watch is a palm oil watchdog organisation, connected with over 50 local NGOs across Indonesia. AGRA is a national peasant organisation in Indonesia with over 250.000 members and part of transnational networks such as Asian Peasant Coalition (APC) and People's Coalition for Food Sovereignty. Having better budgets and better skills, the strategies employed by these organisations are more diverse and more complex compared to those of local NGOs, as they also involve litigation as well as national and international media campaigns. Another aspect of their involvement is that their local activities often reflect their national strategies: for example, AMAN tends to emphasise the importance of mapping customary (*adat*) land, the branches of legal aid organisations (LBH) focus on fostering access to courts while Walhi often relates these conflicts to its struggle to enhance environmental protection.

Another important, yet small, group concerns international NGOs. We encountered only seven cases with international support, while only three such organisations—Friends of the Earth International (an environmental organisation), Pilnet (an international legal aid organisation) and Forest Peoples Programme (an international organisation advocating the rights of indigenous peoples worldwide)—were in regular contact with communities. We will further explore their contributions below.

5 | THE CONFLICT STRATEGIES OF NGOS

Given this reliance of communities on various kinds of outside NGOs, what kinds of strategies do these organisations adopt to resolve conflicts and address the grievances of communities? Our documentation and, particularly, our interviews with directors or members of these NGOs suggest that the strategies of these organisations contain (combinations of) four main elements.

First, the NGO activists that we interviewed were nearly unanimous in emphasising the importance of some form of *community organising*. This involves a range of activities, from providing community members with knowledge and organisational skills, to helping the community to set up an organisation, organise a demonstration and maintain community unity. These activities were considered important not just because of the perceived lack of organisational capacity of community members, but also because of the repeated experience of communities losing their mobilisational capacity due to internal divisions. Nicodemus, the director of Walhi West Kalimantan, described this challenge of community organising well when discussing the struggle against PT Ledo Lestari:

When a company comes, we give the community an understanding about their rights. We talk about the land rights of a community, their rights to the forest, their rights to manage a forest area, the limits of a [company's] permit. When people understand these things, it is easier to get them organized. We start our communication with the village leaders, the village head and the *adat* [customary] leader. When they agree, it is easy to invite people, everybody will come (...) But then the company approached some people, they got some leaders [on their side] to convince others to sell their land (...). This creates tensions between people “pro” and “contra” the company. We kept saying that we need unity. So we did many discussions, many meetings [during which we said] that only [by working] together we can get the land back. We went there every month, staying a few days (Interview 1 March 2020).

Second, NGOs provide communities with legal assistance. They provide legal knowledge, skills and practical support to enable communities to bring their grievances to formal institutions such as the police, the courts as well as

RSPO's complaints mechanism. Without NGO support these institutions are difficult to access, as their procedures are intimidatingly complex and expensive. This legal aid can range from employing paralegals to provide basic legal knowledge to communities, to helping communities take their case to court and or helping to ensure the release of an arrested protest leader. Under this rubric also fall the efforts of NGOs to help communities map their land: in the context of unclear land registration and limited documentation of customary land, NGOs like AMAN are providing communities with GPS devices and drones as well as trainings to help them better document their land claims.

Yet while the need for these various forms of legal aid is obvious and resonates well with the rights-based approaches promoted by foreign NGOs and donors, NGO activists themselves regularly expressed their doubts about the effectiveness of such an approach. This hesitance to bring cases to court is not just due to the obstacles posed by Indonesian law (particularly the above-mentioned difficulty of substantiating land claims in court) but also due to the informalised nature of state institutions in Indonesia and the associated impression that the courts and the police are partial and easy to bribe. Arie Rompas, at the time the director of Walhi Central Kalimantan (involved in nine of the studied cases) explained his reluctance to take a case to court as follows: 'we are afraid that once we lose a case in court, we lose everything [because then a company can argue that their land claim is legitimate]. We do not take cases to court in Central Kalimantan. It takes long, it is expensive and requires many resources' (Interview, 14 July 2015).

The considerable likelihood of judicial corruption makes litigation a risky strategy, because—as Rompas said—once a case is lost in court it is difficult to get a company to accede to community demands. NGOs like Walhi do, however, support communities in other types of court cases. As community leaders frequently get arrested—in our study we counted 743 arrests during the course of our 150 conflicts—considerable resources are spent on the resulting court cases. As there are few (affordable) lawyers available in relatively remote regions like Central Kalimantan, Walhi needs to fly in befriended lawyers from Jakarta for such cases.

This does not mean that formal mechanisms like the courts and RSPO's complaint mechanism were completely avoided: particularly legal aid organisations and international NGOs like Forest Peoples Programme employed such mechanisms. Of our 150 cases, 40 cases were brought to court while in 17 cases communities brought their grievances to the RSPO. Yet this also means that in most cases where communities had support from outside NGOs, they did not turn to such mechanisms.

Partly in response to this scepticism about the effectiveness of legal means, NGOs are employing two alternative, more political strategies. The third strategy NGOs employ is *advocacy*, that is, the usage of documentation of corporate malpractices (through reports, films or social media) to generate media attention in order to pressurise the company. In most cases—that is, those involving local, unconnected NGOs—these efforts were limited to a press conference in the provincial capital and an occasional article in the regional newspaper—often to limited effect. It made a difference, however, when NGOs could provide communities with international connections. As Nicodemus (Walhi West Kalimantan) describes, such international connections can serve to hit a company where it actually hurts:

We worked together with the Forest Peoples Programme and Milieudefensie [a Dutch branch of Friends of the Earth international]. They did an international campaign about our case. I think that had a maximal impact. They helped to make this an international issue. (...) If their market is disturbed, they will have problems to sell [palm oil]. And if the bank is concerned, they will also have difficulties [to borrow money]. So we think about two things, their market and their money. We need to link up to the international level, and then bring the impact down to the local level (interview 1 March 2020).

Marcus Colchester, the director of Forest Peoples Programme, described how his organisation similarly facilitates this internationalisation and 'upscaling' of conflicts in the following manner:

Our job is to strengthen the reach of these [local] organisations (...). Companies are usually more responsive when they are internationally exposed. We have observed that companies find it more difficult to get loans when they have a conflict. So if we put out a complaint in English on our website, then immediately they want to respond

and deal with it, while there is no such response when an [Indonesian] NGO posts such a report in Indonesian. English is the language of the market (interview 14 December 2020).

As studies on transnational activism regularly show, such ‘transnational advocacy networks’ constitute an important means for civil society to operate in a globalised economy as this international cooperation greatly increases the leverage of, in this case, community affected by palm oil expansion (see Pye, 2013; Tarrow, 2005). Yet with only seven such cases we found such internationalisation of conflicts to be rare. Transnational action networks require local NGOs with considerable capacities. To broker connections with international NGOs, these local NGOs need English language skills, organisational capacity and—particularly rare—opportunities to develop international connections. In our set of conflicts local NGOs like Gemawan (in West Kalimantan, in the case of PT Agro Wiratama), and the local branches of Walhi (in cases of PT Ledo Lestari, PT PHP1 and PT BAS) performed such a brokerage function. This international brokerage involves, first, the ‘certification’ of community claims (cf. Tarrow, 2005: 194–196): building on existing relationships they could convince the INGOs that these cases merited their involvement. Second, this brokerage involves operating as a liaison between these organisations and local communities as local NGOs not only facilitate the flow of information between communities and INGOs but also generate the necessary mutual trust.

Most local NGOs lack international connections. As they operate in a context where they cannot rely on a robust legal system and where informal, personal connections are useful means to influence the functioning of local governments, their most commonly employed strategy is *political brokerage*. This third strategy involves (mainly local) NGOs taking up a role as brokers between communities and political actors and bureaucrats, as they use their connections and (sometimes) status to convince political actors to take up their case. Like international brokerage, the political brokerage of NGOs involves the certification of community claims and the facilitation of communication. There are, however, two important differences. First, political brokerage is mostly aimed at getting both political actors and plantation management to participate in informal mediation sessions. In other words, rather than employing formal mechanisms or ensuring the application of regulation, political brokerage aims at using political pressure to improve the bargaining position of communities.

This strategy usually follows the following steps: after enacting demonstrations to draw (media) attention, communities and their NGOs get local politicians to organise a hearing during which they can express their grievances (and, if they attend, company actors can respond). Often politicians will subsequently chair (and pressurise palm oil companies to agree to) mediation sessions. This is how the head of Serikat Tani Riau, Rinaldi, described this strategy: ‘There are two doors that need to be opened, of parliament and then [the door] of the executive [i.e. the district heads or governors]. You need to enter. That is what democracy is about, about influencing the government. So we carefully examine who [of these politicians] is pro-people. And then first we do mass action, to get their attention, and then we approach this politician’ (Interview 25 February 2020).

STR implemented this strategy by forming a close alliance with national senator (i.e., DPD RI member) Intsiawati Ayus who agreed to discuss five of the conflict cases that STR had been working on in a senate committee in Riau. This senate hearing and the resulting recommendations then served to get the attention of the national government, including the staff of the presidential office. After another year of lobbying, President Joko Widodo subsequently released a letter ordering the (state-owned) company (PTPN V) to return 2800 ha of land to the Senama Nenek community. This intervention from the president himself was very exceptional, but political brokerage itself turned out to be a very common strategy: in 109 of the studied cases (i.e., 73%) of the studied conflicts such mediation sessions chaired by politicians or bureaucrats took place. In other words, we found that compared to more formal mechanisms, informal mediation by politicians and bureaucrats constitutes the most commonly pursued conflict resolution mechanism.

A second important difference between international and political brokerage is that the latter often comes with clientelistic strings attached. Villagers (and their NGOs) are often expected to return the favour by providing politicians with electoral support, as (particularly local) politicians can use their involvement in these conflicts to build up local support. Communities sometimes consciously exploit these electoral needs, as this community leader involved

in the conflict with PTPN V acknowledged: ‘we took advantage of the presidential election. We became his [Joko Widodo's] campaign team (*tim sukses*). When we brought the *palace people* [i.e. staff from the presidential palace] here we put up a banner saying “we, Senama Nenek community, are ready to help Jokowi and [vice presidential candidate] Amin win”’ (Interview 1 February 2020).

The major weakness of this strategy is that palm oil companies also have leverage over politicians. Palm oil companies also provide electoral support, in the form of campaign donations and, sometimes, bribes. As investigative reports (and our informants) reveal, politicians are often quite reliant on the financial contributions from these companies (see, e.g., Gecko Project, 2017) forcing these politicians to play a double game. Faced with the high costs of election campaigns, politicians often can hardly avoid engaging in such exchanges (see Aspinall & Berenschot, 2019: 203–228). As we explore below, this kind of collusion constitutes a major reason why political brokerage often fails to produce meaningful results for communities.

In other words, due to this widespread reliance on political brokerage, conflicts are not settled on the basis of the legal merits of a claim, but rather on the basis of political calculations, the happenstance of whether useful political connections are available and the willingness of communities to engage in clientelistic exchanges.

6 | WHAT IS THE IMPACT OF NGO INVOLVEMENT ON THE OUTCOMES OF CONFLICTS?

Given these different strategies employed by NGOs, how effective are they in helping communities to resolve land conflicts and address the associated injustices? Such an assessment of the impact of NGO activity is notoriously difficult (and, consequently, rarely done), due to the difficulty of pinpointing NGO influence on the lengthy and complex trajectories of conflicts. Yet our study of 150 palm oil conflicts provides us with a special opportunity. We assess this impact by comparing the trajectories and outcomes of cases with and without NGO involvement. Such a comparison provides us with an indication of whether and to what extent NGO involvement indeed has an impact: if so, we would see different (worse) outcomes and community strategies for cases without NGO involvement.

A first question concerns the impact of NGOs on the trajectories of conflicts: do NGOs indeed enable communities to access conflict resolution mechanisms like courts and the RSPO? This turns out to be the case: while of the 56 cases without NGO involvement only 10 cases (i.e., 18%) involved a court case, of the 92 cases with NGO involvement 30 cases (i.e., 33%) went to court. This effect is even more pronounced for usage of RSPO's complaints system: of the 17 cases where communities brought their grievances to the RSPO, in 16 cases communities did so with the support of NGOs. This finding confirms the conclusion of earlier studies (see Colchester, 2016; Köhne, 2014) that communities find it difficult to deal with RSPO's complex mechanism without NGO support. Overall these numbers suggest that, indeed, NGOs (particularly the legal aid and international NGOs) are succeeding in helping communities to access conflict resolution mechanisms, albeit to a limited extent.

And to what extent does the support of NGOs actually impact the outcome of palm oil conflicts? And does this impact differ depending on the character of the NGO? We addressed these questions by relying on our interviews with community leaders. We asked them to provide an assessment of the extent to which their communities succeed in addressing their grievances, with answer categories ranging from 1 (*we had no success at all*) to 5 (*we fully succeeded in resolving our grievances*). We subsequently asked the local researcher studying this case to provide a similar assessment. The researchers and community representatives generally agreed (in 84% of the cases); in the 15% of the cases where they disagreed, we took the most positive assessment.

We found that palm oil conflicts are rarely resolved: in 102 cases (or 68%) community representatives responded that they did not, or barely, achieved a result. Only in 19 cases (12%) community representatives felt that they had largely or fully succeeded in their aims. In Figure 1 we break down these overall results by comparing the average outcomes of cases with and without the involvement of NGOs, as well as the average outcomes of cases supported by different categories of NGOs.

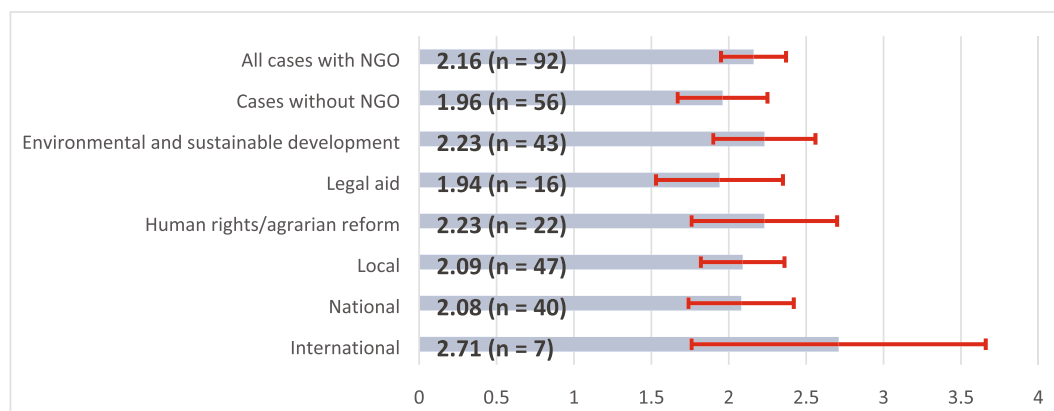


FIGURE 1 Comparing outcomes of palm oil conflicts with and without NGO involvement (0 = communities achieved nothing; 5 = fully achieved their aims) [Colour figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.wiley.com/doi/10.1002/ijid.4540)]

These numbers need to be treated with considerable caution, not only because they involve subjective assessments which simplify considerable complexity but also because for some categories (such as international NGOs) they are based on a very small number of cases. This is not the place to engage in a full analysis of the outcomes of these conflicts (but see Berenschot et al., *n.d.*), but for the purpose of this paper two main conclusions can be derived from this broad overview of the outcomes of palm oil conflicts.

First, the main finding is that, generally speaking, NGOs are not succeeding in securing a better outcome for the communities that they are supporting. The comparative analysis suggests that communities are not significantly more likely to, for example, recover their land or receive more monetary compensation for the loss of land when they are supported by NGOs. Nor is there is significant difference between (most) types of NGOs. This surprising finding needs to be interpreted, we would argue, in the light of the ineffectiveness of available conflict resolution mechanisms. As we discussed, NGOs endeavour to help communities to report their grievances to three main mechanisms - the courts, RSPO's complaint mechanism, and the informal mediation provided by powerholders—and indeed, the NGOs often succeed in helping communities to access these mechanisms. But these mechanisms themselves are severely hampered: summarising (overly) briefly, the restricted nature of land ownership in Indonesia makes it difficult to prove land claims in court, RSPO's procedures are complex and (often) reliant on the voluntary participation of companies, whereas the mediation provided by politicians is hampered by the fact that politicians often rely on campaign donations from companies. Putting this even more succinctly, as Indonesia lacks effective avenues to address palm oil conflicts, it is actually not surprising that the efforts of NGOs to employ these ineffective mechanisms did not yield noticeable results.

A second conclusion concerns the one exception to this relatively bleak picture: compared to other cases, in the seven cases involving international NGOs, communities actually did achieve better outcomes. Such cases also involved failures—in the case of PT Ledo Lestari discussed by Nicodemus above, communities did not achieve anything after they lost their case in court. But in other cases—such as in the case of PT PHP1 (West Sumatra) and PT Agronusa Investama (West Kalimantan)—effective agreements between companies and communities were reached, which involved the return of significant tracts of land, profit-sharing and improved monetary compensation. Our study of the trajectory of these cases confirms the importance of international advocacy and transnational cooperation: the initial reluctance of companies to address community grievances was overcome after a lengthy struggle involving a combination of local protests as well as—and this was likely a crucial element—international exposure. This forced companies to participate earnestly in the mediation process managed by (in the cases of PT PHP 1) RSPO's dispute settlement facility and (in the case of PT Agronusa Investama) the ombudsman of the International

Financial Corporation (CAO-IFC). This led to effective agreements and significant benefits for the community. While the number of cases is limited, this finding suggests that the market and financial incentives arising from international exposure are indeed key pressure points. This is both an encouraging as well as a dispiriting finding, because, as we documented in this paper, this kind of support from international NGOs is available to only very few communities.

7 | CONCLUSION

In this article we set out to assess and evaluate the varied nature of NGO involvement in the land conflicts sparked by palm oil expansion in Indonesia. We sketched the varied landscape of local, national and international NGOs operating in rural Indonesia, and we found that the involvement of NGOs boosts the access to courts and the RSPO while it has—with the tentative exception of international NGOs—no observable impact on the outcome of these conflicts. We attributed this finding to the ineffectiveness of available conflict resolution mechanisms: the major flaw of the efforts of NGOs to broker access to either politicians, the courts or the RSPO is that all these three avenues actually have limited capacity to actually resolve these conflicts. In that sense the findings of this paper call for more international engagement with the conflicts caused by palm oil expansion.

With this analysis we draw attention to the importance to political brokerage in the strategies of (local) NGOs. While the empowerment provided by NGOs is often conceived in terms of the strengthening of citizen rights, in the context of informalised state institutions (and a lack of international connections) both communities and their NGOs often have no other option but to rely on the cultivation of political connections to realise their claims. The prevalence of political brokerage provides an explanation for the oft-remarked weakness of civil society in Indonesia (and beyond). An important drawback of political brokerage is that it fosters atomized struggles of individual communities fighting for particular benefits, rather than engaging a broader struggle aimed at achieving more structural changes (such as strengthening land rights). A vicious circle can be observed: due to the relative ineffectiveness of formal rules and rights, civil society relies on political brokerage, which in itself confirms and leaves unaddressed this precarious nature of citizen rights in Indonesia. Approaches to civil society activism need to pay more attention to how, and in what form, citizen empowerment can be achieved in the context of widespread reliance on political brokerage.

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CONFLICT OF INTEREST

We have no potential conflict of interest to report.

DATA AVAILABILITY STATEMENT

Some data that support the findings of this study are available in the supporting information of this article, while other data are available from the corresponding author upon reasonable request.

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ENDNOTES

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- ² The material on which this article is based—including our documentation of the trajectories and outcomes of 150 palm oil conflicts—is available at <https://doi.org/10.17026/dans-xbn-wmrj>. The material on which Table 2 is based, is available as an online supplementary annex to this paper.
- ³ See, for example, <https://www.idlo.int/fr/what-we-do/initiatives/strengthening-access-justice-through-legal-aid-indonesia>
- ⁴ A recent study finds that 19% of Indonesia's plantations are located inside Indonesia's forest estate (see Greenpeace, 2021).
- ⁵ This circumvention of regulation is well documented by various NGO reports, see, for example Greenpeace, 2021.

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SUPPORTING INFORMATION

Additional supporting information may be found in the online version of the article at the publisher's website.

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