

**INDIGENOUS RIGHTS VS
AGRARIAN REFORM IN INDONESIA:
A CASE STUDY FROM JAMBI**

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I. OVERVIEW

A longstanding land conflict in Jambi province, Sumatra, highlights the tension between two strands of civil society: the movement to protect indigenous rights and the movement for agrarian reform. As the former succeeds in drawing attention to customary (*adat*) land unfairly taken in the past for corporate concessions, the latter sees the same land in terms of its potential for redistribution to the poor far beyond just the indigenous claimants. The goals of both movements are legitimate: customary groups deserve restitution for past injustices, including return of land wrongfully taken, while access to land could significantly improve the lives of the 14.4 per cent of rural Indonesians living below the poverty line. The problem is that using *adat* land as the vehicle for agrarian reform may be planting the seeds of future conflict between indigenous groups and migrants while doing little to address the needs of the landless poor. The problem is exacerbated by the lack of any workable mechanism to adjudicate land conflicts quickly, decisively and fairly, leading some groups to conclude that the only way they can get attention to their cause is by mass action – and sometimes violence. Establishing such a mechanism should be an urgent priority of Indonesia's next government.

Across Indonesia, and particularly in Sumatra, poor farmers have been displaced by rapid agrarian change that has seen land once used for shifting cultivation transformed from forests to timber concessions to plantation agriculture in just a few decades. In 1968, for example, Indonesia had 120,000 hectares (ha) of land under oil palm cultivation; today it has at least 10.8 million ha, with over 600,000 ha added each year.¹ Many of the original *adat* owners lost their land to these concessions, sometimes with nominal compensation, often with none and almost never with full information about what was happening. The process also generated major demographic shifts as landless and land-poor migrants from other areas poured in to look for work or settle on newly cleared land. Some of this influx was through the state-sponsored transmigration program, especially in the 1980s, but much of it was spontaneous, and many of the new settlers found themselves competing with *adat* groups for scarce land or uprooted in turn as palm oil cultivation expanded.

The Jambi conflict illustrates the complexities involved. Since 2003, an indigenous group known as SAD113 has been trying to recover 3,550 hectares of customary land that the Indonesian government ceded to a palm oil company in 1986, at the height of Soeharto's New Order. SAD is an acronym for Suku Anak Dalam (literally, "tribes of the interior"); the 113 is the number of original claimants. The land in question included smallholder rubber plots, fields used for shifting cultivation, residential areas, gravesites and secondary forest, all of which the claimants and their families considered customary land, in use by their families for generations. From 2006 to 2011, the group tried to negotiate with the company, PT Asiatic Persada, through an NGO-led mediation process, to recover the land. Frustrated by the failure of these mediation efforts, SAD113 turned to the National Farmers Union (Serikat Tani Nasional, STN), the peasant wing of the People's Democratic Party (Partai Rakyat Demokratik, PRD), a leftwing party established in 1996 by radical students.

PRD/STN used mass action in front of television cameras to attract the support of politicians and bureaucrats. To get more people on the streets and to raise funds for the struggle, it encouraged non-indigenous migrants to join in. In some cases, SAD113 members sold these outsiders land, promising two-ha plots once the land was returned in exchange for a significant payment up front. They drew in others to help harvest oil palm fruit from the concession area,

1 The 1968 figure come from Departemen Pertanian, "Prospek dan Arah Pengembangan Agribisnis Kelapa Sawit", 2007, p. 4. The 2013 figure is from the Ministry of Agriculture website, www.pertanian.go.id/infoeksekutif/bun/IP%20ASEM%20BUN%202013/Produksi-KelapaSawit.pdf. According to the NGO Sawit Watch, however, Indonesia had 15,337,673 ha under oil palm cultivation by late 2013. See Sawit Watch, Tandan Sawit, No.3, December 2013, p.19.

even though the company and the police considered this theft. “Theft” led to arrests, arrests to protests, protests to violence and forced evictions in a regular cycle, but all this just helped raise the profile of the struggle. It also raised the profile of the local PRD/STN coordinator who decided to run for a seat in the provincial assembly.

Up to a point, the confrontation strategy worked. In 2012, PRD/STN secured an agreement from all parties, including the company, that the 3,550 ha should be returned in full, contingent on a mapping of the area that the company would have to fund. When the company stalled on providing the funds, no government agency was willing or able to force it to do so. In late 2013, with the April 2014 national elections providing a convenient deadline to focus all energies, the company offered a different solution. All those verified as “indigenous” would receive a two-ha plot in a smaller abandoned concession area adjoining the main plantation. Many accepted, despairing of getting anything better. PRD/STN is still holding out for the full package, but its SAD clients are dwindling. The hundreds of migrant families who poured in to Jambi over the past five years, lured by the promise of cheap land, may find they are left with nothing.

The ramifications of this battle go far beyond Jambi. Across Indonesia, as land and resource conflicts fester, groups like PRD/STN are moving in to exploit struggles over customary land for their own political agendas. That agenda may be noble, such as securing land for the poor. But in the process, they are encouraging *adat* groups to expand their ranks to the point that the concept of historic, descent-based claims loses all meaning. Worse, indigenous status becomes a commodity that can be bought and sold. When large numbers of migrants are encouraged to join (and contribute financially to) the struggle to recover land, and then the government moves in with a legal regime for indigenous groups only, the unintended consequence may be a new form of conflict between locals and migrants. This problem may become more acute if a new draft law on indigenous rights is adopted by the Indonesian parliament or if a May 2012 decision by the Constitutional Court to remove “indigenous forests” from state control moves toward implementation.

The competition among NGOs adds another layer of complexity to the difficulty of resolving land conflicts in Indonesia, where the obstacles are already legion: lack of good cadastral records, poor maps, contradictory laws and regulations, confusing lines of bureaucratic authority, corrupt courts and poorly trained officials. Addressing all of these weaknesses should be high on the agenda of a new government, but change will be slow in coming. In the short term, the best hope of resolution may lie in continued international and local pressure on corporations to adopt and apply codes of ethics on human rights and sustainability, combined with skilled local mediators.

II. THE BLURRING OF AGRARIAN AND INDIGENOUS RIGHTS

The efforts to occupy and reclaim land from corporations and the state in Jambi are replicated across Indonesia. They stem from a movement that predates by almost a decade the fall of Indonesia’s authoritarian government in 1998 but was given a major new impetus thereafter.² Land claims surged, as newfound freedoms of expression and association allowed farmers to register grievances and demand the return of land given away by the Soeharto government without consideration for customary claims. In some cases it was given in the form of plantation, timber or mining concessions, in others, set aside for transmigration programs, and in still others, deemed state forest and no longer available to the people who lived off its products. In some areas,

² For background on the agrarian rights movement, see Anton Lucas and Carole Warren, *Land for the People: The State and Agrarian Conflict in Indonesia*, Athens, Ohio, 2014; Noer Fauzi Rachman, *The Resurgence of Land Reform Policy and Agrarian Movements in Indonesia*, Ph.D. dissertation, University of California, Berkeley, 2011; and Suraya Abdulwahab Afiff, *Land Reform or Customary Rights? Contemporary Agrarian Struggles in South Tapanuli*, Indonesia, Ph.D. dissertation, University of California, Berkeley, 2004.

farmers spontaneously occupied the land they claimed; in others, activists helped mobilise mass occupations.

From the beginning, agrarian, indigenous and environmental activists had different agendas. The agrarian reform activists were the most radical, many grouped into peasant unions. They also included many respected scholar-activists, represented by the Consortium for Agrarian Reform (Konsorsium Pembaruan Agraria, KPA), an NGO coalition that had been working since in 1995 to change agrarian policies. They hoped to revive the spirit of the 1960 Basic Agrarian Law with its major tenets of land to the tiller; no absentee land ownership; government-determined limits on landholding and redistribution of the excess; equitable sharing of between owner and tiller; and protection of the economically weak.³ These progressive aspects of the 1960 law were downplayed by the Soeharto government, which associated land reform with the banned Indonesian Communist Party (Partai Komunis Indonesia, PKI). Instead, the law's provisions on the central management role of the state were frequently used to justify land acquisition at the expense of smallholders, indigenous groups and tenant farmers. The new generation of agrarian activists, many using socialist principles that they now could promote more openly, hoped to reclaim much of that land through occupation, while trying to press for pro-poor policies and laws that would guard against future land grabs. STN was only one of several peasant unions involved.⁴

By contrast, the environmental movement was initially more focused on forests. The 1967 Forestry Law had classified 70 per cent of Indonesian land area as state forest, bringing it under the control of the Ministry of Forestry, and allowing the state to determine whether it would be zoned for production (timber, rubber, industrial trees); conversion to agriculture; or conservation. One result was the destruction of huge tracts of rainforest as the Soeharto government handed out timber and plantation concessions with little concern for environmental impact or sustainability. Another was that local communities were denied not only control over but often access to land that they considered theirs by customary right. Recognising that these communities were often the best stewards of the forests, environmental activists found common cause with indigenous rights groups.⁵

The indigenous rights strand of Indonesian civil society goes back decades. It began to take shape as a more organised nationwide movement in 1993, however, and took off in 1999 with the founding of the National Alliance of Indigenous Peoples (Aliansi Masyarakat Adat Nusantara, AMAN)—at which KPA was present. AMAN quickly moved the agenda beyond community forest management to campaign for an end to state control over customary land. It defined indigenous peoples (*masyarakat adat*) as “communities living on the basis of ancestral origins in an *adat* region, that have sovereignty over land and natural resource wealth; a sociocultural life regulated by *adat* law; and an *adat* council that manages the daily life of its people.” By 2014, AMAN claimed to be representing well over 2,000 indigenous communities. Its signature victory was the decision by the Indonesian Constitutional Court in May 2013 to remove customary forests from state control, although implementation remains a long way off.⁶

AMAN and the peasant unions campaigning for agrarian reform have very different understandings about claims to *adat* lands. AMAN sees the ultimate goal as recovering land for a distinct group of people who have historic and collective rights to it. The unions see the ultimate

3 Mohamad Shohibuddin and M. Nazar Salim, “Pembentukan Kebijakan Reforma Agraria, 2006-2007”, Sayogyo Institute, 2012, p.793.

4 Examples are Serikat Petani Indonesia (SPI) and Aliansi Gerakan Reformasi Agraria (AGRA) at the national level and several local variants, including Serikat Petani Pasundan in West Java; Serikat Petani Riau in Riau; and Serikat Petani Sriwijaya in South Sumatra.

5 Afiff, *op.cit.* pp.88-91.

6 Constitutional Court ruling No.35/PUU-X/2012 was made in response to an AMAN-led petition to review the 1999 Forestry Law. For an English version, see www.rightsandresources.org/publication_details.php?publicationID=6240.

goal as recovering as much land as possible that can then be redistributed to the landless and land-poor, indigenous and migrant alike. AMAN sees this not only as unwarranted exploitation of *adat* claims but also as usurpation by the unions of what should be a state responsibility – in this case, land reform. The unions see AMAN as committed to a static concept of *adat* and insufficiently concerned with class. Both fault the government for failing to work out a workable mechanism for the resolution of land disputes.

The unwillingness of some companies to acknowledge past injustices or search in good faith for solutions has led some *adat* groups to open their ranks to migrants in the belief that strength lies in numbers, and that politicians and corporate officials only respond to mass action.

The fear of having their land confiscated—especially land designated as state forest—by private companies or government projects often drives locals to use land-shared tenancies with migrants as part of a strategy to protect their land. Migrants are now seen as integral to the local communities' strategies for realizing and protecting their local land rights from government or private sector encroachment and inequitable resource allocation.⁷

This perceived need for numbers because nothing else works feeds into the strategy of the peasant unions to use *adat* claims for broader goals.

In the early days of *reformasi*, as the post-Soeharto era is known, the three groups worked together with a unity of purpose that in 2001 achieved a major victory: a Decree on Agrarian Reform and Natural Resources Management from the country's highest legislative body, the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR).⁸ Even then, though, one of the peasant unions, Serikat Petani Indonesia (SPI), denounced the decree as a dangerous entry point for a “neo-liberal and imperialist agenda”.⁹

Gradually more fault-lines began to emerge, sometimes sectoral as different agendas of the agrarian, environmental and *adat* movements led in different directions, sometimes ideological as splinters emerged in each sector.¹⁰

The Jambi conflict reflects these competing NGO strategies and tactics: radical versus moderate, land reform versus *adat* rights, confrontation versus mediation. For all the tensions among civil society groups, however, they close ranks in response to any use of violence by state security forces or company guards, regardless of the circumstances – and land protests are not always peaceful. They frequently involve threatened or actual attacks against company property, in the context of failure to gain redress for or attention to perceived injustice, and the victims in outbreaks of land violence are as likely to die at the hands of a mob as at the hands of police or guards.¹¹ Nevertheless, a disproportionate security response inevitably makes things worse. As a new government explores new approaches to land conflicts in the future, it needs to pay close attention to how security is handled and ensure that all those responsible for violence are held accountable.

7 Gamma Galudra, Mene van Noordwijk, Putra Agung, Suyanto Suyanto and Ujjwal Pradhan, “Migrants, Land Markets and Carbon Emissions in Jambi, Indonesia: Land Tenure Change and the Prospect of Emission Reduction”, *Mitigation and Adaptation Strategies for Global Change*, 18 October 2013.

8 Anton Lucas and Carol Warren, “The State, the People and Their Mediators: The Struggle over Agrarian Law Reform in Post-New Order Indonesia”, *Indonesia*, No.76 (October 2003), pp. 87-126.

9 Noer Fauzi, op. cit., p.62

10 The big environmental movement, Walhi, moved closer to the agrarian activists and away from groups promoting of REDD (reduced emissions from deforestation and forest degradation), which they saw as only serving to give a fig-leaf to expansion of corporate interests. “Interview with Teguh Surya, WALHI”, www.redd-monitor.org.

11 Of 22 fatalities in land conflicts in 2013 listed by the respected KPA, six were security personnel killed by farmers; seven were farmers killed by security personnel; three were company employees killed by farmers; and seven were farmers killed by other farmers. KPA kindly provided the list of names, and IPAC researchers checked news accounts of the incidents.

III. BACKGROUND TO THE SAD113 CONFLICT

The conflict involving a group in Jambi province known as “SAD 113” may be one of the best documented land conflicts in Indonesia. International and local NGOs have reported on it in copious detail, it has been the subject of academic research and the National Human Rights Commission (KOMNAS-HAM) has three cartons of documents on it from complaints it has received over the years. It is nevertheless poorly understood and often misreported.

SAD is short for Suku Anak Dalam, “tribes of the interior”, a generic name applied without much rigour to all indigenous groups in the area. SAD113 was originally a group of related families in a larger community known collectively as Bathin IX that traces its descent from brothers who settled along nine local rivers. The “113” refers to the number of original claimants, all from the hamlets of Tanah Menang, Pinang Tinggi and Padang Salak in an area that cuts across two districts, Batang Hari and Muaro Jambi.¹²

By the terms of the 1967 Forestry Law, vast swathes of Jambi were designated as state-controlled forest area (*kawasan hutan negara*). Beginning in 1971, the Soeharto government began handing out timber concessions, with one company alone, PT Asialog, receiving 72,000 ha.¹³ The concessions often ignored indigenous communities and logged the forest on which they depended for their livelihoods. They drew an influx of migrants from elsewhere in Indonesia to work as loggers or in sawmills. Eventually the area was effectively logged out, making it ripe for conversion to plantation land, as the agribusiness boom, particularly palm oil, began to take off in the 1980s. To get a permit (*Hak Guna Usaha*, HGU) for plantation agriculture, however, the land first had to be officially “released” by the Forestry Ministry, a requirement that was sometimes overlooked.

In 1985, the governor of Jambi “reserved” 40,000 ha of Jambi’s forest area for a logging-turned-plantation company called PT Bangun Desa Utama (BDU), owned by a prominent family from Palembang, South Sumatra.¹⁴ In 1986, as it was negotiating with the Forestry Ministry for the release of 30,000 ha of the reserved land, PT BDU received a permit to use 20,000 ha of it for palm oil and cacao. The concession included the three SAD113 hamlets.¹⁵

In July 1987, after undertaking a “micro-survey” of the site, the Directorate of Inventory and Forest Land Use within the Forestry Ministry gave preliminary approval to the release of 27,150 ha, but it noted that the land in question contained 2,100 ha of cultivated fields, 1,400 ha of land left fallow from shifting cultivation (*belukar*), and 50 ha of residential area that the company would have to “resolve”.¹⁶ This is the basis that SAD113 has used to argue ever since that BDU and its successors took 3,550 ha of customary land. A map was attached to the approval letter showing precisely where the fields were located, although when the SAD113 claim first surfaced, no one could find the map.

The company’s 1986 permit contained a standard clause about communities that inconveniently happened to live on concession land:

If in the area given over to this concession there remain permanent residential and culti-

¹² IPAC interview, SAD113 leaders, Jambi, February 2014.

¹³ “PT”, short for *perseroan terbatas*, is the Indonesian equivalent of “Ltd” or limited company.

¹⁴ The land was reserved through a decree of the Jambi governor No. 188.4/599/1985. PT BDU, 3 December 1985, was part of the Asiatic Mas Corporation, owned by a Palembang businessman, Andi Senangsyah.

¹⁵ The fact that no release had been formally approved has been used by SAD113 to argue that the whole permit (HGU) was illegal from the beginning and should be revoked. The HGU does, however, refer to several other documents the company received from the Forestry Ministry, approving in principle the conversion of a forest area with the status of limited production forest (*hutan produksi terbatas*, HPT) to agricultural uses. “SALINAN Surat Keputusan Menteri Dalam Negeri Nomor: SK.46/HGU/DA/86.

¹⁶ Badan Inventarisasi dan Tata Guna Hutan Jakarta, Letter informing of approval for the release of forest area in the amount of 27,150 ha for a palm oil and cacao plantation to PT Bangun Desa Utama in Jambi, No.393/VII-4/1987.

vated areas that existed before the concession came into being, then it is the obligation/responsibility of the beneficiary to find a solution in the best possible way according to existing regulations.¹⁷

The “solution” could have involved reserving these areas as an enclave that would not be disturbed, or involving the farmers in the plantation as smallholders, but neither transpired. The SAD 113 communities had little information about what was happening. Their leaders say the company promised them that 1,500 ha would be set aside for a smallholder program and as part of this, they signed what they believed was an agreement to set up a cooperative.¹⁸ Whatever the nature of this agreement, nothing materialised. Instead, the Indonesian military began putting pressure on the SAD113 families to leave.

As systematic planting of oil palm began, evictions were stepped up. In two of the hamlets, Padang Salak and Pinang Tinggi, almost all the families were forced to leave, according to leaders, while in the third, Tanah Menang, dozens managed to stay. The result was that the SAD113 families were dispersed in different communities, though most stayed as close by as they could manage.¹⁹ Many of the SAD113 continued to cultivate smallholder rubber on an enclave of 241 ha that had been left alone by the company. Some ended up as wage labourers on the plantation, some scavenged fallen fruit, many others left to find work elsewhere, many in the nearby village of Markanding.²⁰

In 1992, the official “release” from the Ministry of Forestry was finally granted, six years after the fact, for the full 27,150 ha. Shortly thereafter, PT BDU officially turned its concession over to a new company with the same owners called PT Asiatic Persada or PT Asiatic, for short.

Over the next five years, planting was set back, first by drought, fires and wild boars, then by the 1997 Asian financial crisis. The crisis helped bring down Indonesian President Soeharto a year later and ushered in a series of sweeping reforms in all fields. The palm oil industry was affected by several of the reforms put in place to try and stem “corruption, collusion and nepotism”, the phrase that came to symbolise the later years of the Soeharto government. One of these was a regulation that limited the size of plantation concessions operated by a single company to 20,000 ha.²¹ This meant that PT Asiatic, with its 27,150 ha, was too big. Its owners therefore used two subsidiaries to absorb the excess, PT Jammer Tulen and PT Maju Perkasa Sawit. These smaller concessions became an important part of the story later, as the company began to look for a way to address the claims.

IV. THE NEXT DECADE

The fall of Soeharto in 1998 led to a series of dramatic changes in Indonesia, in Jambi and on the plantation itself. In the decade between 2000 and 2010, PT Asiatic changed hands three times, from the Commonwealth Development Corporation (CDC); very briefly, in 2006, to the US giant Cargill; and finally a few months later, to Asia’s largest palm oil producer, the Wilmar

17 Ibid., p.2.

18 Marcus Colchester, Patrick Anderson, Asep Yunan Firdaus, Fatilda Hasibuan and Sophie Chao, “Human Rights Abuses and Land Conflicts in the PT Asiatic Persada Concession in Jambi”, Report of Forest Peoples Programme, Sawit Watch and HuMa, 2011, p.17.

19 Interview, SAD113 leaders, Jambi, 6 March 2014.

20 Ibid.

21 This was Plantation Use Permit Regulation, 107/Kpts-II/1999 from the Ministry of Forestry and Estate Crops. See Ann Casson, “The Hesitant Boom: Indonesia’s Oil Palm Sub-Sector in an era of Economic Crisis and Political Change”, CIFOR, November 1999, p.25.

Group.²² From 2003 onwards, taking advantage of democratic space, the SAD113 farmers began more organised efforts to recover their land, starting with protests, experimenting with mediation and then, as mediation failed, turning back to more organised mass action campaigns. Along the way, dozens of NGOs and mass organisations championed their cause, often in competition with one another, and many other groups – more than two dozen composed of SAD families, a few of them mixed with or mostly migrants -- emerged with their own land claims against the company.

A. *The CDC Era: The 1,000 Hectare Solution*

In 2000, PT Asiatic was sold to CDC working together with a Singapore-based company, Pacific Rim or Pacrim. Shortly thereafter, the new management decided to try and resolve at least some of the conflicts with the various communities by offering 1,000 ha as part of a “partnership” program in which the farmers would form a cooperative, receive training in oil palm cultivation, tend the trees, and after they began bearing fruit, sell only to the company. Of the 1,000 ha, 400 ha was to be located in the northern part of the main concession and 600 ha further south. Under the proposal, each SAD family would receive a two-ha plot. The costs of developing the land would be borne by the farmers, with credit and inputs through a government program known as Members’ Primary Credit Cooperative (Koperasi Kredit Primer Anggota, KKPA). The company would provide production assistance, and once debts were paid off, a share of the profits.²³ An agreement in principle between the company and the SAD groups was signed in April 2001.²⁴

It sounded good; it is clear that many of the proposed beneficiaries were confused about what it actually entailed and did not understand that they would be locked into an arrangement that would be difficult to break off and could produce long-term debt.²⁵

The wheels of the Indonesian bureaucracy moved very, very slowly, however, and it was not until almost two years later that a team headed by a local government official finished identifying candidates for the program. Each candidate had to be verified as indigenous, and this was easier said than done. Over the years, migrants streaming into Jambi from other areas had swelled SAD113’s numbers in three ways. One was through marriage. As with other SAD groups, marriages outside the clan were common, and any children produced had full rights to customary land through either parent. As the struggle to regain the land progressed, *adat* leaders encouraged “strategic marriages” between SAD women and non-SAD men, in part for numbers, in part for strength: outsiders were seen as more willing to challenge authority.²⁶ Non-SAD men who married SAD women were known as *semendo* and fully accepted as indigenous, but doubts began to emerge early on about the padding of SAD113 ranks by migrants who had simply joined the group, with no pretence of *adat* status.

22 Wilmar International Ltd was founded in 1991 by Martua Sitorus, from Medan, Sumatra, one of Indonesia’s richest men; and Kuok Khoon Hong, the Singapore-based nephew of Malaysian magnate Robert Kuok. It is now headquartered in Singapore, has over 450 manufacturing plants and boasts a workforce worldwide of some 90,000 people. See www.wilmar-international.com.

23 IPAC has not been able to find the exact terms of what they were offered. The KKPA partnership model was in widespread use at the time, a replacement for the nucleus estate-smallholder program that had prevailed in the later years of the Soeharto government. Cooperatives could borrow up to Rp.50 million (about \$5,000) at a subsidized repayment rate of about 16 per cent. See Sonja Vermeulen and Nathalie Goad, “Towards Better Practice in Smallholder Palm Oil Production”, International Institute for Environment and Development, London, 2006, p.20.

24 Rukaiyah Rofiq, “CDC Pacrim, Satu Lagi Perusahaan Sawit Skala Besar Ikut-Ikutan Merambah Hutan, Lahan, dan Hak Masyarakat Adatdi Kalimantan dan Sumatra, Jakarta”, 2004, pp.22-23. The groups that would share the northern swathe were SAD113; a group from a hamlet known as Pompa Air; and a few smaller descent groups. The southern chunk would go to a group from Penyerukan that for years had been trying to recover 5,100 ha taken by the company.

25 John McCarthy, “Where is Justice? Resource Entitlements, Agrarian Transformation and Regional Autonomy in Jambi, Sumatra”, forthcoming, pp.7-8.

26 IPAC interview, NGO leaders, Jambi, 6 February 2014.

Minutes from a January 2003 meeting show the numbers eventually registered were 99 families from Markanding village (including the SAD113 group) and 49 families from Bukit Makmur village.²⁷ The exact sites on the concession where the partnership program was to take place, however, had not been chosen.

All of these delays, combined with poor information and continued destruction of trees and gravesites as planting by the company went ahead, alienated the families that had initially been willing to give it a try. SAD113 members became convinced that the PT Asiatic offered the partnership simply to lure them off the small patches of their land that they continued to occupy.

B. The PERSADA Experience

If SAD113's experience with the 400 ha offer was bad, another SAD group's was even worse. Known as PERSADA (an acronym for Persatuan Suku Anak Dalam), this was a descent group that could trace its lineage back at least nine generations. Its customary land consisted of 5,100 ha on the border of Batang Hari and Muaro Jambi districts.²⁸ In 2000, members formed a cooperative to take advantage of the palm oil boom and try and attract investors themselves. They joined forces with a group of about 600 non-SAD farmers and applied to the district government for a "location permit" for a plantation.²⁹

In mid-2001, the Muaro Jambi district government gave a "permit in principle" to plant, contingent on having the area mapped by the local land office and getting a permit from the Ministry of Forestry and Estate Crops.³⁰ The Muaro Jambi district land office duly came, but said their coordinates showed that the land was actually within the jurisdiction of Batang Hari, the next district over; even worse, it was in the concession area of PT Asiatic. This was the first inkling the families had that their land was gone.

In January 2002, officials from the company and the PERSADA farmers agreed that in compensation for the land lost to the concession, the company would provide the 600 ha in partnership and turn over an additional 50 ha for housing and other facilities. They promised the 600 ha would be close to their existing hamlet and that planting of oil palm "for those SAD entitled to it"—i.e., no migrants—would begin as soon as possible, once a suitable location had been determined. To determine who had a right to the 600 ha, there would be a verification process, coordinated by the district government.

To manage the 600 ha, the group set up a new cooperative called KOPSAD that came into being in November 2003, registered by the State Minister for Cooperatives and Small and Medium Enterprises. Despite repeated meetings, however, there was little progress on the partnership. In 2005, the PERSADA group and the company finally agreed on a location for the 600 ha with the costs of development to be borne by the farmers. Still nothing happened, in part because of disagreements between the districts about where their boundaries lay. The next year, PT Asiatic was sold to the Wilmar Group, and negotiations ceased.

Looking back, the period of CDC control was one point at which the conflict might have been resolved had there been better coordination and consultation and less red tape -- and if the company from the beginning had left important parts of customary land, such as gravesites,

27 Notes of meeting on 23 January 2003 led by the subdistrict head of Sungai Bahar as head of the Tim Khusus Seleksi dan Penempatan Petani Suku Anak Dalam. According to the note, an additional 38 families from Markanding were to be settled on a state plantation, Perkebunan Nusantara VI, that adjoined the company's.

28 Muaro Jambi was carved out of Batang Hari in 1999, creating administrative confusion, since some of PT Asiatic's concession area fell within the new district but the plantation as a whole was administered from Batang Hari.

29 The full name is Koperasi Kesejahteraan Himpunan Insan Pers Seluruh Indonesia.

30 Under President Habibie, the Ministry of Forestry was put in charge of plantations as well and the name was changed to reflect this.

untouched.³¹ The SAD groups, unlike some of their NGO advocates, were not against oil palm; they wanted a share in the wealth. Under certain circumstances, then, the 1,000 ha-offer might have worked. But with no clear understanding of what was happening, anger toward the company grew stronger.

V. THE WILMAR YEARS

By the time the giant Wilmar Group acquired PT Asiatic in 2006, two new factors were at work. One was direct local elections, which came into effect in 2005 and in some cases made local officials more responsive to conflicts in their constituencies. Another was international advocacy for sustainable palm oil production. Around the world, palm oil companies were beginning to feel the impact of consumer protests against the environmental and social damage wrought by palm oil plantations. One result was the establishment in 2004 of the Roundtable on Sustainable Palm Oil (RSPO) bringing together growers, traders, manufacturers, investors and NGOs. Local politics and international advocacy both made themselves felt as the conflict entered a new phase.

Wilmar made it clear that the offer of land within the main concession area was now off the table. Instead PT Asiatic under the new management would make 1,000 ha available on the concession of PT Maju Perkasa Sawit and PT Jammer Tulen, the two smaller subsidiaries to the west. The company said it would help the communities establish a cooperative there, manage the production, and share the profits on a 50/50 basis.³²

A few of the SAD groups agreed, but SAD113 did not. The land proposed was nowhere near their customary land, and they would have had to share it with every other descent group negotiating with PT Asiatic, of which there were at least five. They were adamant that they wanted their full customary land returned. On 11 October 2006, they held a demonstration in front of the provincial land agency's office in Jambi (BPN-Jambi), asking it to mediate their claims. They also turned to a new actor for help: PRD/STN.

In response to a letter from STN in February 2007 about SAD113's grievances against PT Asiatic, the land agency head authorised a research team to go to Jambi and investigate. When STN had difficulty getting access to the investigators' report, it turned for help to the Indonesian National Human Rights Commission and increased advocacy efforts on behalf of the Jambi group more generally.³³

SAD113's turn toward STN and BPN coincided with a brief flurry of interest by the Yudhoyono administration in land reform, thanks to the man appointed to head the BPN, Joyo Winoto. Winoto, who took over the agency in 2005, had excellent relations in the agrarian activist community and put a high priority on distributive justice and resolving land conflicts. In January 2007, President Yudhoyono announced a new land reform program that planned to redistribute millions of hectares of state land, including abandoned land and some 8.15 million ha of "convertible" forest, to the poor. The program eventually foundered as key ministries, especially Forestry, made known their objections and Yudhoyono himself backed down.³⁴ But for a while, just at the time Wilmar was taking over PT Asiatic, there was hope that for once, the landless,

31 The fact that 241 ha of rubber trees belonging to SAD113 was not disturbed was an indication that these matters could have been worked out.

32 Colchester et al, p.26.

33 The report eventually surfaced. Dated 12 August 2007, "Laporan Hasil Penelitian Konflik Tanah Masyarakat Adat Orang Kubu Kelompok Padang Salak, Pinang Tinggi dan Tanah Menang Kecamatan Sungai Bahar Kabupaten Muaro Jambi Provinsi Jambi", acknowledged SAD113's claims and noted current land use but concluded by recommending that both sides find a mutually acceptable partnership program for palm oil production.

34 See Noer Fauzi Rachman, *op. cit.*, Chapter 4.

land-poor and dispossessed had a real ally in Jakarta. It was an ally, however, with no enforcement capacity.

A. Mediation

By the time Wilmar came into the picture, some 30 separate groups were in conflict with PT Asiatic.³⁵ Wilmar itself was already the focus of international attention from groups concerned about environmental damage, forced evictions and social conflicts associated with the palm oil industry. Because its investors included the International Finance Corporation (IFC), these groups could use a complaints mechanism set up by the IFC, the Office of the Compliance Advisory Ombudsman (CAO) to voice their concerns. In July 2007, nineteen groups filed a complaint with CAO about Wilmar's operations in West Kalimantan that triggered a reasonably successful mediation process.³⁶

Hoping for the same, in October 2008 leaders from five different SAD groups, including SAD113, sent a complaint to Wilmar about PT Asiatic, with copies to the IFC and RSPO. In this case, CAO decided not to mediate the conflict itself but to support a local mediation effort by a respected local environmental NGO, Setara Jambi. Wilmar and PT Asiatic agreed, as did SAD113 and one smaller group led by a man named Mat Ukup.³⁷ The 26-month negotiating process, frustrating for all involved, has been described at length from the mediator's point of view.³⁸

The company stuck to its earlier proposal that both groups should take part in the partnership program on the 1,000 ha offered earlier, which 771 other SAD families by this time had already accepted. It agreed, however, to enclave the SAD113 burial sites and later, the area of smallholder rubber cultivation. Eventually the Mat Ukup group agreed to move on to the 1,000 ha, but SAD113, by this time representing some 1,359 people (not clear how many families), refused.³⁹ In April 2010, it suggested that it would accept 1,000 ha just as compensation for the loss of its customary land, but it would have to be within the main concession area and only for the SAD113 members themselves.

As the negotiations proceeded, both sides agreed to a participative mapping project with a firm hired by the company, Daemeter Consulting, to document the various claims. The map produced by Daemeter in 2010 showed the SAD113 claim to be 3,461 ha, not too far off from the 3,550 ha cited in the old 1987 document that the Forest Ministry had produced. PT Asiatic made clear, however, that it did not recognise Daemeter's map as proof of the legitimacy of the claim.⁴⁰

Meanwhile, in June 2010 the company went ahead and set up a cooperative, called Sanak Mandiri, for the 1,000 ha in sections of the PT Jammer Tulen and PT Maju Perkasa Sawit con-

35 IPAC correspondence with Wilmar, 28 March 2014.

36 See www.cao-ombudsman.org/cases/document-links/documents/IFCCAOletter18july.pdf. The organisations represented by the signatories included Forest Peoples Programmes; Friends of the Earth (Netherlands); Sawit Watch; Lembaga Gemawan; KONTAK Rakyat Borneo; HuMa; ELSAM; SPKS; Save Our Boreno; PADI; Oxfam; Both ENDS; Environment Defense; Down to Earth; Hakiki Foundation; CAPP; Setara Jambi; Walhi; and Ugandese National Association of Professions. The first was about a dispute over land, the second was about a dispute over land, and the third was specifically about PT Asiatic after forcible evictions and bulldozing of homes in 2011.

37 Colchester et al, p.20. Initially, the talks, which began on 17 February 2009, involved five SAD groups, named after either their own organization, an ancestor or a founding member. The five were PERMASAD; FORKALASAD/FORMASKU; SAD113; Mat Ukup; Datuk Dahlan; Kelompok SK Bupati Batang Hari 2003. The Mat Ukup group consisted of 104 families.

38 "Mediation: a strategy or a final objective?" op.cit.

39 The figure 1,359 comes from Daemeter Consulting, an independent consulting firm based in Bogor, Indonesia that PT Asiatic hired in 2009 to do a social impact assessment for the concession area. One of its tasks included trying to establish whether the claimants were in fact indigenous. No one has a clear idea how many households the 1,359 figure represents.

40 See Colchester et al, p.24.

cessions, despite questions over the status of the land.⁴¹

In April 2011, after several further rounds of talks with PT Asiatic produced no progress on getting land inside the main concession area, SAD113 leaders pulled out of the mediated talks. The breakdown produced a rift among the NGOs in Jambi, with those like Setara that had favoured negotiation being seen as too compromising by the more ideologically-based peasant unions to whom some of the disappointed SAD groups were now turning. It also increased the competition among them. One NGO leader said every time he developed a program for one group of farmers, he would find that one of the peasant unions started new organizing efforts in the same area.⁴²

B. *A Second Round of Negotiations*

In August 2011, an incident of unauthorised palm oil harvesting triggered a security operation that led to the eviction of 83 families in the southern part of the concession and the destruction of their homes. This led to another complaint to the CAO in November 2011 and to a new round of negotiations with Wilmar.⁴³ Five farmers' groups took part, including the evicted families, all of which received compensation for their losses.⁴⁴ One of the groups was a splinter of SAD113 from Dusun Lamo, Pinang Tinggi, led by a man named Pak Nurman, who had taken part in the first round of talks and was willing to give mediation a second chance.

This time, however, on behalf of 200 households, he decided to press for the return of 1,029 ha within the broader SAD113 ha claim, causing some friction with the other claimants. He used an important document as evidence: the missing map from the 1987 inventory. The Forestry Ministry had finally produced it after a CAO request and Dusun Lamo was clearly marked.⁴⁵

The company argued that it had paid compensation for 610 ha of the Dusun Lamo land when it was first acquired. It agreed to pay rent of Rp.150,000 per month from now until the end of the concession period for another 258 ha for which it had no record of having paid anything. The rest of the Dusun Lamo land, according to Wilmar, was being occupied by another group, and Pak Nurman would have to resolve the competing claim before PT Asiatic could do anything further.⁴⁶ Pak Nurman said he first wanted the company to produce a list of who received the compensation, because it could well have been paid to people who had no rights to it.⁴⁷

Four rounds of negotiation produced no satisfactory results and in October 2012, Wilmar and the Dusun Lamo group agreed that the only way to decide the claim was through the courts. Negotiations between the company and other groups, however, continued.

C. *Mass Action*

Meanwhile, the rest of SAD113 was pursuing a completely separate strategy. Beginning in late

41 PT Maju Perkasa Sawit never obtained a location permit and PT Jammer Tulen's permit ended in 2007 when the district head of Batang Hari refused to extend it.

42 IPAC interview, NGO leader, Jambi, February 2014.

43 For a copy of the formal complaint to Wilmar, see www.cao-ombudsman.org/cases/case_detail.aspx?id=177.

44 The five were the evicted families from Jambatan Besi, Sungai Buaian Ilir; and Danau Minang; KOPSAD/PERSADA; the Sungai Beruang group led by Pak Roni; the Terawang Group; and an SAD113 group from Dusun Lamo, Pinang Tinggi. Originally the Mat Ukup group was going to take part, but the representative who came did not get the required letter of authorisation from the group and was dropped from the process. IPAC correspondence with Wilmar representative, 28 March 2014. A detailed record of this round of negotiations can be found in "Mediation: a strategy or a final objective?" op.cit., pp.31-33.

45 It also showed 50 ha in the Penyerukan area, much further south, so technically SAD113 should have been campaigning for 3,500 ha, not 3,550 ha but under the circumstances, this was a quibble.

46 IPAC correspondence with Wilmar, 28 March 2014. The figure cited in the correspondence was 601 ha but other sources say 610 and we think this was a typo.

47 "Mediation: a strategy or a final objective?" op.cit.

2011, most of the SAD113 leaders threw in their lot with PRD/STN, turning to demonstrations, occupations and other forms of mass action. Along the way, their own very specific agenda of recovering one specific swathe of ancestral land became subsumed in STN's broader goals of agrarian reform and political party-building. STN activists understood very well the political power of television; getting coverage on Indonesian news channels, from which the vast majority of Indonesians get their news, was worth more than any amount of quiet lobbying. Numbers mattered, so did drama, and the drama often came from a narrative of violence. Arrests, forced evictions, and shootings reinforced the narrative of the victimised poor and could be parlayed into a push to change laws or a commitment of bureaucrats to cut through red tape. It was therefore in PRD/STN's interests to meld a range of different stories into one, so that there was always some part of the crowd that had been evicted or arrested. Many of its actions therefore involved a range of different groups, sometimes blurring the lines between them. The participants often had to put up their own money to join these STN-organised actions, but the payoff was potentially high.

1. STN's Broader Goals

STN also had another objective. This was to help build up a political base so that PRD, its parent organisation, would be able to contest the 2019 elections.⁴⁸ At its seventh party congress in March 2010, party leaders had decided to move from being a cadre-based party to a mass-based one.

We learned that to become an alternative political force, we couldn't just shout that we were an alternative; we had to have people's organisations working from the bottom up over the long-term. We came to understand that our struggle required "revolutionary patience"....⁴⁹

They also took several other important decisions at the seventh congress that would have direct implications for Jambi:

- They decided to make Pancasila the ideological base of the party rather than "people's social democracy" to "remove the stigma of Communism" that had been attached to PRD.⁵⁰
- They concluded that "neo-liberalism", defined as "a social system based on control of economic resources by big capital, mostly foreign-owned", had become the new source of social injustice in post-authoritarian Indonesia.
- They shifted away from a focus on "proletarianism" to a strategy that would embrace dispossessed farmers as well as workers.⁵¹ This became the "Article 33 Movement", a campaign to enforce Article 33 of the Indonesian constitution, particularly its third clause: "The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the benefit of the people."

For all of this, land conflicts became a critical entry point for organising, and Sumatra, with the dramatic expansion of agribusiness, particularly palm oil, held particular promise.

48 IPAC interview, Agus Jabo, Jakarta, 16 February 2013.

49 "15 Tahun Perjalanan PRD", 22 July 2011, available at www.berdikarionline.com/editorial/20110722/15-tahun-perjalanan-prd.html.

50 "Laporan Dari Kongres VII PRD: Titik Balik Dalam 14 Tahun Perjalanan Partai", available at kabarrakyatindonesia.blogspot.com, 16 July 2010.

51 Ibid.

2. Jambi Farmers Go to Jakarta

In early December 2011, several dozen Jambi farmers left for Jakarta under PRD/STN auspices. They included several in conflict with PT Asiatic, including SAD113 leaders, as well as members of two unrelated groups from neighbouring concessions, mostly migrants, that were trying to secure a community forest program.⁵²

On 8 December, they sat in front of the Indonesian parliament for a few days to demand revocation of an amended forestry law, until PRD/STN's failure to make arrangements for food, tents or toilets led to its dispersal. On 15 December, they demanded and secured a meeting with a senior Forestry Ministry official where the focus was on the community forest program. On 20 December, they moved to BPN to press SAD113 concerns.⁵³ There, in a meeting with the director for land conflicts, they were able to secure an agreement in principle for the return of the full 3,000-plus ha of customary land.⁵⁴ Armed with this assurance, they jubilantly returned to Jambi.

On 26 March 2012, thanks to PRD/STN lobbying, a critical meeting took place in the Jambi governor's office. In attendance were the Director of Land Conflict from the central office of BPN, members of the provincial legislature, *adat* leaders, and representatives of the Batang Hari district government. All present agreed that PT Asiatic had an obligation to enclave the 3,550 ha, effectively taking it out of the concession. This was an extraordinary triumph, but there was a catch. The enclaving had to be preceded by a re-measuring process to mark off the boundaries. This was to be completed in two months, at the company's expense. Meanwhile, the district government would undertake a verification process to determine who among the SAD113 claimants could in fact make a legitimate claim to indigenous status; only the "real" SAD would be entitled to the land.⁵⁵ A few months later, the district verification team announced that 936 people had been "verified".⁵⁶

As the head of PRD said later, "We won!"⁵⁷ This was what SAD113 had been waiting for: a definitive government recognition of their claim. But while the 26 March meeting was undeniably a victory, it quickly became clear that no one could compel the company to go along.

In the meantime, tensions rose as SAD113 members occupied part of the concession area they claimed and with PRD/STN's encouragement, began harvesting oil palm fruits. As far as PT Asiatic was concerned, this was theft; according to the farmers, the fruit was rightfully theirs because it was their land that had been stolen. On 27 April, police arrested Mawardi, the PRD coordinator for Jambi, and charged him with masterminding the stealing. He was released two days later.

On 7 May 2012, however, the Batang Hari government ordered the SAD113 members to

52 These were farmers from Mekar Jaya and Kunangan Jaya II who were trying to get approval for the enclaving of 3,482 ha and 8,000 ha respectively land for the program known as Hutan Tanaman Rakyat. The land in question fell within the concession areas of PT Agronusa Alam Sejahtera; PT Wanakasita Nusantara; and PT Restorasi Ekosistem Indonesia (PT REKI).

53 "Menhut Setujui Tuntutan Petani Jambi", *Berdikari Online*, 17 December 2011. *Berdikari Online* is the STN website.

54 "BPN Setujui Tuntutan Suku Anak Dalam 113 Jambi", *Berdikari Online*, 21 December 2011. Since the 1987 map had been discovered, the group had raised their claim from the 3,461 on the Daemeter map to the 3,550 on the earlier map.

55 "Kesepakatan Rapat Koordinasi Penyelesaian Permasalahan PT Asiatic Persada Dengan Masyarakat SAD", 26 March 2012. Notes of the meeting were signed by those present: Syharasaddin, provincial secretary; Ronsen Pasaribu, director for Land Conflict of BPN; H. Hasan Ibrahim, head of Commission II in the Jambi provincial legislature; H. Azra'i Al-Basyari, head of Lembaga Adat Melayu, Jambi; Yazirman, Sekda Batang Hari; Kailani, Asisten I Sekda Jambi; H. Haviz Husaini, Asisten II, Sekda Jambi; Anyawangung K. Janguk, head of Kanwil BPN Jambi; H. Tagor Mulia Nasution, head of Dinas Perkebunan Jambi; H. Sepdinal, head of Exbang; Abu Nandim, Intelkam Polda Jambi and Sri Novriyana, BPN Batang Hari.

56 "Keputusan Bupati Batang Hari No 347 2012 tentang Penetapan Hasil Identifikasi dan Verifikasi Nama-nama Suku Anak Dalam (SAD) Kelompok KOPSAD, Kelompok 113, Kelompok Pompa Air, Kelompok Bungku, Kelompok Herman Basir, Kelompok Harun MD dan Kelompok Lain-lain yang berada dalam Areal HGU PT Asiatic Persada", 28 May 2012. The announcement was accompanied by a list of names of "candidates to receive palm oil plantations through the KKPA Program of PT Asiatic Persada". Since virtually everyone on the list is married, the names effectively represent families.

57 IPAC interview, Agus Jabo, 14 February 2014.

vacate the area.⁵⁸ The government cited an odd legal source: a presidential decree from 1960 forbidding the use of land without the permission of those who have rights or control over it and giving the local government the right to clear it of those without such rights.⁵⁹ The SAD113 community, backed by PRD/STN, came back with a response demanding that the Batang Hari government acknowledge its rights to the enclave of 3,550 ha.⁶⁰

When nothing happened, PRD/STN went back to Jakarta and asked KOMNAS-HAM for help in getting the promised re-measuring on track so that the process of setting up the enclave could begin. At a meeting in the KOMNAS office on 10 July 2012, BPN, PT Asiatic, PRD and district and government officials agreed that the process would start no later than two months after PT Asiatic turned over the requisite funds to BPN.⁶¹ On 1 August, back in Jambi, the same parties, with a few additions, reconvened at the governor's office and added some details to the re-measuring plans.⁶² But still no funds were forthcoming.

As months went by without any progress, STN stepped up mass action. In November it took a group of farmers to Jakarta to set up tents in front of the Indonesian parliament -- and again the SAD113 story was blended into the community forest campaign as a general push for justice for Jambi's poor.⁶³ No one in the Jakarta media was particularly interested in getting straight which group wanted what, and in any case, it did not matter. Much more important was on the second day of the protest, television cameras captured images of security guards at the parliament pulling down the tents, getting STN just what it wanted -- more publicity.

On 12 December 2012, a group of 33 farmers started a "Long March", walking from Jambi to Jakarta, with delegates from several different conflicts including SAD113. It was a PRD/STN stunt to attract political attention. Along the way, it picked up a few marchers from Mesuji, Lampung where another major land conflict was brewing in which STN was not very successfully trying to play a role; PRD/STN branches elsewhere held demonstrations in solidarity.⁶⁴ PRD's efforts to drum up widespread public support through social media, however, fell flat -- the "Movement of Support of 10,000 Facebookers for the Long March of the Jambi Farmers" got only a modest 483 "likes".⁶⁵

After more than a month, the marchers arrived in Jakarta on 22 January 2013 where they were welcomed by PRD's labor organisation, Kongres Aliansi Serikat Buruh Indonesia (KASBI). After a few days' rest, PRD/STN organised a rally in front of the presidential palace before moving on to the Forestry Ministry where the farmers set up tents and proceeded to live there for the next two and a half months.

Throughout this period, there was no movement from PT Asiatic on providing funds for the re-measurement. On 14 January, the provincial BPN office sent it a gentle reminder but got no

58 "Mediation: a strategy or a final objective?" op.cit., p.31.

59 Peraturan Pemerintah Pengganti Undang Undang No.51 Tahun 1960 tentang: Larangan Pemakaian Tanah Tanpa Ijin Yang Berhak Atau Kuasanya. Article 2 states that it is forbidden to use land with the permission of those who are legally entitled to it (berhak atau kuasanya yang sah). See bppt.jabarprov.go.id/assets/data/arsip/9_PERPU_No_51_Tahun_1960.pdf.

60 Statement of Abas Subuk, 15 May 2012, "Pernyataan Sikap Suku Anak Dalam 113 Kepada Pemda Batang Hari dan CAO"

61 KOMNAS-HAM, "Berita Acara Mediasi Sengketa Lahan Antara Warga Masyarakat Suku Anak Dalam 113 dengan PT Asiatic Persada". According to these notes, the company was obliged to put up these funds in accordance with a government regulation (PP No.13 Th 2010 tentang Jenis dan Tarif atas Jenis Penerimaan Negara Bukan Pajak).

62 "Kesepakatan Rapat Bersama", Kantor Gubernur Provinsi Jambi, 1 August 2012. This time it was agreed the entire concession area would have to be re-measured. Strangely, a local NGO, Peduli Bangsa, would be responsible for the costs of measuring the 20,000 boundaries of the concession, while PT Asiatic would have to pay for the measuring of the 3, 550 ha enclave.

63 One television station covered the story as the demand of SAD farmers for an enclave from the Forestry Ministry, neatly but erroneously tying the two threads together. See "Barang dirampas Pamdal DPR, Petani Jambi Protes," liputan6.com, 19 November 2012.

64 See "Mesuji: Anatomy of An Indonesian Land Conflict", IPAC Report No.1, August 2013.

65 See www.facebook.com/pages/Gerakan-10-Ribu-Fesbukers-Dukung-Aksi-Long-March-1000-Km-Petani-Jambi/178515988958279.

response.⁶⁶

Then in April 2013, without any warning, Wilmar sold its shares in PT Asiatic to PT Agro Mandiri Semesta (PT AMS) of the Ganda Group, another conglomerate that was a Wilmar supplier and whose CEO was the brother of Wilmar's founder. It apparently had had enough of the constant battling:

After much deliberation, we decided to sell PT Asiatic due to the difficult social conditions there, which led to an untenable situation for the Group.⁶⁷

The decision pushed Pak Nurman, the most committed supporter of mediation, into the arms of PRD/STN.

VI. THE "TEMPORARY SOLUTION" OF 2,000 HECTARES

The sale to PT AMS changed dynamics in three fundamental ways. It shifted the locus for finding a solution to the district level, away from the province or center and it led to a push for a one-size-fits-all solution. Over time, it also undercut the PRD/STN strategy.

The shift to the district coincided with the setting up of "integrated teams" (*tim terpadu* or *timdu*) to address internal security issues, the direct result of a series of implementing instructions derived from a 2012 law on handling social conflicts.⁶⁸ In March 2013, the Batang Hari district government established its own team that from then on took the lead in "solving" the various conflicts with PT Asiatic. Whatever discussions STN was having in Jakarta and no matter how sympathetic various officials in the province government might be, it was henceforth the district team -- whose officials tended to be closer to the company -- that had the lead role.⁶⁹

The one-size solution involved a move to offer everyone verified as a SAD claimant a two-ha plot on 2,000 ha on the old PT Jammer Tulen concession. It was clear that the new owners wanted a resolution of all of these conflicts, but like Wilmar, they preferred that the claimants move off the main concession. This may have been one of the reasons the company failed to respond to further letters from the provincial government, reminding it of its obligations to fund the re-measuring -- it was buying time to prepare for a very different solution.⁷⁰ The coming elections in April 2014 provided a convenient deadline to secure agreement.

As the company's offer of the 2,000 ha was refined, the district team increased pressure on the SAD families still occupying their old land to move. In October, an impatient PRD/STN held a demonstration in front of the governor's office, demanding that the concession permit for PT Asiatic be revoked because of its failure to meet its obligations. The provincial secretary came out to meet the demonstrators and agreed to help -- only, he said, it would be more polite to ask for "a review" of the permit rather than a revocation outright. He wrote to BPN accordingly, recommending the review, while at the same time sending a third reminder to the company about funding the re-measuring. But he also told the protestors that they should temporarily take up the company's offer while the government tried to work out the recovery of the 3,550 ha.⁷¹

On 27 November, the district *adat* office held a discussion with the district government, the

⁶⁶ Surat BPN Provinsi Jambi No. 040/200/I/2013.

⁶⁷ IPAC correspondence with Wilmar, 28 March 2014.

⁶⁸ Law No.7/2012 on Handling Social Conflict was followed by Presidential Instruction No 2/2013 on Handling Internal Security Disturbances in 2013, dated 28 January 2013. This in turn was followed by Decision of the Coordinating Minister for Political, Security and Legal Affairs No.12/2013 of 5 February 2013 to set up integrated teams.

⁶⁹ The *bupati* headed the team but the police chief (*polres*) as second deputy head (*wakil ketua* II) who seemed to be in charge. The first deputy head was the district secretary; the third was the district military commander. See Keputusan Bupati Batang Hari Nomor 158, 6 March 2013.

⁷⁰ A second reminder was sent on 7 May 2013.

⁷¹ IPAC interview with Syahasaddin, provincial secretary, Jambi, 10 February 2014.

SAD groups and the police. They agreed to set up yet another verification team to determine which descent groups (*rumpun keturunan*) had *adat* rights in the concession area of PT Asiatic Persada and thus who would be eligible for land in the 2,000 ha.⁷² They also rejected any cooperation with the cooperative Sanak Mandiri and stated that they did not recognise the position of *temenggung*, traditionally the highest lawgiver in the *adat* hierarchy.⁷³ The last appears to have been a way of rejecting the authority of one *adat* leader in particular who was seen as too close to the company.⁷⁴ (As Indonesia debates giving greater authority to *adat* leaders and *adat* councils, the question of who has the right to represent *adat* groups will arise with increasing frequency.)

On 1 December 2013, a flyer was circulated signed by 30 *adat* leaders. It said an agreement had been reached with the company and that all those occupying homes or land in the main concession area should leave. Every SAD household with outstanding claims against PT Asiatic would be given two ha and a house, inside the 2,000 ha of the PT Jammer Tulen concession. Those who had not yet established households would be guaranteed jobs on the plantation and live in company barracks.⁷⁵

The district government, meanwhile, said there was no choice. If SAD113 families did not want to move, they would be evicted. On 7 December 2013, after three ignored warnings to move, a joint team of Brimob, TNI and company security guards moved into the SAD113 occupation sites destroying almost 300 homes over the next week.⁷⁶ The destruction played directly into PRD/STN's hands and prompted a new wave of mass action. It also helped shore up, at least temporarily, what seemed to be a weakening resolve among some of the SAD113 to keep the protests going.

A. More Mass Actions

On 10 December, STN brought over 100 SAD members to Jakarta to the National Human Rights Commission to protest their evictions and press their claims at the National Land Agency. The group included top SAD113 leaders, although as usual, the group was a hodgepodge representing different disputes and claims. All interviews with them were controlled by their PRD/STN handlers.⁷⁷ After camping out for several weeks at the Commission, they eventually returned home, with little to show for the initiative.

Perhaps hoping for more reaction in Jambi, PRD/STN organised hundreds of farmers to mass in front of the Jambi governor's office on 24 December, demanding the return of the 3,550 ha, the revocation of PT Asiatic's concession, and – in a demand which had nothing to do with the SAD113 group -- the fulfilment of a promise from the Forestry Ministry to grant community forest status (HTR) to farmers from two different concession areas. Again, the demonstrators were a mixed lot, including some genuine SAD members but also including migrants who were brought in simply to provide extra bodies. The demonstrators camped on the governor's grounds for more than a week, then moved to the provincial forestry office.

On 8 January 2014 a meeting took place of the social conflict teams of the province and the district together with representatives of different SAD groups, including SAD113. By this

72 "Kronologi Perusakan dan Pengusuran Suku Anak Dalam." Abunyani, an *adat* leader associated with SAD113, later disputed that the 27 November entailed any acceptance of the 2,000 ha. See "Dianggap meresahkan, Suku Anak Dalam Dipaksa Henggang dan Pengungsian", Mongabay website, 11 January 2014.

73 "Notulen Pertemuan, Pengurus Lembaga Adat Bumi Serentak Bak Regam dengan Suku Anak Dalam Wilayah" Bungku, 27 November 2013.

74 The leader in question is Herman Basyir, who uses the title *Tumenggung Sembilan Bilah*, head of the SAD groups in the Bathin IX area. His father, Datuk Maliki, held the position before him.

75 IPAC interview with Syahasaddin, provincial secretary, Jambi. 10 February 2014.

76 These included 31 in Padang Salak, six in Terawang, 109 in Pinang Tinggi and 150 in Tanah Menang.

77 "Tujuh Alasan Pengusuran PT. Asiatic Persada Terhadap SAD Dianggap Ilegal", Berdikari Online, 11 December 2013.

time, fourteen groups representing 649 families or 2,049 individuals had been verified as SAD and were registered to receive land on the 2,000 ha.⁷⁸ The teams told SAD113 leaders that they should move on to the 2,000 ha while waiting for the larger issue to be resolved, repeatedly stressing that it was a temporary solution.⁷⁹ They also gave the protesters three days to leave government premises; it was clear their patience was waning. As a result of the ultimatum, STN simply moved its followers into the provincial *adat* house nearby.

On 16 January, the Batang Hari district government issued another warning: the SAD113 families would have to move off PT Asiatic's concession area entirely. The government had made land available on the 2000 ha, contingent on a verification process. If they chose not to take advantage of it, they would be evicted. Still, the SAD113 leaders refused.

By this time, national elections were only months away, and other NGOs were convinced that there was an element of grandstanding involved, especially because the local PRD coordinator, Mawardi, was a standing as a candidate for the provincial assembly from the National Mandate Party, PAN.⁸⁰ A few local legislators, including one from the Gerindra party, were also interested in being seen to champion the SAD cause. Some even suggested that the reason the STN/PRD clients were camped out at the *adat* house was not unrelated to the fact that Camelia Piji Astuti, the daughter of the provincial *adat* leader, was running for the national parliament from the Demokrat Party. The family's support of the *adat* struggle, it was suggested, could bring in votes.⁸¹ (As this report went to press, it was unclear whether any of these candidates was successful.)

But the SAD113 demand was straightforward and non-negotiable: re-measure the land as promised, and then we can talk. A delegation from the National Human Rights Commission came to see the protestors at the *adat* house. The meeting produced a statement on 23 January that the conflict with PT Asiatic must be resolved peacefully, through dialogue; that all parties should respect the results of mediation to be conducted by the national BPN; and that the SAD groups had a right to be protected from violence, evictions, arrests, intimidation and other forms of "militaristic hooliganism". It demanded that those occupying the 3,550 ha be given a right to stay on the land through the duration of the mediation process and promised that SAD Jambi would not use violence or vandalise company facilities and would not take any palm fruit "outside the area of their customary land and the areas they were cultivating."⁸²

On 3 February, PRD/STN issued a statement that their SAD clients were refusing the government's order to move for several reasons, among them:

- The land in the ex PT Jammer Tulen concession was only being made available as a partnership, and SAD had rejected this in 2010;

78 STN claimed that as a result of the evictions, twelve of the fourteen had revoked their commitment to the 2,000 ha partnership program; from IPAC interviews, with several group leaders, this was not accurate.

79 "Areal yang 2.000 ha hanya untuk penghidupan sementara menjelang areal 3.550 ha dapat diselesaikan," Pemerintah Provinsi Jambi Sekretariat Daerah, Notulen Rapat, 8 January 2014.

80 There was no particular rationale to choosing PAN. PRD's aim was to get as many of its officials as possible accepted as candidates by mainstream parties because it was too small to field candidates itself. Any party would do, both so that members could represent pro-poor views in local legislatures but also so they could build the base for 2019 from inside the system. PRD leaders claimed that its members did not have to put up any money to become candidates, as is the usual practice, but that it was the other way around: parties were courting them, because of their perceived mass base among farmers in certain areas. Interview Agus Jabo, 14 February 2014, Jakarta.

81 IPAC interview, Jambi, 6 February 2014.

82 "Pernyataan Bersama", 23 January 2014 signed by Dianto Bachriadi, KOMNAS HAM; A.R. Syahbandar, member of the Jambi provincial legislature; H. Hasip Kalimuddin Syam, Melayu Adat Institute, Jambi; Drs. H. Azrai Albasari, secretary-general of the Melayu Adat Institute Sumatra; Kutar, SAD Bathin Bahar; Agrus Pranata, STN Jambi; Ahmad Ramli, Laskar Melayu Jambi; and Feri Irawan, Perkumpulan Hijau (NGO). Laskar Melayu Jambi was formed in February 2012 to defend Melayu culture in Jambi from foreign elements. Its biggest issue to date has been its efforts to return an island, Pulau Berhala, to Jambi. In February 2013, the Constitutional Court ruled that it was part of neighboring Riau Archipelago province.

- It was not an adequate substitute for the 3,550 ha;
- It lay outside the boundaries of their customary land and in any case was of uncertain legal status, since the permit of the two companies had lapsed in 2005; and
- It would create new conflict with existing farmers there who had worked the land since the 1970s.

PRD/STN argued that thousands of SAD farmers had been forcibly evicted and denied protection from the government whereas the company was protected by law even though it engaged in violence, shootings, house burnings, forced evictions and the like. The farmers, it said, were the ones criminalised to force them to kowtow to the interests of capitalists. The statement concluded with four demands: revoke PT Asiatic's permit or return the customary land as an enclave, in accordance with the Letter of Recommendation of October 2013; end the insistence on a partnership; stop the Batang Hari government's practice of one-sided mediation; and give guarantees of protection to the SAD farmers to return to their original hamlets in Tanah Menang, Pinang Tinggi, and Padang Salak.⁸³

On 20 February, STN tried to organise a return of the SAD113 – or what they called SAD113 but in fact included many others -- to the area where the forced evictions had taken place in December. They were met by a phalanx of police in full riot gear.⁸⁴ Hundreds massed at the district *adat* office, but when they were asked for proof of their SAD status, they melted away. District *adat* officials are convinced that most in the crowd were migrants.⁸⁵

B. Land Allocation

Meanwhile, the company and district government were allocating land for those who had agreed to the company's offer. The new verification process was extended until the end of February 2014, to allow more groups to sign up. By the time the deadline passed, seventeen separate descent groups comprising more than 1,000 families had agreed to move on to the 2,000 ha, including many in the SAD113 group who were growing weary of the endless protests and demands for contributions without anything to show for it. Because of the publicity surrounding the group, these "defectors" were asked to sign statements specifically stating that they had left the SAD113 group of their own free will and had accepted the arrangements with the company.⁸⁶

By early March 2014, the company and the district government had mapped out the land allotments to each descent group, so that each family had a two-ha plot of oil palm to cultivate, with the boundaries clearly mapped and metal plaques put up on trees accordingly. While the company had initially offered a "partnership", it was publicly referring to the arrangements with the groups as "smallholdings" (*plasma*), which gave greater flexibility to the farmers. Each group was trying to work its own MOU with the company that would set out respective rights and responsibilities. The company had set aside 24 ha for housing and other facilities in addition to the two-ha plots. It also acknowledged that the 2000 ha included 500 ha that were still "not cleaned up" (*tidak bersih*), i.e. still occupied by other farmers.

As of March 2014, there were four categories of claimants in various relationships with PT Asiatic. They included:

- Those who accepted the offer of land on the 2,000 ha and were in the process of working

83 "Pernyataan Sikap: Laksanakan UUPOA No 5/1960, Perlindungan untuk Rakyat, Bukan untuk Penusaha!"; Sekretariat Bersama Gerakan Nasional Pasal 33 UUD 1945 Propinsi Jambi, 3 February 2014. They also mentioned returning to Bukit Terawang.

84 "Warga SAD Dihadang Barikade Polisi di Batang Hari", *Harian Jambi*, 21 February 2014.

85 IPAC interview, Lembaga Adat Bumi Serentak Bak Regam, Batang Hari, 9 March 2014.

86 IPAC interview, Pak Syamsul, Lembaga Adat Bumi Serentak Bak Regam, Batang Hari, 10 March 2014.

out terms of production with the company;

- Those like SAD113 who rejected the company's offer and had joined forces with PRD/STN to continue to work for recovery of land within the main concession area;
- Those who rejected the offer and were occupying land within the 2,000 ha; and
- Those who had worked out separate arrangements with the company within the main concession area.

1. Pasirah Pintang Iman: An Acceptor

One group in the first category comes from a hamlet, Penyerukan, to the south of the SAD113 villages.⁸⁷ Called "Pasirah Pintang Iman", after an ancestor, the group consists of 41 families totalling 144 people whose customary land lies partly in the PT Asiatic concession area and partly in a neighboring one. All 41 families went through the verification process.⁸⁸ Once the verification of all families was completed at the end of February and plots allocated and marked by the district land office, the families were allowed to move there, some living in tents, others occupying housing that had been constructed in 2003 by the Commonwealth Development Corporation. Some 30 of the 41 families had moved by early March and had begun the enormous task of cleaning up a plantation that had been largely untended for the last five years, clearing the secondary growth. Most of the farmers had eked out a living over the previous ten years scavenging loose fruit from the ground and selling it back to the company for a fraction of the market price, as well as searching in nearby forests for damar, a kind of resin, and rattan.

The number of ha allotted to each descent group is based on a calculation of two ha per family, with the *adat* leaders responsible for distribution within the group. Palm fruit is also weighed and purchased through the group, rather than through individual farmers. Pasirah Pintang Iman, like other descent groups, is setting up a cooperative for members but is insisting on control over inputs like fertiliser, so as not to be dependent on the company.

Under the MOU being negotiated, the company would provide housing and schooling up to high school level, as well as clean water and other facilities. It would buy the palm fruit and arrange transport to the processing plant; the group already had its first receipts.

The danger for the farmers, which they were well aware of, was that nothing was yet fully legal. The MOU was still being negotiated and it would have to be checked against all the existing laws that governed the land in question. All major players, however, considered as largely irrelevant the fact that the land was no longer PT Asiatic's to give away; the provincial government had the authority to take over abandoned land and this in itself would make the allocations legitimate.⁸⁹ It was not an ideal arrangement, and it was not a substitute for the land they had lost. But with a guarantee of two ha per family, the farmers had decided that it was as good as they were likely to get.

87 Fifty ha of residential land in Penyerukan appear on the 1987 map that has become the basis of the SAD113 claim. This suggests that the SAD113 land is actually 3,500 ha.

88 The process was as follows: each household head went to the Lembaga Adat Batang Hari, the district *adat* office, capital, with his identification card and those of his family members as well as his marriage certificate. (The *adat* head insisted there were no women-headed households in the group, although the list of names suggests otherwise. Where the descent line went through the female line – for example, when a woman with verifiable *adat* descent had married a migrant – this was duly noted on the form, but her husband was still considered household head.) Where available, members brought proofs of descent. All these materials were entered into a database at the *adat* house, together with photographs of each couple verified. The household head then had to swear two oaths that he was telling the truth, once on the Qur'an and once on an *adat* symbol.

89 Interview with deputy head, Lembaga Adat Bumi Serentak Bak Regam, Batang Hari, Muara Bulian, 9 March 2014.

2. Mustar from KOPSAD: A Rejector

The KOPSAD group was the one that had given up its 5,100 ha for the promise, never realised, of 600 ha in the main concession area. As noted earlier, the claim was bounced back and forth between the districts of Batang Hari and Muaro Jambi. In 2009, the Batang Hari district government formally sent it back to Muaro Jambi. In 2010, a new round of meetings took place with district and provincial officials, all to no avail.

Then, when Wilmar in 2010 offered to make 1,000 ha available in the PT Jammer Tulen concession area to farmers with unresolved *adat* claims, one part of the KOPSAD group under its leader, Pak Mustar, was initially interested, if only because he was so discouraged at ever getting the 600 ha that they had been promised. He and 30 other families moved on to the site, but after three months, they were chased out by others already there. It is not clear why, but Pak Mustar had worked for five years for PT Asiatic's security division, and he acknowledged that this could have been a factor.

The upshot of his rejection from the new site was that he threw his lot in with PRD/STN, although his son still works for PT Asiatic. When the Batang Hari government announced the new process of verification, his members had little interest in taking part, feeling that sooner or later, it would be another means to cheat them.⁹⁰

3. Ardani and the Team of 6: Occupiers of PT Jammer Tulen

In 2007 and 2008, as tensions with Wilmar were rising, an SAD leader from Bungku village named Ardani led a group of some 2,000 farmers variously known LSM Formasku and Forum Komunikasi Lintas Adat –Suku Anak Dalam (Forkala-SAD) to occupy an area in the concession area of PT Jammer Tulen and PT Maju Perkasa Sawit. From the beginning, Ardani rejected negotiations with Wilmar, and argued that his group had a right to 5,000 ha of the land they were already cultivating, as well as 2,150 additional ha that had been their customary land and continuously cultivated from Dutch times.⁹¹

Over a period of two years, he and five others, collectively known as Team of 6, systematically collected money from other farmers, both SAD and migrant, on the understanding that all the funds were going toward recovery of this land, and that two ha-plots would be made available to each family that contributed.⁹² The sums were not small: the average collection per household was Rp.5 million, roughly US\$500, for a total take between 2005 and 2007 of Rp.1.6 billion or \$150,000. Each of the families who paid for land was given a temporary land certificate (*surat tanah sporadik*) signed by the then village head (another member of the Team of 6), with the understanding that this would be converted into a more permanent certificate later. The funds were also used to pay for the frequent trips to Jakarta by Ardani and other Team of 6 leaders to consult with lawyers.

Police accused Ardani of organising the systematic harvesting of oil palm on the land his group was occupying, and his members were frequently arrested for theft, on the basis of reports from PT Asiatic. But after sixteen of his men were arrested in July 2010, he argued that because the concessions of PT Jammer Tulen and PT MTS expired in 2005 and were not renewed, the land should have reverted to the state; PT Asiatic had no claim to it, so the men in question

90 IPAC interview with Pak Mustar, Muara Penyerukan, 10 March 2014.

91 Surat Kuasa in the name of Ardani, Sukiwa, A Budi Gunawan, Rasto, Anton and Isnen, arranged by LBH Kris, Jakarta, 14 January 2008.

92 "Buku Kas Penerimaan dari Donatur Mulai Tahun 2005 Bantuan Dana Perjuangan Masyarakat Desa Bungku, Kec Babubang, Batang Hari," copy of handwritten list dated October 2007 and "Daftar Nama Donatur Perjuangan yang akan diberikan lahan kebun sawit seluas 2 Ha/KK dari Pengembalian Lahan Kebun Aswit Seluas 2,150 Ha yang ditanami oleh PTBDU, PT MPS dan PT Jamer Tulen Periode II LSM Formasku dan DI Era Tim 6 Desa Bungku," 5 February 2008.

could not be accused of theft. They were all acquitted.⁹³

When local officials refer to parts of the 2,000 ha offered by PT Asiatic not being “clean” because it is already occupied, they are usually referring to Ardani’s group.

C. Conflict Resolved?

By March 2014, then, the balance of local political support seemed to have swung away from the SAD113 group and toward the acceptors. On 14 March, eager to remove all possible signs of conflict before the 9 April elections, the district government issued an announcement that all families who had gone through the verification process were asked to immediately occupy the land they had been given. Those who were not SAD were asked to voluntarily leave the concession area within 24 hours; and if they did not, security measures would be taken “in accordance with existing laws”. On 16 March, a major operation involving police, military and security guards entered Tanah Menang where hundreds of SAD113 protestors were living in tents. Videos show a fairly systematic and orderly process of uniformed police taking down tents and putting them on trucks. The STN headline, however was “Sadistic! Malaysian Company Uses Security Forces and Thugs to Attack Suku Anak Dalam!”

On 21 March, the local newspaper announced in banner headlines “The Conflict with PT Asiatic is Over!”⁹⁴ Herman Basir, the *adat* leader, announced that all SAD members had accepted the smallholding arrangement with the company, and if anyone did not agree, it meant they were not really SAD. He said families were now receiving an income of about Rp1.6 million (\$160) a week and that everyone should be grateful to the company.⁹⁵

But the conflict is not over. Not only will SAD113 leaders continue to pursue the claim of the 3,550 ha, but the seeds of a different kind of conflict have been sown, this time between locals and migrants.

VII. MIGRANTS, LAND SALES AND OIL PALM “THEFT”

The narrative of the dispossessed indigenous farmer vs the evil company is complicated by the issues of illegal sales of land and palm oil. Both are big businesses, both are encouraging more migrants to come into the area, and in both, the migrants more often than not end up as victim. Both are used to raise funds for the “struggle” but it is not at all clear where the money actually goes. PRD/STN officials deny direct role in either, but see nothing wrong in SAD members harvesting palm trees planted by PT Asiatic on land taken from them in the 1980s. The problem is that the pickers sometimes rob other SAD members as well. The scale is huge: from January to June 2012, PT Asiatic claims it lost 33,000 metric tonnes of oil palm fruits to theft.

A. Land Sales

From the outset of the conflict, certain SAD leaders have acquired funds by selling plots of land on the PT Asiatic concession area to outsiders, either on spec, allegedly in the expectation that their customary land will be recovered, or through de facto control of land, as with Ardani, above.

Either way, in the eyes of both *adat* and Indonesian law, these sales are illegal because the individuals sellers do not have title to the land in question. In Ardani’s case, the sales were au-

93 “Dituduh Mencari Sawit, Hamid dkk dituntut 1 tahun penjara,” *Elsam.or.id*, January 2011.

94 “SAD: Konflik dengan PT Asiatic Tuntas!,” *Jambi Ekspres*, 21 March 2014.

95 *Ibid.*

thorised by the village administration, and the buyers, who were issued temporary certificates, were able to settle on it and farm, even though it was technically part of the PT Jammer Tulen concession area.

With SAD113, it is a different case. Here the sales of land appear to be a systematic fund-raising tool that also helps raise the number of protestors. The buyers, almost all of them migrants, are told that one condition of getting a plot (*kapling*) is to take part in the struggle (*perjuangan*) and they put the funds up front. Many end up losing their money and getting no land, as shown below.

For example, in the process of verification at the Batang Hari *adat* office in February 2014, 61 non-SAD came forward to complain that they had bought land from SAD members for a total of Rp. 421.7 million—or roughly Rp 7 million (\$636) per family. Now they were being told they had to leave, but they could not take advantage of the land being offered on the 2,000 ha because it was only for those verified as indigenous.⁹⁶

A more detailed case involves a Javanese man, Sukirno (not his real name). In 2013, he was approached by someone who offered to sell him land in Bungku at the very reasonable price of Rp.2.5 million (\$227) per *kapling* (two ha). The only condition was that Sukirno would have to take part in various kinds of political actions. Sukirno agreed and bought four *kapling* in the names of himself, his wife, his daughter and his son-in-law. All four took part in various demonstrations, mostly in Jambi but Sukirno participated in at least one PRD/STN action in Jakarta. He persuaded other friends to buy land on the same terms: it was cheap, and taking part in demonstrations was not a heavy price to pay. The problem was that the organisers never let up on their demands for money and by February 2014 he had paid several million rupiah above his initial down payment for the land, which in fact he has never seen and to which he has no clear title.⁹⁷

SAD113 leaders vigorously deny that they are selling land to migrants. They explain the presence of so many migrants in their ranks as an alliance with families that came initially to work in the timber concessions, bought or acquired land in the process, and then lost it to PT Asiatic. According to a SAD113 leader, they have just as much right to restitution as indigenous SAD members.⁹⁸ This explanation suggests that all the migrants who have joined with SAD113 have been in the area for generations, but it is clear that land sales are responsible in part for a new influx.

B. Oil Palm “Theft”

From the beginning of mediation efforts, PT Asiatic complained that palm oil fruit was being systematically stolen by the truckload from its trees. Some of the farmers, particularly in the southern part of the concession area, say it is not theft if the land was stolen from them in the first place and especially if its current legal status is unclear; they will continue to take it and sell to whomever they like. They also argue that they should not be penalised, because a 2011 Constitutional Court decision removed two articles of the 2004 Plantations Law that had sometimes been used to punish theft.⁹⁹

But stolen palm oil is a big business that goes beyond just trying to avenge past land grabs or support the struggle to get it back. There appears to be a large black market in “stolen” palm fruit, in which the beneficiaries are local non-SAD businesspeople, known as “Korean tycoons”

96 “Perkembangan Verifikasi Adat,” signed by M. Rasyid, 26 February 2014, statement posted in the Batanghari Lembaga Adat.

97 IPAC interview, neighbor of “Sukirno,” 23 March 2014.

98 IPAC interview, SAD113 leader, Jambi, 8 March 2014.

99 Colchester et al, *op.cit.* p.38.

even though they have nothing to do with Korea.¹⁰⁰ They reportedly buy up fruit at far below market rates from SAD leaders who organise the harvest operations and hire the pickers and trucks.¹⁰¹ The pickers are more likely than not to be non-SAD, sometimes coming in as day labourers, and they operate in small teams, on the instruction of individual brokers. The problem has become even more complicated with the settling of SAD families on PT Jammer Tulen concession, because if before, it was the company whose trees were being harvested, it is now other SAD families who have taken up the company's offer who are now losing fruit to these harvesters.

One court case from 2010 illustrates how the process works. In July 2010, sixteen men were arrested from the Mentilingin hamlet, in the southern part of the PT Asiatic concession, and charged with theft. Police accused Ardani, the Bungku village notable mentioned above, of being the mastermind. Ardani's brother Budi was the broker of the sales but also someone who employed palm oil workers on a piecework basis of Rp100,000 (\$10) per ton of picked fruit. One witness, a worker who had lived at Budi's house, said he had been paid Rp.500,000 but Budi still owed him Rp5 million (about \$500). None of the workers had any understanding of where land boundaries were or at what point they went in or out of Ardani's group's customary land. PT Asiatic claimed the total loss to the company from the operation in question was \$700, hardly a huge dent in the company's finances.

The cycle of "thefts" and arrests adds another dimension to the conflict, exacerbating it in three ways.

First, in the eyes of the community, arrests for theft epitomise injustice: poor fruit pickers harvesting on what they see as their own land are jailed but those responsible for land grabs and violence go free. The local prison is always full: in 2010, the defence team for one group of pickers noted that of about 140 inmates of the Batang Hari district prison, about 80 were in for palm oil theft.¹⁰²

Second, the arrests involve company security guards working together with local police, reinforcing a widely held perception that the police effectively act as an extension of the company. When the "thieves" face beating or extortion after arrest, as not infrequently happens, the sense of anger deepens.

And third, such arrests frequently lead to demonstrations in support of those detained that turn violent.

It was a palm oil "theft" that triggered one of the biggest outbreaks of violence on the PT Asiatic concession in August 2011, when officers from the paramilitary police unit Brimob seized a truck of a man they claimed was involved in illegal sales of fruit. Over the next two days, clashes with the community led to a wholly disproportionate response by police and security guards: the systematic bulldozing of houses and displacement of 83 families.¹⁰³ As noted above, the incident triggered a new complaint from IFC/CAO to Wilmar.

In the most recent outbreak of violence, a young man named Titus Simanjuntak, 28, an ethnic Batak from Sibolga, North Sumatra, was arrested on 5 March 2014 for stealing palm fruit by a group of soldiers who came to his house. He was then put in a patrol vehicle to be taken to a PT Asiatic security post. Along the way, the car stopped and his captors took him out, and kicked him, then beat him with rifle butts until he vomited blood.¹⁰⁴ When they reached the post, he

100 The term used is *toke Korea*, and different sources defined it slightly differently. One said the word "Korean" was used to denote anyone who paid cash up front, before the harvest.

101 The company said it paid Rp.1,800 per kg but the black market purchasers pay only Rp.600.

102 Public Interest Lawyer Network (PIL-NET), "Pembelaan (Pledooi) Terdakwa Ardani bin Sayuti", Muara Buliam, Jambi, 13 April 2011.

103 For a description of events, see "Mediation: a strategy or a final objective?" op.cit, p.15.

104 "Kisah Titus, Petani Jambi Yang Jadi Korban Penculikan TNI", Berdikari Online, 9 March 2014.

was reportedly beaten again, this time with rattan. On 2 April, military police arrested six soldiers from the district military command in Batang Hari (KODIM 0415) and formally indicted them for the unlawful arrest of Titus and subsequent assault.¹⁰⁵

Shortly after Titus was arrested, a Javanese friend of his named Puji led a group of some two dozen men to demand his release. According to a company official, Puji was carrying a jerrycan of gasoline, ready to set the company buildings alight. He was overpowered by security guards and beaten senseless, then thrown on a truck, handcuffed, and taken to the local police hospital in Jambi. There he was left on the floor, untreated, until he died. Five others in his group were injured.

Puji had reportedly recently been released from prison for cutting off the hand of a company security guard in an earlier confrontation. There may therefore have been an element of revenge involved in his treatment. Police took the case seriously; five security guards from PT Asiatic were quickly arrested and charged under Article 170 of the criminal code -- violent assault, leading to death. It remains to be seen how they will fare in court.

VIII. LESSONS FROM JAMBI

The lessons from SAD113 are a sobering reminder of just how complicated these conflicts are.

1. **The longer these conflicts are allowed to fester, the more complicated they become.** The SAD113 group started out as a relatively small, coherent group of farmers defined by their place of origin and descent group. Over time, it splintered into several different components, while opening its ranks to many non-SAD groups. By early 2014, PRD/STN was claiming that SAD113 was composed of 1,500 families, which was statistically close to impossible, if they all were “indigenous”. At the same time, Pak Nurman, the community leader who had initially worked on behalf of the whole group, went off on his own to stake a claim to a particular section of land, and when that did not work, embraced the peasant union’s tactics of using *adat* claims on behalf of a larger group. Along the way, the meaning of “indigenous” or *masyarakat adat* became increasingly unclear.

2. **No government agency has both the mandate and the power to effectively adjudicate land conflicts.** One reason why these conflicts seem to go on and on interminably is that different offices, at different levels of government, have a piece of the problem but no one has responsibility for all of it. At different times in SAD113 conflict, the initiative seemed to be with the centre, the province or the district respectively but it kept changing. Even at the district level, the attitude of the land office was not necessarily in sync with the police chief. Not a single agency had the capacity to step back and assess what needed to be done, let alone to make it happen; civil society lobbying was crucial to prompt any kind of government response. From 2012 a clear solution was on the table, but it was contingent on the company funding a re-measuring process. Apparently not a single government agency had either the power to compel the company to pay or the authority to allocate funding from a different source. The BPN seems to be powerless. According to the Jambi provincial secretary,

We wrote to the central office of BPN recommending that the concession be reviewed. PBN agreed and told the company it would have to set aside funds for the area to be re-measured. PT Asiatic never responded, and there’s nothing that BPN can do about it. We sent a letter to PT Asiatic three times, asking them to turn over the funds. In theory, the government could revoke the permit of the company but it has no interest in doing

105 “Aniaya Petani, 6 Anggota TNI Jadi Tersangka”, *Kompas*, 3 April 2014.

so. At the province level, we can only facilitate, we have no authority. It is clear our efforts aren't working.¹⁰⁶

One source said that in general, it was easier to resolve conflicts where the lead government agency was the Forestry Ministry rather than BPN because at least there tended to be clear land coordinates involved.¹⁰⁷

3. The solution to conflict most often lies with the company. In some ways this is an unfortunate lesson, because it suggests that civil society efforts and government regulations ultimately count for less than a corporate change of heart. But it also suggests that consumer pressure and groups like RSPO are useful because the certification process changes the stakes for the companies involved. Responsible Sourcing Guidelines also help. The IFC/CAO process unquestionably helped push PT Asiatic to understand that it had no choice but to find a solution – even if it was not the one that Setara and its clients were aiming for.

In Jambi's biggest success story of a resolved land conflict, the solution only became possible when the company decided to call in a mediator. The conflict involved a group of farmers who had lost their smallholder rubber plots when an industrial tree plantation called PT Wira Karyasakti (WKS) linked to the Sinar Mas group began operations in 2006 in Senyerang, Jambi. The mediator involved, The Forest Trust or TFT, had worked with Sinar Mas in the past so there was an element of trust already established. The agreement led to a solution that involved the payment of compensation through a cooperative and the resumption of rubber-planting on land that will be held collectively, through the cooperative, rather than distributed individually to the farmers.¹⁰⁸

The popularity of mediation efforts has led to the establishment of a new network, the Impartial Mediator Network, specifically for resolving land and resource conflicts in Indonesia.¹⁰⁹ The men and women involved are all experienced mediators, most of them from NGO backgrounds. Whether or not they are called into service still depends on the willingness of the company to have them. But the responsibility of settling conflicts should be the government's, not the private sector's, and it needs to be pro-active rather than reactive – a reason for strengthening BPN.

4. Confrontation – and sometimes violence – on the part of activists works. One lesson that many of the agrarian activists have learned well is that confrontation, and sometimes violent confrontation, gets attention when peaceful protests do not. Any arrest is likely to lead to accusations by NGOs that activists are being “criminalised”, without regard for the circumstances of the case, and violence will often bring in television cameras of what otherwise would be a local issue that would get no attention. Even in the success story, mentioned above, the company only decided on mediation after an outbreak of violence in 2010 which one person was killed. If peaceful protests get nowhere and violent protests lead to change, then there is a clear incentive for more violence. This should be a lesson to the government to resolve conflicts quickly rather than allowing them to fester, but as long as there are multiple agencies with confusing mandates, this will be easier said than done.

5. Violence on the part of security forces is counterproductive. In dealing with land conflicts, security forces are frequently confronting angry crowds. They need to be able to defend themselves, but there is never justification for gratuitous beatings of suspects after arrest or demolition of homes – and in almost every case where this has happened, it has made the conflict

106 Interview with Syahasadin, secretary of Jambi provincial government (*sekertaris daerah, sekda*), Jambi, 10 February 2014.

107 IPAC interview, Agung Wiyono, The Forest Trust, 17 February 2014.

108 Some observers suggest that this case is not an unqualified success. A detailed evaluation is in process by Forest Peoples Programme, an international NGO.

109 The Impartial Mediator Network's website is www.imenetwork.org.

worse. There may be justification in some circumstances for evictions, but it is the government's responsibility to ensure that these are handled without violence or looting; with adequate notice; and with provision for alternative housing.

6. Agrarian reform is an important and legitimate goal, but exploiting land conflicts is not the only way to pursue it. Proponents of reform cite growing land scarcity and increasing concentrations of land in agribusiness concessions as an argument for setting minimum and maximum limits on landholdings. They note that BPN figures show that 56 per cent of assets in the form of land, property and plantations is held by just 0.2 per cent of the population. They argue that only through more systematic redistribution of land, as was promised by the Yudhoyono government in 2006, can rural poverty be addressed, and they may be right.¹¹⁰ But land conflicts can also be exploited for political ends. In the SAD113 case, the most obvious player was the PRD/STN, whose leadership is open about wanting to build a political base for 2019. It was only the largest of the peasant groups fielding candidates through mainstream parties in Jambi for the 2014 election.¹¹¹ Political objectives do not make the struggle for agrarian reform illegitimate but they can complicate the situation on the ground for other parties. In the Jambi case, PRD/STN's tactics succeeded where mediation did not in getting central government acknowledgment of the right of SAD113 to its land. But if the number of claimants thanks to those same tactics is triple what it was eighteen months ago, what happens with distribution if the land is eventually returned and how are differences between the original claimants and the newcomers resolved?

7. Indigenous rights legislation needs to be accompanied by the strengthening of state institutions that can fairly assess and adjudicate land claims. Given institutional weaknesses that exist at present, any effort to return large amount of land to indigenous control may lead to the creation of multiple *adat* organisations purporting to represent the same group, more sales of land on spec, and commodification of indigenous status. It is the task of government and lawmakers to address these problems proactively, working closely with civil society to build safeguards into new legislation and move toward a "one-stop shop" for addressing conflicts. The phenomenon of widespread internal migration needs to be better understood at the same time, so that indigenous rights does not mean migrant disenfranchisement or discrimination, and new conflicts between migrants and locals are not created.

IX. CONCLUSION

Jambi, like most other provinces across Sumatra, is awash in conflicts. The provincial government says there are thirteen major disputes; the environmental organisation Walhi says there are

110 See "Reforma Agraria Prioritas", *Kompas*, 7 April 2014 and Gunawan, "Reforma Agraria Pasca SBY", *Kompas*, 11 April 2014.

111 Another group active in Jambi, the Indonesian Farmers' Union (Serikat Petani Indonesia, SPI), is allied with La Via Campesina, the transnational peasant movement that sees many aspects of international trade and finance as facilitating corporate land grabs and inherently inimical to small-scale farmers. SPI's signature struggle in Jambi is on behalf of some 12,000 to 15,000 migrant farmers growing coffee in Kerinci Seblat national park who have been targeted by conservationists, indigenous groups and some local politicians. In the April 2014 elections, SPI, which had in the past forbidden its members from standing for elective office and criticised STN for being too preoccupied with politics, reluctantly agreed to let two of its Jambi members contest district council seats after pressure from within its own ranks. A third organisation, Jambi Peasants Union (Persatuan Petani Jambi, PPJ) is local but affiliated to the national Consortium for Agrarian Reform and the Indonesian Peasant Alliance (Aliansi Petani Indonesia, API). It helped organise the farmers involved in the case that was successfully resolved with the help of The Forest Trust (above). The head of PPJ ran as a legislative candidate for the Great Indonesia Movement party (Gerakan Indonesia Raya, Gerindra) after being urged to do so by PPJ members who said the farmers needed someone to articulate their problems within the provincial legislature.

more than 300.¹¹² Many of these seem intractable, but with the right institutions and mediators, many more could be resolved.

Indonesia desperately needs a better mechanism for adjudication of land conflicts. Some Indonesian activists would like to see a new body similar to South Africa's Commission on Restitution of Land Rights established, in which individuals or groups whose land was acquired for concessions during the Soeharto years could make claims against the state but would also be urged to negotiate a settlement with the goal of obtaining "equitable redress". Rather than create a new body, however, it would probably make more sense to strengthen the mandate, powers and budget of BPN, the national land agency, so that a decision like the one to require PT Asiatic to fund a mapping process could be immediately enforced.

The "One Map Movement" of the Presidential Working Unit for Supervision and Management of Development (UKP4), set up by President Yudhoyono, needs to be endorsed and continued by Indonesia's next president. The program, which focuses on better spatial planning, including participative mapping, as a way of resolving land conflicts, may help prevent future conflicts; it will be less useful in resolving existing ones.

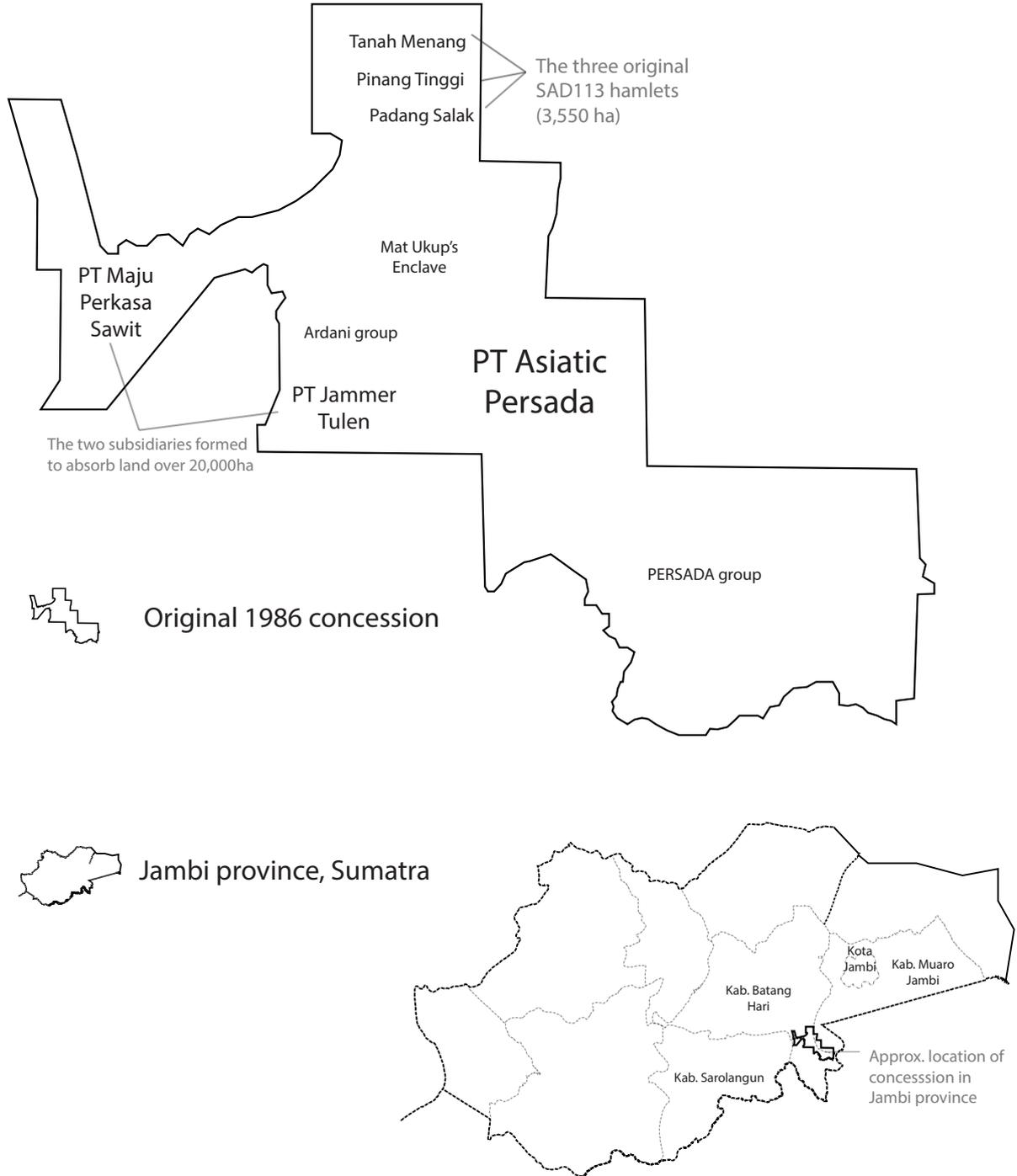
The Impartial Mediators Network, the network of respected Indonesian NGO leaders with experience in complicated negotiation, needs to become better known, with success stories shared both in the corporate community, among civil society groups, and within the Indonesian government. It is important to learn lessons from the failures as well as the successes, but the conditions that allow mediation to succeed need to be understood by all parties.

Finally, the Indonesian government and civil society need to have a clear appreciation of how indigenous rights can be exploited and co-opted for other objectives.

Indonesia will soon have a new president and parliament. Understanding the depth of Indonesia's land problems and the urgency of addressing them should be at the top of its agenda.

112 "300 Konflik Belum Tuntas", *Jambi Independent*, 10 March 2014.

Appendix: Map of PT Asiatic Persada and Jambi Province



INSTITUTE FOR POLICY ANALYSIS OF CONFLICT (IPAC)

The Institute for Policy Analysis of Conflict (IPAC) was founded in 2013 on the principle that accurate analysis is a critical first step toward preventing violent conflict. Our mission is to explain the dynamics of conflict—why it started, how it changed, what drives it, who benefits—and get that information quickly to people who can use it to bring about positive change. In areas wracked by violence, accurate analysis of conflict is essential not only to peaceful settlement but also to formulating effective policies on everything from good governance to poverty alleviation.

We look at six kinds of conflict: communal, land and resource, electoral, vigilante, extremist and insurgent, understanding that one dispute can take several forms or progress from one form to another. We send experienced analysts with long-established contacts in the area to the site to meet with all parties, review primary written documentation where available, check secondary sources and produce in-depth reports, with policy recommendations or examples of best practices where appropriate.

We are registered with the Ministry of Social Affairs in Jakarta as the Foundation for Preventing International Crises (Yayasan Penanggulangan Krisis Internasional); our website is www.understandingconflict.org.