

A Comparative Analysis of the Causes and Attempts to Resolve Four Rural Land Disputes in Java and Sumatera

by

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GLOSSARY OF ABBREVIATIONS

KPA	The Consortium for Agrarian Reform
BPN	The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia
BAL	The Basic Agrarian Law
HGU	The right of exploitation
BPS	The Indonesian Central Bureau of Statistics
KESBANGPOL	The National Unity, Politics and Community Protection Agency
SAD	Indigenous tribe (<i>Suku Anak Dalam</i>)
TIMDU	Integrated team to handle social conflicts was established (<i>tim terpadu penanganan konflik sosial</i>)
PIR/NES	Nucleus Estate-and-Smallholders scheme (<i>Perusahaan Inti Rakyat</i>)
PKI	September 30 1965 Communist Rebellion
PPKM	The Kelud Makmur Farmers' Society (<i>Paguyuban Petani Kelud Makmur</i>)
PRONA	National Agrarian Program (<i>Program Nasional Agraria</i>)
PTSL	Complete Systematic Land Registration (<i>Pendaftaran Tanah Sistematis Lengkap</i>)

SUMMARY

This research was undertaken to obtain a better understanding of land disputes between rural communities and plantation companies in Indonesia. The research was structured around three aims: documenting four contemporary land disputes, conducting a comparative analysis of the causes of these disputes, and attempting a comparative analysis of the attempts to resolve these disputes. In each dispute three groups of stakeholders who had roles in the land disputes were studied: the local communities in the rural areas, the companies who own large-scale plantations, and various arms of government at the national, provincial, district and local levels.

Two cases studies each were selected in East Java (Java) and Jambi (Sumatera) Provinces. Both the case studies in East Java involved people from Gadungan village, in Blitar District. The two companies involved in these disputes were PT. Blitar Putra and PT. Rotorejo Kruwuk. In Batanghari District, Jambi, the case studies were between PT Asiatic Persada and the indigenous *Suku Anak Dalam* in Bungku Village, and PT. Sawit Jambi Lestari and the transmigrant community in Belanti Jaya Village. These cases studies were selected because of the broad differences between the two islands in terms of their land tenure history, demographic characteristics and type of agricultural development.

The primary data was obtained by administering questionnaires and conducting interviews with 20 households each Bungku and Belanti Jaya, and 30 households in Gadungan about their experiences of land tenure issues and land disputes. Other interviews were conducted key informants such as; government officers in national, province and district levels; heads of the villagers; village elders; and companies. Legal documents, letters and minutes of meetings related to the case studies; and newspaper articles were also used. Secondary data were collected from legal documents, letters and minutes of meetings related to the case studies. Official reports issued by government departments and newspaper articles were also used.

The questionnaire responses were analysed qualitatively using a Likert Scale, and quantitatively using the nonparametric Mann-Whitney U test. Interviews were analysed using combination of the steps identified by Grbich (2013), and Matthews and Ross (2010). They were transcribed and categorised by themes drawn from the research questions, and then sorted using Microsoft Excel worksheets. The interviews were presented and discussed through selected quotes, with the interview details specified at the end of the quotation.

Two disputes were resolved and two are ongoing. The dispute between PT. Asiatic Persada and *Suku Anak Dalam* was resolved. The dispute between PT. Blitar Putra and Gadungan community were resolved when the company given 90 hectares land to community. However, there are questions over the sustainability of this agreement because people have sold the land parcels distributed to them because they were too small to be economically viable, and the company placed a condition of no further claim into the agreements.

The disputes between PT. Sawit Jambi Lestari and the transmigrant community in Belanti Jaya, and PT. Rotorejo Kruwuk and people from Gadungan, remain unresolved. All parties are still claiming that they believe they have rights to the land. The implementation of rules and regulations concerning abandoned land and expired HGU land rights has proven very difficult in these case studies. And it required further research.

DECLARATION

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.



Signed: _____
(Rahmi Yudianti)

Date: March 2 2018

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DEDICATION

To my (late) mother, Nur Rochmah Dwi Atmini.

“Your memories take me back to the time when You always gave me hugs and said “don't worry everything will be alright”. Your words have empowered me to become the person that I am today. Mom, I love you and I miss you”

CHAPTER 1: INTRODUCTION

1.1 Research background and problem definition

Access to land is critically important for many people in rural areas to help them achieve their socio-economic aspirations, this is especially true in the agricultural sector. A significant volume of research from the developed world has shown that the peasantry do not have access to land, or only have access to land parcels that are barely large enough to produce enough to meet their basic needs, let alone improve their livelihoods (Moyo et al., 5005). Unsurprisingly, rural land disputes are a persistent problem in most developing and emerging economies.

Rural land disputes have become a long-term problem for Indonesia (Maladi, 2013). They often occur between individual farmers or groups of farmers and the government or commercial interests. They negatively impact individual farmer's livelihoods and taken as a whole depress the potential for the performance of the nation's rural production systems. These negative impacts are often masked by the role high-yielding plantation crops play in boosting Indonesia's export earnings and the concerns about forest and biodiversity loss that are voiced by conservation professionals. Land disputes in Indonesia are, in fact, a complex of issues; the most important of which are disputed land ownership, conflicting forms of land use and utilization¹ and the fate of abandoned land. According to KPA (2016) 450 land disputes in 2016 affected 86,764 households. The amount of land disputed was around 1,625,027 ha. The greatest amount of land disputed was in plantation areas (36.2%) followed by land disputes in built up areas (26%) and over infrastructure (22.2%). In terms of the plantation sector, the commodity attracting most attention has been the expansion of oil palm, which has led to many agrarian conflicts in several regions of the country (KPA, 2016).

¹ Term '*use and utilization of land*' is a single agrarian term in common use in Indonesia. It equates to the more widely used term '*land use*'.

Since 2001 1,753 rural land disputes covering 10.8 million hectares of land and affecting more than a million people have been documented by The Consortium for Agrarian Reform (KPA) and 187 affiliated people's organizations and NGOs from twenty-three Indonesian provinces. Those cases involve disputes between local people and combination of one or more of the following: government (42 percent), private (45 percent), and state (10 percent). According to Lucas (2013) by 1992 large plantation estate covered 3.8 million hectares, and was held by 1,206 foreign and domestic companies with an average holding of more than 3,000 hectares each (Lucas 2013).

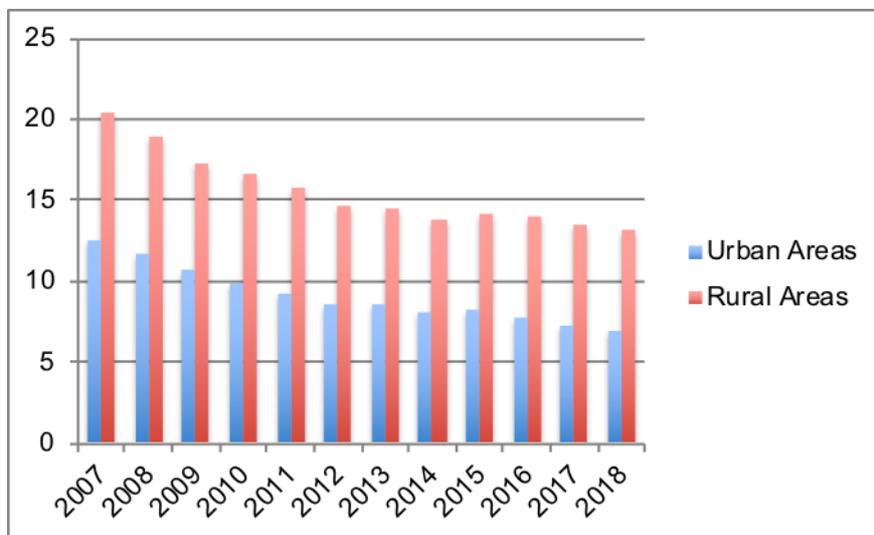


Figure 1.1 Percentage of poverty in Indonesia (BPS, 2018).

Figure 1.1 shows the proportion of people living in poverty in rural areas has declined year-on-year between 2007 and 2018, with the exception of 2014 - 2015, but has always been greater than in urban areas. In fact, the relative difference between people living in poverty in rural and urban areas has increased from 2007 to 2018. Though the link between rural livelihoods and land is strong; non-farm activities, migration and mobility are complicating factors in the land-sustainable rural livelihood nexus. Peluso (1995, 2009) and Peluso et al. (2008) have shown that this varies between different regions of Indonesia. For example, there are more off-farm opportunities in Java than on

the Outer Islands. That difference also applies when comparing between Java and Sumatra.

“Data kemiskinan terakhir menunjukkan bahwa jumlah orang miskin di Indonesia mencapai 39.05 juta jiwa atau 17.75 persen dari total populasi Indonesia. Di kawasan perkotaan angka kemiskinan tersebut adalah 13.36 persen sedangkan di kawasan pedesaan mencapai 21.90 persen. Hal ini menunjukkan bahwa kemiskinan paling banyak diderita oleh penduduk pedesaan yang pada umumnya adalah petani...Banyaknya kemiskinan di sector pertanian berkaitan dengan penguasaan tanah yang timpang. Data terakhir menunjukkan bahwa petani gurem (penguasaan kurang dari 0.5 hektar) mencapai 56.5 persen dari total jumlah petani...Saat ini terdapat 2,810 kasus pertann yang dilaporkan daerah ke Kantor Badan Pertanahan Nasional Republik Indonesia. Tanah yang berada dalam sengketa/konflik/perkara tidak dapat dimanfaatkan secara optimal, sehingga merupakan opportunity loss dan menutup akses rakyat untuk memanfaatkannya”

“Recent poverty data shows that the number of poor people in Indonesia has reached 39.05 million people or 17.75 percent of the total population of Indonesia. In urban areas the poverty rate is 13.36 percent while in rural areas it reaches 21.90 percent. This shows that poverty is mostly (acutely) suffered by rural people who are generally farmers...The poverty in the agricultural sector is related to inequality of land tenure. The latest data shows that poor farmers (those having less than 0.5 hectares) is 56.5 percent of the total number of farmers...There are currently 2,810 land disputes cases (have been) reported to the National Land Agency of the Republic of Indonesia. Land in dispute/conflict cannot be utilized optimally, so it is an opportunity lost and (it) closes the people's access to use it (the land).” (BPN RI, 2007, 1).

Poverty, unemployment, inequality in income distribution, and land disputes and conflicts are critical problems facing Indonesia’s rural political economy. The persistence of rural poverty and unemployment points to a fundamental problem: the poor agrarian structure constrains the access of many peasant and landless farmers to sufficient land (and to other productive inputs and public services) for them to produce enough to achieve sustainable livelihoods above the poverty line. Their dependence on land to generate income means that their access to land is vitally important. Land access can add value to household assets that cannot be used effectively except on the land; can provide food; serve important insurance functions; and can improve child welfare in terms of nutrition, health and improved education (Bruce, 2006).

Land access for the poor can be achieved by fundamental and effective agrarian reform. From a national land policy perspective, effective reform must be planned and implemented, and the delivery of agrarian-related public services must be improved. These reforms require accurate information, and

institution and capacity building. Rural development without agrarian reform has two impacts, it widens the poverty gap and increases socio-economic inequality (Bachriadi et al., 1997).

As I will show in this thesis, the way land is owned in Indonesia can be rooted in Indonesia's Dutch Colonial Era government policies (this particularly applies to Java) or be an outcome of post-independence land tenure changes (which apply to all of Indonesia²). Either way, once established and consolidated, land ownership can remain fixed with little if any change taking place. I will show that the land allocation programs that have been applied to the initial post-independence land distributions have led to new forms of highly unequal access to land in Indonesia. Pressure for agrarian reform has been high in the past, and is on the rise again because of the inability of the highly unequal land distribution to meet the needs that are being generated by rapid changes in Indonesian society. Population growth, increased mobility, development of markets, income growth, and changing forms of economic exchange and social interaction are all examples of societal change that have exposed the inadequacies of land distribution. The example of population growth as a cause of a rural land dispute is where redistributed land was given to transmigrants to Sumatra from Java (Chapter 4). Increased mobility also comes into play in the case of peasant farmers who move of their own volition to areas where they can obtain land. Again, this is exemplified in Chapter 4. The development of markets is an indirect cause for rural land disputes, for example where companies who have received HGU land rights (see pages 15-16 for a definition of HGU). Examples from Kalimantan and Sumatra show that even though tax revenues from companies to government increase, the centrality of land in sustaining rural livelihoods is lost, and the restoration of land for peasant agriculture is difficult and peasant farmers are disproportionately affected (Peluso, 1993, 2017). When a rigid land ownership structure does not absorb social change social and political forces, such as agrarian revolutions that spill

² The first person is used in this thesis to indicate things that I did as part of the research project, while the third person is used to indicate things done by others.

over into political change, can be set into motion: as the examples that I will discuss in Chapter 2 show.

On the one hand, these internal pressures on society can be a result of inadequate land distribution. While on the other hand, many large tracts of land belong to private and public (government and state) entities which leads to social 'jealousy' prompted, in part, by the real socio-economic inequities experienced by people that live in the vicinity of these large estates.

1.2 Research aims, objectives and questiones

In light of this, the research in this thesis builds on theories and concepts related to land disputes and the ways in which they can be resolved. I used these theories and concepts to frame the research carried out on four detailed case studies, which were aimed at understanding how the land disputes had occurred, how government had attempted to resolve them, and how contemporary land reform through redistribution of some land to the rural peasantry in Indonesia might provide security of tenure in the future.

The overarching research question guiding this thesis is to understand some of the causes of rural disputes in Sumatra and Java, and they ways in which they can be resolved. This question has three themes, each of which has a research aim and specific objectives and research questions. These are as follows.

Aim 1: To document four contrasting rural land disputes.

Research objectives:

- 1.1 To obtain and collate documentary evidence for each land dispute
- 1.2 To carry out field-based research for each land dispute using interviews, questionnaires and participant observation to extend the knowledge base gained in objective 1.1.

The outcomes from this aim are discussed in Chapters 4 and 5. There are no specific research questions associated with this aim as it mainly concerns gathering essential information for Aims 2 and 3

Aim 2: To understand the causes of the four land disputes

Research objectives:

- 2.1 To analyze the causes of each dispute individually (Chapters 4 and 5)
- 2.2 To develop a deeper understanding of the land disputes by undertaking a comparative analysis of their causes (Section 6.2)

Specific research questions associated with Aim 2:

What are the causes of each of the four land disputes?

What are the differences between the causes of each of the four land disputes?

Aim 3: To understand why some disputes have been resolved and others have not.

Research objectives:

- 3.1 To analyze the attempts to resolve each dispute individually (Chapters 4 and 5).
- 3.2 To identify and evaluate successes and failures in the types of dispute resolution applied to the disputes studied, and to undertake a comparative analysis of the attempts at dispute resolution (Section 6.3).
- 3.3 To evaluate the potential of land redistribution (as part of contemporary land reform) in obtaining long-term solutions to land disputes (Section 6.4)

Specific research questions associated with Aim 3:

What approaches have been used to resolve each of the four land disputes?

How successful have the approaches used to resolve each land dispute been?

What factors have led to success or failure in resolving these disputes?

Could land redistribution be a factor in long-term resolution of rural land disputes?

1.3 Thesis structure

This chapter has introduced the research topic in broad terms and provided research aims and objectives. Chapter 2 reviews the research literature. It aided me in developing an understanding of causes of, and solutions to, land disputes globally. There is an emphasis in the review on the links between land reform and rural land disputes in the context of Indonesian agrarian policy and political history, and in the role of mediation in resolving land disputes. A short chapter follows which explains the research strategies adopted and the methods used in the research. Chapters 4 and 5 provide details of land disputes in Batanghari District (Chapter 4) and Blitar District (Chapter 5). Two case studies are considered in each of these chapters, and the material documented is based on primary and secondary sources. In each case study a historical narrative to the dispute is provided, essential background information about the village involved in the dispute is presented, and the causes and attempts at resolution are discussed. The research is synthesized in Chapter 6. In this chapter, the causes and the attempts at resolution through litigation or mediation are compared. In addition, the role of land redistribution discussed. The final chapter concludes the thesis and provides recommendations for further research.

CHAPTER 2: LAND DISPUTES AND LAND REFORM - LITERATURE REVIEW

2.1 Introduction

The literature review comprises three main sections. The first (Section 2.2) focuses on land disputes in Indonesia. An important aspect of this section is that it introduces the laws and regulations pertaining to rural land issues in Indonesia. Section 2.3 reviews the concept of a land dispute and then examines research into their causes. The aim is to understand what types of land disputes exist and what are their main triggers. Section 2.4 examines mediation as a tool for resolving disputes. It develops a theoretical understanding of the types and processes of mediation.

2.2 Rural Land Disputes and Land Reform in Indonesia

To support the case studies investigated in this research, the discussion in this sub-section is divided into four part. The first focuses on the history of land law in Indonesia, the second discusses land administration in Indonesia, the third explores on land reform in Indonesia, and the last examines on land disputes in Indonesia.

2.2.1 The History of land law in Indonesia

During the Dutch colonial era, gradually, especially in 1870, the forced cultivation system was abolished. This is because in the Netherlands there had been shifts in political power from the conservatives to the liberals. Liberals were opposed to the system of exploitation by the state or government. They replaced the forced cultivation system with the private enterprise system and the forced labor system with a free wage labor system. Thus, opening up colonized land for Dutch private investors and the opening of private plantation lands in Indonesia (Praptodihardjo, 1952 and Ahmady et al., 2010). With the growing development of liberalism, Dutch private entrepreneurs who felt that their businesses in the field of large plantations faced obstacles during the implementation of the forced cultivation system, began demanding greater

opportunities to open plantations in Indonesia. Demands increased because of the irregularities in the forced cultivation system.

The processing of this 'claim' took many years, and it was not until the Dutch government found a solution in 1870 with introduction of *Agrarische Wet* (Agrarian Law) (Harsono, 1999). The Agrarian Law (1870) main purposes were to give opportunities to private agricultural companies to develop land in Indonesia, while at the same time protecting the rights of the Indonesian people over their land. The *Agrarische Wet* became the basis of all agrarian regulations in Indonesia, which over time has led to many problems because of its dualistic nature. For foreigners, especially to guarantee development by private companies, western laws apply; while for the Indonesian people customary law applies (Tauchid, 1952). The land rights in this regulation included: (1) *Eigendom*, rights which were granted to foreigners forever in order to expand a city or to set up a company. These can be obtained by buying customary land from Indonesians; (2) *Erpacht*, rights were land rights that were needed by foreign private plantation companies so that they could make investments in Indonesia (Santoso, 2005). This resulted in the expansion of plantations in Java and Sumatra. The introduction of *Agrarische Wet* lands at altitudes between 700 and 1000 masl in Java led to the establishments of tea and coffee plantations. In the lowlands in Sumatra pepper and oil palm plantations were established using these rights from the early 20th Century onwards (Ahmady et al., 2010).

2.2.2 The Indonesian Land Administration System

This section discusses the Indonesian legal framework and system of land administration. The legal framework related to land in Indonesia is based on the Basic Agrarian Law (BAL) and its regulations. This material provides an essential legal background to understand the case studies.

The legal framework

Laws and regulations in Indonesia follow a hierarchy according to Law 12/2011. In order these are as follows:

- 1) The State Constitution 1945 (*Undang-undang Dasar 1945*);
- 2) Decisions of The Peoples' Consultative Assembly (*Ketetapan Majelis Permusyawaratan Rakyat*);
- 3) Laws (*undang-undang*) or government regulations substituting for laws (*peraturan pemerintah pengganti undang-undang*);
- 4) Government regulations (*peraturan pemerintah*);
- 5) Presidential decrees (*peraturan presiden*);
- 6) Regional provincial regulations (*peraturan daerah provinsi*);
- 7) District³ or city regulations (*peraturan daerah kabupaten/kota*)

The Basic Agrarian Law

Article 33, paragraph 3 of the 1945 State Constitution of Republic of Indonesia states that:

"Bumi, air dan kekayaan alam yang terkandung didalamnya dikuasai oleh Negara dan dipergunakan untuk sebesar-besarnya kemakmuran rakyat"

"The land, water and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people".

This statement is the core of Law 5/1960, otherwise known as the Basic Agrarian Law (BAL). According to Articles 4 and 16 of the BAL, there are seven types of land rights: the right of ownership (*hak milik*), the right of exploitation (*hak guna usaha*), the right of building (*hak guna bangunan*), the right of use (*hak pakai*), the right of lease (*hak sewa*), the right to open up land (*hak membuka tanah*), and the right to collect forest products (*hak memungut hasil hutan*). The following four land right types are commonly in use. The strongest is the right of ownership, rights which have no time limit to ownership.

All forms of land tenure in Indonesia contain, authorize and place responsibilities and/or restrictions on the rights holder to use land in particular ways. These obligations and restrictions are the criteria that differentiate land tenure types as follows:

³ In this thesis the term District is used, it is used interchangeably with the term Regency in Indonesia.

- 1) The right of ownership (*Hak Milik*) is the strongest right to land. It is not limited in terms of time and does not imply a specific use. For example, land can be used for farming or it can be used for building on. The land can be mortgaged, sold, and can be inherited. This right is subject to registration after which the land owner receives a land right certificate as evidence of the right. Only Indonesian nationals are entitled to the right of ownership.
- 2) The right of exploitation (*Hak Guna Usaha*) is the right to use state land for agricultural uses (including plantations) and fishery purposes. It is limited in terms of time. For example, it can be awarded for a plantation for up to 35 years, with the possibility of 25 years extension. So, *de facto*, the right of exploitation of state lands can be granted for up to 50 or 60 years. The right of exploitation can be acquired by Indonesian citizens and corporations established under Indonesian Law and domiciled in Indonesia. This right has to be registered at the Land Agency Office (BPN). It can be transferred to other parties with the permission of BPN by sale, exchange or gift. The four case studies documented in Chapters 4 and 5 are disputes over *Hak Guna Usaha* or HGU rights.
- 3) The right of building (*Hak Guna Bangunan*) gives the holder rights to use a land which does not belong to the holder with a period of 30 years with the possibility of 20 years extension. It can be acquired to a private or state land.
- 4) The right of use (*Hak Pakai*) is the right to use a particular land parcel of private or state land. Usually foreign embassies, government offices, and religious places use this land right. Foreigners and foreign companies with delegates in Indonesia can obtain the right of use.

The relationship of a person or group of people to land in Indonesia is influenced by Indonesia's history. Land tenure arrangements in Indonesia have been influenced to varying degrees by the past colonial powers and, in particular, by Dutch colonial rulers in various islands of the archipelago.

The way a person or group holds land can be found mainly in the 1945 Constitution and is further explained in the BAL. The BAL brought new elements to the existing legal system. The ways that modern land tenure is regulated are merged with respect to customary and/or religious landholding. The BAL is based on Article 33 of the 1945 Constitution on Principle 5 of the State Philosophy (*Pancasila*). Specifically, the Constitution, states:

“Cabang-cabang produksi yang penting bagi Negara dan yang menguasai hajat hidup orang banyak dikuasai oleh Negara”

“Branches of production which are important for the State and which affect the lives of most of the people, shall be controlled by the State”.

Principle 5 of the *Pancasila* specifies:

“Keadilan Sosial bagi seluruh Rakyat Indonesia”

“Social justice for all Indonesians”

Forest land, coastal land, mines, cultural conservation land, railway and military land are not subject to the BAL. They have their own administration and are governed by particular government institutions (Daryono, 2010). If Article 1 of the BAL is considered further it is clear that the Ministry of Forestry only has the authority to manage rights for forest resource exploitation. The delineation of a forest area, as described in the BAL, restricts who can be granted rights to use forests for economic purposes and which forests can be exploited, but it does not give the Ministry of Forestry the authority to control the land ownership of forest areas. All the processes associated with land-related matters in forest areas should be under jurisdiction of the The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia (BPN). This is important in this research because the two case studies (1 and 2) pertain to land that was until the late Twentieth Century forest land.

Land titling

One of the main objectives of BAL is to realize legal certainty regarding land rights for all Indonesian people, which consists: (1) the provision of complete and clearly written legal instruments; and (2) organizing land registration that

allows holders of land rights to prove rights to the land they control and for the government to implement land policies.

Regarding BAL Article 19, Paragraph 2, land registration regulations are: (1) measurement, mapping and bookkeeping; (2) registration of land rights and the transfer of rights; and (3) the granting of proof of rights documents (which provides strong evidence).

The provisions concerning land registration are further regulated in Government Regulation Number 10 of 1961 which was refined and replaced with Government Regulation Number 24 of 1997 concerning Land Registration. Article 1 number 1 of Government Regulation Number 24 of 1997 concerning registration of land states:

“Pendaftaran tanah adalah serangkaian kegiatan yang dilakukan oleh pemerintah secara terus menerus, berkesinambungan dan teratur, meliputi pengumpulan, pengolahan, pembukuan dan penyajian serta pemeliharaan data fisik dan data yuridis dalam bentuk peta dan daftar, mengenai bidang-bidang tanah dan satuan-satuan rumah susun, termasuk pemberian surat tanda bukti haknya bagi bidang-bidang tanah yang sudah ada haknya dan hak milik atas satuan rumah susun serta hak-hak tertentu yang membebaninya”.

“Land registration is a series of activities carried out by the government continuously and regularly, covering the collection, processing, bookkeeping and, presentation and maintenance of physical data and juridical data in the form of maps and lists, concerning fields of farms and units of flats, including the issuance of proof of rights for land parcels that already have their rights and ownership rights to the apartment unit and certain rights that burden them”.

According to Parlindungan (1998), land registration comes from the word cadastre, which in Dutch is kadaster. Cadastre is a technical term for a record that refers to the area, value and ownership of a plot of land. It also functions as a continuous record of land rights.

Land registration in Indonesia based on Article 22 of Government Regulation Number 24 of 1997 is (1) simple: the main provisions and procedures for land registration must be easily understood by interested parties, especially by holders of land rights; (2) safe: land registration needs to be carried out carefully so that the results are able to provide legal certainty; (3) affordable: services provided in the context of land registration must be affordable for

those who need it, especially by paying attention to the needs and capabilities of weak economic groups; (4) up-to-date: availability of adequate equipment in carrying out land registration and maintenance of data; the available data must also be up-to-date so that registration and recording of changes that occur in the future must be carried out; and (5) open: the public can obtain correct information at any time.

Land registration is carried out by the BPN where the task of implementation is carried out by the Head of the Land Office assisted by the Land Deed Making Officer (PPAT) and other officials assigned to carry out certain activities. According to Article 9 Paragraph 1, the objects of land registration are lands with right of ownership, right of cultivate land, right of building, right of use or right of management, waqf (pronounced wakaf) land, apartment units, mortgaged and state land. Waqf is the process of transferring private property rights to a corporation that benefits the community. The land right can then be used for worship, education, and social practices as ownership rights. Such land right endowments must be registered with the Land Office for them to be able to issue of a Certificate of Endowments as their proof of their rights (Santoso, 2014).

Land titling has been seen as particularly important in securing land access for landless and poor farmers. A number of government programs have been aimed at helping such farmers secure rights. First, the National Agrarian Program (Program Nasional Agraria/PRONA). Decree Number 4 of 2015 from the Minister of BPN concerning PRONA, defines it as a series of mass land certification activities, in an administrative area of a village or other designation. PRONA is for smaller and poorer communities where all activities are organized by the government in the field, with subsidised land registration is in the form of mass land certifications in order to assist weaker economic communities. Secondly, Complete Systematic Land Registration (Pendaftaran Tanah Sistematis Lengkap/PTSL) is a program that was successfully created by the Government of Indonesia which aims to provide legal certainty and legal protection for land rights for Indonesian people. PTSL provides an opportunity

for people who have not registered their land in the entire territory of the Republic of Indonesia in one village. The background of this is that the government still finds much land in Indonesia that has not been certified. Land certification is a matter that must be carried out by the community in order to obtain legal certainty, with authentic evidence of land ownership being provided by a land certificate. This program is carried out by the Government of Indonesia and simultaneously includes the collection, processing, bookkeeping, presentation and maintenance of physical data, and the provision of evidence for plots of land that already have rights on it. This includes property rights, business use rights and building use rights. The costs of this program are met by government.

The right of exploitation (HGU)

Chapter 4 (Articles 28 to 34) of the BAL provides the specifics about the right of exploitation (HGU). Article 28 paragraph (1) states that it is the right to cultivate land directly controlled by the state within the period referred to in Article 29 for agricultural, fisheries, or farms. Directly controlled by the state (*state land*) in this context means that land that has never had any land rights conferred on it (not forest land) or land which previously had land rights but, because of certain legal acts, has become state land; there are four categories:

- 1) land which had colonial government land rights during the Dutch Colonial Era;
- 2) land with certain land rights which have expired;
- 3) land whose owners has been deprived of their rights; and
- 4) land that has been is released voluntarily by the owner.

According to Article 34 of the BAL, HGU can be withdrawn because:

- 1) the time period for the rights has expired;
- 2) they are terminated before the term expires because a condition is not met;
- 3) they are released by their owner before the expiry of its term;
- 4) they are repealed on public grounds;
- 5) the land has been abandoned; or

6) the land has been destroyed, e.g., because of a natural disaster.

Regulations providing more detail about HGU rights can be found in Government Regulation 40/1996, regarding the rights of exploitation (HGU), building (HGB), and use (*Hak Pakai*). In Article 4, paragraph 4 it states:

“Dalam hal di atas tanah yang akan diberikan dengan Hak Guna Usaha itu terdapat tanaman dan/atau bangunan milik pihak lain yang keberadaannya berdasarkan alas hak yang sah, pemilik bangunan dan tanaman tersebut diberi ganti kerugian yang dibebankan pada pemegang Hak Guna Usaha baru”.

“In the case of where there are plants and/or buildings owned by another party whose have a legal basis to ownership of the land which is provided with a HGU, the owner of the buildings or plants are compensated for the losses by the new owner of HGU”.

Other rules and regulations related to HGU are Government Regulation 24/1997 regarding the Indonesian land registration system in which BPN is mandated to conduct land registration in Indonesia; and the Head of BPN Regulation 7/2017 regarding the settings and procedures for determining HGU.

Customary (*adat*) law

In the modern Indonesian state there are two parallel legal systems—customary law and statutory law. In West Sumatera, West Kalimantan, Bali and many other remoter parts of the state customary law still exists and local communities use it for everyday affairs. For these people, it is more transparent and easier to comprehend than statutory law.

A pertinent question then is: how far are customary rights taken into consideration in Basic Agrarian Law? The Basic Agrarian Law recognizes the rights of indigenous communities under the right of disposal (*hak ulayat*). In Article 3 BAL *hak ulayat* is mentioned:

“Dengan mengingat ketentuan-ketentuan dalam pasal 1 dan 2 pelaksanaan hak-ulyayat dan hak-hak yang serupa itu dari masyarakat-masyarakat hukum adat, sepanjang menurut kenyataannya masih ada, harus sedemikian rupa sehingga sesuai dengan kepentingan nasional dan Negara, yang berdasarkan atas persatuan bangsa serta tidak boleh bertentangan dengan undang-undang dan peraturan-peraturan lain yang lebih tinggi”.

“As the provisions of Articles 1 and 2 of the implementation of customary rights and similar rights from customary law in societies, as long as it is still true there, must be such that in accordance with the national interest and the State, which is based on the unity of the nation and should not be contrary to law and other higher regulations”

The BAL acknowledges land customary, individual or communal, as long as there is no conflict with the legal system in Indonesia. However, there are no regulations for the registration and documentation of this customary land. It has a consequence that if a person who claim to have a customary land but cannot prove it, the land is automatically treated as a state land. The national interest carries more weight than customary rights.

Most of the customary land is in forest areas, which is administered by the Ministry of Forestry. Therefore, not surprisingly, the division of land policy and management between forest and non-forest areas causes many problems, particularly the recognition of customary rights. In rural areas many people live in forest especially in remote areas, and the chance to have their customary rights registered is small as forest areas are considered state land. This is a point that will be expanded in the first case study (Section 4.4).

Abandoned land

Abandoned land decreases overall productivity, and to avoid this it has been ruled that the rights to land already granted might be revoked for abandoned land. The government issued Government Regulation 11/2010 regarding control and utilization of abandoned land, and this was followed up by the Head of BPN Regulation 4/2010 of February 1 2010 regarding procedures for the control of abandoned land, and another regulation (5/2011, dated July 14 2011) regarding procedures for BPN to empower state land ex-abandoned land.

According to Article 2 of Government Regulation 11/2010, the object of abandoned land is land which has been granted land right by the state (including HGU), but which is not cultivated, used, or utilized in accordance with the purpose stated when the right was granted. In Article 7, identification and research activities to be applied to suspected abandoned land include:

- 1) verification of physical and juridical data about the land;
- 2) carry out a physical examination of the land;
- 3) checking documents to see if plans exist and what the phases of use and utilization are;

- 4) plotting the location of land use and utilization on the land map;
- 5) requesting information from the owner and other relevant parties, which they must provide;
- 6) analyse the causes of abandoned land;
- 7) conduct meetings; and
- 8) compile a report detailing the research.

If, based on results of the research, BPN concludes the land is abandoned, the head of the provincial office informs the company and can provide up to three warning letters at month intervals to the owner. If the owner does not act on these warning letters, the head of the provincial land office can propose to the national head of BPN to make an official determination that the land in question is treated as abandoned. The ex-abandoned land can then be used for the benefit of society and the state through the agrarian reform program, state strategic programs and as part of the state reserve.

2.2.3 Land reform

The persistence of poverty and unemployment indicates a fundamental problem. The major problem appears to be the poor agrarian structure with its unequal and unfair access, especially for the poor, to land. The informal sector, both in cities and rural areas, has a large presence in the Indonesian economy and it is estimated that around 55 to 65 percent of jobs in Indonesia comprise informal working. Even though Indonesia has experienced strong macroeconomic growth since the 2000s and recovered from the monetary crisis in the late 1990s, at present around 80 percent of informal jobs are in rural areas, especially in the construction and agricultural sectors (Indonesia Investments, 2018) (Table 2.1). This table shows significant numbers of Indonesians are working in agricultural sector, which underlines the importance of land to the national economy and therefore that access to land is essential.

Table 2.1 Percentage of informal workers in agriculture sector, 2015-2018 (BPS, 2018).

Provinces	Percentage of informal workers in agriculture sector			
	2015	2016	2017	2018
Aceh	85.11	85.72	86.79	84.53
North Sumatra	82.1	83.99	81.01	80.55
West Sumatra	86.02	85.33	90.05	89.49
Riau	65.61	76.41	73.66	75.87
Jambi*	74	80.18	78.16	74.8
South Sumatra	77.56	77.77	84.13	82.47
Bengkulu	88.98	87.89	88.87	89.74
Lampung	87.78	88.85	88.45	90.85
Bangka Belitung Islands	78.7	76.62	73.76	76.24
Riau Islands	76.49	74.25	75.42	80.94
Jakarta	47.91	47.22	38.08	48.74
West Java	86	87.1	89.2	86.15
Central Java	90.5	92.24	92.29	91.72
Yogyakarta	93.79	95.66	96.63	95.25
East Java*	89.7	90.45	89.3	91.51
Banten	89.37	89.12	93.61	87.98

Bali	92.25	93.18	93.5	93.34
West Nusa Tenggara	96.77	96.19	96.81	96.32
East Nusa Tenggara	97.82	98.15	97.21	97.61
West Kalimantan	85.34	83.83	82.31	81.74
Central Kalimantan	68.8	83.75	74.47	69.73
South Kalimantan	82.9	86.66	86.89	84.99
East Kalimantan	68.91	77.79	71.13	69.02
North Kalimantan	73.49	75.09	76.28	77.6
North Sulawesi	87.03	87.33	87.99	86.2
Central Sulawesi	89.62	92.87	94.21	92.7
South Sulawesi	92.3	92.49	93.43	93.03
South East Sulawesi	94.39	96.41	95.53	94.22
Gorontalo	87.57	91.14	86.46	89.56
West Sulawesi	92.44	91.82	89.76	93.39
Maluku	93.67	95.5	93.88	91.54
North Maluku	91.94	90.2	89.77	95.51
West Papua	92.84	93.78	91.76	91.3
Papua	98.03	98.71	98.64	98.31

*The provinces containing the case studies in this thesis, Jambi and East Java, are highlighted with asterisks.

This constrains access for most farmers, particularly peasant farmers and the landless, to sufficient areas of land; as well as to other productive inputs and

public services. Serious agrarian reform is needed. From the national land policy perspective, effective agrarian reform must be planned and implemented, and the delivery of agrarian related public services must be improved. For example, information access in relation to land, cheap and simple and transparent land registration, building public trust, and the systematic management of land disputes and conflicts. These reforms require accurate information, and institutional and capacity building (Winoto, 2009).

Agrarian reform was mandated by in the Basic Agrarian Law of 1960, House of Consultative Assembly Decree number 5/2003 and House of Consultative Assembly Provision number IX/MPR/2001. Agrarian reform requires reform of land policy and law based on the State Philosophy (*Pancasila*), the State Constitution of 1945, and Basic Agrarian Law 1960. The agrarian reform movement is an attempt, to overhaul social order because the existing system is considered unfair, and not an appropriate basis for improving the welfare of the people (Wiradi, 2000).

A land reform program was implemented in Indonesia from 1962 to 1965. This program was introduced during Sukarno Presidency which is known as the Old Regime (*Orde Lama*) from 1950 to 1965 with the purpose of creating balance in land distribution. It was a response to landless peasants and poor people in rural areas. But that land reform program failed. Failure was dominantly because: the political events of September 30 1965; the government's lack of accountability in implementing land reform; and land scarcity (especially on Java) in the face of redistribution (Hardiyanto, 1998). The political battles in 1965 caused a change in leadership from the Old Regime to the New Regime (*Orde Baru*). During the New Regime from 1966 to 1998 land reform was no longer implemented. In fact, in order to achieve high economic growth, the New Regime government was more concerned with agro-industrial development, forest tenure concessions, and large-scale plantation development which all led to inequality. Poor peasants in rural areas found it increasingly difficult to gain access to land for agriculture. In addition during this regime, land disputes, open protests, and rallies were severely restricted and even local communities

did not have voice if they have land conflict with plantation companies (Sakai, 2014). This unfinished land reform program has caused the current land disputes detailed in Chapter 4 and 5.

The New Regime claimed that the implementation of land reform program was through transmigration program; a popular program at that time. Transmigration was a program to move people from overpopulated islands (e.g., Java, Bali, Madura, and Lombok) to the so called 'outer islands'. The landless and poor peasants, who had been moved, were granted the land allocations for them to start their own farms. From 1969 to 1997, during the New Regime, around 1.1 million families were moved through the transmigration program with around 2.2 million hectares of land was being distributed. These 2.2 million hectares do not include land allocations for public facilities at transmigration sites. Although some of the land that had been redistributed for this transmigration program was, in fact, customary land for the local people (Lucas, 2013). Rural land in Indonesia is also exploited for forests, mines and to exploit its tourism potential: these can also lead to problems when they are in conflict with the agrarian structure (Bachriadi et al., 1997).

Indonesia is an agrarian country with a land-based economy that contributes significantly to the welfare of the people. Land is an important resource and is fundamental for development as it has cultural and social values. The importance of land also gives rise to disputing claims. There are a large number of land disputes and conflicts in Indonesia, and these have led to poverty, social problems, economic losses and internal security issues. However, this relationship also works the other way around. Government has to be involved in this matter as the resource – in this case is land – is limited; especially where high population growth occurs in area where land is in short supply, most notably large parts of Java. Putri and Setiawina (2013) showed that in a detailed investigation of one village in Indonesia that age, level of education, and type of work has a significant and simultaneous effect on the income of poor households. Consequently, villagers who have low incomes and no or

little land, but who are able to work look for other work beyond providing labour on other farms, turn to off-farm employment to increase their incomes and secure their livelihoods. They argue the government should provide capital assistance to poor households as start-up funds to set up small businesses that are community-owned as a way of tackling the links between poverty and land management and development. Therefore, the government has to pay serious attention to land management and development.

2.2.4 Rural land disputes in Indonesia

Land disputes and conflicts occur in large numbers in Indonesia, and this had led to poverty, social problems, economic losses and internal security issues (Winoto, 2009). I have already shown that there are many types of rural land disputes, but in this research the focus is on disputes that involve rural communities and businesses that have large plantations with HGU rights. I chose these types of disputes because I also wanted to examine the potential for land reform (in this case land redistribution) to resolve such disputes to the ultimate benefit of the poor and landless in rural Indonesia. This is, in effect, the third aim of my thesis (Section 1.2). In many cases, when large land parcels have been given to a company with HGU there is a sense of injustice amongst the peasantry who live in the area, and a certain amount of envy because a company with HGU rights benefits from protection by the state (Hardiyanto, 1998).

The enactment of the BAL and Forestry Law 41/1999 (FL) marked a new era in the legal framework for land and natural resource management in Indonesia, as these laws regulate directly the management and distribution of natural resources. Natural resources management in Indonesia, especially management of natural forests, varies with the culture of the people who are using the resources. The current situation in respect of natural forests in Indonesia has been described as being in crisis, despite the fact that many local people are trying to conserve natural forests by encouraging cooperation with local government or by self-motivated preservation (Dala and Jaya, 2002).

The potential scale of this problem needs to be set in context. Indonesia has the second largest tropical rainforest area in the world, with an estimated 190 million hectares: 74 percent of this has been designated as state forest land. After the fall in the price of oil in the mid-1980s, the timber industry became one of the main revenue streams for the national budget. Since then the government has encouraged commercial logging by private sector companies by granting forest concessions. However, state lands are also used by local farming and indigenous communities, who have inhabited them for many generations and whose livelihoods are dependent on them (e.g., *Case study 1*, Section 4.3). Indigenous people are usually perceived as no more than squatters by the government and this has brought them into conflict with the government, and with migrant farmers who use the logging roads to enter and clear forest land (Poffenberger, 1990).

Conflict between local people who claim the rights to land and natural resources use, and the forest industry and forestry department officials, which has only existed for the last 15 years. The main reasons for these conflicts are uncertainties about the 'rules of the game' in forest areas. Though the Ministry of Forestry has complete legal authority, it does not have the resources to manage such large areas and therefore cannot guarantee the security and management of forestry areas for either local people nor private sector actors. The ambiguity and uncertainty about who controls and owns the so-called 'state claimed forest' can be seen as a failure of the state to manage its forest estate. Fundamental questions such as: what is state forest land?, where is state forest land? and what is the jurisdiction of the Ministry of Forest over forested areas? have yet to answered fully (Fay and sirait, 2005). Furthermore, the BAL, as the basic legal document for land regulation, still leaves large gaps in managing the customary rights of people who largely live in forest areas. The present regulatory situation concerning this issue is unclear, which can lead to the acknowledgement of customary rights becoming a political decision to be made by local governments. These decisions do not always favour local communities as will be seen in *Case study 1*. State land is more widely used to support the interests of national and international capital rather than the

economic interest of local people (Bachriadi et al., 1997). For example, a Malaysian investor received HGU rights for 15,000 hectares for an oil palm farm in South Sumatera Province in 1990s, but the local communities claimed that 4.000 hectares of this were communal land that had not been sold by the people. This led to a dispute between the investor and local community (Sakai, 2002).

Optimising land use is one way by which achieve poverty reduction and sustainable development. However, in reality, the limited availability of land resources in many areas means that the land is not cultivated and is not used optimally in accordance with the purpose of tenure granted or the basic rights that have been granted by the competent authority. Such land is referred too as abandoned land. These abandoned lands have resulted in some land disputes (e.g., Case study 2, Section 4.5). The purpose of controlling the land is that the land can be utilized optimally to improve the welfare of the owners and to maintain environmental sustainability. If the land rights holders still do not heed the warnings the land will be directly controlled by the state. The policy and program was started in 2010, when government signed and published new regulation 11/2010 concerning the enforcement and empowering abandoned land (Section 2.2.2). Since then many problems have surfaced because in some cases abandoned land has been disputed by the land rights holder and the local people who illegally utilize the abandoned land.

2.3 Land disputes

A dispute refers to a disagreement or conflict about something between two or more people or groups of people. In this thesis, the disputes are about land. These disputes can be over small parcels of land, often much less than a hectare, to enormous landholdings of thousands of hectares. Land dispute researchers are still debating whether there are more disputes about large- or small areas. However, in Indonesia there is a nationwide contemporary issue with disputes over large landholdings. These are often plantations and they have a range of social and economic impacts on local communities (who usually dispute the legality of plantation company ownership) as well as

negative impacts on the natural environment (Schirmer, 2007). The research reported on this thesis is focussed on these large-scale rural land disputes.

2.3.1 Land disputes

What is a land dispute? A dispute or conflict exists when 'incompatible needs or interests' develop (Deutsch, 1969). Disputes arise between parties when one side's needs or interests cannot be fulfilled because they overlap with the needs or interests of the other side. The two primary elements of all disputes are the disputant parties and the dispute itself (Rapoport, 1974). These overlapping needs or interests are commonplace, –mundane even– and aspects of everyday life (Noone, 1996), e.g., disputes over who owns the land or where the boundaries are. Anybody who has bought or inherited a property knows the importance placed on legally recognised and registered boundaries; and anybody who has had a dispute with a neighbour about a fence line or an overgrown hedge knows how easily disputes can arise. There are two levels of land dispute (Wehrmann, 2008):

- 1) Inter-personal conflict or dispute in relation to demarcations of land boundaries, land markets, inheritances, and similar types of agreements.
- 2) Higher level land disputes that encompass a wide range of interests and needs; e.g., state land acquisition of local land, encroachment of commercial enterprises; and conflicts between pastoralists and cultivators.

A land dispute consists of 'land' and a 'dispute'. Combining these words indicates a dispute where the disputants (the stakeholders involved in the dispute) have incompatible needs or interests related to particular parcel of land. The negative outcome of such an incompatibility is a dispute. Many factors influence the type of dispute and its possible causes. The latter are usually either geographical, historical, political, social, cultural or economic in origin. Land disputes can also be interpreted as social facts involving at least two disputing stakeholders who are rooted in their different needs or interests

concerning tenure of the disputed land parcel, e.g., the right to use the land, the right to utilize or manage the land, the right to obtain income from the land, the right not to allow others to exploit the land, or the right to transfer the land ownership. Therefore, disputes can be interpreted as a misuse, restriction or conflict over land ownership (Wehrmann, 2008).

There are many variants of land disputes and the range is broad. Several elements can influence the stakeholders who are in disagreement, and multiple stakeholder behaviour and issues can arise. Dimensions such as these can affect how disputes are resolved, e.g., through or 'outside' the court system, the length of time it takes to resolve them, and even whether they remain unresolved or are re-ignited after they have been resolved. The complexity that these dimensions imply, can be illustrated just in terms of causation by four examples drawn from developing countries.

- 1) Some settlements in Swaziland demonstrate a dendritic spatial pattern. Houses in rural areas are interspersed with densely populated settlements around a work centre, e.g., an industrial complex. This pattern is advantageous in that it increases employment opportunities and agricultural prospects. Unfortunately, it also leads to pressure on natural resource use and there is little land available for expansion. The high population and land-use densities in these areas lead to many disputes over land allocation for housing or agriculture, and land boundaries and irrigation. These disputes have to be settled between families at a chief's council (Rose, 1992).
- 2) In Narok District, Kenya, land conflicts have arisen because of high levels of economic disparity between different groups over land tenure and land use (Amman, 2001).
- 3) In the Brazilian Amazon, some land disputes are caused by squatters and inconsistent land ownership rights. The existing laws do not clearly specify or allow enforcement of land ownership by one party. As a result, land can be lost in the courts or by direct physical violence (Alston et al., 2010).

- 4) Disputes have arisen because of historical land claims where war and large-scale economic projects have threatened the lifestyles of the Maya Q'eqchi' and K'iche' for decades in north-east Guatemala. The most common impact of these conflicts is the seemingly persistent struggle by communities to reclaim their traditional lands (Granovsky-Larsen, 2013).

What is clear from these four examples is that there are many causes of rural land disputes. Many other causes are not revealed in these examples. Disputes also arise because of the lack of dialogue and discussion, and the translocation of people and the loss of their access to traditional endowments that underpin their livelihoods (Thaworn et al., 2010).

Recent research (de Groot, 2006 and von der Dunk et al., 2011) has shown that land-use conflict can be so complex that resolution is difficult. Long-term land disputes have often escalated to more broadly impact social and political life (i.e., socio-politics). Governments have to be aware of this, and act to resolve certain types of dispute before they escalate and lead to fundamental socio-political impacts. The disputes over large plantation landholdings in Indonesia have the potential to escalate in this way.

In order to reduce land disputes, governments generally need to improve land administration. This will allow them to effectively implement existing land laws. Governments also have to promote awareness of land laws amongst the peasantry to help them understand their responsibilities and rights in respect to land tenure and use. If this can be achieved, the frequency of disputes over land use and other issues related land tenure should decline (Mequanent, 2016).

2.3.2 Types and causes of land disputes

Research by Wehrmann (2008) has enabled causes to be categorised as either political, economic, socio-economic, socio-cultural, demographic, legal and juridical, administrative, technical, ecological, and psychological. These are introduced in Table 2.2. In addition to the causes listed in this table,

environmental factors also aggravate disputes and increase difficulties in resolving land disputes (Xie and He, 2014).

Table 2.1: Causes of land conflicts (Wehrmann, 2008)

Cause	Examples
Political causes	<ul style="list-style-type: none"> • Changes in the political and economic system, including nationalisation or privatisation of land • Lack of political stability and continuity, lack of predictability • Introduction of (foreign, external) institutions that are not popularly accepted • War/post-war situation in which there are many former military, para-military, or guerrilla fighters all of whom are accustomed to the use of violence • Political corruption, state capture and land grabbing • Political (and economic) support for big farmers to the disadvantage of poorer peasants
Economic causes	<ul style="list-style-type: none"> • Evolution of land markets • Increasing land prices • Limited capital markets
Socio-economic causes	<ul style="list-style-type: none"> • Poverty and poverty-related marginalisation/exclusion • Extremely unequal distribution of power and resources (including land) • Lack of microfinance options for the poor
Socio-cultural causes	<ul style="list-style-type: none"> • Destroyed or deteriorated traditional values and structures • Rejection of formal institutions (new, foreign, external) • Low level of education and lack of information on institutions and mechanisms of land markets • High potential for violence • Abuse of power • Strong mistrust • Helplessness of those disadvantaged • Unregistered land transactions • Fraud by governmental administration and/or individuals • A patronage-system or clientelism • A strong hierarchical structure of society • A heterogeneous society, with a weak sense of community or lack of identification with society as a whole
Demographic causes	<ul style="list-style-type: none"> • Strong population growth and rural exodus • New and returning refugees
Legal and juridical causes	<ul style="list-style-type: none"> • Legislative loopholes • Contradictory legislation • Legal pluralism • Traditional land law without written records or clearly defined plot and village boundaries • Formal law which is not sufficiently disseminated or known • Limited/no access to law enforcement and jurisdiction by the poor/disadvantaged • Insufficient establishment of rule-of-law-principles (e.g. lack of independent courts) • Insufficient implementation of legislation • Missing or inactive mechanisms for sanctions

Administrative causes	<ul style="list-style-type: none"> • Insufficient implementation of formal regulations • Centralisation (e.g. centralised land use planning) • Administrative corruption • Insufficient control over state land • Lack of communication, co-operation, and co-ordination within and between different government agencies as well as between public and private sector (if existent at all) • Lack of responsibility/accountability
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However, most disputes are not simple, they have more than one cause and these causes are often inter-related. In addition, as disputes evolve, new ‘causes’ can come into play. In other words, causes can impact on each other. Administrative causes are particularly complex, and occur when there is more focus on policies or institutions, than on processes and the implementation of the policies themselves. When land disputes arise, e.g., land acquisition is disputed, the structural analysis generally concerns the objective conditions of land acquisition disputes, while ignoring the subjective initiatives and abilities of the parties (Xie and He, 2014). The main issues are:

- 1) Ambiguity of the public interest, when the government has a decision-making role regarding land acquisitions but they do not favour peasant farmers or the poor. For example, socialization and notification of land acquisition plans and policies to peasants; policy for fair land compensation for peasants; and developing programs for rural areas that are fair, transparent and efficient (Ding, 2007). Actions such as these can create respect amongst the peasantry and improve their understanding of their rights.
- 2) There is an incomplete understanding of peasants’ land ownership rights because of a lack of knowledge of the importance of land ownership: i.e., more attention is paid to labour than ownership. Farmers lost their land because they agreed to trade their labour inputs to their land for a payment, but were unaware that in doing so they would lose their ownership rights to the land. This was in essence fraud (Zhenjun, 2007).

3) Fair compensation for land appropriation is important, especially where disputes between village and local government are triggered, at least in part, by economic problems. This is often accentuated by the distribution of income from land acquisition and development. Of all the parties involved in land acquisitions, people who depend on land to earn a living are the least compensated and sometimes there is no compensation at all. This is often compared to spending on government's institutions and administration in the same area. One of many recent examples from China was research conducted in Bayan village in north-east Yunnan where the benefits resulting from land development did not materially improve the position of the rural population (Guo, 2001).

Wehrmann (2008) illustrates how land disputes occur in urban, peri-urban and rural areas (Table 2.3).

Table 2.3: Typical land conflicts in urban, peri-urban and rural areas (Wehrmann, 2008)

Urban Areas	Peri-Urban Areas	Rural Areas
<ul style="list-style-type: none"> • Informal land acquisition by squatters or pavement dweller; • Eviction; • Land use conflict: not respecting building regulations; • Illegal subdivisions resulting in densification and slums; • Illegal sale or lease of state land in prime locations; • Illegitimate expropriation by banks of the property of the poor; • Displacement of settlers by commercially motivated developers or speculators. 	<ul style="list-style-type: none"> • Informal land acquisition by squatters, often through organised group squatting; • Multiple sales of land; • Illegal sale of state land by public officials; • Expropriation without compensation by the state of land which is perceived to be customary land by the settlers (Africa); • Land use conflicts; not respecting building regulations. 	<ul style="list-style-type: none"> • Illegal lease of state land for logging, mining, agro-industry; • Land use conflict among farmers and pastoralist; • Land use conflict between conservation and commercial use of natural resources (forest, lakes etc); • Land grabbing: public officials taking state land (for themselves or friends); • Land robbery: guerrillas and other violent groups taking private land; • Land clashes between different groups.

This research focus in this thesis is on disputes over large landholdings in rural areas. The areas disputed vary in size. From the company perspectives the

disputes are over large landholdings, while from the household and community perspectives they may be over small areas of land. Nonetheless, each land dispute is a localised issue for the protagonists - peasant farmers and businesses - and for local government agencies. However, it is a national issue, with approximately 1.5 million ha of land being disputed in over 450 cases (KPA, 2016). However, these disputes often intensify by mistrust of government by the local communities. Unreasonable policies put governments and the peasantry on an unequal footing, and make it easier for governments to abuse its power in the land acquisition process. Unlawful or inappropriate administrative actions provide peasantry with the evidence they need to question the genuineness of land appropriation. Ultimately, they can use it to justify any action they take in a dispute. Finally, uncertainty about policies amongst groups of poor and landless farmers can trigger unnecessary disputes.

2.3.3 Land reform

The gross land inequalities experienced by the landless and rural poor has triggered many disputes in the developing world during the twentieth Century, many of these disputes have become violent and the political movements that have built around them have led to land reform in several countries that are discussed in this section.

Land reform generally means the redistribution of control over or power in relation to land. It is almost always targeted at bringing benefits to the peasantry through the redistribution of large landholdings. In doing so, it improves land rights and enhances access to land for poor people through legal acts (Besley and Burgess, 2000 and Barraclough, 1973). The main objectives of land reform are to modernize or enhance the structure of rural production, which in turn, leads farmers to pay attention to production. This is in the interests of farmers, as it provides them with an income, and of the state, as internal food security may be enhanced and/or export earning boosted. Establishing a land tenure system that ensures fair distribution of land to the

real cultivator is important as it has can have a positive impact on land productivity (Ojha, 1976).

With the aim to redistribute land for poor and landless people, land reforms have been undertaken in many countries. The general consensus are how to redistributed land peacefully and legally, without raising social conflict, politic problem or corruption (Binswanger-Mkhize et al., 2009). According to Boras and Franco (2010) there are four types of reform in land policies: redistribution; distribution; non-redistribution; and reconcentration (Table 2.4).

Table 2.4: Trajectories of change and reform in land policies (Borras Jr and Franco, 2010)

Type of reform	Dynamics of change and reform; flow of wealth and power transfer	Remarks
Redistribution	Land-based wealth and power transfers from landed classes or state or community to landless or near-landless working poor	Reform can occur in private or public lands, can involve transfer of full ownership or not, can be received individually or by group
Distribution	Land-based wealth and power received by landless or near-landless working poor without any landed classes losing in the process; state transfers	Reform usually occurs in public lands, can involve transfer of right to alienate or not, can be received individually or by group
Non-(Re)distribution	Land-based wealth and power remain in the hands of the few landed classes or the state or community, i.e. status quo that is exclusionary	'No land policy is a policy'; also included are land policies that formalize the exclusionary land claims/rights of landed classes or non-poor elites, including the state or community groups
(Re)concentration	Land-based wealth and power transfers from the state, community or small family farm holders to landed classes, corporate entities, state or community groups	Change dynamics can occur in private or public lands, can involve full transfer of full ownership or not, can be received individually, by group or by corporate entity

In order to ensure that land redistribution is effective and in accordance with the objectives of land reform, there must be a responsible change and adjustment of the previous agrarian structures in which the redistribution of rich landlords' land is transferred to poor farmers and rural landless workers. This can have a major impact on and improve the livelihoods of poor farmers and rural landless workers (Borras, 2007).

Some of the salient experiences of three regions—Latin America, Sub-Saharan Africa and East Asia— were chosen as part of the selective international review of land reform. They are highlighted below:

Land reform in Latin America

Land reform and social systems have a complex relationship in Latin America, and it became a tense issue when land tenure and agricultural organizations failed to keep pace with developments in society. In the Latin American experience land reform was found to be less successful when the land that was distributed was only state-owned land, whereas any serious and more successful land reform also included privately-owned land in populated and productive areas (Barraclough, 1973).

In Chile, land reform started in the first quarter of the Twentieth Century when the political power of *hacendados*⁴ was diminished as small trade administrative centres were built in communities by the national government. Prior to this, when the hacienda system dominated, there was a dependent relationship between the *hacendados* and the peasantry. The *hacendados* required the latter as labour to work their estates, while the peasantry were afforded protection by the powerful *hacendados* and, through them, a connection to the wider world (Dorner, 1971).

In Peru, where there were intense rural conflicts, land reform in 1964 had overt political aims. The government distributed land to try and achieve peace and

⁴ A *hacendado* was an owner of a *hacienda* or large estate, but *hacendados* were also the political and social heads of the local communities.

to control the peasant resistance movement (kay, 2007). In Peru, it was considered important to address the land tenure issue in favour of poor farmers and the landless, so that they gained access to land, improved their livelihoods and engaged more with society. Land reform in Peru shows that access to land for landless farmers and indigenous people empowers them and a better social balance can be achieved.

Towards the end of Nineteenth Century, agrarian reform was initiated in Mexico when peasants lobbied for agrarian reform due to the dual issue of large landowners continually seizing more communal land and a consequent decline in their living standards (Preston, 1980). In Mexico, land reform was quite successful compared to some other Latin American countries in terms of the area covered. It was implemented through *ejidos* or areas of communal land which were given to landless peasants to farm. Each member of an *ejido* was entitled to parcels of land but communal ownership was preserved (Van der Haar, 2001).

In general, the conflict and violence that occurred in rural area Latin America was a result of the imbalance of the agrarian system in the context of social relations and the development process. The key to resolving rural conflict and violence was to give poor peasant farmers access to land and other economic resources so that they could build livelihoods and contribute on society (Kay, 2007). Agrarian reform in Latin America became the means to redistribute power. It does not mean that before agrarian reform that this matter was not a potentially explosive issue; and also it does not mean that the need for land was lessened after agrarian reform (Preston, 1980).

Land reform in Sub Saharan Africa

High levels of inequality and uncertainty in land ownership remains a major source of conflict and injustice in countries such as South Africa and Zimbabwe; as well as in some other countries, in particular Côte d'Ivoire, Kenya and Liberia. The land ownership issue represents social and economic

injustices which threaten to destroy the politics and economics of these countries (Byamugisha, 2014)⁵.

One experience of land reform in Sub Saharan Africa is the case of Zimbabwe. The colonial legacy of white farmers having large landholdings remained for more than two decades after it gained independence in 1980. In order to address this the Zimbabwean government introduced an agrarian reform program. It progressed slowly and commitment was weak (Kinsey, 2004) in these two decades. But after 2000 the agrarian reform program was fundamentally reconfigured by the government, to focus on agriculture, which led to violent evictions of mostly white owners of large farms with the land being occupied by state-supported groups such as the veterans of the War of Independence (Murisa, 2011).

The Zimbabwean case is a late, but typical, example of former colonies in Africa where large areas were appropriated for white settlers and colonial companies. Most of these countries are in Southern Africa and include Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe; but they also include Kenya, and Côte d'Ivoire. Before and after independence, from the late 1950s through to the 1970s, some of these countries introduced land reforms to improve land tenure and halt regressive land-use policies to reduce the former colonial inequalities. Objects of land reform included the nationalization of the land assets of colonial settlers and colonial businesses (Angola, Mozambique, and Zambia) and land acquisition using market-based mechanisms by giving compensation using the funds granted by the former colonial powers (Botswana, Kenya, Malawi, Swaziland, and Zimbabwe) (Byamugisha, 2014).

⁵ To underline this point, the day before I handed in this thesis, the SBS 6 o'clock news in Australia reported that the newly installed president of South Africa, Cyril Ramaphosa, has signed long-awaited legislation to redistribute land from large farms owned by white South African to the black population.

However, inequalities in land ownership and no access to land are still at an unsatisfactory level in many countries. Examples include:

- 1) South Africa, where when the African National Congress began to rule in 1994, around 10,000 white commercial farmers (who comprised 10.9 percent of the population) held 98 percent of farmland (approximately 82 million hectares). Despite heightened expectations this level of ownership had only declined by three percent a year later (Herman, 2005);
- 2) Kenya, where landlessness is very obvious. at least four million rural Kenyans have no land and at least 11 million have less than a hectare parcel of land. These figures have to be set against the fact that three powerful political families are estimated to own more than 400,000 hectares of rural land (Byamugisha, 2014).

It has been argued that one of the obstacles to land reform in Africa are the customary or traditional systems of land tenure. Speech is a common way of transferring customary land in rural Africa between smallholder families. But in some countries, e.g., Côte d'Ivoire, Burkina Faso, Benin, Rwanda and the Comoros farmers have made non-legally binding records of land transfers (Peters, 2009).

Land reform in East Asia

Land reform in Asia has taken many forms: from individual and group movements to formal and informal land markets. Changes in the ownership of rural land continues to be implemented in many places, and lately these efforts have attracted global attention (Moyo et al., 2005).

In East Asia, land reform has been an important factor that contributed to industrialization and the formation of the modern state. In Japan, Taiwan and South Korea, agriculture became an important part of the push for industrialization. In Taiwan and South Korea reform of the land tenure system was managed during the first stage of industrialization by shifting power from landlords to the state. The peasantry and the landless were given access to

finance and economic facilities. The state was able to promote modernization of agriculture as it had usurped the place of the landlords in the system (Kay, 2002). After World War II, South Korean land reform was carried out under pressure from, and support of, the U.S. government. It took ten years to complete the land reform (Deininger, 2003), and to support poor farmers, the government distributed land to them on the proviso that they pay off the purchase price within 15 years (Mitchell, 1949). The result was a rise in productivity and improved household incomes.

Japan started its second land reform process with the Land Reform Law in 1946. The purpose of the Land Reform Law was to remove absentee land right holders and required them to sell all their land to the government. It also put a limit on the size of land holdings. In this case excess land was required to be sold to the government. The land reform resulted in equity for the rural communities and increased agricultural productivity and growth in Japan (World Bank, 1975). South Korea and Japan are an example of successful the land reform (Sikor and Muller, 2009).

2.4 Dispute resolution

Dispute resolution is a complex process in which there are three main approaches (Ury et al., 1988 and Costantino and Merchant, 1996):

- 1) negotiations by the stakeholders themselves;
- 2) litigation; and
- 3) arbitration and mediation.

A decision-making system can be defined a mechanism or a coordinated process in the form of an interaction between the parties to the dispute to prevent, manage, and/or resolve it (Nolon et al., 2013). Whichever of the three dispute resolution processes is chosen, a fair and just result should be the most important goal for all stakeholders (Noone, 1996).

The rest of this section discusses one type of dispute resolution—mediation. This does not mean that mediation is necessarily better than the others. However, mediation is reviewed because of its use in all four case studies

documented in Chapters 4 and 5, and because it has been successful in two of these cases.

2.4.1 Mediation theory

Mediation and other consensus-based processes are considered to work best in a regime where there are agreed shared values, whether based on the same ethnic, communitarian or political values (Shapiro, 1981). It has been used in some courts and communities both to reduce the number of cases and prepare more consensual agreements in homogeneous areas of ethnicity or religion. In many Asian countries with a communitarian and diverse culture, mediation is often the preferred mode of conflict settlement, but it is also used for political purposes outside the field of dispute resolution by parties (Lubman, 1967). Most political regimes have to deal with public and private disputes resolution that can complement, challenge or compete with each other (Menkel-Meadow, 2001).

The core of mediation is the common sense notion that the intervention of an experienced, independent and trustworthy mediator or team of mediators will assist the parties resolve their dispute by negotiating collaboratively, rather acting in a hostile manner (Noone, 1996; Sourdin, 2005; and Liebmann, 2000). In other words, it is an alternative pathway to resolution in which a non-judgemental mediator gathers the disputants together in one or more meetings and tries to nudge them toward a common position. The disputants in a conflict consent to join mediation without coercion and in doing so an element of self-determination is shown. The triggers for a party to decide to mediate are many, and they can occur early in a dispute or much later; even after earlier attempts of resolution have failed. It is acknowledged by many people and companies as a cheaper alternative than litigation and that provides a less risky and more effective way to resolve a dispute (Noone, 1996).

Mediation displays varying perspectives in dealing with disputes that the parties face because of its elements of consent, flexibility, and informality. Ultimately, it can deliver a mutually beneficial (win-win) solution that reaches

beyond formal rules and courtroom procedures in resolving disputes. It can enable the parties involved to meet their needs because the mediator has the ability to defuse unbalanced power relations between disputants through integrative and collaborative dispute solving. The mediation movement has applied these techniques to deliver results that meet the needs of parties to a dispute in a manner which is satisfactory to all of them (Bush, 1994). According to Noone (1996), the typical characteristics to successful mediation are:

- 1) *That it is accessible:* All conflicts, whether in court or not, and whether by legal right or not, can be referred to mediation at any time and in any place where the stakeholders feel comfortable. Mediation also can take place anywhere along gradient from formal to informal depending on the nature of the conflict and the stakeholders demands.
- 2) *That it is voluntary process:* Each stakeholder who agrees to join mediation must freely approve of their mediator's choice, freely choose to engage with the mediation process, and freely achieve or not achieve an agreement. Conversely, neither the mediator nor the parties to the dispute can withdraw from mediation without giving any excuse. The stakeholders should never be coerced to continue mediation or accept a resolution or settlement.
- 3) *That it is confidential:* During mediation, all the stakeholders must be able to speak openly and feel free to show their interests, needs, and feelings without fear that these would leak outside the mediation forum. Confidentiality of what has been said or happened during mediation is compulsory and, importantly, cannot be used later on in court or legal proceedings as evidence.
- 4) *Mediation has to be facilitative:* Mediation is interest-based and problem-solving at its heart. The mediator's duty is to help the disputing stakeholders maintain control over their disputes while enabling them to complete their own settlements.

Research has also shown that mediation is more consistent in its efforts to reach agreements than other forms of dispute resolution, completion of

settlement is more often agreed by all disputants, it works most effectively when an environment is created in which mediation runs smoothly and that it is best when the mediator is effective (Rognes and Sky, 2003). A mediator who facilitates mediation is considered helpful especially when the parties to the dispute are unable to resolve their problems because there is lack of trust (Thaworn et al., 2010). The best mediators appear to be those with experience with many different techniques because, without such an experienced third party, the mediation can proceed in a trial-and-error fashion (Wall and Callister, 1995). According to Liebmann (2000) the advantages to mediation are:

- 1) it urges disputing stakeholders to concentrate on issues as opposed to focussing on each other. Rather than taking up positions, stakeholders are urged to examine at their needs and interests. Mediators assist them in distinguishing these;
- 2) it gives the disputants a chance to recount their side of the story;
- 3) it gives a setting in which disputing parties can listen to and hear the other side's story;
- 4) that people will probably change their actions if they know how their attitudes and behaviour are affecting other;
- 5) that people will probably keep any settlement they have been engaged in rather than one forced on them by an external individual or organisation;
- 6) a court resolution generally makes one stakeholder appear to be the winner and other loser, whereas mediation enables stakeholders to search for 'win-win' arrangements;
- 7) that people can achieve understandings which consider their specific circumstances;
- 8) mediators urge people to recognize what they truly need from the situation;
- 9) that mediation empowers people to talk without the fear that their words will be used as a part of the proof against them;
- 10) that mediation often get to the core of an issue;

- 11) that as conflict has many strands, mediation is better than litigation (which can only manage matters of law); and
- 12) that mediation looks at the past but places an emphasis on the future.

It is critical to know when mediation is suitable and when it is not. There are a few signs which may help to decide this question. Mediation can help when: the law is unclear, the two stakeholders need to continue to settle terms with each other, it is in the interests of both stakeholders to deal with things, when both of stakeholders are fed up or tired of the conflict; and, importantly, when there is positive attitude on both sides. Conversely, mediation is not suitable if either stakeholder unwilling to do it, when either stakeholder is unequipped to keep any agreement that might be reached, it is not generally in any one disputants interest to settle; violence is a threat; or when the conflict needs an open judgment (Liebmann, 2000).

2.4.2 The mediator and mediation process

Mediation is often recommended and a mediator appointed when the parties involved in a dispute cannot or fail to resolve their conflict. The disputing stakeholders choose and employ an impartial mediator whose role is not to judge the right and the wrong of a dispute, but act in a way that creates better communication and problem solving between the parties. Therefore, the disputants allow the mediator to engage in the arena of conflict for the purpose of assisting and empowering them to reach a settlement.

A successful mediator usually has (i) a quick mind that is able to understand the clues about the real dynamics between the parties and any hidden agendas; (ii) a 'sixth sense', many successful mediators claim to depend on their premonition in directing critical stages in mediation; (iii) a great patience and interest in the problems of others; and (iv) true humility, as a mediator must know when to withdraw from centre stage. Working in a neutral and impartial way, a mediator helps the stakeholders who are in conflict by assisting them to: (i) recognize each other's needs and fundamental interests; (ii) recognize as many options as possible for completion; and (iii) achieve a settlement that

fulfils their needs and accommodates their interests (Noone, 1996). He has analysed these qualities further and created identified four basic skill sets all mediators need to have (Noone, 1996):

- 1) They have to be capable of building trust between the mediator and the stakeholders. Even though the mediator has been chosen by the stakeholders it does not mean that they have trust the person or the team. A mediator has to earn trust starting with developing an atmosphere of respect and trust and also be open and honest with the parties involved. The mediator's competency, integrity, neutrality and consistency are therefore the keys to build the trust of stakeholders.
- 2) A mediator has to have the ability to be neutral and impartial. They must never choose sides. Neutrality refers to the characteristics of the relationships between the stakeholders and the mediator, and also the mediator's attitude during the mediation. It also means that the mediator has to ensure all parties receive equal treatment and respect and no favouritism is displayed.
- 3) A mediator has to have the ability to maintain control of the process, and to maintain a balance between the stakeholders and to allow them to freely express their stories and show their feelings and emotions, while maintaining a positive negotiating environment.
- 4) A mediator has to have the ability to be adaptable and flexible. Their role is to assist disputants to illuminate issues, needs and interests, create possible resolution alternatives and, ultimately, help them reach the final accord to their individual and shared concerns.

Mediators work under instruction to establish and resolve a dispute. They cannot contribute to, but do influence, the process of dispute resolution (Coleman, 2014). In the early stages of mediation, a mediator will try to understand the dispute and undertake preparatory work, such as approaching the parties involved, trying to build their trust, and understand the issues and the local culture (Dhialulhaq et al., 2015).

Disputing parties themselves do not enter dispute resolution without preparation. They usually prepare for the process by researching related information that will give them the best chance of meeting their needs and interests. In each case, the parties to the dispute usually consider their alternatives for mediation or negotiation, and the information they will need to negotiate effectively (Rose and Suffling, 2001).

Mediation has been used extensively in many countries to resolve various types of disputes, e.g., business, family, environment, property and even international conflicts. But in reality, there is no uniformity in the procedures for implementation (Gartner and Bercovitch, 2006). According to Bagshaw and Porter (2009) mediation in Southeast Asia has a unique performance compared to Western countries, because community elders, village chiefs, religious leaders and extended family members have important roles in resolving disputes through traditional forms of mediation. The key differences in approaches to mediation in Asia and Western countries is that in Asia it involves circular or indirect communication, and that the intentions are more likely to be aimed at restoring relations or 'saving face' while in Western countries mediation approaches are inclined to focus on solutions, neutrality, impartiality and objectivity (Bagshaw, 2009).

In Indonesia, traditional mediation has been rooted in informal deliberation (*musyawarah*) to seek community consensus (*mufakat*) (Syukur and Bagshaw, 2013). Dhialhaq et al, (2014) found that mediation is beyond just achieving a compromise as it also involves some additional positive social, economic and/or environmental impacts. The social outcomes are the most valued, in particular through increasing respect and mutual understanding, better social relations and long-term cooperation. Regarding post-mediation economic impacts, local people often acquire greater rights that enable them to earn better incomes and manage their affairs better.

2.5 Good governance

The core principles of governance can be elicited from some key definitions. The term 'governance' in a neutral sense refers to the range of relationships between civil society and the state (McCarney et al., 1995 and Swilling, 1997 in Devas, Amis et al., 2004).

“...the action, manner or system of governing in which the boundary between organizations and public and private sectors has become permeable....The essence of governance is the interactive relationship between and within government and non-government forces” (Stoker, 1998 in Devas, Amis et al., 2004).

According to Graham, Amos et al. (2003) definitions of good governance can be defying, delicate, complicated and powerful. Governance does not have the same meaning as government. Confusion between governance and government can have unfortunate consequences in terms of how governments and social organizations interact, how they relate to citizens, and how decisions are made. Governance is the process by which communities or organizations make important decisions, determine who they involve in decision-making and how they provide accountability. Hyden (1992) identifies four essential aspects of governance:

1. trust: between groups in society regarding the nature and purposes of political action, including the ability to cooperate across basic divisions in society;
2. reciprocity: the quality of social interaction amongst members of a political community, including the formation and operation of associations;
3. accountability: the effectiveness of the processes by which the governed can hold governors accountable, without which trust and reciprocity cannot be sustained; and
4. authority: effective political leadership which resolves citizens' problems and sustains legitimacy in the public realm.

The components of good governance are the actors and institutions. These include private sector businesses, both corporate and informal; civil society, including community-based organizations, NGOs, political parties, religious groups, trade unions and trade associations; and agencies of national, regional

and local government, including traditional authorities. Civil society is the balancing force for the public sector and actively acts as an agent of empowerment. It is particularly important for achieving pro-poor policies. There are, therefore, many groups with different objectives, some of which do not care about justice or poverty. For example, some elite groups may disagree or at least use their power to prevent radical interests from being accommodated. The idea is that participants change from being passive to active. Citizens are considered actors, not objects. Meaning the government must not only listen to the people, but also actively involve them in all stages of the policy process (Keiner, Koll-Schretzenmayr et al., 2005). Partners in civil society governance efforts are usually willing to be involved because they maximise benefits individually and collectively. Participation is usually based on mutual interests, exchange of resources, and commitment; although the relations between the participants do not have to be balanced. The components which should be in place in order to achieve good governance relate to the five principles of good governance: legitimacy and voice; direction; performance; accountability; and fairness (Graham, Amos et al., 2003).

Land administration and good governance

Land administration cannot only be interpreted without a foundation of land values.

“... land administration systems may include processes to manage public land, record and register private interests in land, assess land value, determine property tax obligation, define land use, and support the development application and approval process. However, by only those mechanic steps of land administration without a fundamental element, land is still surrounded by more and more of land problems. The fundamental element pointed out is good governance that must be incorporated in land administration system” (Sunarno, 2015).

Good land governance concerns the processes, policies and institutions through which property, land and natural resources are organized. This includes access to land, land rights, land use and land development; and is aimed at establishing and performing sustainable land policies (Enemark, 2012). Weak governance leads to insecurity of tenure, high transaction costs, informal land transactions, reduced private sector investments, land grabbing/illegal transfer of state land, limited local revenues, land conflicts,

landlessness and inequitable land distribution, social and political instability, erosion of ethics and low standards of behaviour, unsustainable natural resources management (Zakout, Wehrmann, et al., 2006). The need for good land governance is reinforced by the following broad-based global trends. First, increasing pressure on rural and urban land in response to volatile commodity prices (which provide incentives for investment in agricultural land) and population growth (most often in urban and suburban areas) makes it more important to effectively determine and protect land resources (Deininger, Selot et al., 2012). Table 2.5 shows principles of good land governance.

**Table 2.5 Principles of good governance in land administration
(Zakout, Wehrmann et al., 2006)**

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2.6 Summary

This chapter has considered the research literature and legal documentation related to the research thesis in three broad areas. Firstly, it has introduced why the types of land disputes that will be researched in the thesis occur in Indonesia, and the relevant laws and government regulations pertaining to them. Secondly, defining land disputes and identifying their causes. Finally, a review of mediation.

The background material on Indonesia in this Chapter scaffold the case studies and their analyses that are presented in Chapters 4, 5, and 6. In doing so, and with references to Indonesia, it defines land disputes and identifies their causes. It also provides a background on land reform and the relevant laws and government regulations pertaining to land reform in the country. In addition, there is a review of mediation and how mediation contributes to the resolution of land disputes. Therefore, the chapter provides the essential general and specific background that is required to undertake the work necessary to achieve the aims of the thesis outlined in Chapter 1.

The next chapter describes the how case studies researched in this thesis were selection, and the methods used to investigate and analyse them.

CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

This chapter provides an overview of the methodology that will be used in this research. It includes the research design process (Section 3.2); an introduction to the selection of areas for case studies of land disputes in Indonesia (Section 3.3); data collection (Section 3.4); the techniques used in data analysis and presentation (Section 3.5); and the researcher positionality (Section 3.6).

3.2 Research design

Social and cultural geographer Gill Valentine stated:

“Research design is a result of a series of decisions we make that emerge from our knowledge of the academic literature, the research questions we want to ask, our conceptual framework and our knowledge of the advantages and disadvantages of different technique” (Limb and Dwyer, 2001 and Valentine, 2001,41).

The framework and linkages between the research aims and objectives mentioned in Chapter 1 are illustrated in Figure 3.1. In order to address the research objectives, I used a mixed (qualitative and quantitative) methods to collect the data. Both qualitative and quantitative methods were applied during data collection, using the following methods: desktop study, household surveys, semi-structured interviews and participant observation (Yin, 2003). Some of these data were analyzed using statistical techniques, while most analysis was qualitative and focused on the interviews, personal observations and analysis of library and archive materials (Valentine and Clifford, 2003).

According to Rowley (2002), case studies are one of the useful approaches available for answering ‘how-and-why’ questions because they allow detailed investigation. Several ‘how-and-why’ questions needed to be answered in this research. For example, how a land disputes started, ahow was it resolved, or why it has not been resolved? Yin (1994) points out that this is a useful approach because:

“A how or why question is being asked about a contemporary set of events over which the investigator has little or no control”. (Yin, 1994, 9)

In addition, case studies can cover a field of investigation broadly, and they are able demonstrate how large the field might be and its potential scope (Ramsay and Silverman, 2002).

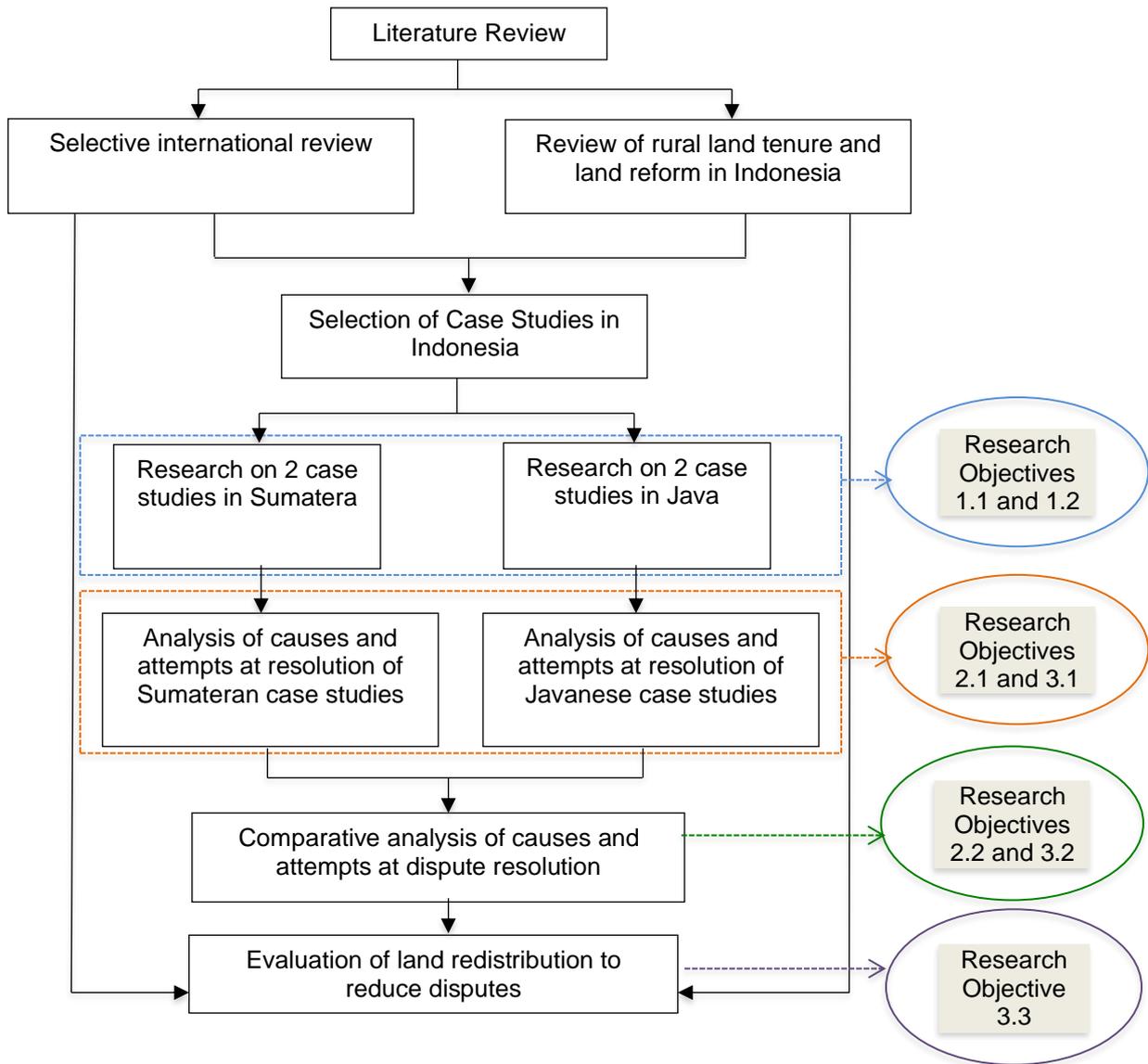


Figure 3.1 Conceptual framework for the research

The multi-method approach adopted within each case study, i.e. interviews and questionnaires to obtain qualitative and quantitative responses, was selected because of the many hundreds of social sciences research investigations carried on rural issues worldwide that have combined multiple methods. In this research project it enabled statistics on land disputes to be obtained while simultaneously acquiring depth and detail about the disputes through interviews and questionnaire responses.

The data that was obtained for each case study were subjected to controlled comparative investigations. Controlled comparative studies are used to identify causal relationships and their dependent variables, and provide an historical explanation in terms of independent variables and interventions of theoretical importance (Caldwell, 2019).

3.3 Selection of case studies

Indonesia is the largest archipelago nation in the world, bounded by Malaysia and the South China Sea to the northwest; The Philippines and the Pacific Ocean to the north east; Papua New Guinea to the east; the Arafura Sea and Australia to the south east: and the Indian Ocean to the southwest. It consists of five main islands: Java, Sumatera, Sulawesi, Kalimantan (60 percent of Borneo) and Papua as well as 13,667 other small islands and islets. These five main islands account for 90 percent of the total land area. Each island has a unique, and often complex, topography, geography and history. This leads to high levels of landscape, cultural and biological diversity as well as different natural resource endowments. For example, Sumatera and Kalimantan are still relatively densely forested, while Java has been densely populated and intensively cultivated for centuries. According to the Minister of Agrarian Affairs and Spatial Planning/BPN, territorial waters dominate the country by area, and only 30% (190,456,900 ha) is land. Of that, around 30% (69,683,448 ha) can be utilized and is termed 'cultivation area'. The remaining 70% comprises forested and other natural vegetation areas whose condition should be maintained to meet national sustainability targets (detikfinance, 2018). The

Indonesian Central Bureau of Statistics (BPS) estimates of gross national land-use composition in 2015 are provided in Table 3.1.

Table 3.1 Gross national land-use, 2015 (BPS, 2015).

	Wetlands	Dry (rainfed) fields and gardens	Shifting cultivation	Temporarily unused
Java Island	3,223,503	2,683,582	321,391	40,586
Outer Java	4,863,890	9,163,372	4,851,111	11,905,140
Total	8,087,393	11,846,954	5,172,502	11,945,726

At the time of writing (September 2017), the total population was 264.9 million based on data provided by the UN Dept. of Economic and Social Affairs, Population Division. However, population distribution is highly uneven with 57.1 percent of people living on Java (Figure 3.2) (BPS, 2013). This distribution is reflected in variations in population densities. While the national average is 1.21 people per km², it peaks at 134.16 people per km² on Java. Peasants can be landless or do not have access to enough land to fulfil their basic needs, let alone improve their livelihoods (Moyo et al, 2005). Simultaneously, as populations increase farmland scarcity is becoming a problem in most continents (Headey and Jayne, 2014), and it is the peasant farmers that suffer most from the diminishing land supply. The increases in population causes increased competition over land interests (Ningtyas et al., 2010). Figure 3.2 shows that the provinces on Java Island are highly populated compared to other Islands. The case studies in East Java Province in this thesis will discuss the extent to which high population density can trigger of land disputes (cf. Chapter 6).

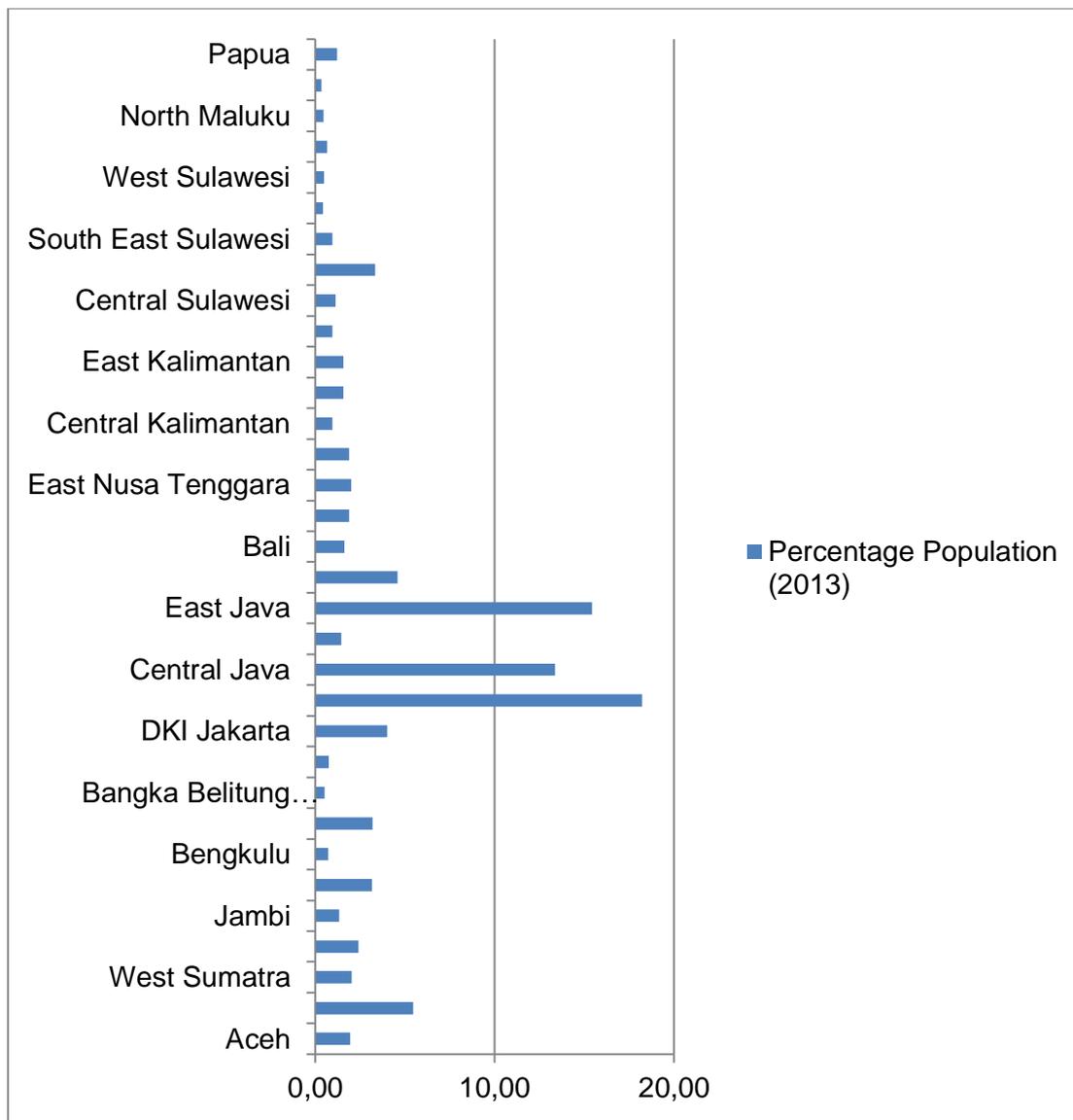


Figure 3.2 population by province as a percentage of national population of Indonesia (BPS, 2013).

Over 300 ethnic groups, largely of Malay origin, live in Indonesia. The largest of the 31 ethnic groups registered with the Central Bureau of Statistics is Javanese. They account for 40.2 percent of the total population: Sundanese account for 15.5 percent; Bataknes 3.6 percent; Malay for 2.3 percent; and Chinese 1.2 percent. The principal minority ethnic group is ‘foreigners’ at 0.07 percent (BPS, 2010a). The Chinese and ‘foreigners’ mentioned above are actually Indonesian citizens. The diversity of ethnic groups in Indonesia is important in the context of this research because ethnic differences have a potential to influence the historical customary rights related to land and

property, particularly in terms of rules over the use of customary or communal land.

The two islands I chose for land dispute case studies are Java and Sumatera. Choosing two islands as part of the research design was to enable me to try and analyse how differences in geography, history and population might affect the causes and resolutions of land disputes. Table 3.2 shows that the population density on the Java is very high, and far greater than for Sumatra island . This difference in population density is historical, and even preceded the Dutch colonial era. However, as the Dutch concentrated economic development on Java, the difference in population densities between Java and other islands actually increased during the colonial era. The difference in population density between Java and other islands was a major issues that the transmigration program introduced at the time of the New Order has tried to address.

Table 3.2 Area and population statistics for Java and Sumatra Island, 2018 (BPS, 2018).

Island	Area (km ²)	Population	Population density (people/km ²)
Java	128,297	150,400,000	1,172.28
Sumatra	473,481	58,460,000	123.47

I consulted the BPN database on land disputes early in my research (August-September 2013). At that time the database contained 4,223 cases, a little under half of which (2,014 cases, 47.7 percent) had been resolved (Figure 3.3).

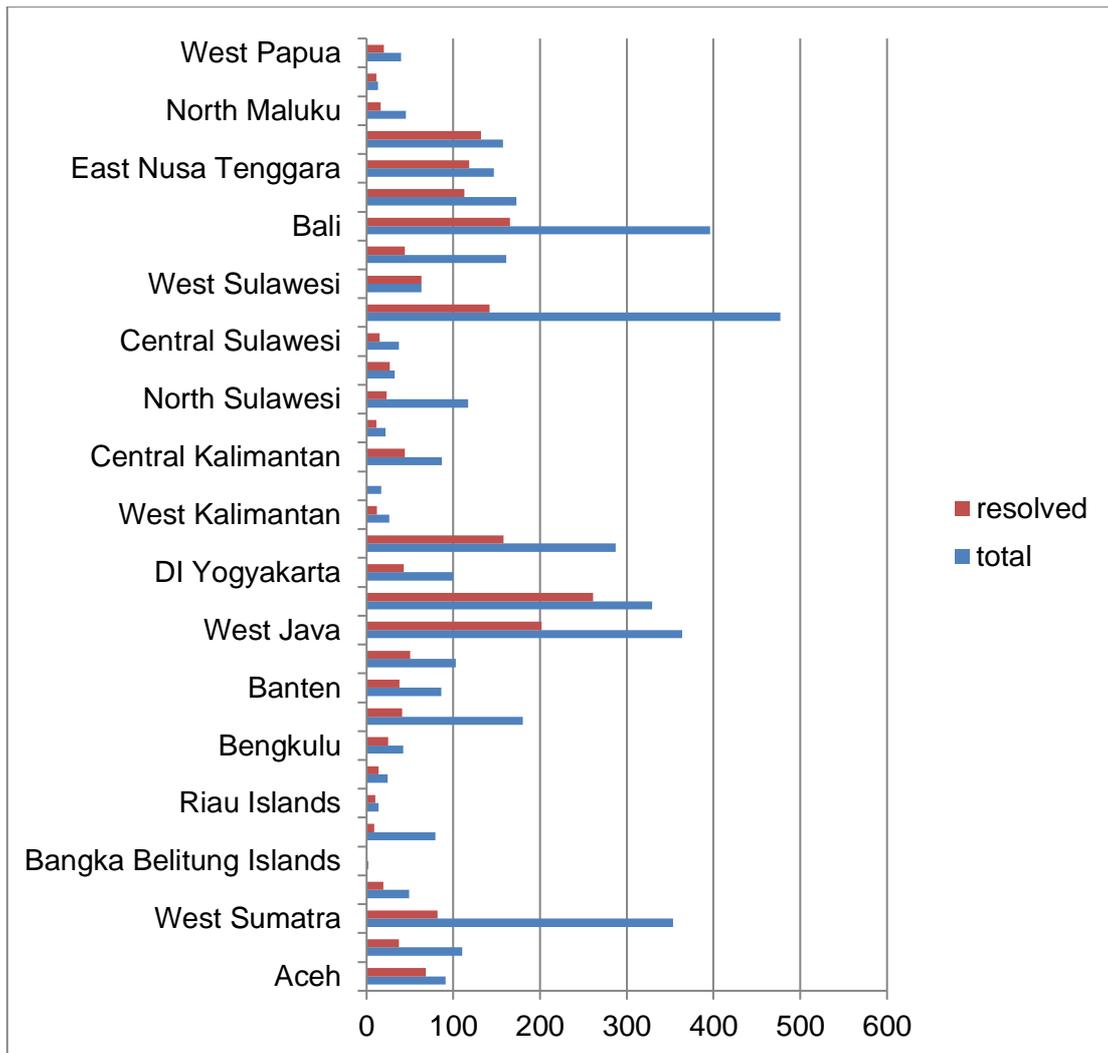


Figure 3.3 Land dispute in Indonesia, September 2013 (BPN 2013).

This database includes all types of land disputes in categories defined by BPN, i.e., occupation of land without the legal right to do so; selling land more than once; fake purchase deeds; duplicate land certificates; substitute land certificates; overlapping land certificates; boundary disputes; errors in borderline designation; inheritance disputes; and disputes after court decisions.

I chose to search for case studies on Java because of its long history of high population and cultivation density, which has led to severe land shortages. These factors in turn have made it a source of many transmigrants to other islands (Section 2.2). It was also the major focus of Dutch settlement during

the colonial era and therefore it has stronger colonial influences on land tenure than other islands. I chose Sumatera as the other island because it contrasts strongly with Java. There was less Dutch penetration, large areas of the island were only sparsely settled by indigenous people until the mid 20th Century, and it is a major destination for transmigrants.

In Java I chose disputes in East Java. This province had the seventh highest number of land disputes of all Indonesian provinces in 2003 (Figure 3.3), though slightly less than the other two dominantly rural provinces on the island (Central and West Java). It had 285 disputes logged on the BPN database, of which 55.1 percent (158) had been resolved. In comparison, Jambi Province in Sumatera had far fewer disputes than East Java. Only 24 had been logged, of which 14 (58.3 percent) had been resolved. The differences in the number of disputes between rural provinces in Java and Sumatera are similar to the ratio between East Java and Jambi Provinces. There was an average of 326 disputes in the three rural provinces in Java, compared to 84 in Sumatera.

After deciding to locate one set of case studies on Java and the other on Sumatera, I searched for land disputes that had occurred in rural areas and involved large parcels of land in these two areas. BPN personnel were helpful in suggesting particular land disputes, which met my criteria.

I choose two case studies in Batanghari District, Jambi Province in Sumatera, and two in Blitar District, East Java Province in Java. Table 3.3 provides area and population data for Blitar and Batanghari. The stark difference between these two villages is clear from this table. The larger village, Batanghari, is sparsely populated suggesting much of the land is still either forest or under plantation agriculture which village people cannot access. While the high population density in the smaller village of Blitar implies the opposite. I decided initially to choose two case studies in each of the two districts to save time in travelling and in setting up new relationships, but on reflection it provided me with the opportunity to observe how disputes can be very different at the local

scale. These land disputes are introduced and discussed in Chapters 4 (Jambi) and 5 (East Java).

Table 3.3 Area and population statistics for Blitar and Batanghari, 2018 (BPS, 2018).

District	Area (km ²)	Population	Population density (people/km ²)
Blitar	1,589	1,140,793	718
Batanghari	5,805	266,971	46

The villages with land disputes that were chosen were only ones where the disputes were over large plantations. Moreover, three villages chosen are characterised by land use histories strongly influenced strongly by in-migration. Both large plantation companies and migration are common causes of contemporary land disputes in the Indonesia, and by choosing the case studies in this way it is hoped the findings will be widely applicable across the country.

As land disputes are sensitive issues that can become potentially unsafe research environments, my personal safety was an important consideration and therefore was a condition of the ethics approval (Section 3.4) to undertake this research. BPN national and local staff were helpful in guiding my choice of 'safe' disputes to study. This, of course can introduce bias and, possibly lead me to study disputes which did not 'fit' my research aims. Therefore, after being guided to specific disputes, I collected the documents related to the disputes to determine whether or not they related to my research questions before finally selecting them and investing time and money in collecting data from official sources and going into the field.

3.4 Data collection

My research used primary and secondary data. Primary data was used because of its focus and collection methods can be adjusted to specific

research tasks (Montello and Sutton, 2006). The primary data used were mainly questionnaires conducted with households in case study villages (which include closed- and open-ended questions) and semi-structured interviews with key informants. There was a limited amount of participant observation. I also collected the primary data because Indonesia is a developing country in which high-quality secondary data is unavailable for villages and households. I conducted fieldwork to collect primary data between December 2014 and May 2015. The main types of secondary data I used were official reports and legal documents from central, province and district-level government departments; a BPN database of land disputes; letters and papers related to the case studies; and newspaper articles.

3.4.1 Primary data collection

The primary data collection can be divided into four elements. All of the survey tools I used for primary data collection were approved by the Flinders University Social and Behavioural Ethics Committee (Approval Number 6638, November 4 2014) for the collection of primary data (interviews and questionnaires) in Indonesia (Appendix 3.1). Initially I asked the committee for permission to organize focus groups as well, but this was not approved by the committee because of the linked issues of anonymity and potential repercussions amongst focus group participants.

I also had to get permission from the relevant Indonesian authorities as a condition of my university ethics approval. My first step was to get a general permission letter to conduct research from BPN (letter 1301/3.21-100.3/X/2014 on October 14 2014) (Appendix 3.2). Next I obtained a recommendation from the Ministry of Home Affairs, Directorate General of The National Unity, Politics and Community Protection (460.02/4754.DI, December 31 2014) to conduct survey research in Jambi and East Java Provinces (Appendix 3.3). Then I had to obtain permission at the provincial level, from The National Unity, Politics and Community Protection Agency of Jambi Province (85/R/BANKESBANGPOL-5.1/2015, January 22 2015) and The National Unity, Politics and Community Protection Agency of East Java Province

(070/2838/203.3/2015, March 27 2015) to undertake the research in the relevant districts (Appendix 3.4 and 3.5). Finally, I had to get approval to collect primary data at the district level, from The National Unity, Politics and Community Protection Agency of Batanghari District (503/065/Kesbangpol, January 28 2015) and the right of exploitation (HGU) of Blitar District (072/148/409.202/2015, April 8 2015) (Appendix 3.6 and 3.7).

This research as limited by common problems faced by social science doctoral research with weighty fieldwork components. These are:

- Representativeness of sampling at all levels, from provinces to individuals selected, which can affect the robustness of general observations;
- Logistical issues of access to the communities studied;
- Gaps in the information sources I used, e.g., documents I was not aware of or which were not shown to me;
- Variations in the veracity of opinions expressed at interview, and questionnaire responses; and
- The lack of responses from two companies involved in these four disputes studied.

3.4.2 Peasant farming households

According to Rice (2010) sampling is a method that can be used to obtain information from a large population or group with the result that the general description can be made. I used purposive sampling to choose the study sites – villages. The villages that I had chosen are the villages where there were large plantations. Three villages chosen are characterised by land use histories influenced strongly by in-migration: one of these villages is on Java Island and the other two in the same district in Sumatra. However, beyond these similarities there are differences, and the researcher was cognizant of the main differences and used this information when developing the sampling plan.

Questionnaires and interviews (Appendix 3.8) were developed to survey households in the villages affected by the land disputes. After I had selected

the villages in which to administer the questionnaires and interviews. I randomly selected households in each village. Though I obtained information about the land disputes from the village heads and traditional elders, they did not put any pressure on me as to which households to approach.

The patterns of settlement in Indonesian villages include settlement patterns related to small groups of in-migrant farmers, which are managed in a form of Neighbourhood Unit (RT – Rukun Tetangga). The three villages noted above have RTs. I obtained information on the RTs in the villages and their locations from the heads of the villages. Using this information households were selected randomly from most RTs. However, only households who agreed to participate were interviewed. In total, 70 households were interviewed across three villages. Not all of the households interviewed had been directly affected by land disputes (Table 3.4).

It took approximately one to two hours to administer each questionnaire to a household, though occasionally some of these visits took longer. Not all of the interviewees were the head of the households because I randomly choose the houses and some of the household heads were not there when I administered the questionnaires. There were a few instances cases where I did not continue the interview because the participant did not have adequate knowledge the land in question. Unfortunately, most of these cases involved women, because in Indonesia (especially in rural areas) women have limited access to, and therefore information about, land. Most of the participants wanted to expand on their answers especially when it came to the questions related to land tenure and land disputes.

The conversations were conducted in Bahasa Indonesian and the notes were taken in that language. While I administered questionnaires, I made visual observations about their houses for wealth ranking.

Table 3.4: Household sampling information

Case study	Village	Population of the village (Source: BPS 2010)	Number of households sampled in the village
Case study 1: An indigenous community (the SAD) and an oil palm plantation company (PT. Asiatic Persada)	Bungku Village, Batanghari District, Jambi Province, Sumatera.	9,870	20
Case study 2: A transmigrant community and an oil palm plantation company (PT. Sawit Jambi Lestari)	Belanti Jaya Village, Batanghari District, Jambi Province, Sumatera	1,222	20
Case study 3: Farmers from Gadungan village and a plantation company (PT. Blitar Putra)	Gadungan Village, Blitar District, East Java Province, Java.	6,403	30
Case study 4: Farmers from Gadungan village and a plantation company (PT. Rotorejo Kruwuk)			

3.4.3 Plantation companies

Interviews were developed to elicit information from plantation companies involved in the case studies (Appendix 3.9). I anticipated interviewing the four companies who have HGU rights to large farms that are involved in the land disputes. I obtained their details from the BPN database. I began by going to the company offices and giving them my letter of introduction and an information sheet (Appendix 3.10). These gave the details of the study and

contact details for myself, my supervisors and the executive officer of Flinders University Social and Behavioural Research Ethics Committee, as per standard Australian research ethics guidelines. However, I only managed to interview two of the companies. The other two refused to be interviewed using a number of evasion tactics. The two willing participants provided written consent before the interviews began by completing a consent form (Appendix 3.11). The people interviewed nominated the time and place for the interview, so that they would be comfortable during the interview and, hopefully, this gave them the confidence to express and explore issues fully. All of the participants agreed a voice recorder could be used during the interviews.

3.4.4 Key informant interviews

After the households and companies had been surveyed, civil society leaders and government officials were interviewed using a set of questions (Appendix 3.12) and notes were taken. I choose to interview people in the government departments that related to my research at both national and provincial government, i.e., BPN offices in Jakarta and at provincial, district and local government levels. Besides the government organizations, I also interviewed civil society leaders and traditional elders from each village. I went to the offices or place of business of the key informants to conduct these interviews and provided a letter of introduction and information sheets (Appendix 3.13). Before any interview took place consent was obtained as outlined above.

All letters, introduction sheets and questionnaires were provided to participants in the research in Bahasa Indonesian. These were approved translations of the English versions approved by the Flinders University's Social and Behavioural Research Ethics Committee. The appendices to this chapter contain the English versions.

3.4.5 Participant observation

I had opportunity to observe two mediation meetings, one in Batanghari and the other in Blitar. In Batanghari, KESBANGPOL Batanghari and BPN Batanghari are part of the mediation team, and they both invited me to attend

and observe the environment and behaviour of all the parties during the mediation. I was introduced to all the parties as a 'silent observer'. All participants agreed I could attend the meeting. On another occasion the same mediation team invited me to make a field visit with them to an active land dispute. They did not speak to the local community or the company involved in the dispute on that occasion and, in any case, the dispute was not one of my case studies. However, it did allow me to observe how they verify land use in the field.

In Blitar, I also had a chance to see a mediation team in action, discussing a series of land disputes in Blitar in general. They were examining the parties involved, the cause of the land disputes, the legal aspects of the land disputes, and the probability that particular ideas could be used to resolve the land disputes before proceeding to mediation meetings. I was not allowed to make any recording for this meeting as I joined it as part of the BPN Blitar team, due to my position as a national land control officer.

3.5 Data management and analysis

Analysis of interviews and questionnaires conducted in Bahasa Indonesian, and findings were translated to English. Data are stored in Flinders University server and on laptop anonymously. I used both qualitative and quantitative techniques to process and analyse the primary and secondary data. Qualitative techniques can provide high levels of understanding, quality assurance and richness of the information collected, whereas quantitative techniques focus on statistical representativeness of the data (Limb and Dwyer, 2001).

3.5.1 Quantitative methods

The questionnaires were designed to collect information on the participant livelihoods of smallholder households and their experiences of land tenure issues and land disputes. The questionnaire is presented in Appendix 3.8 and the overall structure is summarized in Table 3.5.

Table 3.5: Basic questionnaire structure

Section	Objective	Number of Questions
Part A: Households characteristics	To examines the livelihoods and the socio-economic background of the households	6 questions
Part B: Personal information or profile of respondent and households		16 questions
Part C: Participant's experiences of land tenure, land use and land disputes	To understand land issues in the villages sampled	19 questions

I entered information from the questionnaires into Microsoft Excel worksheets to manage it. I also calculated the following statistics for the numerical responses:

- 1) descriptive analyses based on modes, means and standard deviations to characterize households; and
- 2) the nonparametric Mann-Whitney U test to compare statistically data from pairs of case studies (e.g., between villages) without making assumption that values are normally distributed (Pentecost, 1999).

3.5.2 Qualitative methods

According to Anderson (2010) qualitative research is the collection, analysis, and interpretation of data which relates to the social world and the concepts and behavior of the people in it (Anderson, 2010). The qualitative data in this research were structured and opened-ended interviews with farmers, central and local government, companies, elder and society leaders The interviews were recorded digitally and notes were taken simultaneously.

Specifically, the participants of the interviews were households from elders, society leaders and farmers/household heads in the four villages covered by

the case studies (Table 3.5, part C); relevant Indonesian government agencies at national, provincial and district levels; and the companies involved in each case study.

Thematic analysis was used to analyse the data obtained. This involves categorizing and linking particular responses and types of responses obtained from interviews and questionnaires that are key to the research (Grbich, 2013). According to Grbich (2013) the tasks used in thematic analysis are: (i) reading and re-reading the database; (ii) recalling the research question; (iii) identifying key text segments in the responses, e.g., by underling or highlighting transcripts; (iv) grouping like segments; (v) identifying subgroups and attaching overarching labels; and (vi) conceptualizing the groups and linking them to research literature and theory. Matthews and Ross (2010) suggest a way to organize data, i.e., by creating (i) an index; then (ii) coding categories of themes; and finally (iii) summary charts. Some of qualitative data analyses in this study used combination of the steps outlined by Grbich (2013) and Matthews and Ross (2010). In the beginning all the interviews were transcribed and then an index of the data was created. Coding was used to make the analysis easier. The codes were grouped in categories based on the research questions. The data were tabulated in Microsoft Excel. The tables were used to interpret and explain the finding in relation to research questions.

I also presented the qualitative data and discussed them through a series of quotes from the interviews, with the speakers specified at the end of the quotation. A technique recommended by Anderson (2010).

3.6 Researcher positionality

I work as a Land Control Officer for the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia (BPN). My academic background is in law (undergraduate degree) and land administration (Master's degree). My doctoral research has been funded by the Indonesian Ministry of National Development Planning (BAPPENAS) through the Scholarship Program for Strengthening and Reforming Institutions

(SPIRIT) (World Bank Loan 8010-ID). I will return to work at BPN after this research thesis has been submitted.

My position at BPN has given me particular insights into the research I have conducted, and it undoubtedly helped me secure interviews with key BPN personnel. However, these advantages have to be offset against any reluctance I encountered from businesses that I interviewed or farmers to whom I administered questionnaires because, under prevailing Australian research ethics guidelines, I revealed to these people that I worked for BPN.

I started the interviews of farmers and businesses by trying to convince them that I was a student doing doctoral research on leave from BPN. The issues I faced can be exemplified by the fact that during some interviews with farmers they sometimes used strong language to express their feelings as land disputes are a highly contentious issue. All farmers and village elders were willing to be interviewed or allowed me to administer questionnaires. Only two businesses rejected my requests for an interview; all others granted me interviews, as did all government organisations.

3.7 Summary

The research design framework, and data collection and data analysis methods are provided in the chapter. In addition, it introduces case study selection. In this chapter the selection of pairs of case studies from Sumatra and Java are described. The ethical approval and permission processes are described and the relevant documentation is included in appendices This research used questionnaires and interviews with households; interviews with key informants in companies, government, and elders and society leaders; and participant observation; as well as secondary data sources. The methods used to obtain primary and secondary data for each study are outlined, as are the methods used to analyse each land dispute and attempts to resolve them. These methods are drawn from well-used social science methodologies.

CHAPTER 4: RURAL LAND DISPUTES - CASE STUDIES FROM JAMBI PROVINCE

4.1 Introduction

This chapter describes two land disputes in Bungku and Belanti Jaya in Batanghari District in Jambi Province. The disputants—*Case study 1*—are PT. Asiatic Persada and farmers from Bungku village, while the parties in the other—*Case study 2*—are PT. Sawit Jambi Lestari and transmigrants who are also farmers from Belanti Jaya village. In order to provide the necessary background to the case studies the land tenure history and politics in Indonesia especially the New Regime of Suharto (1966-1998) is introduced in Section 5.2. Section 5.3 describes the setting of the case studies in Jambi Province. The next section maps the land dispute between SAD and PT. Asiatic Persada, and the following section does the same for the dispute with PT. Sawit Jambi Lestari and transmigrants.

4.2 History of land tenure in Sumatra

With the introduction of the Agrarische Wet of 1870 (Chapter 2), opportunities for private companies to invest in Indonesia opened up. Some of these investments were made in Sumatra. By 1872 15 tobacco plantations had been established in East Sumatra (now North Sumatra and West Sumatra) and by 1884 there were 76. The tobacco plantations were replaced by rubber, tea, and oil palm plantations. The first rubber plantation was established at Serdang in 1902, with oil and tea plantations arriving around 1911 (Hutagaol, 2016). Compared to Java, there were less plantations in Sumatra at the time of the Agrarische Wet was applied. All land outside the privately-owned lands, and land controlled by local kingdoms such as Surakarta, Yogyakarta, Cirebon, and Banten, was owned by the Kingdom of the Netherlands (Ahmady et al., 2010). This then led to the expansion of indigenous lands later on because much had not been occupied and/or used in the Dutch colonial era.

During the New Regime land began to be treated as a commodity which was helped by the fact that Suharto's government brought major changes to agrarian politics that gave more opportunities for investors. The evidence for this can be seen from the policies related to land that were promulgated during the New Regime, and the encouragement of domestic and foreign large-scale investment in land. It is opposite of its primary social function in the BAL during Sukarno era when land reform for poor and landless peasants was firstly undertaken (Lucas, 2013). Most of the large-scale investment are outside Java Island and they are for oil palm plantations.

Palm oil and rubber plantations comprise a very large proportion of the national plantation estate in Indonesia. The area under palm oil increased from 992,400 hectares in 1995 to 6.7 million hectares in 2015 and it is the most important plantation crop in the country. It is followed by rubber, which increased from 471,900 hectares to 551,100 hectares over the same time period (BPS, 2017). The economic importance of plantation crops such as these has led to a planned increase in new industrial plantations. In 2016 they accounted for 9 million hectares in total (Obidzinski and Chaudhury, 2009). In addition to their export revenue earning potential, plantations have important roles in national and sub-national levels of economic development. The Indonesian government not only has a policy of expanding oil palm plantations to earn export revenues, but it is also their primary tool to stimulate improvements in the socio-economic situation in rural areas (Potter and Lee, 1998 and Zen et al., 2005). The number of companies engaged in the oil palm sector in 2015 was 1600, an increase of 131 percent on the 693 companies at the start of this millennium (BPS 2017). However, the growth in plantations has also led to negative externalities in terms of social and environmental impacts in rural Indonesia. Rural Indonesia suffers from weak governance that has led to land tenure disputes becoming the most frequent negative externalities when weighed against the economic gains (Mola-Yudego and Gritten, 2010).

Bachriadi and Lucas (2001) argued that the land management system in the Suharto period only benefited Indonesia's rulers and their associates. Many

farmers had lost their rights and access to land, which has resulted in a sharp increase in the number of land disputes across the nation in the last three decades (Bachriadi and Lucas, 2001). These disputes have often led to violent conflict between farmers and the security forces, as I detailed in *Case study 1*, the dispute between PT. Asiatic Persada and the SAD.

The case studies discussed in this chapter are land disputes involving two palm oil plantation companies working in very similar natural environments in Jambi Province in central Sumatera. The disputes are:

- 1) between PT. Asiatic Persada and the *Suku Anak Dalam* (known as SAD) – an indigenous group; and
- 2) PT. Sawit Jambi Lestari and transmigrants who live in the area surrounding the company plantations.

This chapter attempts to analyse the backgrounds to these disputes, the processes that have been used to try and resolve them, and the benefits that the parties involved in the disputes have obtained. It is structured in three main sections. The first is the description of case study sites in Jambi. Jambi Province was chosen because of land disputes over large parcels of land and plantations have emerged in this province in recent decades. For example, in 2010 there were around 100 land use and forestry disputes in Jambi involving a wide range of actors, many of which were escalating (Beckert, 2014). The second section discusses the land dispute between PT. Asiatic Persada and the SAD, and third section considers the dispute between PT. Sawit Jambi Lestari and transmigrants.

4.3 Area setting

4.3.1 Jambi Province

Jambi is located in central Sumatera and shares land borders with Riau, South Sumatera and West Sumatera Provinces. The South China Sea borders the east (Figure 4.1). The province is strategically located because it directly faces the economic growth area known as the IMS-GT (Indonesia, Malaysia, and

Singapore Growth Triangle). It covers 53,435.72 km² (50,160.05 km² land, 3,274.95 km² water) and is divided into eleven districts/cities (Table 4.1).

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Figure 4.1: Location of Jambi Province in Indonesia

Table 4.1: Total area by District/City in Jambi Province, 2013.
(Governance Bureau of Regional Secretary, Jambi Province (*Biro Pemerintahan dan Otda Provinsi Jambi*) 2013).

District/City	Districts	Villages	Area (km ²)	Percentage (%)
Kerinci	16	287	3,355.27	6.69
Merangin	24	217	7,679.00	15.31
Sarolangun	10	158	6,184.00	12.33
Batanghari	8	114	5,804.00	11.57
Muaro Jambi	11	153	5,326.00	10.62
Tanjab Timur	11	93	5,445.00	10.86
Tanjab Barat	13	134	4,649.85	9.27
Tebo	12	112	6,461.00	12.88
Bungo	17	154	4,659.00	9.29
Kota Jambi	8	62	205.43	0.41
Sungai Penuh	8	69	391.50	0.78
Total	138	1,553	50,160.05	100.00
Water area	3,274.95			

In 2010 the population of Jambi was 3,092,265 with an average density of 61.65 people/km². Jambi City, the provincial capital and the center of government, trade, and industry, had a population density of 2,588.99 people/km². The population distribution is relatively well balanced, with 52

percent of people living in the east (Batanghari, Muaro Jambi, Tanjung Jabung Barat, East Tanjung Jabung and Jambi Districts), and 48 percent in the west (Kerinci, Full River, Merangin, Sarolangun, Bungo and Tebo Districts) (BPS, 2010b). The majority of people (53 percent) are employed in farming, people working in trades account for 17 percent and those in the services sector account for 15 percent. Oil palm and rubber plantations dominate plantation land use in Jambi (Figure 4.2).

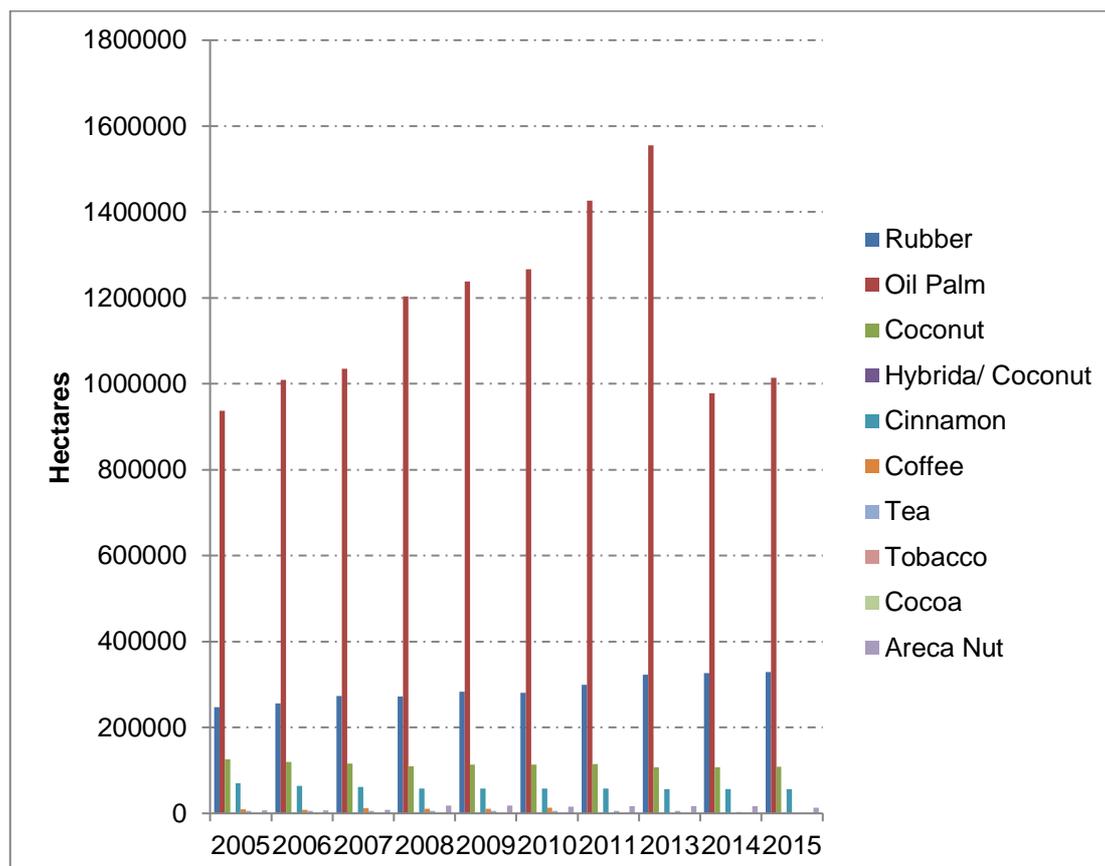


Figure 4.2: Production of Plantation Crops in Jambi Province, 2000-2015 (BPS, 2017)

4.3.2 Batanghari District

Batanghari District covers 5,804.00 km² and consists of 114 villages and urban centers. Its capital, Muara Bulian, is only 59 km from Jambi City (Figure 4.3). In 2010 the district had a population 263,896 most of whom farmed (Figure 4.4). Not surprisingly, almost all land in Batanghari is under plantations, of which 57 percent is rubber and 42 percent is oil palm (BPS, 2013).

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Figure 4.3: Batanghari District in Jambi Province

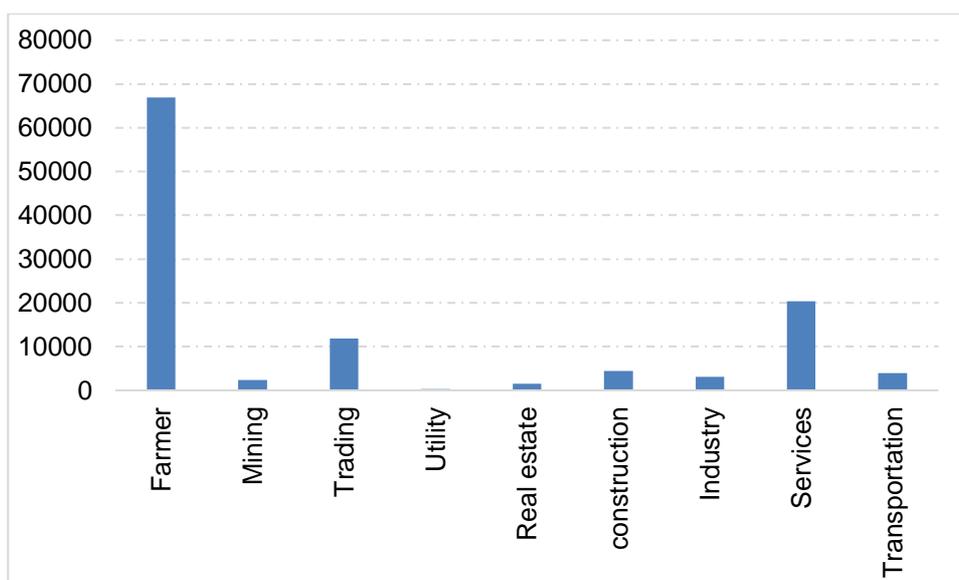


Figure 4.4: Employment in Batanghari, 2010 (BPS, 2017).

The two case studies that were chosen in Batanghari (Section 4.1) are located in Bungku (*Case study 1*: the dispute between PT. Asiatic Persada and the SAD) and Belanti Jaya (*Case study 2*: the dispute between PT. Sawit Jambi Lestari and transmigrants). The land disputes researched were selected for the following reasons:

- 1) the land disputes are both related to large parcels of land and plantation companies (the most frequently occurring type of land disputes in the region);
- 2) one community comprises indigenous people while the other is a village of transmigrants, thereby providing a comparative element;
- 3) one dispute is resolved and the other is not, which provides another comparative focus; and
- 4) both villages were relatively easy for me to access.

4.4 Case study 1: Bungku, a dispute between an oil palm company and a group of indigenous people

Oil palm plantation companies dominate the plantation sector in Indonesia, with 65 percent of the large plantation companies focusing on oil palm. Peasant communities also see oil palm as an opportunity to generate income. Much of the future extension of the oil palm estate is predicted to come from uptake by smallholders (Vermeulen and Goad, 2006), and this is already the case in neighboring Riau Province (Aulia, 2017). Both company and smallholder operations in this sector need to be administrated and managed properly. For instance, plantation companies often obtain land for their operations from the government on the grounds that this was in the past, state (often-forested) land but the fact that this land provided the livelihood base for indigenous people to use has more often than not been disregarded. Shifting cultivation, gathering wood and non-timber forest products are often the primary means of traditional subsistence for indigenous people.

This traditional use of forested state land by individuals is underpinned by customary (*adat*) law (Angelsen, 1995). Prior to the introduction of BAL (Section 2.2.2) the land tenure in Indonesia was either a traditional system (rights based on *adat* law) or a system introduced by the colonial government which required land titles and land registration (Suartika, 2007). The land rights in traditional systems are strongly influenced by the ethnic groups in an area. Different ethnic groups have different *adat* laws. Tribal groups live in places with known boundaries and have sovereignty over their zone. The right to

customary land is reserved for members of a particular tribal group. But as mentioned in Chapter 2, if customary rights cannot be proven the land is automatically viewed as state land and then national interests carry more weight than customary rights. The BAL was designed to achieve a set of national-based strategies to exercise control over Indonesian territory. A further purpose behind the BAL was to give it primacy over local interests which were grounded in traditional practices under customary (*adat*) law (Suartika, 2005).

Land disputes often arise when an indigenous groups who have lived in and have used land for long time under a set of customary laws believe they have rights too continue to do, even if that land is 'legally owned' by a plantation company. The dispute between the *Suku Anak Dalam* and PT. Asiatic Persada falls into this category.

4.4.1 Bungku Village

Bungku has a population of 10,502 (5,778 male, 4,724 female) (BPS, 2013). Geographically the center of the village is 1°54'32"N and 103°15'37"E. The dominant topography is flat to slightly undulating (Figure 4.5).

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Figure 4.5: Location of case studies in Batanghari District

The agricultural sector provides employment and an income source for most Bungku residents, mainly from rubber and oil palm plantations, though some still plant vegetables and chili for subsistence and as cash crops. The majority of land is under plantations, the remainder is used for houses, mosques, schools, and sports fields. There is very little detailed information that is relevant to this research at the village level in Indonesia, and therefore I had to acquire essential basic village-level information through questionnaires (Section 3.4). For example, based on the questionnaires administered to 20 households in Bungku the land use composition (based on the number of land parcels, not area) is 52.9 percent housing and related village infrastructure, 35.3 percent oil palm, and 11.8 percent rubber. The higher than anticipated value for housing and related village infrastructure is due to the fact that most houses are on farmed areas and therefore farmed land (plantations) are under-represented (Figure 4.6) and because the plot areas are smaller than in the other village researched in Jambi.



Figure 4.6: A house surrounded by an oil palm plantation in Bungku. This clearly shows the overlap between housing land use and cultivation (oil palm plantations) land use referred too above. Photo taken by the author, February 2015.

The people interviewed were between 20 and 70 years old; the majority were between 31 to 40 (35 percent), a quarter each were between 41 and 50 years old, and 51 to 60 years old. Sixty percent were born in the village, while the other 40 percent were either born in Java or one of the adjacent provinces.

These figures refer to people interviewed. These demographic profiles are used in Chapter 6 to aid comparisons between people interviewed in each village, and to aid generally the overall analysis (cf. Section 6.2).

Direct support demographic causes of land disputes, an element of Wehrmann's Scheme is that 60 percent of people interviewed in this village were originally from Java. Their educational levels were almost equally split between elementary school and junior high school graduates, and those without formal education (Figure 4.7).

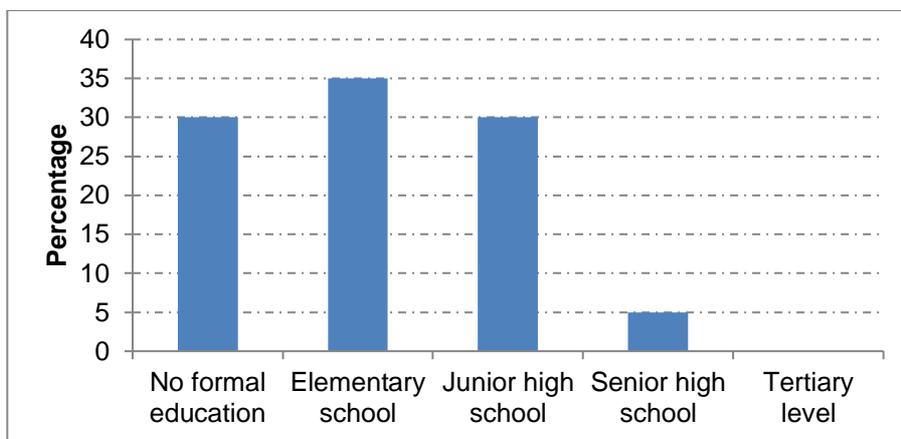


Figure 4.7: Highest educational level of people interviewed in Bungku

To get an overview of prosperity in Bungku, I undertook a wealth ranking of the houses of the people interviewed based on the physical characteristics of their home, whether their own house or rented, the house area, and the number of family members that lived there (Appendix 4.1). I obtained information for wealth ranking of households during fieldwork so that I could provide estimates of individual household wealth as part of the socio-economic background to each village. Table 3.5 (parts A and B) shows the method I had used to classify households by wealth ranking. I observed household characteristics such as house construction, roofing materials used, if a shop or business was attached to the house, and if there was direct access from the house to the road. Part A in Table 3.5 was scored numerically 1-5 while the Part B used scores of 0-5. For example, to measure house construction (Appendix 4.1, Part A) I used the

following scores: canvas=1; all wood=2; unfinished brick=3; finished brick=4; fancy finish=5). While in Part Bm which refer to respondents owning something that valuable, e.g., a motorbike or car, or how many houses or how much land they own, I used a 0-5 scoring system with the best or highest scoring 5 (Anon, 2008; Allen and Seaman, 2007). Household wealth values in Bungku ranged from 5 to 27 in a range that theoretically extends between 3 and 41 (Figure 4.8). The wealth ranking scores show a slightly negatively skewed normal distribution with few poor households and no very rich households, most houses scored between 13 and 22. The house shown in Figure 4.6 had a wealth ranking of 17.

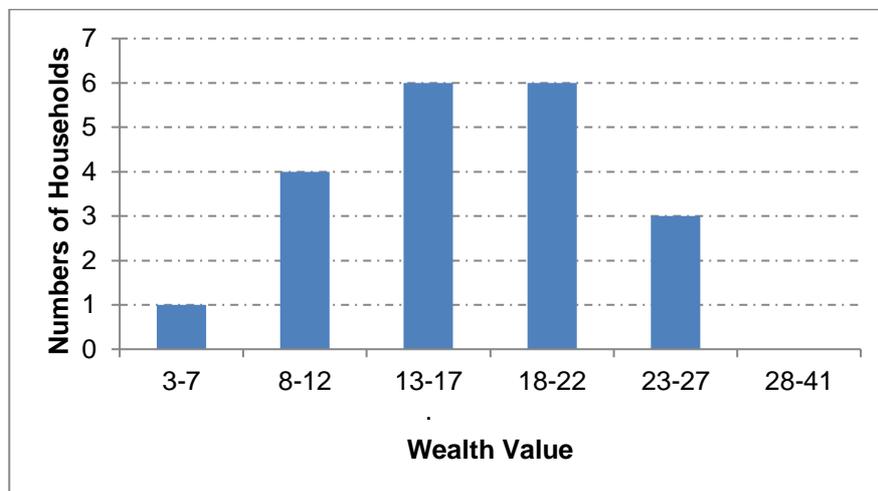


Figure 4.8: Household wealth ranking in Bungku

4.4.2 Mapping the dispute in Bungku

PT. Asiatic Persada is an oil palm plantation company whose operations cover an area of 20,000 hectares located around Bungku village. It had land dispute with the indigenous *Suku Anak Dalam*, the chronology of which is illustrated in Figure 4.9.

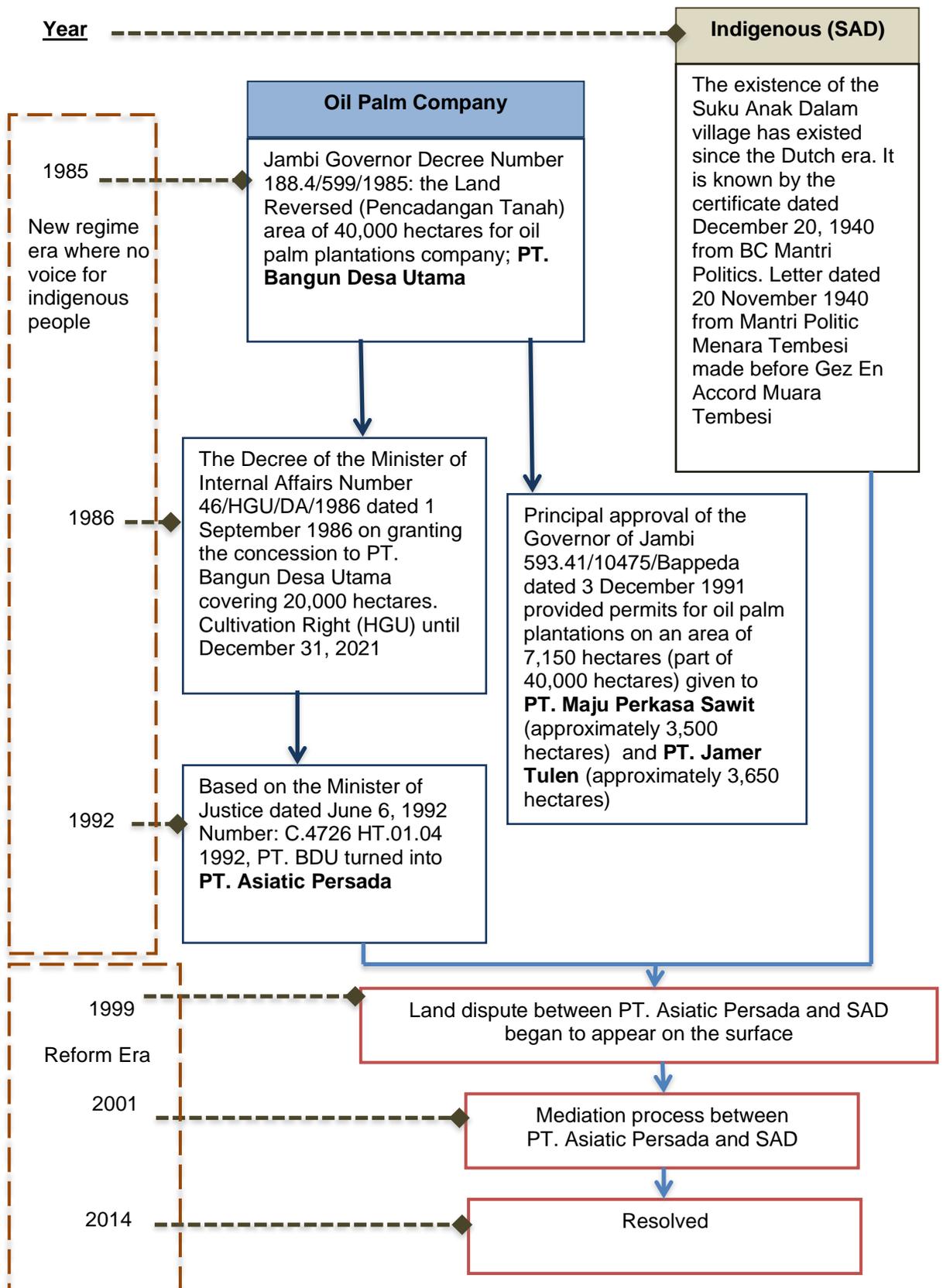


Figure 4.9: Chronology of the land dispute between PT. Asiatic Persada and the *Suku Anak Dalam*

This dispute started when the forest which was the key income source for the SAD was acquired by PT. Bangun Desa Utama in 1985. Before the the company was awarded HGU land rights, there was a traditional settlement in the region called *Dusun Lamo* in which three family groups (*kelompok*) of the SAD—the *Padang Salak*, the *Pinang Tinggi*, and the *Tanah Menang*—lived. The term ‘village’ as used in this thesis, would be composed of a number of *dusun*. *Dusun Lamo* existed during the Dutch colonial era, the evidence for which is a letter dated November 20 1940 from BC Mantri Politic Muara Tembesi written in the presence of Gez En Accord Muara Tembesi and witnessed by the leaders of *Dusun Singkawang* and *Dusun Ray Ulu*. The letter defined the area of this traditional village. This letter was reinforced by the Palembang Resident’s letters 233, dated October 25 1927 and 211, dated September 4 1930.

During the New Regime (1966-1998) political changes affected land policy and these still influence contemporary land tenure (Section 2.2). Land policy during the New Regime resulted in many land disputes, i.e., disputes between farmers and private companies because companies had acquired HGU rights to land that peasant farmers had used and utilized. The peasantry had no voice, nor the wherewithal to fight these injustices, because government was supported by the police and military (Astuti, 2011). One of the key land policies of the New Regime was that the government strongly promoted oil palm to improve the rural (Potter and Lee, 1998) and national economies. It was a combination of these policies that led to the provision of HGU land rights to private oil palm companies in Bungku during the New Regime.

In 1985, the Governor of Jambi signed Decree 188.4/599/1985 that provided PT. Bangun Desa Utama with 40,000 hectares to be converted to oil palm plantations. This area is located in Jambi Luar Kota and Muara Bulian Districts (Figure 4.10). Decree 188.4/599/1985 was followed up with Ministry of Internal Affairs Decree 46/HGU/DA/1986 of September 1 1986, regarding the provision of HGU to PT. Bangun Desa Utama for an area of 20,000 hectares. The decree is valid until December 31 2021 and outlines requirements for PT. Bangun

Desa Utama to have the land. These requirements are that there are no activities of other people in the defined area (including plantations owned by others) and no other people have rights to the land. In Indonesian terminology this means the land has to be 'clean and clear' before the company can start farming it. 'Clean and clear' in this context means that all other occupants have to quit the land, for which they are awarded an agreed level of compensation paid for by the company. It is the responsibility of the company to ensure this. Once this happens BPN will issue a land certificate with HGU rights; in this case for oil palm plantations of 20,000 hectares on behalf of PT. Bangun Desa Utama on lands that are part of HGU1/Tunggang and Bungku villages based on the Ministry of Internal Affairs Decree 46/HGU/DA/1986. This severely restricted access of the indigenous people who lost the source of their livelihoods. These rights reverted to PT. Asiatic Persada in June 6 1992 based on the Ministry of Justice Decree C.4726 HT.01.04, when PT. Bangun Desa Utama became PT. Asiatic Persada.

Pacific Rim Palm Oil Ltd (formerly known as CDC Industries Holdings (Mauritius) Limited), a subsidiary of CDC Group Plc (Commonwealth Development Corporation Pacific Rim) became the majority shareholder in PT. Asiatic Persada in February 2000. The UK government was the majority shareholder in the CDC Group Plc, which has long experience in the oil palm sector. Pacific Rim Palm Oil Ltd managed PT. Asiatic Persada, PT. Maju Perkasa Sawit and PT. Jammer Tulen, three companies that have oil palm plantations in Batanghari. Cargill, one of big five largest multinational commodity companies, then became the largest shareholder in PT. Asiatic Persada (letter from PT. Asiatic Persada, February 7 2006). The specific date referred to in the context of Cargill's shareholding was November 1 2005. In early 2007 PT. Asiatic Persada was acquired by PT. Wilmar International Limited, a Singapore-based company. All shares owned by Wilmar Group, which included PT. Asiatic Persada, PT. Maju Perkasa Sawit and PT. Jammer Tulen, were sold to the Ganda Group: a company owned by Ganda Sitorus, the brother of the co-founder of Wilmar International Martua Sitorus) (Guspin, 2017).



Figure 4.10: PT. Asiatic Persada oil palm plantations. Photo taken by the author, February 2015.

The relevance of PT. Maju Perkasa Sawit and PT. Jammer Tulen in this land dispute is as follows. Though PT. Bangun Desa Utama was awarded 40,000 ha for oil palm in 1985 (cf. Figure 4.9), the company was only awarded HGU rights to half of that area. The Governor of Jambi issued letter 593.41/10475/Bappeda on December 3 1991, using recommendations of the principle of land reserves which, in essence, provided permits for oil palm plantations on a further 7,150 hectares (part of the original 40,000 hectares) to PT. Maju Perkasa Sawit (approximately 3,500 hectares) and PT. Jamer Tulen (approximately 3,650 hectares). Both of these oil palm plantations do not yet have registered HGU rights.

After the fall of Suharto's New Regime in 1998, customary law-based land claims gained prominence in cases where local demands on natural resources were re-affirmed by customary law, where indigenous people's voices were once again heard, and/or decentralization was being implemented (von Benda-Beckmann and von Benda-Beckmann, 2011).

As a result of indigenous people becoming more vocal after Suharto's fall, the SAD initiated their claim for 'their' land. One interviewee explained to me why they instigated this claim:

“Disinilah masyarakat minta keadilan dari pemerintah baik kabupaten dan provinsi. SAD mempunyai hak dari hak leluhur mereka yang sudah dibuka oleh perusahaan”

“Society has asked for justice and fairness from local government, in that they have rights to the land (part of the HG U of PT. Asiatic Persada). The reason being that the land belongs to our ancestors” (Interview with a SAD elder, February 2015).

As a consequence of PT. Bangun Desa Utama (now PT. Asiatic Persada) receiving HGU rights the SAD not only lost their livelihoods. PT. Asiatic Persada also had sole rights to harvest oil palm fruits on their plantations under the HGU rights. The SAD considered this unfair and were desperate to steal oil palm fruits. To prevent this PT. Asiatic Persada built ‘elephant holes’ (Figure 4.11) to restrict access to the plantations by people from outside the area over which they had HGU rights. However, these were futile, and the SAD still managed to steal fruit.

The SAD subsequently occupied part of the land with HGU rights, i.e. oil palm plantations (Figure 4.12). This led PT. Asiatic Persada to claim that some people were illegally harvesting oil palm fruit on HGU land and that some had even taken up residence there (Hauser-Schaublin 2013). By 2011, this unresolved dispute had escalated into violent clashes between PT. Asiatic Persada security personnel and the SAD: one villager was killed and five others were injured (Colchester, Anderson et al., 2011 and Butler 2014).



Figure 4.11: An elephant hole built in 2011 by PT. Asiatic Persada. Photo taken by the author, February 2015.

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**Figure 4.12: The PT. Asiatic Persada land holding
(BPN Batanghari Office, 2014).**

The legend translation is as follows: Jalan – road; Kantor – Office (of PT. Asiatic Persada); Batas Kabupaten – District boundary; PTP Nusantara VI – land owned by Nusutara IV (a government company); Konservasi – land under conservation; Sungai – river; Ibu Kota Desa – main village; Tanaman PT. Asiatic Persada – oil palm plantations of PT. Asiatic Persada; Okupasi Masyarakat – land occupied by the SAD; Perolehan PT Maju Perkasa Sawit dan PT Jammer Tulen – land acquired by PT Maju Perkasa Sawit and PT Jammer Tulen; Kawasan Hutan – Forest.

4.4.3 Mediation in Bungku

The only secondary data I was able to gather on this mediation process dates from after 2001. Therefore, I do not have any information about the first attempt to resolve this land dispute.

A letter from PT. Asiatic Persada to the Regent of Batanghari (17/1.103/DU/03/2001, July 11 2001) noted that on April 30 2001 Commision B of the Regional Legislature of Batanghari (*Komisi B DPRD Batanghari*) and local government mediated the dispute between PT. Asiatic Persada and SAD. A agreement was reached between the disputants, the outcomes of which were that (i) PT. Asiatic Persada would build an oil palm plantation for eligible SAD members, (ii) the land for this would be provided by District, and (iii) that

it would be located directly adjacent to the HGU land of PT. Asiatic Persada. In the aforementioned letter PT. Asiatic Persada asked the Regent of Batanghari to provide 1,500 hectares of land for oil palm plantations for SAD. In addition, the company requested assistance from the regent to handle the encroachers who had occupied 6,000 hectares of HGU land under the ownership of PT. Asiatic Persada. In following this up, the regent issued Decree 3/2002 granting site permits for 1,500 hectares of oil palm plantations for SAD. However, according to the SAD based in a letter sent on May 29 2009 to the Head of BPN Batanghari this land has been subsequently planted with oil palms by PT. Asiatic Persada but not handed over to them.

According to BPN Jambi (letter 600-0158 from the Head of BPN Jambi to the Director of Measurement and Mapping of BPN dated February 7 2006), after several attempts at mediation, there was still no agreement that could be settled on the part of the HGU land claimed by SAD. Therefore it decided that the dispute should revert to litigation. Mediation was attempted again in 2009. Therefore because of a lack of evidence of mediation before 2009, this research tracked attempts at dispute resolution through mediation from 2009 (Figure 4.13).

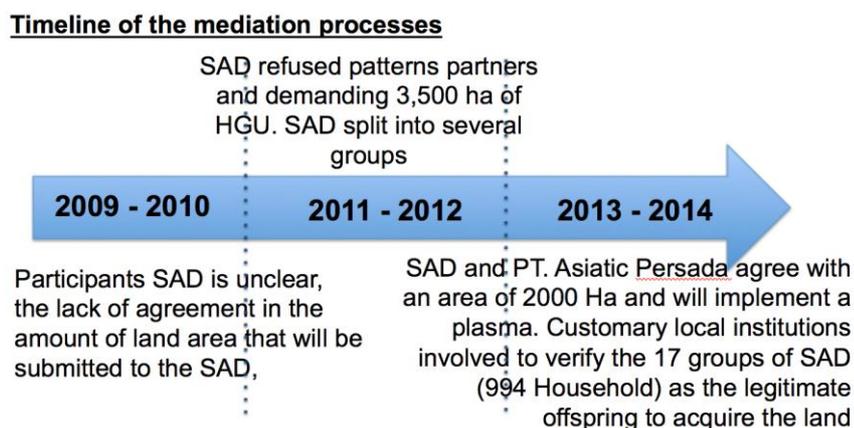


Figure 4.13: Timeline of the mediation process between PT. Asiatic Persada and the SAD

Since 2009, the first phase of attempting to resolve the land dispute was between 2009 to 2010. In a meeting held on May 28 2009 between representatives from Plantation Office of Jambi, the Batanghari government

(Head, Economic Section), the Jambi government (a representative of the Natural Resources Bureau), a representative of Wilmar Group and the Director of PT. Asiatic Persada at the Plantation Office of Jambi. The agreement reached was that: (i) PT. Asiatic Persada would build a new 1,000 hectares oil palm plantation for SAD, with the land to be prepared by PT. Asiatic Persada and that during the construction of this plantation, SAD would receive a payment of IDR 500,000 for three years to defray their costs of living; (ii) people from SAD could work for PT. Asiatic Persada on the construction of plantation; (iii) the costs of living were not to be included in the investment costs of developing the plasma plantation; (iv) the SAD members who would receive allotments in the oil palm plasma were to be decided by the relevant local government departments of the Batanghari District. This agreement was signed between June 15-19 2009. In following this up, the Regent of Batanghari issued Decree 224/2010 on May 19 2010 releasing 1,000 hectares of oil palm plantation. These plantations were under the ownership of PT. Jammer Tulen (approximately 679 hectares) and PT. Maju Sawit Perkasa (approximately 321 hectares) to be distributed amongst 771 SAD households. But this decree was not executed because the members of people of SAD who were to receive land were not verified, the area was not large enough, and the way in which SAD would occupy certain parts of the land were unclear.

The second phase in the timeline (Figure 4.13) was between 2011 and 2012. On September 12 2011 the Governor of Jambi sent a letter of assignment (No. 090/2878/4-Ekbang&DA) to a 'work team' (*kelompok kerja* known as POKJA) whose members were: Assistant II Regional Secretary of Batanghari (*Asisten II Sekda Batanghari*), Head of the Plantation Office of Batanghari, Head of the Forestry Office of Batanghari, Head of the Social Service, Labour and Transmigration Office of Batanghari (*Dinas Sosial, Tenaga Kerja dan Transmigrasi* or *Sosnakertrans*), Head of the National Unity, Politics and Community Protection Agency of Batanghari (*Badan Kesatuan Bangsa, Politik dan Perlindungan Masyarakat* or *Kesbangpol*), Head of BPN of Batanghari, Head of Development Economics and Natural Resources of the Regional Secretariat of Batanghari (*Ekbang & SDA Setda Batanghari*), and

Head of the Government of Regional Secretariat of Batanghari (*Kabag Pemerintahan Setda* Batanghari). Their assignment was to resolve the dispute between PT. Asiatic Persada and SAD.

A mediation meeting held on October 27 2011 in the regent's office which was attended by the POKJA members, PT. Asiatic Persada and representatives of SAD. They could not find a solution that both parties could agree too. From the company side, the stumbling block was a lack of resolution about the theft of oil palm fruits from the company's plantations in 2011 (Section 4.3.2, PT. Asiatic Persada letter 076/050.80 BM/2011 dated October 29 2011 to the Regent of Batanghari). This impasse led approximately 300 SAD to demonstrate at PT. Asiatic Persada Guardpost 2 on February 9 2012. They were repelled by company security officers and the Mobile Brigade Corps of the Indonesian National Police (BRIMOB). The demonstration was defused when the demonstrators were promised that the Batanghari government would mediate to resolve the dispute; though SAD made the proviso that if there was no progress within 20 days they would claim the land forcibly.

The third phase was between 2013 to 2014 (Figure 4.13). In 2013, to resolve disturbances, such as land disputes, the Regent of Batanghari issued Decree 158/2013 on March 5 2013 in which an integrated team to handle social conflicts was established (*tim terpadu penanganan konflik sosial* or TIMDU) that consisted of: the National Unity, Politics and Community Protection Agency (*Badan Kesatuan Bangsa, Politik dan Perlindungan Masyarakat - KESBANGPOL*); the Land Office (Kantor Pertanahan), the Plantation Office (Dinas Perkebunan), the Forestry Office (Dinas Kehutanan), the Police, the *adat* constitution of Batanghari, and other government offices within the Batanghari District. Most meetings were held at KESBANGPOL's offices.

TIMDU had learned well from the failures of the previous mediation. The most significant lesson was verification of the SAD personnel who would receive land from PT. Asiatic Persada. The involvement of the *adat* constitution of Batanghari (*Lembaga Adat Bumi Serentak Bak Regam of Batanghari*) helped

with this verification as shown in the agreement (*naskah kesepakatan bersatu*) signed by representatives of SAD and the head of *adat* constitution. The other disputant, PT. Asiatic Persada, agreed to release 2,000 hectares of oil palm plantation (whereas in the previous mediation it was 1,000 hectares).

Both disputants agreed with the outcome of the mediation. This was followed up by Decree 180/2014 from the Regent of Batanghari on March 11 2014 regarding the names of SAD personnel and maps of 2,000 hectares of land being given by PT. Asiatic Persada. The agreement stated that the lands being given by the company were located in the PT. Jammer Tulen and PT. Maju Perkasa Sawit areas; and the *adat* institution (Bumi Serentak Bak Ragam of Batanghari) verified the SAD personnel as descendants of *Nenek Empat Puyang Nan Delapan* (in total this comprised 994 households) who were therefore entitled to receive shares in the 2,000 hectares oil palm plantation. One of the SAD summarized the reasons why he agreed to settle the dispute as follows.

"Lahan kebun sawit PT. Asiatic Persada kita minta dengan cuma-cuma sangat tidak mungkin. Mau tidak mau yang jelas dengan prosedur pemerintah. Kayak rumah bapak ini kan kita minta cuma-cuma tidak mungkin. Sedangkan dia sudah menanam saham disini. Kayak itulah ibaratnya PT. Asiatic Persada".

"It is very unlikely we ask for free oil palm plantation of PT. Asiatic Persada. We followed the government procedures. It is like this house, and it belongs to me so no one can ask for it for free. It is not possible. While he already planted stock here. That's what PT. Asiatic Persada is like" (Interview with one of SAD, February 2015).

In order to try prevent further disputes, BPN Batanghari redistributed the 2,000 hectares to 994 households through a land reform program. Figure 4.14 shows the location of the SAD who occupied the land inside HGU lands of PT. Asiatic Persada and land redistribution for members of SAD.

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Figure 4.14 : Maps of land redistribution for the SAD (BPN Batanghari, 2014)

The legend translation is as follows: Jalan: Road; Kantor PT. Asiatic Persada: PT. Asiatic Persada office; Batas kabupaten: District border; Sungai: river; Lokasi SAD; SAD relocation; Lokasi SAD: SAD relocation; Titik lokasi SAD sejumlah 14 kelompok berdasarkan garis keturunan: SAD location point of 14 groups based on lineage.

An elder I interviewed summarised the post-mediation situation as follows:

“Pola kerjasamanya sangat tinggi sekali dibandingkan transmigrasi dari 30:70 ini 20:80. Karena sawitnya sudah jadi. Itupun dibantu biaya perawatan biaya pupuk. Sudah sangat mendukung Alhamdulillah masyarakat sudah tidak lagi terombang ambing. Tidak lagi mencari ikan, tidak lagi mencari babi. Penyemprotannya, buang-buang pelepahnya dibantu oleh perusahaan. Sarana prasarana umum sudah disiapkan Yang 994 kk ini sudah merasakan kenikmatan disini”

“The pattern of cooperation is very good compared to the transmigration program from 30:70 to 20:80 (NES terms). Because the oil palm was ready to harvest. And we get assistance, the costs of maintaining (the farm), the cost of fertilizer. It (PT. Asiatic Persad) is very supportive. Our community is no longer in uncertainty. No longer looking for fish, no longer looking for pigs. Spraying, and even wasting palm tree leaf midrib are assisted by the company. Public facilities have been prepared. The 994 households (who received land redistribution) already feel the pleasure here” (Interview with a SAD elder, February, 2015).

Figure 4.15 shows signage for redistributed oil palm plantations by a SAD family lineage.



Figure 4.15 : Signage for the location for the plantation of a SAD family group. The sign indicates the number of households in the family group and the total area. Photo taken by the author, February 2015.

4.5 Case study 2: Belanti Jaya - a dispute between an oil palm company and transmigrants

The Indonesian transmigration program is a well-known program from the New Regime era which the government claimed was a land reform policy implementation program (Section 2.2.3). Transmigration was both a policy and a process implemented by the Indonesian government to move people from the densely populated island of Java (and some other densely populated outer islands such as Bali and Lombok), to sparsely populated islands elsewhere in the archipelago.

In some of the transmigration settlements that were established in places like Sumatera, Kalimantan and Papua cooperative relationships have been established between state or private companies and transmigrants under the umbrella of core-plasma business partnerships. In these business partnerships, the core area is owned by the company and the transmigrants in the surrounding communities work the plantations. The transmigrants themselves also have small (usually 2 hectares) plantations which they farm and sell the palm fruits to the company for processing. These transmigrants

and their activities are called the plasma. The companies have full responsibility for developing and managing the farming activities the transmigrants both in the core and in the plasma. Thus, the government uses companies not only to increase the production of oil palm (and other plantation crops) but also vests in them a role in achieving targets related to improving the living standards and welfare of transmigrants. The transmigrants are the owners of farms that sell their produce (oil palm fruits) to the core companies. This type of partnership pattern is termed *Perusahaan Inti Rakyat* (PIR) or Nucleus Estate-and-Smallholders (NES) scheme, in which each transmigrant family was allocated a 2- hectares farm and 0.25 hectares for their house (Aulia, 2017).

PIR/NES schemes were first introduced in 1976 with the dual aims of creating new employment opportunities for farmers living around plantations and an equitable distribution of the benefits of socio-economic development. This was later considered to be in line with World Bank policies to eradicate poverty (Gunawan et al., 1995). However, although PIR/NES schemes can be seen as acts of land reform, in practice they have caused many problems (McCarthy, 2010; McCharthy and Cramb, 2009; Li, 2004; and Soetrisno, 1983). In the early era of the New Regime, development strategies were based on the management of capital-intensive natural resources, including large-scale forest clearance through granting privileges to companies, both state and private, and individuals through PIR/NES schemes. In some areas forest clearance resulted in the exclusion of local indigenous communities from land that they had used for centuries under customary tenurial arrangements. This was exacerbated by the influx of people as transmigration areas were opened up. In the early years the program brought people from Bali, Java and Lombok into undeveloped, forested areas in Kalimantan and Sumatera (Savitri et al., 2010), later this spread to Papua. The land dispute I studied between PT. Sawit Jambi Lestari and transmigrants in Belanti Jaya village falls into this category of land conflict.

4.5.1 Belanti Jaya Village

Belanti Jaya (Figure 4.5) is much smaller than Bungku with only 1,260 people (668 male, 592 female) (BPS 2013). As was the case with Bungku (Section 4.4), the livelihoods of people in Belanti Jaya are dominated by agriculture: though a few trade in groceries or work as wage labour on other people's farms. Again, based on the questionnaires, 42.1 percent of the land is used for housing, 55.3 percent for oil palm and 2.6 percent for rubber. Most (40 percent) participants interviewed were between 20 and 30, with 30 percent 41 and 50 (30 percent): 15 percent were between 31 to 40 (15 percent) and a similar proportion were 51 to 60. Eighteen of the 20 interviewees had migrated to this village (Figure 4.16). This is because the village was a destination village of the transmigration program. However, only 20 percent (4) people were transmigrants from Java. The remaining 14 were from other villages in Sumatera. Some could have been transmigrants to the island who then migrated again to Belanti Jaya.

Sixty percent of people had moved to the village to gain employment and benefit from a better livelihood. Slightly over half (55 percent) worked their own farm as part of a NES scheme. Farming, i.e. oil palm cultivation, started the farm in this village around 16-20 years ago (Figure 4.17).

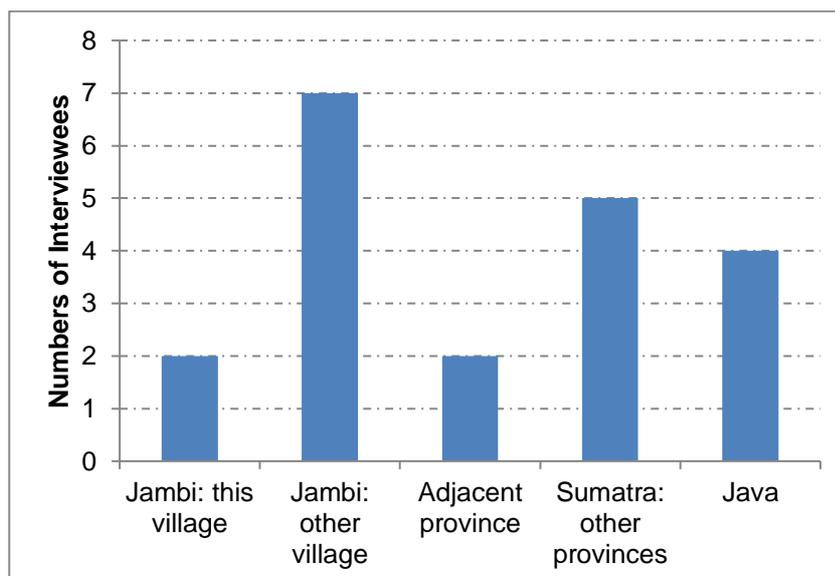


Figure 4.16: Birthplaces of interviewees in Belanti Jaya

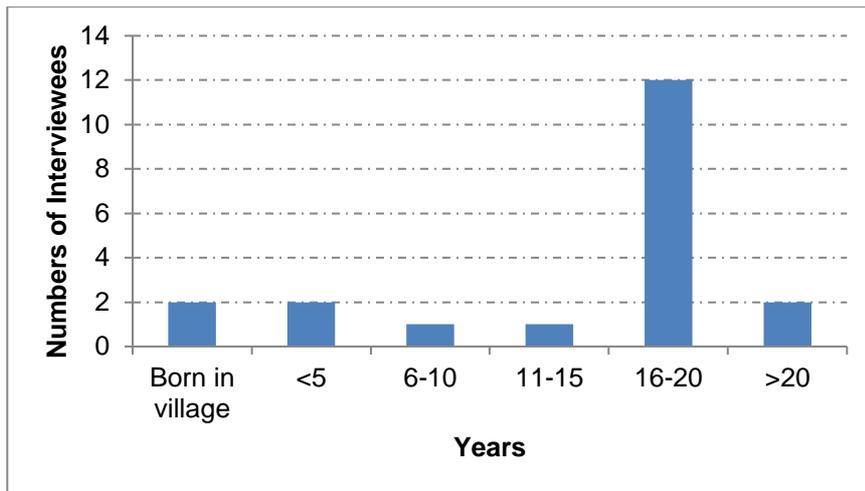


Figure 4.17: The number of years since the people interviewed had migrated to Belanti Jaya

I undertook a household wealth ranking of the households interviewed. The lowest house wealth ranking was 12 and the highest was 30 (Figure 4.18).

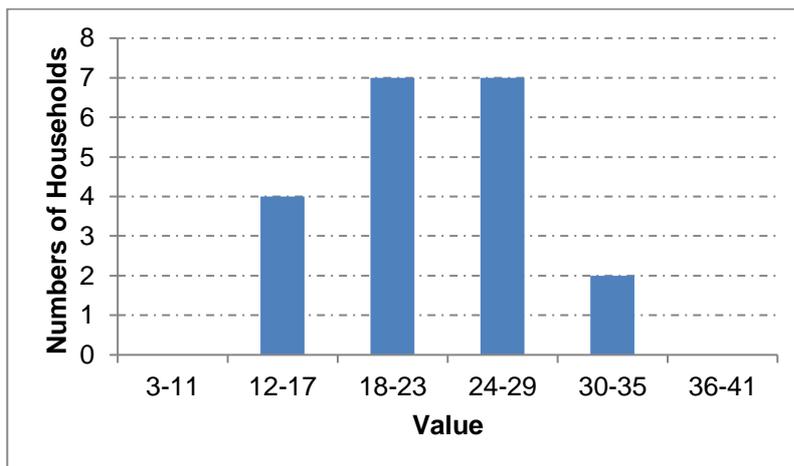


Figure 4.18: Wealth ranking of household studied in Belanti Jaya

4.5.2 Mapping the Dispute in Belanti Jaya

PT. Sawit Jambi Lestari owns and operates oil palm plantations spread over an area of approximately 11,700 hectares. According to the Deed of Company Establishment 50 signed by notary Ny. Anna Sunarhadi, the company was established on November 18 1987. It is based in Jambi City. The chronology of the land dispute between PT. Sawit Jambi Lestari the transmigrants farmers

on Belanti Jaya who live in the area surrounding the HGU is illustrated in Figure 4.19.

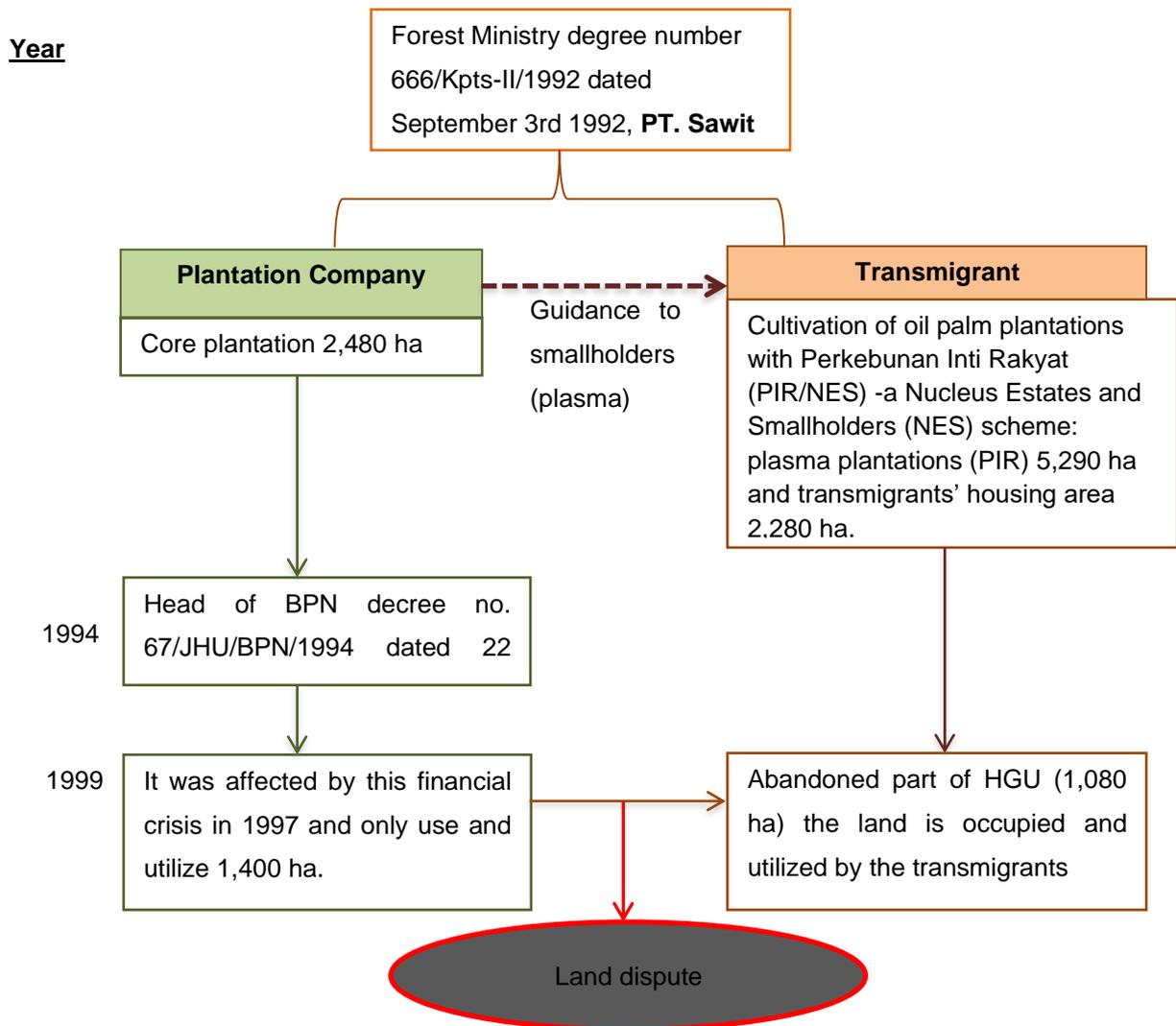


Figure 4.19 Chronology of the land dispute between PT. Sawit Jambi Lestari and transmigrants of Belanti Jaya

In 1988, the Governor of Jambi signed Decree 58/1988 which provided land for oil palm plantations under NES schemes. It was re-inforced by Ministry of Forestry Decree 666/Kpts-II/1992 of 3 September 1992. Under these decrees PT. Sawit Jambi Lestari acquired an area approximately 11,700 hectares in Batanghari District (Figure 4.20) for oil palm plantations that would be worked alongside the transmigration program in a PIR/NES scheme.

Figure 4.20 shows the core oil palm plantations of PT. Sawit Jambi Lestari (A) and the NES transmigrant plasma plantations (B). The areas of housing areas for transmigrants are indicated by areas C, D, E and F. The land-use composition of the entire 11,700 hectares area is as follows:

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Figure 4.20 Map of oil palm plantations of PT. Sawit Jambi Lestari and the associated transmigrant community under the prevailing NES scheme (BPN Batanghari, 1996)

- 1) core (company) plantations - 2,480 hectares (21.2 percent);
- 2) plasma (transmigrant) - plantations 5,290 hectares (45.2 percent);
- 3) land that is too difficult to plant 250 hectares - (2.1 percent);

- 4) transmigrant housing areas - 2,280 hectares (19.5 percent);
- 5) roads and bridges - 160 hectares (1.4 percent); and
- 6) community land - 1,237 hectares (10.6 percent).

In 1994 PT. Sawit Jambi Lestari received HGU rights to 2,480 hectares in the core plantation area which was verified by BPN Decree 67/JHU/BPN/1994 (August 22 1994). BPN later issued HGU land title 1/1994.

In 1997, Asian economic crisis which affected Indonesia as well as other countries in the region manifested itself in a private sector debt crisis, a crisis in capital markets, aviation capital, a sharp upturn in prices and rising unemployment (Robinson and Rosser 1998). PT. Sawit Jambi Lestari was, like many companies in the oil palm sector in Indonesia, affected by this crisis and it failed to fulfill its legal responsibilities as follows. As they only obtained the area in 1994 they had not had enough time to fully plant it, and they abandoned 1,080 hectares (43.5 percent) of the core plantation area. They also failed to provide agricultural guidance to the 165 transmigrant smallholder farmers—the plasma—at the time of failure. In response to this the farmers invaded the unplanted area of core, making a subsequent dispute inevitable.

In 1998 transmigrants in Belanti Jaya (*Kelompok Tani Mayang Mengurai*) asked the Batanghari Regent for permission to open up the land abandoned by the company. The Regent followed this up by referring the matter to BPN Batanghari. According to BPN Batanghari Letter no. 460-065 of 27 January 1999, based on field observations:

- 1) The location of the land that requested by *Kelompok Tani Mayang Mengurai* is in Belanti Jaya.
- 2) Based on field observations of 1,000 hectares of land that was requested by *Kelompok Tani Mayang Mengurai*, the current land-use composition is dense forest (400 hectares) and rubber and bush (600 hectares).
- 3) The part of the core that *Kelompok Tani Mayang Mengurai* requested is owned by PT. Sawit Jambi Lestari.

- 4) According to the spatial plan (*Rencana Tata Ruang Wilayah/RTRW*) of the Batanghari District, the land question is zoned an agricultural cultivation area.
- 5) BPN Batanghari suggested that before the land is utilized by the *Kelompok Tani Mayang Mengurai* the legal status of the land had to be settled.

According to the responses to the questionnaires I administered, the main trigger for transmigrants to occupy the land abandoned by PT. Sawit Jambi Lestari was that their families were growing and many of their offspring had got married and were starting new households. They needed land. This was occurring against a shortage of new land in the area and the company being seen to abandon land that it had HGU rights too.

Data I obtained from BPN Jambi mentioned that approximately 50,000 hectares land with HGU rights had been abandoned⁶ by its owners in the province. These abandoned areas are called 'suspected abandoned land' until they are verified in the field by BPN. A related point alluded to in letter 005/3931/Derek dated July 1 1999 from the Administrative Development Assistant of the Batanghari government, was that 100 households involved in the dispute with PT. Sawit Jambi Lestari had declined to receive the oil palm plantations they had been awarded because of (i) the poor condition of the trees and (ii) the planting density was well below the technical specifications for the region. They demanded that their allocation can be replaced with oil palm plantations in better condition or parts of the company's core plantation (Figure 4.21).

In October 1999 PT. Sawit Jambi Lestari reiterated the contents of Letter 016/SJL/D/IX/1996 of September 11 1996 which stated that, from the total area that they received under Ministry of Forestry Decree 666/Kpts-II/1992 of

⁶ The legal term abandoned land covers land which has been used by its owners and then abandoned and land which have never been used or farmed by its owners. The second type of land is called idle land in many countries, but this is not the case in Indonesia.

September 3 1992 (an area of approximately 11,700 hectares) that land totaling 10,183 hectares had been used and utilized for core plantations, plasma plantations, public facilities (roads and bridges) 160 hectares and housing areas for transmigrants. The remainder was unutilized area and had indirectly been returned to the Government of Jambi. In November 4 1999 the Batanghari Regent released a letter (593.41/6725/Pem) regarding the land that had been requested by *Kelompok Tani Mayang Mengurai* in which he agreed that the group could clear forest and other vegetation on the land owned by PT. Sawit Jambi Lestari that was not being utilized.



Figure 4.21 Unoccupied security post in the core plantation area of PT. Sawit Jambi Lestari. Photo taken by the author, February 2015.

Based on Government Regulation 11/2010 regarding control and utilization of abandoned land and BPN Regulation 4/2010 regarding procedures for the control of abandoned land, the Head of BPN in Jambi Province wrote letter 011/15-500/I/2010 on January 7 2010 which updated the status of the HGU land of PT. Sawit Jambi Lestari. This letter indicated that approximately 1,080 hectares were considered to be abandoned. It was also followed a warning letter to PT. Sawit Jambi Lestari concerning the abandoned land. The Forestry Office of Batanghari District provided the explanation behind this decision in letter 522/297-PPKH/Dishut dated 27 July 2010:

- 1) The forest area that had been awarded to PT. Sawit Jambi Lestari extended over 11,700 hectares and had been utilized as follows: core plantation (HGU) 2,430 hectares; plasma plantations and housing area 3,767 hectares; public facilities 90 hectares; land occupied by local transmigrants (i.e., from different regencies in Jambi) 76 hectares; and a further 800 hectares is planned for local transmigration. This totalled approximately 7,163 hectares, leaving an unutilized area approximately of 4,537 hectares.
- 2) The area that is not used by PT. Sawit Jambi Lestari is considered to be abandoned and is unproductive. Furthermore, as there were no security personnel to guard the abandoned area it has been occupied by farmers from the local community.
- 3) Based on their monitoring procedures, the ownership of land that has been abandoned has not been canceled by the Ministry of Forestry and therefore the land still legally belonged to PT. Sawit Jambi Lestari.

In Section 3.4 I noted that I was unable to interview anybody at PT. Sawit Jambi Lestari. However, one secondary source I consulted noted that the general manager of PT. Sawit Jambi Lestari stated that the company had not abandoned its HGU rights (Bakhori 2008),

"Kami masih beroperasi dan mengenai adanya security dikarenakan untuk menjaga kebun sebab kami sering kali dilarang warga memanen sawit milik kami sendiri".

"We are still operating. Concerning security personnel to guard the plantation, this is often ineffective because we are often prohibited by the people from harvesting fruits from our own oil palms" (Bakhori, 2008, p.01)

In an interview I conducted with the head of the Land Arrangement Section of BPN Batanghari, he stated that BPN had made and been involved in efforts to resolve the dispute but the reality on the ground was that the dispute was still ongoing. Specifically, these efforts were:

- 1) PT. Sawit Jambi Lestari brought the issue to the criminal court, which made the decision that PT. Sawit Jambi Lestari is entitled to its HGU rights. However, this court decision had not impacted positively on the situation as the transmigrants had not accepted the court's decision.

This had led the transmigrants to ask the local government to mediate in the dispute.

- 2) To try and resolve the dispute, the Regent of Batanghari issued a decree specifically directed toward the smallholders who had occupied the core area abandoned by PT. Sawit Jambi Lestari. In this decree the smallholders were called the *Calon Petani Plasma* (CPP), which roughly translates 'a group of farmers to be'.
- 3) PT. Sawit Jambi Lestari promised to rearrange its field operations so that the area claimed by the transmigrants could be used and utilized by the CPP.



Figure 4.22a Purchase agreement of land based on Batanghari Regent Decree no. 308/2010 to which receipts have been attached

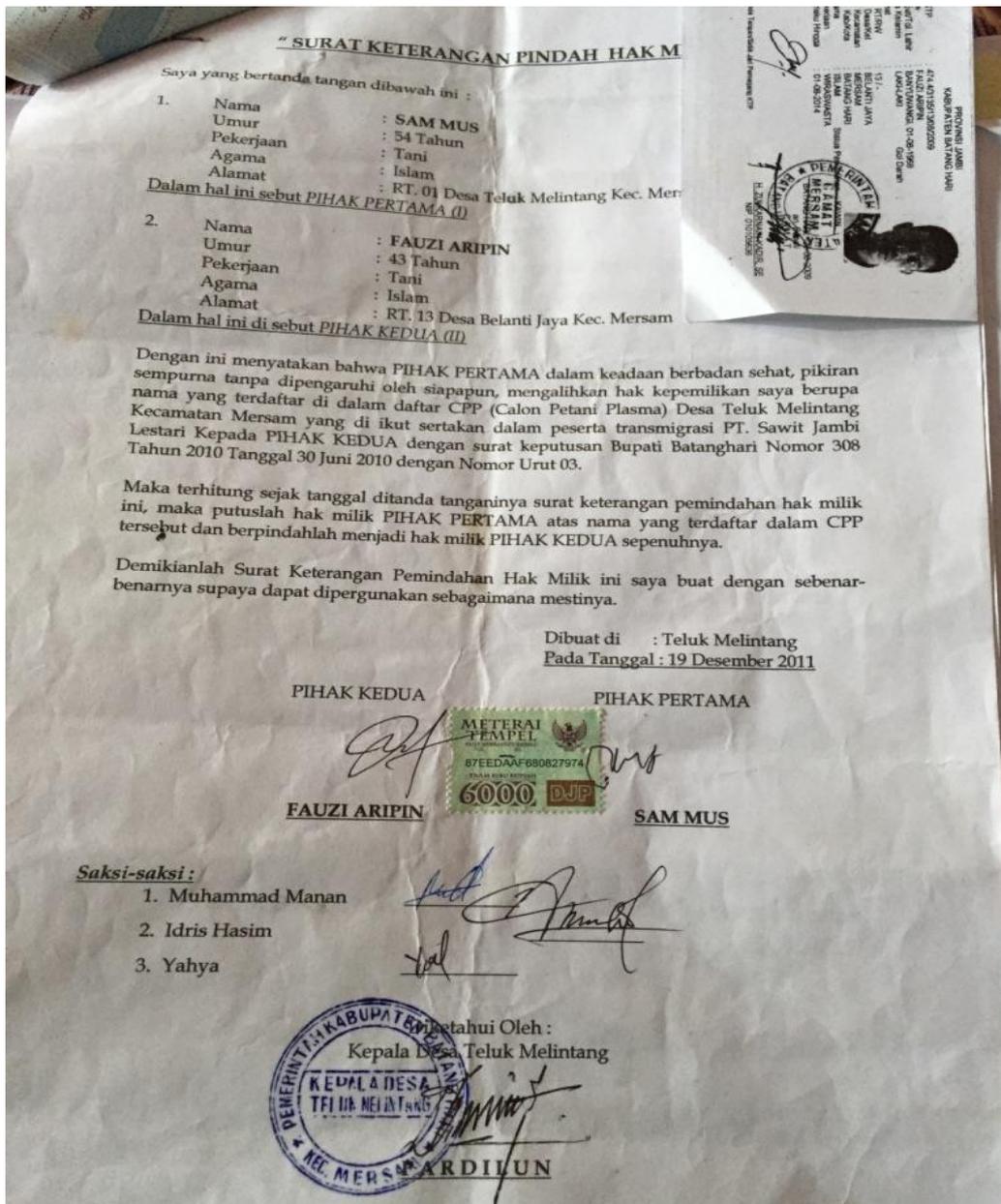


Figure 4.22b Purchase agreement of land in the Belanti Jaya area based on Batanghari Regent Decree 308/2010.

The key points in the above document are: The letter is entitled Certificate of Transfer of Property Rights. 1 is the seller and 2 is the buyer (both with name, age, job, religion, and address). A copy of the national identity card of the buyer is attached. It is signed by the seller and buyer, three witnesses, and the head of the village. The certificate stipulates that the seller has transferred ownership rights, rights which are registered in the seller's name on the CPP list and that he is a transmigrant participant of PT. Sawit Jambi Lestari based on the Regent of Batanghari Decree 308/2010 dated 30 June 2010, sequence number 03. From the date of the signing the certificate of transfer all rights are transferred to the buyer.

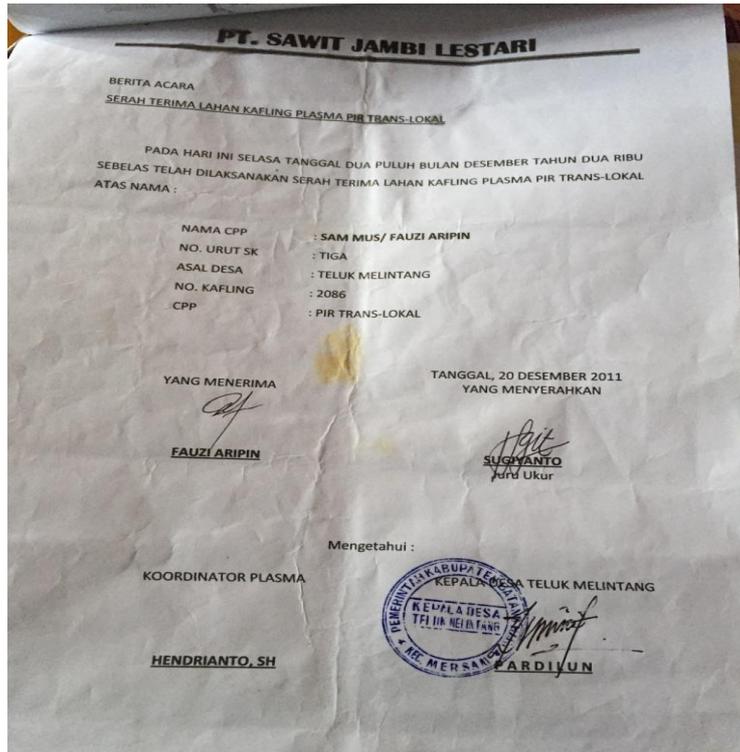


Figure 4.22c Purchase agreement that reports on the handover of plasma land parcels in PIR Trans-Local.

The contents of Figure 4.23c are a record of the date of handover of plasma land parcel in PIR Trans on behalf of the new owner mentioning the serial number of the name in the the Regent of Batanghari's Decree 308/2010 and the number of the plot. The letter is signed by the buyer and seller, as well as the village head and plasma coordinator (though the plasma coordinator did not sign it).

These led the Regent of Batanghari to issue decree 308/2010 on 30 June 2010 regarding the transmigrants in dispute with PT. Sawit Jambi Lestari. In the interviews I had with households in Belanti Jaya I found that households were using decree as an evidence of land ownership, though legally it is not the case. Some members of the CPP, who are named on the decree, have traded in land and claim that as it their land they have right to sell it (Figure 4.22 a-c). These land sales are probably technically illegal because the land is legally owned by PT. Sawit Jambi Lestari.

According to member of the CPP, the land was in dispute because though it was part of the HGU of PT. Sawit Jambi Lestari, they had occupied and used

it. They argued that they were within their rights to trade the land as they have land ownership based on the Regent of Batanghari's decree.

“Asal mulanya ini tanah HGU PT. Sawit Jambi Lestari kemudian sebagian diduduki masyarakat. Kemudian Bupati menerbitkan SK untuk menempati HGU PT. Sawit Jambi Lestari dan berpindah menjadi hak milik pihak kedua sepenuhnya artinya sepenuhnya milik kami kan”.

“The origin of this land [is that it is part of the] HGU of PT. Sawit Jambi Lestari and it partially is occupied by the community. The Regent of Batanghari issued a decree to [us to] own that land and the meaning is it belongs entirely to us” (Interview with a transmigrant, Belanti Jaya. January, 2015).

4.5.3 Mediation in Belanti Jaya

As stated earlier, a portion of the land owned by PT. Sawit Jambi Lestari was abandoned in 1998 and people living locally utilized it for oil palm plantations. In 2010, PT. Sawit Jambi Lestari claimed that they had not given permission for people to use this land, but the farmers occupying it refused to leave and a dispute was initiated.

As with Bungku dispute, it was mediated by TIMDU Batanghari (Section 4.4.3). Mediation meetings between disputants have been held in the offices of KESBANGPOL, the third party tasked with trying to resolve the the dispute. Mediation was attempted in 2013 and 2014 based on research reports of into the land dispute and the minutes of a meeting between plasma farmers, PT. Sawit Jambi Lestari and the mediator on June 6 2014. At the end of my fieldwork in June 2015 efforts to resolve the dispute were continuing. In 2016, 200 peasants sued the company in the State Administrative Court (PTUN) (Jambiindependent 2016). Mediation was re-initiated with TIMDU as mediator on Febuary 1 2017. The mediation meetings held in KESBANGPOL's offices in Batanghari were attended by the Head of Belanti Jaya Village, a PT. Sawit Jambi Lestari representative and the CPP. The disputant parties gave their side of dispute and what they expected in way of settlement. The PT. Sawit Jambi Lestari representative suggested that there were about 38 households who were prospective plasma farmers that they had not been able to place because most of the HGU area was occupied. Therefore the action to place remaining members of CPP could not be accomplished. The CPP demanded

the company make a statement agreeing that CPP has ownership rights of part of the HGU land and provide a map of parcels that they own within it (KODIM0415 2017).

4.6 Comparisons between Belanti Jaya and Bungku

At this point in the thesis it is useful to highlight the differences between the households sampled in Bungku and Belanti Jaya, as this information is relevant to comparative analyses of the all case studies in Chapter 6.

4.6.1 Household wealth ranking

The highest wealth ranking I scored for a household in Belanti Jaya is 30, and the lowest is 12. The average score is 22.1. The equivalent values for Bungku are in the range of 5-27, with an average of 17.3. A Mann-Whitney test applied to these data produced a U value of 109.5 (critical U at $p < .05 = 127$. The z score was 2.43451 and the p-value was 0.0151. These results indicate significantly different household wealth rankings at $p < 0.05$ between the two villages. This probably arises because most of the farmers in Belanti Jaya began farming 16 to 20 years ago, were given land as part of the transmigration program and incorporated in an PIR/NES scheme. This is in contrast with Bungku, where the majority of people were born in the village (Figure 4.23). The farmers in Belanti Jaya have benefitted from the start they were given, while in Bungku some of the villagers I interviewed started with the risky proposition of clear forest to create farms without having security of legally-recognised land tenure. Other villagers in Bungku have only owned 2-hectares farm plots since 2014 given to them as part of the land distribution after the land dispute was resolved.

4.6.2 Land use and ownership

Farmland is the most important natural resource endowments for the people in both villages as the vast majority are engaged in farming (62.5 percent work on their family farms, 15 percent as wage labourers on farms). Other aspects of their socio-economic background do play a role, e.g., the most farmers had

either no formal education or were educated to elementary or junior high school levels (Figure 4.24).

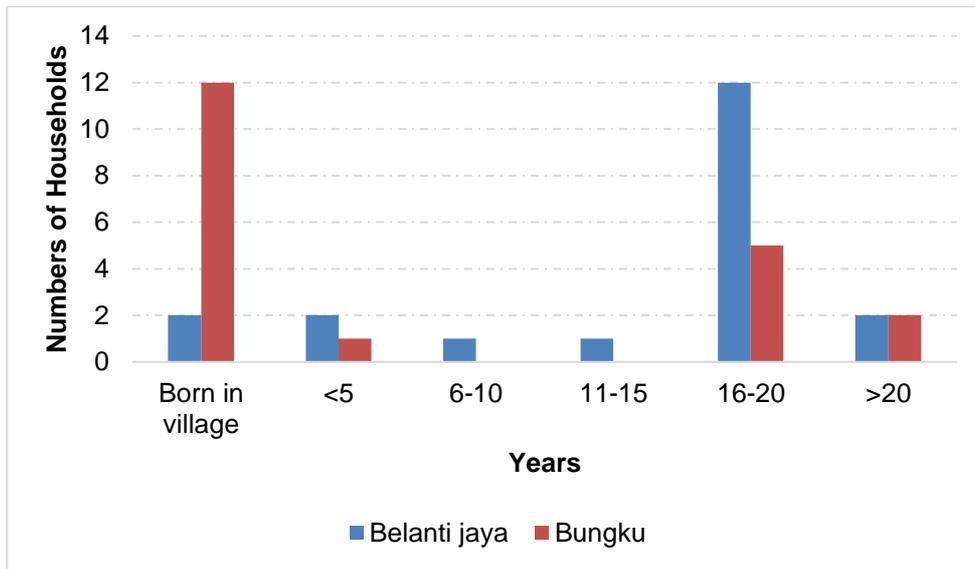


Figure 4.23: The length of time interviewees had lived in Belanti Jaya and Bungku

Based on the questionnaire responses almost all participants (96.9 percent) stated they owned their land but when further questioned it appears that 50.8 percent of land parcels are unregistered. Therefore approximately half the land parcels held by the people questionnaire have the potential to be disputed or are already in dispute (Figure 4.25).

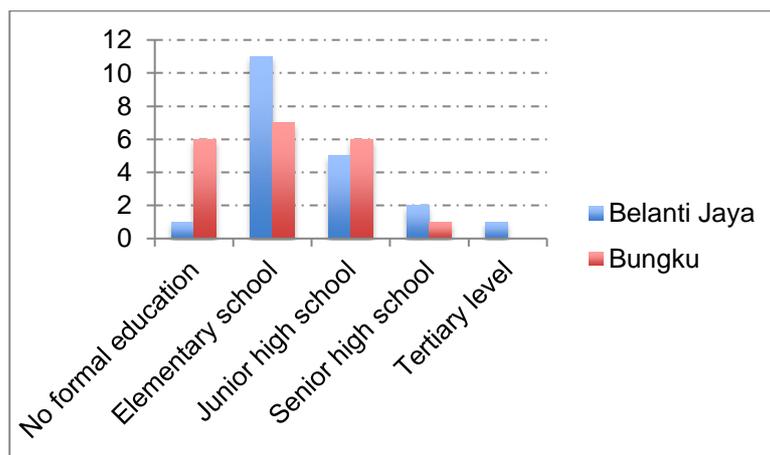


Figure 4.24: Highest level of education in Belanti Jaya and Bungku

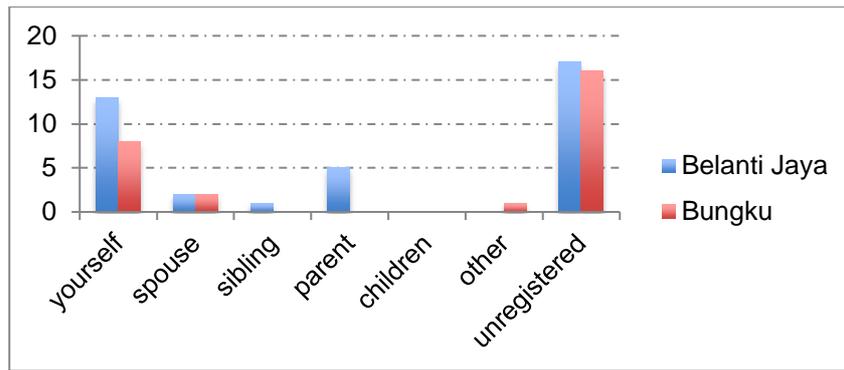


Figure 4.25: Registration status of the land parcels of the household sampled.

In Belanti Jaya the average area of unregistered land parcels is 1.81 hectares, while in Bungku it is 1.08. The Mann Whitney U statistic (69, $p < 0.05$) indicates that the mean area of unregistered land parcels in Belanti Jaya is significantly greater than in Bungku. The origins of the unregistered land in Bungku and Belanti Jaya is different (Figure 4.26). In Bungku most disputed land is that obtained from other people (i.e., land legally owned by someone else) or forest. In Belanti Jaya most was abandoned land. Interestingly a small proportion of people in each village did not know the previous land tenure.

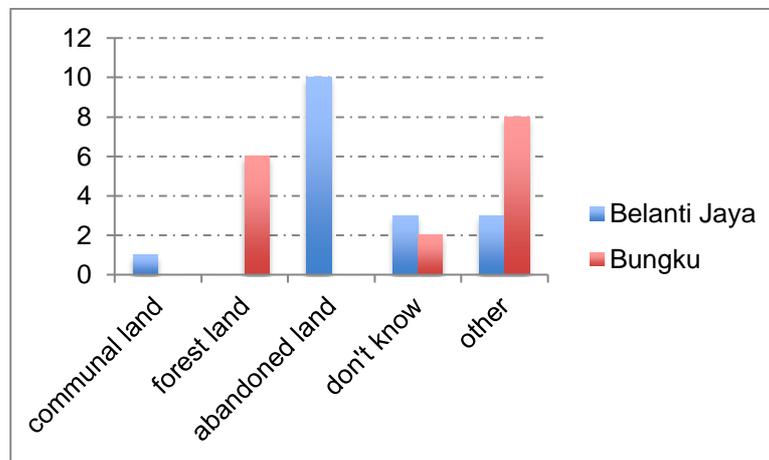


Figure 4.26: Origins of unregistered land 'owned, of the households sampled

Land use itself does not differ much between the two villages. Breaking down the 65 parcels, the most frequent land use is oil palm plantation (56.9 percent). This is followed by land for housing (38.5 percent) and then rubber plantations

(4.6 percent). Although as noted earlier (*cf.* Figure 4.6) there is an overlap between housing and oil palm.

Households in each village had acquired their land parcels in very different ways (Figure 4.27). Most households in Belanti Jaya had either been granted land as part of their transmigration packages or had subsequently bought land in the local land markets that develop as transmigration villages evolve.

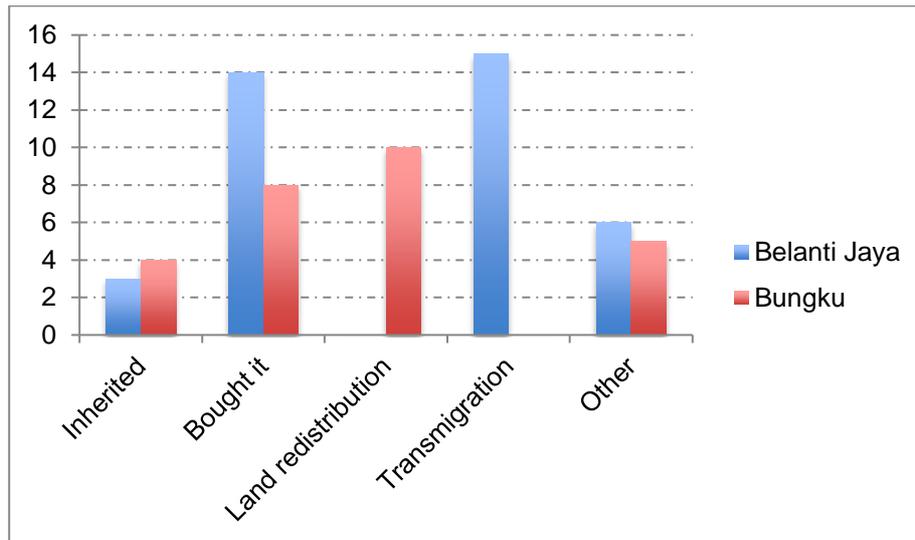


Figure 4.27: Land acquisition profiles for Belanti Jaya and Bungku



Figure 4.28: The status of land disputes in Bungku and Belanti Jaya

In Bungku, the recent land redistribution -after the land dispute had been resolved- was how over half of the households sampled had obtained land. In Bungku 70 percent of the households sampled said that they have or have had

a land dispute. Most of these were resolved through mediation; while in Belanti Jaya only a quarter of households had experienced land disputes (Figure 4.28).

4.7 Summary

The causes of two land disputes in Batanghari District have been detailed and described in this chapter, along with a description of the attempts to resolve them.

The first dispute involved PT. Asiatic Persada and the *Suku Anak Dalam* in Bungku Village and it presented as case where an indigenous group had lost its customary rights to land. The dispute has been resolved through mediation, with PT. Asiatic Persada agreeing to release 2,000 hectares of oil palm plantation. This land was been redistributed to 994 *Suku Anak Dalam* households, which were verified through the *adat* Constitution of Batanghari.

In the second dispute, which is centered on Belanti Jaya, the disputants were another oil palm company—PT. Sawit Jambi Lestari—and a transmigrant community. The land under dispute had been abandoned by the company and subsequently invaded by transmigrants. Both litigation and mediation have been used to attempt to resolve this land dispute but it is still ongoing.

Further details about each dispute, beyond the descriptions in this chapter, are provided in Section 6.2, where a deeper understanding of the land disputes is developed by undertaking a comparative analysis of their causes.

These two case studies will be used later in the comparative analysis in Chapter 6. Beside for comparison of the causes, also to learn the approaches used to resolve each land dispute and how success or failure in resolving these disputes.

CHAPTER 5: RURAL LAND DISPUTES - CASE STUDIES FROM EAST JAVA PROVINCE

5.1 Introduction

This chapter describes two land disputes that both involve the village of Gadungan in Blitar District in East Java Province. The disputants in one—*Case study 3*—are PT. Blitar Putra and farmers from the village, while the parties in the other—*Case study 4*—are PT. Rotorejo Kruwuk and farmers who are also from the same village. In Java, land disputes are strongly related to land issues that are part of the colonial and post-colonial history of Indonesia and are at the intersection of land tenure and politics. During the Indonesian Revolution in 1965 the communist party supported the contemporary land reform movement and the actions being taken by farmers. Therefore, in order to provide the necessary background to the Gadungan case studies the land tenure history and politics in Indonesia especially that relating to the Old Regime of Sukarno (1950-1965) and the New Regime of Suharto (1966-1998) is introduced in Section 5.2. Section 5.3 describes the setting of the case studies in East Java Province. The next section maps the land dispute between farmers and PT. Blitar Putra, and the following section does the same for the dispute with PT. Rotorejo Kruwuk.

5.2 History of land tenure in Java

During the Dutch Colonial Era, the rural population of Java had limited access to land and natural resources. This was the result of three agrarian policies put in place during the colonial era (Bachriadi, 2009):

- 1) ownership of land was distributed according to the “*domein verklaring*” principle in which land could be owned by an individual—*eigendom*—or it could be owned by the state;
- 2) large parcels of land for plantations—*erpacht*—were allocated to meet economic development goals; and
- 3) state land for forestry.

After independence in 1945, it can be argued that Article 33(3) of the Indonesian Constitution (UUD 1945) is an example of the post-independence agrarian policies supporting social welfare for Indonesian people with a strong element of justice. Bachriadi (2009) argues that, as state land was owned by the nation, the state had a duty to control the land and natural resources and also to allocate it for any purpose except for individual ownership. Thus, after independence, land was legitimately partitioned into private land and state land; the latter being further partitioned in two utilization categories: non-forest land and land for forestry (Bachriadi, 2009).

During the Old Regime of President Sukarno, the Basic Agrarian Law (BAL) was declared on September 24 1960. It still exists and has the single purpose of making the state responsible for managing land and other resources in the interests of the Indonesian people, where those resources have a social function which is of vital importance to the country. The first president of Indonesia, Sukarno, was a nationalist, socialist and populist in whom the Indonesian people had great expectations in terms of delivering improved well-being and better livelihoods. In the context of this research, a key demographic that supported him were the landless and poor peasants in rural areas (Lucas, 2013). He introduced a land reform program that gave priority to redistributing land to poor and landless farmers so that they could improve their livelihoods and so that social justice was attained. The articles in the BAL that are relevant to these objectives are:

Article 7:

“Untuk tidak merugikan kepentingan umum maka pemilikan dan penguasaan tanah yang melampaui batas tidak diperkenankan”.

“In order not to harm the public interest, the excessive ownership and control of the land shall not be permitted”.

Article 17, Paragraph 3:

“Tanah-tanah yang merupakan kelebihan dari batas maksimum termaksud dalam ayat (2) pasal ini diambil oleh Pemerintah dengan ganti kerugian, untuk selanjutnya dibagikan kepada rakyat yang membutuhkan menurut ketentuan-ketentuan dalam Peraturan Pemerintah”.

“The lands that are in excess of the maximum limit referred to in paragraph (2) of this article shall be taken by the Government with compensation, and subsequently distributed to the people in need under the provisions of the Government Regulations”.

However the outcomes of the land reform program were less than expected because land distribution under the BAL only took place between 1960 and 1965. In 1965 the ‘G30S PKI rebellion’ took place. This involved a series of politically motivated riots in rural areas that involved the communist party and which led to many deaths. This rebellion ultimately led to Suharto becoming the second president of Indonesia in 1967, but in the context of this research perhaps more important is the fact that it led to the termination of the land reform program and all activities in rural areas that had involved the communist party were forbidden (Bachriadi et al., 1997 and Farid, 2005). The military and the majority of the Indonesian people were of the opinion that the land reform program, which had started in 1960 was, in fact, a communist action (Wiradi, 2000 and Warren and Lucas, 2010). There was also an opinion that communism would not suit the Indonesian *pancasila* ideology.

During this intense political period the army, led by General Suharto, overthrew the government-imposed authoritarian military rule. Later during Suharto’s presidency the Indonesian people were made to think that the bloody massacres which led to him becoming president were done to protect the country from communist insurgency (Cribb, 2002). This had a strong influence on land tenure and the access of different groups of people to land. Local élites generally took over the rights to land that had been redistributed to landless and poor farmers through land reform program, especially that belonging to farmers who were allegedly communists or communist sympathizers (Bachriadi, 2011). Moreover, those farmers not only lost their land but also their political, civil and socio-economic rights (Bachriadi, 2009).

After Suharto came to power, large tracts of land in Java were used for industrial and urban expansion. This was generally achieved through capital-intensive developments, such as infrastructure and industrial projects, building resort complexes and residential estates, and concessions to establish new

plantations. Some of the land that was used for these projects was land that had been redistributed to peasants during the earlier land reform program, often land was large landholding plantations during the Dutch Colonial Period. The acquisition of land from peasants without any compensation of this time led to a ticking clock of unresolved future land tenure disputes. Any peasant farmers who received land from the land reform program from 1960 to 1965 did not have a legal title to land after 1965 and therefore they found it almost impossible to prove that they had the rights to any land claim (Lucas, 2013). This problem is particularly acute in Java, where the basic requirement for farmland can hardly be met due to the population-land imbalance. On the other hand, land registration is more complete on Java than any other islands in Indonesia.

The Asian economic crisis of 1997 had significant economic impacts on Indonesia. It was aggravated by demonstrations, some of which were violent, demanding Suharto resignation. That event finally occurred in May 1998. But by the end of Suharto regime, 62 percent of land was under various forms on 'use permits' mostly controlled by big business interests. Prime examples were rubber and oil palm plantation companies. However, most of that land was unutilized in comparison to the uses proposed by the companies when they had received their location (use) permits. Subsequently, once Suharto was no longer in power thousands of hectares of land were claimed by peasant farmers, and throughout the country many plantations were destroyed and replanted with food crops. Lucas (2013) has argued that this was in part of a symbolic land-use change because the plantation crops were a symbol of sovereignty, while food crops were a symbol of the people.

The case studies documented in this chapter are land disputes in Blitar District in eastern Java. They involve two plantation companies—PT. Blitar Putra and PT. Rotorejo Kruwuk—and peasant farmers from one village—Gadungan. The chapter will describe and investigate the causes of the two land disputes. Specifically, it examines how the people of Gadungan lost their land, how they are trying to regain them, and how this had impacted on their livelihoods. One

dispute—*Case study 3*—has been resolved. This has enabled me to find out what has happened since the people have received their land redistribution and whether the parties feel the dispute has actually been resolved and whether is likely to arise again in the future and under what circumstances. *Case study 4* is not yet resolved.

5.3 Area Setting

5.3.1 East Java Province

East Java or Jawa Timur Province (Figure 5.1) has a total area of 47,963 km² and comprises the east of Java Island and Madura Island to the north east of Surabaya. The province borders the Java Sea and Borneo to the north, the Indian Ocean to the south, the Bali Strait to the east and shares a western boundary with Central Java Province.

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Figure 5.1: Location of East Java Province in Indonesia

Administratively, it is divided into 29 districts and 9 cities (Table 5.1): the largest number of districts/cities in any Indonesian province. In 2015, its population was 38,847,561 (19,172,610 male, 19,674,951 female).

Table 5.1: Total area by district/city in East Java Province, 2013 (BPS, 2017).

District/City	No. of sub-divisions	Villages	Area (km2)	Percentage (%)of province	Distance to Surabaya (km)
Pacitan	12	171	1,389.92	2.9	276
Ponorogo	21	307	1,305.70	2.7	197
Trenggalek	14	157	1,147.22	2.4	186
Tulungagung	19	271	1,055.65	2.2	154
Blitar	22	248	1,336.48	2.8	169
Kediri	26	344	1,386.05	2.9	124
Malang	33	390	3,530.65	7.4	89
Lumajang	21	205	1,790.90	3.7	145
Jember	31	248	3,092.34	6.5	198
Banyuwangi	24	217	5,782.40	12.1	289
Bondowoso	23	219	1,525.97	3.2	191
Situbondo	17	136	1,669.87	3.5	194
Probolinggo	24	330	1,696.21	3.5	98
Pasuruan	24	365	1,474.02	3.1	60
Sidoarjo	18	353	634.38	1.3	23
Mojokerto	18	304	717.83	1.5	49
Jombang	21	306	1,115.09	2.3	78
Nganjuk	20	284	1,224.25	2.6	119
Madiun	15	206	1,037.58	2.2	169
Magetan	18	235	688.84	1.4	193
Ngawi	19	217	1,295.98	2.7	181
Bojonegoro	28	430	2,198.79	4.6	108
Tuban	20	328	1,834.15	3.8	104
Lamongan	27	474	1,782.05	3.7	46
Gresik	18	356	1,191.25	2.5	16
Bangkalan	18	281	1,001.44	2.1	28
Sampang	14	186	1,233.08	2.6	90
Pamekasan	13	189	792.24	1.7	122
Sumenep	27	334	1,998.54	4.2	175
Kediri City	3	46	63.40	0.1	124
Blitar City	3	21	32.57	0.1	167
Malang City	5	57	145.28	0.3	89
Probolinggo City	5	29	56.67	0.1	90
Pasuruan City	4	34	35.29	0.1	60
Mojokerto City	2	18	16.47	0.0	49
Madiun City	3	27	33.92	0.1	169
Surabaya City	31	154	350.54	0.7	-
Batu City	3	24	136.74	0.3	100
Total	664	8501	47,799.75	100.0	

Surabaya City—the provincial capital—has the highest population of any of the internal divisions at 2,848,583. This is followed by Malang District with 2,544,315. Mojokerto is the least populous city with only 125,706 people (BPS, 2017).

The majority of people are Javanese. An employment breakdown for August 2014 showed the agriculture, forestry, hunting and fisheries sectors employed 37 percent of the population; the trading, retailing, and the restaurant and hotel sector 21 percent and processing industries 14 percent. Much of the agricultural employment is in plantations. The main plantation crops in the province have changed little from 2006 to 2013 (Figure 5.2). Coconut plantations comprise the largest area followed by sugarcane plantations. Tobacco, coffee and white silk plantations rank third, fourth and fifth respectively have similar areas.

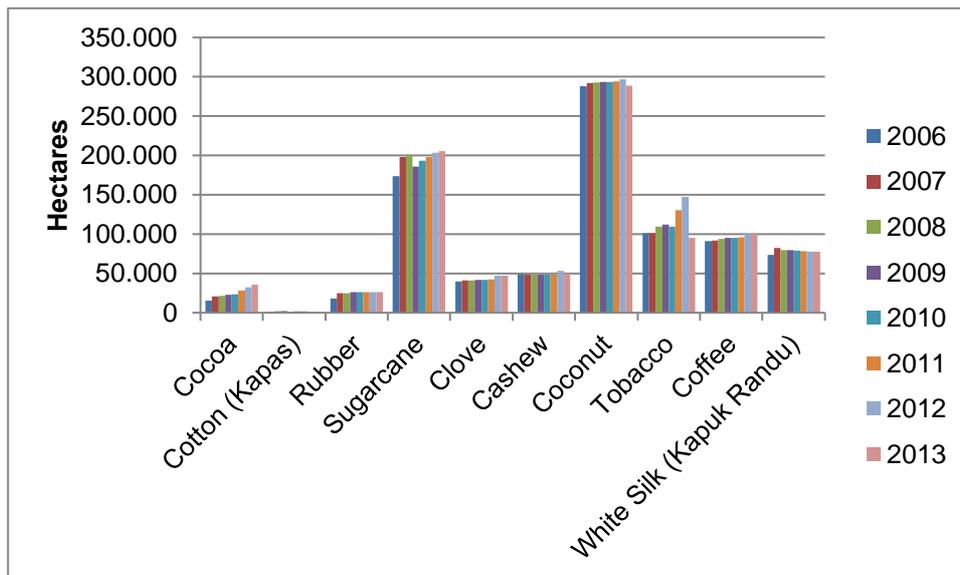


Figure 5.2: Plantation areas by crop in East Java Province, 2006-2013 (BPS, 2017)

5.3.2 Blitar District

Blitar District extends from 111°40' to 112°10' East and 7°58' to 8°10'9; South (BPS, 2017), and shares boundaries with Kediri (north); Malang (east) and Tulungagung Districts (west). It is bordered by the Indian Ocean in the south

(Figure 5.3). It covers 1,336.48 km² and is divided into 22 sub-districts and 248 villages (Table 5.1). Its population was 1,140,793 in 2015 (569,490 male, 571,303 female), its annual population growth rate is 0.8 percent and the mean population density of 718 people/km² (BPS, 2017).

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Figure 5.3: Location of Blitar in East Java

The Brantas River divides the district into northern and southern sectors. North Blitar comprises a lowland plain and a high plateau and its proximity to the active volcano Gunung Kelud means that soil fertility is generally high. The northern parts of the district comprises 15 sub districts—Doko, Gandusari, Garum, Kanigoro, Kesamben, Nglegok, Ponggok, Sanankulon, Selopuro, Selorejo, Srengat, Talun, Wlingi, Wonodadi and Udanawu, By way of contrast, southern Blitar comprises lowland coastal plain and mountain ranges and the soils are less fertile than the north. It comprises seven sub-districts—Bakung, Binangun, Kademangan, Pang-gungrejo, Sutojayan, Wates, and Wonotirto (Bappeda-Jatim, 2012).

According to Regional Development Planning Agency of Blitar, land use composition is plantations (35 percent), houses and yards (27 percent), rice

fields (20 percent) with the remainder being pasture, ponds and other infrastructure. Data on plantations in Blitar is provided in Table 5.2.

Table 5.2: Data for the main plantation crops in Blitar District (Regional Development Planning Agency of Blitar, 2012)

Crop	Area (hectares)	Production (t/year)	Number of farmers	Main sub-districts in which plantations are found
Coconut	17,637	21,989	33,713	Bakung, Gandusari, Kademangan, Panggungrejo, Srengat
Cloves	1,816	635.34	2,831	Doko, Gandusari, Nglegok, Wlingi
Sugarcane	6,281	502,497.55	2,093	Binangun, Garum, Nglegok, Udanawu, Wonotirto.
Cocoa	3,301	1,256.21	5,438	Ponggok, Udanawu, Wates

5.3.3 Gadungan Village

Gadungan is located in the Gandusari sub-district (Figure 5.4). It is the second largest community in the district by area (12.03 km²) and has a total population of 6,504 (3,281 male, 3,223 female) (BPS, 2013). It is located approximately 27 km to Blitar City and 77 km from the nearest major city—Malang.

It is located in the north of the district, where land is generally fertile and highly suitable for plantation agriculture. Most of the village lands are located at around 300 metres above sea level. The valley floors comprise extensive paddy rice fields, while the drier interfluves are mainly planted to the following plantation crops—robusta coffee, tea, sugar cane and cloves. Only two of these are major plantation crops in Blitar (Table 5.2), while tea is not common in East Java (Figure 5.2). The plantations can be classified as either smallholder plantations and large plantation estates; the latter being under either government or private company ownership. Some villagers work with

livestock, in particular in dairying or rearing beef cattle, goats and chickens. It is a rural community and almost everybody works in the agricultural sector.

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Figure 5.4: Location of Gadungan Village

This village was founded by Tumenggung Dermokusumo, a follower of Diponegoro (an Indonesian national hero during colonial era) in the 1830s. The majority tribe in the village is Javanese. I administered questionnaires to 30 households (Section 3.4) to, amongst other things, obtain some descriptive statistics for the village.

All of the people interviewed were born in the village. These demographic profiles were used in Section 6.2 to help determine the importance of potential demographic causes of land disputes between villages. House wealth values ranged from 13 to 29 with an average of 22 (Figure 5.5). Figure 5.6 shows that the main employment of over half of the participants was working on their own farms, while a fifth were wage labourers. The majority of the 30 participants worked in the agricultural sector. However, dependency on agriculture may have been even greater than this suggests as 40 percent of people had two jobs, and two people had three jobs.

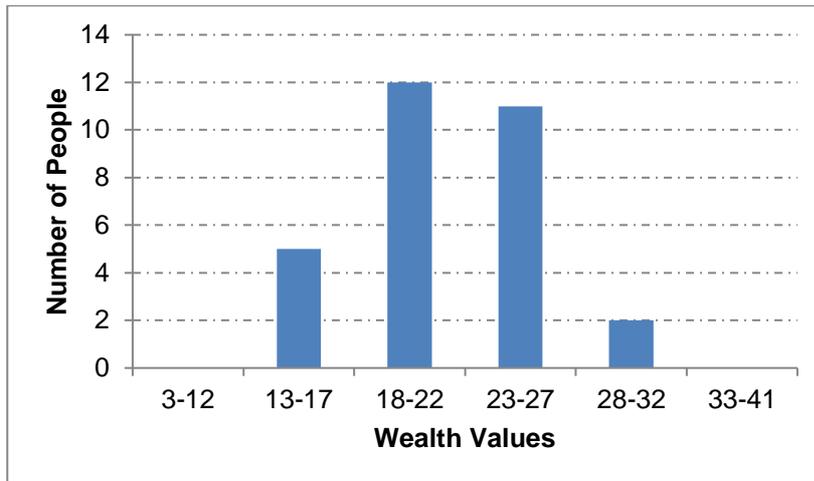


Figure 5.5: House wealth ranking in Gadungan

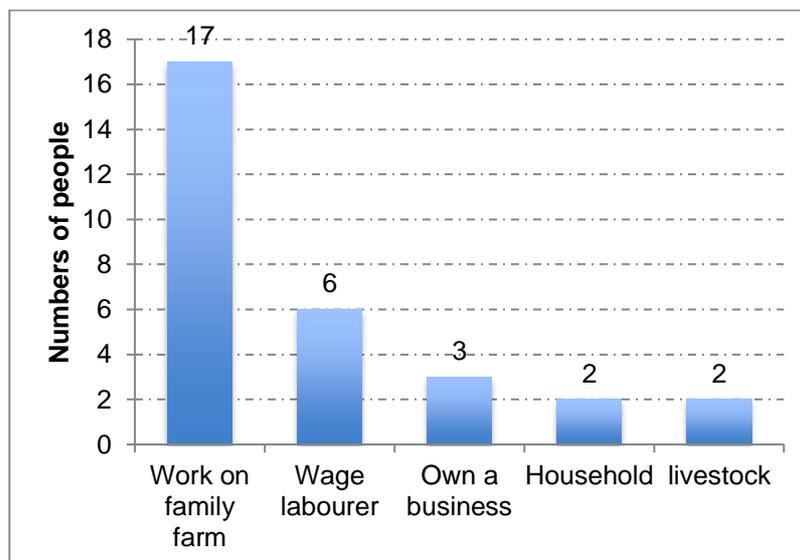


Figure 5.6: Main Job of people interviewed in Gadungan

Most people (54 percent) were educated to elementary school level, with most of the others to junior high or senior high school level, 23 percent and 13 percent respectively. The relatively low levels of the highest educational standard for Java are probably due to the fact that the age profile of this village is quite old (Figure 5.7).

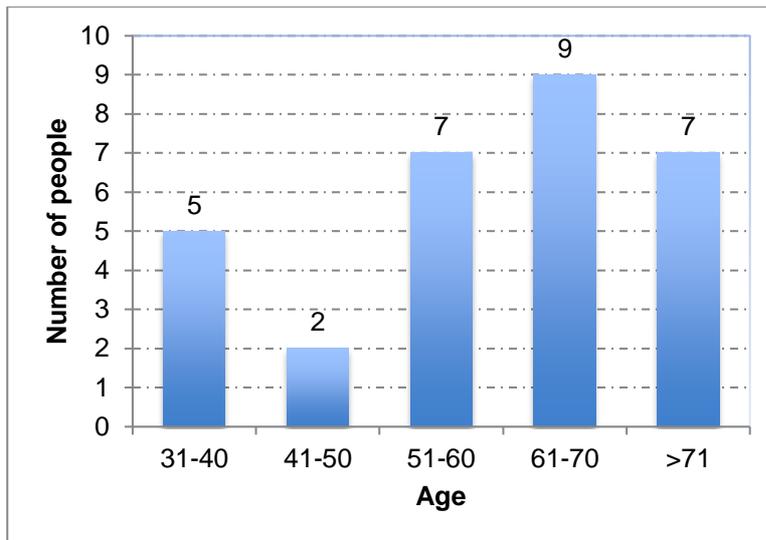


Figure 5.7: Age of person interviewed in Gadungan

It was mentioned earlier in this chapter the rural land registration in Java is the most complete of any province in the country. This idea is supported by information obtained on the land parcels held by households interviewed in Gadungan. The 30 households interviewed owned 52 parcels, 49 of which were registered. The households with unregistered land parcels stated that these parcels were on state land and were part of the land with the expired HGU rights formerly owned by PT. Rotorejo Kruwuk. As the land is still in dispute these parcels cannot be registered. Most people interviewed (60 percent) have two parcels. Only a third have one parcel and 7 percent own three parcels. Most of the land parcels are used for housing or coffee plantations (Figure 5.8).

The households had acquired their land through inheritance, purchase or land redistribution in almost equal proportions (Figure 5.9). A little less than two-thirds of households interviewed (60 percent) had experienced land disputes. An analysis of these households revealed that in 78 percent of cases disputes had been resolved, but in about a fifth of cases (22 percent) land disputes were ongoing.

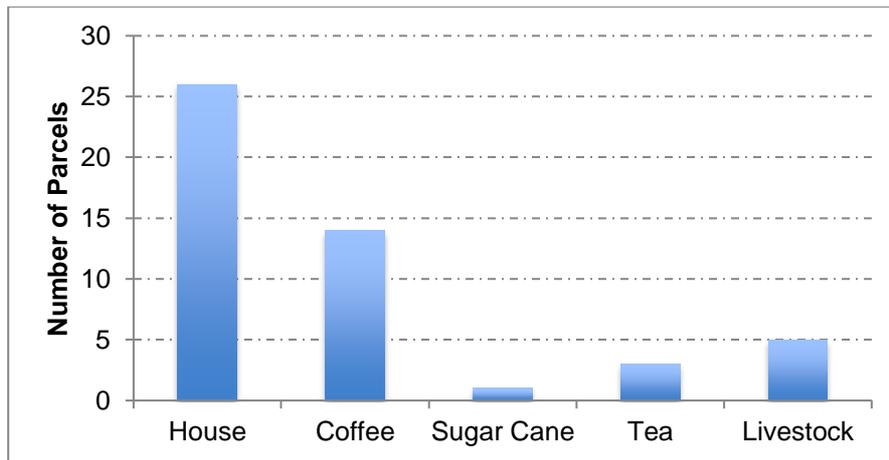


Figure 5.8: Land use of land parcels owned and used by people interviewed in Gadungan.

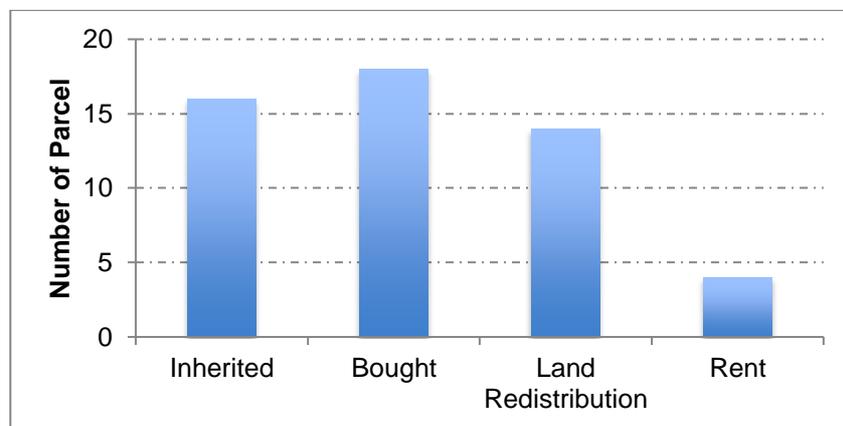


Figure 5.9: Land parcel acquisition by people interviewed in Gadungan

5.4 Mapping land disputes in Gadungan

5.4.1 Case study 3 - the dispute between Gadungan farmers and PT. Blitar Putra

PT. Blitar Putra, which is better known as Ngusri Plantation, grows coffee, cloves, sugarcane and patchouli (*nilam*) (Figures 5.10 and 5.11). It is a domestic private company with its head office in Malang City; though it has a resident in the plantation area at Gadungan (Figures 5.12). It has HGU rights to land—3/Gadungan—until December 31 2023. The topography of their land, which is located in the altitudinal range of 475–600 metres above sea level, is classified as follows: flat land (0-8° slope) (115.9 hectares or 30 percent of plantation area); gently sloping land (8°-15°) (77.28 hectares, 20 percent);

moderately sloping land (15°-25°) (115.9 hectares, 30 percent); hilly land (25°-45°) (58.0 hectares, 15 percent); and mountainous land (>45°) (19.3 hectares, 5 percent)



Figure 5.10: PT. Blitar Putra sugarcane plantations



Figure 5.11: PT. Blitar Putra coffee plantations



Figure 5.12: Offices of PT. Blitar Putra at Gadungan. All photos taken by the author, May 2015.

The origins of this dispute are tied up with complicated history of Blitar, which has been outlined in Section 5.1. In the colonial era the *Erpacht* land right for Gadungan was for a 381.17- hectares plantation that expired on February 27 1954 after which time it reverted to state land (Figure 5.13). In 1963 the land was given, with use rights, to Ngusri peoples' agricultural and coffee plantation cooperative (*Koperasi Pertanian dan Perkebunan Kopi Rakyat Ngusri*). But this only lasted until the 1965 G30S PKI rebellion. Members of the cooperative were involved in the rebellion and as a consequence of their actions, the East Java governor gave temporary authorization to the Government of Blitar District to take over the land in 1967. Reports of Head of the Land Office of Blitar (*Kepala Sub Direktorat Agraria Kabupaten Blitar*) show that PT. Blitar Putra received HGU 8/UH/1972 for the entire Ngusri Plantation in Gadungan on January 2 1973, and that it had to be 'clean and clear' (*de facto* nobody occupied or cultivated the land). The HGU for PT. Blitar Putra was extended in 1995 (HGU 3/Gadungan) until the current expiry date of December 31 2023.

Year	Illustration of transfer of Ngusri Plantation land tenure	Dispute with
During Dutch colonial Expired at February 27th 1954 <i>(according to land registration certificate number 120/1970 dated November 6th 1970)</i>	Erpacht right number 221, known as "Ngusri Plantation" with area 381.1700 Hectars under named N.V. Landlouw My Ngusri gevestigde te Amsterdam.	
	Became state land as it is expired in 1954	
The decree of the head of the Agrarian Inspection of East Java Province number I/Agr/229/la dated Juli 8th 1963	Ngusri plantation was granted the right of use to farmer to use through People's agricultural and coffee plantation Ngusri Cooperation (Koperasi Pertanian dan Perkebunan Kopi Rakyat Ngusri)	
Indonesia Revolution in 1965 <i>(according to the statement of the sub-director of agrarian of Blitar district number 8/UH/1972 dated January 2nd 1973)</i>	Koperasi Pertanian dan Perkebunan Kopi Rakyat Ngusri involved in the actions of rebellion, the army (Pepelrada) of East Java took over Ngusri Plantation temporarily	
The degree of Governor of East Java Province number Kep.09/12/Gub/1967 dated December 14th 1967	Temporary holding by Pepelrada was revoked and handed over to the local government of Blitar district	
The degree of Ministry on Home Affairs number SK.69/HGU/DA/73 dated October 5th 1973	PT. Blitar Putra received the provision to use and utilize the land (HGU) over the land that was known as Ngusri Plantation with area 381.1700 hectares	
1995	PT. Blitar Putra extended HGU number 3/Gadungan and it will be expired in December 31st 2023	
1998		Farmer occupied and used in some area of HGU based on that the land had been granted to farmers in 1964
2013	Resolved the land dispute with agreement using mediation between the company and farmers	

Figure 5.13: Chronology of land dispute between PT. Blitar Putra and peasants of Gadungan

After the fall of the Suharto regime, the people of Gadungan started to seek redress and claimed that in 1964 they received the land (the land that was part of the HGU land of PT. Blitar Putra) through Ministry of Agriculture and Agrarian Decree 49/KA/64 of May 26 1964. The decree affirmed that the land had been redistributed as part the implementation of land reform. Some, but not all, the peasants of Gadungan occupied part land of the HGU land of PT. Blitar Putra at this time.

5.4.2 Resolving the land dispute between PT. Blitar Putra and peasant farmers in Gadungan

Mediation was attempted between the parties involved in the dispute with the Blitar local government and BPN Blitar acting as mediators. According to a representative of PT. Blitar Putra, the agreement was settled after a change in management of the company in 2008.

“Pada saat manajemen baru membeli tanah dari manajemen lama, kami telah mengetahui de facto tanah yang telah dikuasai oleh masyarakat. Luas waktu take over masih 380an hektar sekarang sudah diredis mintanya 80 (hektar) tapi setelah diukur 90(hektar). Yang diukur hanya lokasi yang diminta masyarakat. Hanya daerah yang enak-enak saja yang ada cengkehnya. Pada saat jual beli pemilik lama sudah punya rencana (pelepasan hak) tetapi belum melaksanakan. Tetapi yang melaksanakan manajemen yang baru yang melepas tanah. Sekarang tidak ada masalah setelah melepas tanah”.

“When the new management bought the land from the old management, we already knew that de facto, the land that has been occupied by the community. The area of the HGU after the takeover was approximately 380 [hectares], the community requested 80 [hectares] but after measurement the area is 90 [hectares a]. It was measured only [at] the location requested by the community. It is a good area with cloves. At the time of sale and purchase the former owners already had a plan [release of rights] but had not implemented it. And it was the new management who released the land. Now there is no problem after releasing the land with the community” (Interview with a representative of PT. Blitar Putra, April 2015).

During the management transition, the new management, being aware of the dispute, made settling it a priority. Their strategy was to agree with the demand to release part of the land with HGU rights to the people who had occupied it. Based on the minutes of meeting that was attended by the Discussion Village Institution (*Lembaga Musyawarah Desa*) on August 11 2000, the numbers of peasant farmers who would receive the land parcels from PT. Blitar Putra was discussed and that a list of agreements to be obeyed to by the farmers and PT. Blitar Putra was outlined.

Letter 72/E2/11/2012 dated February 15, 2012 from PT. Blitar Putra to the Head of BPN East Java Province mentioned that PT. Blitar Putra had agreed to release 80 hectares for around 300 households (the peasant farmers who had occupied and used 80 hectares of HGU land) through the land reform program. Furthermore, the company requested that BPN make the necessary cadastral measurements regarding to this land redistribution. These measurements revealed the area actually extended to 90 hectares. PT. Blitar Putra agreed to release the entire 90 hectares to Gadungan village in the hope that the land dispute would be settled and that there would be no further land demand from the village.



Figure 5.14: Pillar marking the boundary between PT. Blitar Putra land and that which the company released through land redistribution. Photo taken by the author, May 2015.

After the officially releasing the land for the Gadungan farmers who had been in dispute with PT. Blitar Putra through the land redistribution process, and in accordance with the last set of measurements and the company has mapped a land boundary between its land with HGU rights and the land farmed by people from Gadungan (Figure 5.14).

Land redistribution as a result of land dispute resolution

In the resolved land dispute, the agreement was that PT. Blitar Putra would release 90 hectares of land for which they had HGU rights and that BPN would provide the necessary services so that the release of land was legal. The Head of the Blitar Land Office issued decree 07/10.35.05.400/VI/2013 on June 26 2013 granting of the right of ownership (*hak milik*) in the framework of land redistribution under the land reform program. This applied to 174 households in Gadungan and a total of 245 land parcels (Figure 5.15).

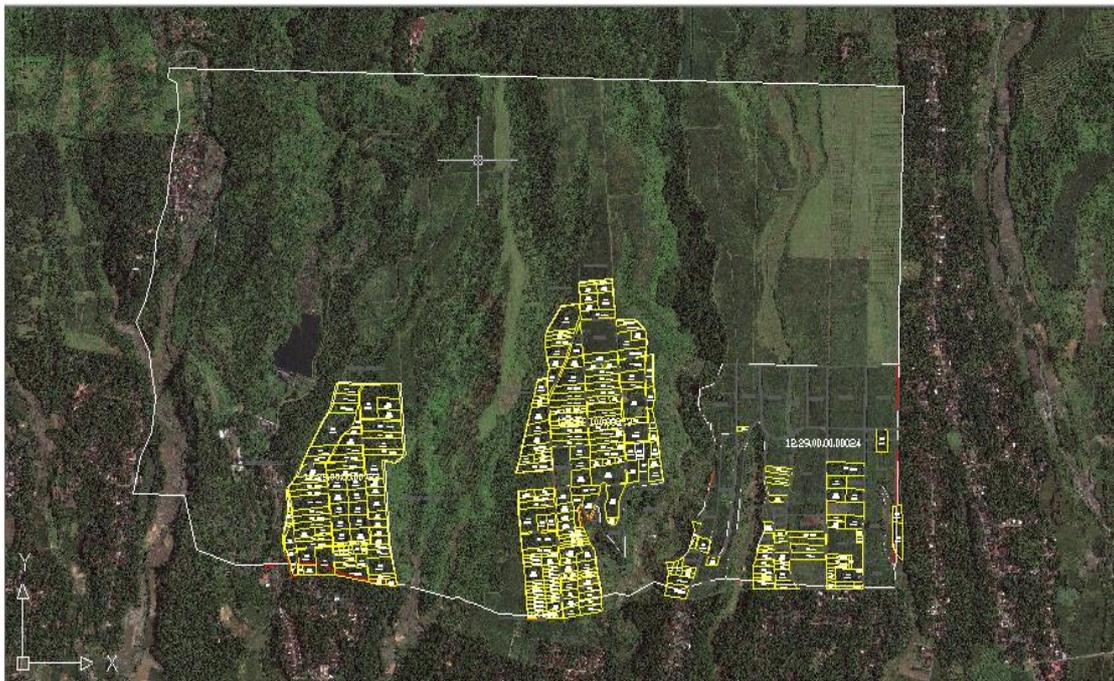


Figure 5.15: Spatial distribution of parcels in land released by PT. Blitar Putra to households in Gagandun village. The boundary of the company's original HGU rights is in white, and the land parcels that comprise the land release are in yellow. The names of the owner of each land parcel have been whited out. (BPN Blitar 2014).

The benefits of land redistribution to farmers will vary according to their circumstances and the quality of land given to them. Commentaries related to this potential variability from the company and people who have a lot of experience in the plantation sector in East Java were obtained during interviews:

“Ternyata setelah diberikan kepada masyarakat yang minta awal-awalnya ternyata beberapa persen itu tidak dikerjakan sendiri, akhirnya dijual dan kemudian minta lagi, seperti kejadian di tempat lain, di Gambar itu minta lagi. Soalnya luasannya itu nda terlalu luas, hy 25 are 20 are hanya cukup untuk rumah saja, tidak untuk menambah perkenomian, tidak untuk tanaman apa kurang luas”

“After land was redistributed, some farmers did not work on the land for farming, instead they traded it. In some cases, like in Gambar, the farmers are demanding the land from the company again. About the area that they received [in settlement of a dispute, it] was not extensive, not enough for plantations, just enough for housing (around 0.20-0.25 hectares). It is not enough to change the[ir standard of] living because it is not enough for [a] farm”. (Interview with a representative of PT. Blitar Putra, April 2015).

“Redis sudah dilakukan, bahwa masyarakat telah memiliki tegalan-tegalan kebun namun bagi mereka kebun tersebut hanya sambilan, pekerjaan pokok mereka adalah menjadi karyawan dengan menerima gaji. Tetapi jika kebun tegalan itu dijadikan pokok tidak mungkin karena rata2 hanya 0,4 hektar. Tidak cukup. Belum untuk biaya buka kebunnya”.

“Land redistribution had already been done, the farmers already owned parcels of land but for them working on their own land are not their main job. Their main job is to be employees in a plantation company, by receiving a salary from the plantation company. But if the livelihood of the farmer was farming on the parcel of land [that was redistributed] it was not enough because each farmer received only around 0.4 hectares. Not to mention the costs of converting the land to a plantation” (Interview with shareholder of several HGU companies, April 2015).

An activist who had helped the Gadungan farmers obtain the land redistribution, so that they were be able to get private tenure, was disappointed that after such a long hard-fought settlement some farmers sold their redistributed land (lee Peluso et al., 2008).

5.4.3 Case study 4 - the dispute between Gadungan farmers and PT. Rotorejo Kruwuk

PT. Rotorejo Kruwuk is a domestic private agricultural sector company that plants primarily coffee and rubber. Its head office is in Blitar City and it has a representative at the Gadungan plantation. They had rights to HGU 2/Gadungan which expired on December 31 2009. The land they owned was located 500 to 750 metres above sea level. Flat land comprised 225.5 hectares (40 percent); gently sloping land 142,576 hectares (25 percent); moderately sloping land 154,339 hectares (28 percent); hilly land 34,812 hectares (7 percent). There is no mountainous land (>45°) in their estate.

The history of the ownership of this HGU land started when the land under question in this dispute was granted under *Erpacht* rights (Numbers 26, 62, 84, and 225 under the Dutch administration) (Figure 5.16). In total the area of these four *Erpacht* rights allocations was approximately 842.5 hectares. These rights were due to expire between 1954 and 1958. But after independence in 1945, the plantation area was taken over by the Indonesian government and administered by the State Plantation Centre (*Pusat Perkebunan Negara/PPN*) and was placed under the supervision of Military Resort Command 081 (Korem 081).

In 1949 the government released the plantation and local farmers operated it under the guidance of the Plantation Bureau of the Sub-representative of Kediri (*Jawatan Perkebunan Sub Perwakilan Kediri*). As was the case in the other dispute involving this village, the farmers were involved in the Indonesian Revolution and from 1966 the plantation was confiscated.

The area of Rotorejo Kruwuk Plantation was also 842.5 hectares but part of the land was redistributed through land reform program to peasant farmers who had occupied and used the land. Based on Ministry of Home Affairs Decree 47/HGU/DA/84/A/20 dated June 3 1986, PT. Candiloka received rights to 557.2 hectares, which was still named HGU 2/Gadungan, on December 19 1987. This was, in fact, 557.2 hectares from the original Rotorejo Kruwuk Plantation minus the land that was redistributed to Gadungan villagers. These rights were due to expire on December 31 2009. In 1998, the HGU rights were bought by PT. Rotorejo Kruwuk (deed of purchase 25/GDS/1998 of June 26 1998), which was signed by the Head of Gandusari sub-district. However, because of the 557.2 hectares that formed HGU 2/Gadungan was located in two villages, HGU 2/Gadungan was subdivided into two legal areas—HGU 4/Gadungan, with area 464.97 hectares and HGU 1/Sumberagung with area 92.26 hectares.

Year	Illustration of transfer of Rotorejo-Kruwuk Plantation land tenure	Dispute with
During Dutch colonial Expired at January 8th 1954; February 2nd 1957 and October 13th 1958	Erpacht right number 26, 62, 84 and 225 known as "Rotorejo-Kruwuk" with area total 842.5455 Hectars under named N.V. Kruwuk Estates Limited.	
	Became state land as its expired in 1954; 1957; and 1958 and Taken over by the government and administered by the State Plantation Center (Pusat Perkebunan Negara/PPN)	
1949	Rotorejo-Kruwuk plantation was granted the right of use to farmer to use through Kediri Sub-Plantation Plantation Bureau (Jawatan Perkebunan Sub Perwakilan Kediri)	
Indonesia Revolution in 1965	Jawatan Perkebunan Sub Perwakilan Kediri involved in the actions of rebellion, the army (Komandan Resort Militer 081) of East Java took over Rotorejo-Kruwuk Plantation temporarily	
The degree of Governor of East Java Province number Kep.08/12/Gub/1967 dated December 14th 1967	Temporary holding by Pelelrada was revoked and handed over to Asosiasi cooperative of East Java Civil servant (Gabungan koperasi pegawai negeri Jawa)	
The degree of Governor of East Java Province number Gub/165/1973	The area that was clear from people's occupation became HGU for PT. Candiloka with area 617.3355 hectares	Part of Rotorejo-Kruwuk Plantation with area 225.21 hectares became land reform object because the land has been occupied and used by the farmer
The degree of Ministry on Home Affairs number SK.47/HGU/DA/84 dated December 18th 1984	PT. Candiloka received the provision to use and utilize the land (HGU) over the land that was known as Rotorejo-Kruwuk Plantation with area 557.227 hectares and it will be expired December 31st 2009	
The degree of Agraria Ministry/ Head of the National Land Agency number 3-VIII-1998 dated May 28th 1998	PT. Candiloka transferred (selling) HGU number 3/Gadungan to PT. Rotorejo-Kruwuk and it will be expired December 31st 2009	
2009	HGU expired. The National Land Agency (BPN) delayed the extension of HGU because the report of land dispute	Farmers occupied and used some area of HGU
2012	PT. Rotorejo Kruwuk released 80 Hectars land	Around 300 Household received the parcel with landreform program
		Another group of farmers (PPKM) has occupied around 125 hectares and demanding for the land with reason the HGU has expired

Figure 5.16: The chronology of land dispute between PT. Rotorejo Kruwuk and the peasant farmers in Gadungan

PT. Rotorejo Kruwuk applied to the Head of BPN East Java for an extension of the HGU rights due on December 31 2009, on May 13 2008. However, because the part of the land with HGU rights (HGU 4/Gadungan) had been occupied and utilized by peasant farmers from Gadungan since 1999, BPN has refused to grant the extension until the dispute was resolved. That prompted PT. Rotorejo Kruwuk to released 243,966 m² (Deed of disposal of rights, dated December 31 2009, signed by Tjatur Ridjajani, SH., M.Kn.—a Public Notary from Kediri) to former labourers, employees, and plantation communities. Implicit in this land release was the fact that the company understood that if I did release the land the original dispute would be resolved and, therefore, the company could apply for an extension of its HGU rights.

This extension application prompted the Head of BPN East Java to write to the Head of BPN Indonesia in Jakarta on January 22 2010. BPN Indonesia replied and asked the following questions:

- 1) BPN asked PT. Rotorejo Kruwuk to clarify the following discrepancy in areas. The HGU rights in the name of PT. Rotorejo Kruwuk originally covered an area of 557,227 hectares. Based on cadastral measurements from Land Map 7/2009 of 7 October 2009, the area with HGU rights in their name was now 520.9662 hectares (i.e., the original grant minus the redistributed area of 24.3669 hectares). The discrepancy was that there was a difference of 11.8939 hectares (i.e., 557.2270 hectares [original grant] - 24.3669 hectares [redistributed area] = 532,8601 hectares, not 520.9662 hectares).
- 2) They also noted that there was still peasant farmer occupation of 48,223 hectares HGU 4/Gadungan and that it had to be resolved.

According to field observations made by the Officer of Dispute, Conflict and Case Section of the Land Office in Blitar that were recorded in the Minutes of Research (Minute 15/BAP-SKP/13.35.05/XII/2013 dated December 18 2013) there had been cultivation on the part of land which the company had HGU right too by people from Gadungan, but this land had been returned to PT. Rotorejo Kruwuk based on the following evidence. A Verdict of Peace (*Putusan*

Perdamaian) 11/Pdt.G/2006/PN.BLT of the Civil Court of Blitar that Gunarto et al. (eight people in total) had returned approximately 464.970 ha to PT. Rotorejo Kruwuk and Sutaji et al. (53 people in total) had voluntarily returned approximately 33.73 hectares. So that there was currently no illegal cultivation on the plantation area of PT. Rotorejo Kruwuk. This was corroborated with a testimonial letter from the Head of Gadungan Village 913/409.060.221/XII/2013 on December 2 2013 which stated that there were no land disputes with PT. Rotorejo Kruwuk nor occupation of its plantation area (i.e., the land was clean and clear).

However, according to people interviewed in Gadungan, they began to organize a group to fight for their rights in respect of this land in 2013. They called the group the Kelud Makmur Farmers' Society (*Paguyuban Petani Kelud Makmur*) or PPKM. This occurred while PT. Rotorejo Kruwuk were still processing the conditions for their extension. PPKM took this opportunity knowing that the HGU rights has expired and their general understanding that when HGU rights expire the land reverts to the state and that farmers have right to use and utilize the land. In order to secure the area they tried to occupy and use the land (Figures 5.17 and 5.18). In an interview with disputants, he stated the following, which relates directly to Figure 5.16:

"Sekarang (tanah HGU) sudah dikuasai warga antara 125 (hektar) sampe 130 (hektar) yang dikuasai dari total 557 (hektar). Sekarang yang mau diminta warga ini akan sangat memudahkan urusannya baik dari perkebunan atau desa. Ada batasnya jalan jadi jalan lurus sampai mentok ke sungai. Yang selatan milik warga yang utara milik perkebunan. Yang diminta itu sudah dikuasai warga. Warga menguasai setelah HGU sudah mati".

"Now [HGU of] around 125 [hectares] to 130 [hectares] from a total of 557 [hectares] has been occupied by [the] community. Now what this community wants is easy [relationship] for both the plantation and village. The road will be the boundary, and the road straight to the river. The south of the road belongs to the community and the north belongs to the plantation. The land requested is already occupied by the community. The community occupied it after HGU is expired". (Interview with peasant in Gadungan – April 2015).



Figure 5.17: Part of the disputed area planted with cassava by PPKM. Photo taken by the author, April 2015.



Figure 5.18: The area to the left of the road was planted by PT. Rotorejo Kruwuk and that to the right is planted with cassava by the PPKM. Photo taken by the author, May 2015.

The growth of the land dispute and attempts to resolve it

A debate always arises when the HGU rights of a company is about to expire. Because besides legal issues, the socio-economic imbalance of the community around the plantation arises.

During mediation of this dispute the stakeholders involved met with local government personnel and BPN acting as as mediator on January 26 2015. At this meeting Commission I of Regional Peoples' Representative Assembly (DPRD) of Blitar District asked the Head of the Land Office (BPN Blitar) about the status of ex-HGU rights of PT. Rotorejo Kruwuk plantation land which had expired on December 31 2009. According to Government Regulation 40/1996 Chapter 17. One of the conditions that can lead to the loss of HGU rights is when they have is expired based on a decree. This was one of the reasons that led the PPKM to claimed that the company does not have HGU rights anymore to their former plantation land. The plantation company had proposed an extension of HGU to BPN at the same time the peasant farmers proposed land redistribution. The farmers produced a map of the area that they had requested (Figure 5.19).

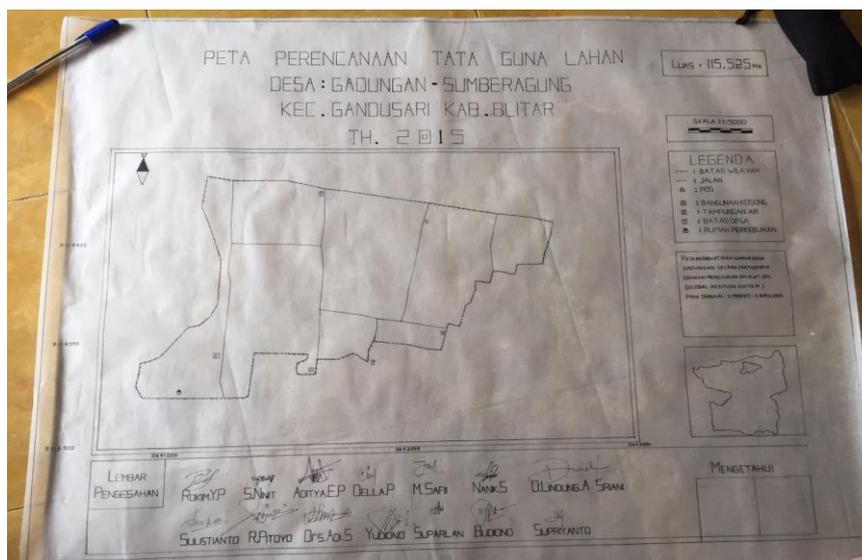


Figure 5.19: Spatial planning map of the location of the 115.525 ha of land with expired HGU requested by farmers, signed by representatives of PPKM. Photo taken by the author, April 2015.

The frustration felt by the farmers that led them to start their dispute was clear:

“HGU sudah mati, tetapi mengapa masih ada aktivitas dari pengusaha terhadap perkebunan. Terus apa beda HGU aktif dan mati. Tidak ada kejelasan dari pihak pemerintah/BPN”.

“HGU is expired, but why is there still activity from entrepreneur in the plantation area? And what is the difference [between] active and expired HGU then? There is

no clarification on the part of the government/BPN". (Interview with a farmer in Gadungan, April 2015).

Frustration was felt equally by PT. Rotorejo Kruwuk:

"Sudah ada pelepasan tanah dari perusahaan, namun sekarang petani sekitar meminta lagi dengan jumlah luasan tanah yang menurut perusahaan tidak masuk akal. 557 hektar telah dilepas 27 hektar tetapi sekarang petani meminta 350 hektar. Perusahaan menyanggupi 50 hektar tetapi masih dalam proses. Ketika masyarakat ditanya minta luasan berapa selalu menjawab semua."

"There had been a release of 27 hectares of land from the company, but now the farmers are asking again. The company felt the amount of land asked for does not make any sense. From a total 557 hectares, 27 hectares have been released but now the farmers ask for 350 hectares. The company will consider 50 hectares but it is still in process. But when the community was asked how many hectares that they want, they will say all the HGU" (Interview with a PT. Rotorejo Kruwuk representative, April 2015).

During the interview with PT. Rotorejo Kruwuk the company argued that it had applied for HGU extensions before the expiry date but that since BPN had received a claim from the farmers stating that the company does not have 'clean and clear' land, BPN could not proceed with the extension.

Land is not only a commodity but also a legal relationship between the holder of the land rights and the land. Thorny questions exist such as: How to deal with former state land rights which have expired?; Who is the owner and who had authority over such land?; and Whether rights to such land can be transferred?. According to Sustiyadi (1997), there are two forms of legal subject relationships with land (Mujiburohman, 2016):

- 1) the relationship of subject rights to the land rights, and
- 2) the relationship of subjects to land ownership and control.

Relationship of subject rights with land rights in Indonesia has to be in accordance with the provisions of Article 17 of Government Regulation 40 of 1996, which states that when the subject's relationship to ownership and land tenure expires the land rights instantly revert to the state but the former rights holders have civil rights over the land. These are the civil rights that are attached to anything that exists above the former HGU land (e.g., plants and buildings). Therefore, these civil rights are still attached.

Legal challenges in the land dispute

In 2014 PT. Rotorejo Kruwuk reported some of the farmers to the police, i.e., those who in their opinion were illegally cultivating and utilizing the company's HGU land. The case proceeded to the criminal court in an effort to remove the farmers from the HGU land. According to the Blitar District Court records, Verdict 72/PID.R/2014/PN.Blt dated September 16 2014 decided that the two farmers who were named in this case were found guilty of committing the criminal offence of using land without rightful authorization. They each received a custodial sentence of one month. The opinion of one of the farmers involved in the dispute was:

"Kalo berbicara ke belakang masa orde baru (usaha protes) gagal semua. Awal reformasi baru semua perkebunan di Blitar termasuk Ngusri dan Rotorejo Kruwuk ini warganya memperjuangkan hak-haknya. PT. Rotorejo Kruwuk pada waktu itu, warga mulai berjuang juga sudah menguasai lahan akan tetapi pada waktu itu karena HGU masih hidup, dan blm ada pelepasan sehingga perusahaan memperlakukan dan 8 orang dikasuskan dan dimasukkan ke penjara. Karena itu penguasaan mandek".

"If we are back to the New Regime (all protest effort) failed. In the beginning of the New Reforms (after the New Regime) of all plantations in Blitar including Ngusri and Rotorejo Kruwuk the communities were fighting for their rights. People started fighting for control of the land (part of PT. Rotorejo Kruwuk HGU) at that time but because the HGU is still not expired, and there is no land release from the company, the company reported it and eight people were charged and put into prison. Therefore the people occupying the (part) of HGU were stopped" (Interview with peasant in Gadungan – April 2015).

Even though this case underlined the fact that the legal status of the land is that it belongs to PT. Rotorejo Kruwuk, Gadungan farmers still occupy and control the land. According to one farmer, he occupied land parcels on the HGU land because after the company's rights had expired he and his contemporaries felt this was an opportunity. They were also of the opinion that, under prevailing laws, that the land had become state land.

In terms of settlement, in the face of mediation PT. Blitar Putra agreed to waive the rights to some part of the HGU land. Considering, the 90 hectares was already occupied that was land released. But PT. Rotorejo Kruwuk is now facing different situation, as the farmers are demanding 350 hectares from the 530- hectares a HGU estate to settle the dispute. Both disputants—PT. Rotorejo Kruwuk and farmers in Gadungan—considered the dispute unresolved

when I conducted interviews in 2015. Few meetings have taken place as part of a mediation process. On the one hand, the farmers have mainly written letters to the government requesting land redistribution of land that 'formerly' had HGU rights. While on the other hand, the company feels that the demands for land from Gadungan is excessive and that their claim is exaggerated.

5.5 Summary

Two land disputes affecting one village—Gadungan—in Blitar District in East Java Province were explained. The historical root causes of these disputes lie in political changes that affected agrarian policies. These types of land disputes are common in Java where urgently required land reform was jealously implemented from 1961 to 1965. The dispute between PT. Blitar Putra and peasant farmers from Gadungan Village was resolved through mediation that led to an agreement in which PT. Blitar Putra released 90 hectares land and redistributed it to farmers who were occupying the land. However, the land redistribution was not large enough to improve their livelihoods, and after redistribution some people sold their land allocations.

The dispute between PT. Rotorejo Kruwuk and other peasant farmers from Gadungan is ongoing dispute. There is still occupation of the land that is part of the land endowed with HGU rights in the name of the company. Despite the circumstances of the HGU rights to this land having expire, there is still no clear agreement on whether the company or the farmers have legal rights to this land. The legal situation seems confused and conflicted, and this in itself has probably prolonged the dispute.

Further details about each dispute, beyond the descriptions in this chapter, are provided in Section 6.2, where a deeper understanding of the land disputes is developed by undertaking a comparative analysis of their causes.

Together with the two case studies in Chapter 4, these two case studies will be analyzed and compared in Chapter 6. This comparison is carried out to obtain the factors that cause the land disputes and the best way to resolve it.

CHAPTER 6: SYNTHESIS

6.1 Introduction

This chapter provides the essential synthesis of the case studies. Section 6.2 is a comparative analysis of the similarities and differences between the causes behind the four disputes. Section 6.3 focuses on the attempts made at resolving the disputes, with a focus on understanding the reasons why litigation has been unsuccessful and in another focus on the circumstances that enabled mediation bring about resolution in the two of the disputes researched. Section 6.4 discusses the contemporary implementation of land reform in Indonesia, with particular attention being paid to the redistribution of abandoned land.

6.2 Comparative analysis of case studies

Table 6.1 summarises the disputes, lists the parties involved, provides a time scale for each, and ranks them in terms of their intensity. Using Rubin and Ihle's (2017) framework I considered that three of the case studies were moderate intensity disputes (Rubin and Ihle, 2017), which I defined as a situation where one party's activities obstruct or restrict the other party's activities at one or more locations. I classified the dispute between *Suku Anak Dalam* and PT Asiatic Persada as high intensity because it has occasionally escalated into violent confrontations between the disputants.

Each dispute has a unique set of causes. In the dispute between the *Suku Anak Dalam* and PT Asiatic Persada (*Case Study 1*), legal acquisition of a large area of land by a plantation company led to a dispute with a group of indigenous people who had used the land previously to collect forest and non-timber products. The key cause was that their customary rights of use had not been considered during the land transfer.

Table 6.1 Summary of the land disputes researched in this thesis

Case Study and location	Parties to the dispute	Intensity and duration of the dispute	Description of the dispute
<i>Case study 1:</i> Bungku Village, Batanghari District, Jambi Province, Sumatera.	An indigenous community (the SAD) and an oil palm plantation company (PT. Asiatic Persada)	High; 12 years	According to the indigenous group (the SAD) part of PT. Asiatic Persada's oil palm plantation belongs to them because they used and utilized the land before the forest was legally owned by the company. They did not give permission for the company to use the land nor did they receive any compensation. The dispute arose because SAD lost access to land that they have customary rights too. This has negatively impacted their traditional livelihoods.
<i>Case study 2:</i> Belanti Jaya Village, Batanghari District, Jambi Province, Sumatera	A transmigrant community and an oil palm plantation company (PT. Sawit Jambi Lestari)	Medium; 17 years	A dispute arose in 1998 when the Indonesian (Asian) monetary crisis affected PT. Sawit Jambi Lestari, which led to the company abandoning some of its plantation land for eight years. During this period, the local transmigrant community utilized some part of the land illegally. After eight years the company wanted to use the land again. The case went to court; PT. Sawit Jambi Lestari won the case. But the de facto situation is that transmigrant farmers have not vacated the land.
<i>Case study 3:</i> Gadungan Village, Blitar District, East Java Province, Java.	Farmers from Gadungan village and a plantation company (PT. Blitar Putra)	Medium; 14 years	Plantations in this village were established during Dutch Colonial Era with Erpahct rights. This land was re-allocated as part of post-independence land reform program during the Sukarno (Old Regime) presidency. However, when the farmers to whom land had been redistributed were suspected of revolutionary sympathies, the New Regime government of Soeharto confiscated the land and awarded the HGU rights to PT. Blitar Putra. The farmers claim that the land belongs to them.
<i>Case study 4:</i> Gadungan Village, Blitar District, East Java Province, Java	Farmers from Gadungan village and a plantation company (PT. Rotorejo Kruwuk)	Medium; 9 years	Plantations in this village were established during Dutch Colonial Era with Erpahct rights. This land was re-allocated as part of post-independence land reform program during the Sukarno (Old Regime) presidency. The land was subsequently awarded to PT. Rotorejo Kruwuk. When the local community found the company's HGU rights had expired, they occupied and starting farming it under the impression it had reverted to state land. The case went to litigation and the company won the case. But the de facto situation is that the community still claims the land.

Land abandonment can be another cause that triggers land disputes as evinced by the dispute between transmigrants in Belanti Jaya and PT. Sawit

Jambi Lestari (*Case study 2*). When local communities consider land has been abandoned and is unused they feel that they have a legal right to use it. Generally, this situation occurs after land with HGU rights has been abandoned for a number of years. Farmers then encroach on the land and start cultivating it, but as this is done without the approval of the former owner of the HGU rights this is actually illegal. Considering *Case study 2* along with similar cases in the BPN database (Section 3.3) it appears that such cases escalate into disputes when either cultivation becomes permanent or when the companies who own the HGU rights want to use it again. Sometimes HGU rights expire, but the company does not quit the land (if they did it might be considered truly abandoned). The land with expired HGU land rights can be the object of a claim by local communities and lead to a dispute between them and the former owners. This can become acute when the latter disputant wants to extend their HGU rights, which is possible under the current laws. This is essentially the situation between PT. Rotorejo Kruwuk and Gadungan village (*Case study 4*).

In some disputes, political manipulation of land rights is at least of partial cause. An example is the dispute between Gadungan village and PT. Blitar Putra, where the historical land rights of the village were evoked to support a claim against the company. During Sukarno's Old Regime land was allocated to farmers in the tidal wave of post-independence land reforms on Java. This land was subsequently taken away from the villagers for overt, politically-motivated reasons during the New Regime (Table 6.1). The descendants of the farmers who were awarded land during Old Regime land reforms have lodged a claim to get their land back.

Given the way the four case studies are presented above and in Table 6.1 each dispute can be described as unique. While this may be partly due to the sample size; if the historical, geographical, socio-economic, political and legal aspects of any land dispute in Indonesia are taken 'as a whole' every land dispute can be considered unique. However, if the different triggers that lead to land disputes are considered separately similarities and differences between the disputes are revealed. To investigate what these were in the case of this

research, the scheme of causes of land conflict developed by Wehrmann (2008) (Table 2.2) was applied to the case studies (Table 6.2).

Table 6.2: Causes of land disputes studied according to Wehrmann's Scheme mapped onto the case studies.

Category	Cause	Case study 1	Case study 2	Case study 3	Case study 4
Socio-economic	Poverty	X		X	X
	Unequal distributions of land where a plantation company has received a large land allocation, while local farmers are land poor;	X		X	X
Political	Political change overtly influences land allocation.			X	
	The prevailing political situation favours plantation companies over local communities;	X	X	X	X
	Growth in the extent of oil palm plantations, privileges large companies;	X	X		
Demographic	High population density in rural areas which reduces agricultural land availability;			X	X
	Lack of control in the National Transmigration Program;		X		
Socio-cultural	Relatively low education levels;	X	X	X	X
	Social inequality:				X
Legal and juridical	Land acquisition programs that do not consider the rights of indigenous people;	X			X
	Insufficient supervision of land with HGU land rights by plantation companies.		X		

6.2.1 Socio-economic causes

Real and perceived social and economic inequities experienced by households that live in a landscape dominated by large tracts of land owned by wealthy individuals or businesses is a common cause of, or a key background element, to the disputes researched. One way in which I attempted to estimate this was to calculate wealth values for the households interviewed base on a house scoring system (Section 3.4.1). No house exceeded a score 30 out a possible maximum on 41, indicating these even the wealthiest households interviewed could only be described as moderately wealthy. The wealth scores are in line with those calculated by Aulia (2017) for Riau Province in Sumatera. In Bungku individual scores ranged from 5 to 27 (mean = 17.3) (Figure 4.8); in Belanti Jaya the range was 12 to 30 (mean = 22.1) (Figure 4.18), and in Gadungan 13 to 29 with a mean of 21.7 (Figure 5.5).

It is not possible to compare house wealth rankings with the 'wealth of companies'. However, what is abundantly clear to people living in the case study villages, as well as to myself, is that many of these households find it difficult to fulfil their basic needs, and that they have limited access at best, or no access at all, to the land. Most interviewees were farmers: in Bungku and Belanti Jaya (87.5 percent of households) (Section 4.6.2) and 76.7 percent in Gadungan (Section 5.3.3). Therefore, land is their most important natural endowment and it is something they perceive they have a fundamental right too. Moreover, they have a need for farmland to secure their livelihoods and lift them out of poverty.

"Kalau dari perspektif pertanahan permasalahan kondisi sosial ekonomi kita ini, kita baca dalam terminology rasio orang terhadap tanah. Kalau masyarakat kita yang mengklaim diri terutama masih banyak masyarakat kita yang bekerja di sektor agraria. Ketersediaan tanah menjadi sangat vital. Petani harusnya memiliki tanah dalam skala ekonomis bukan hanya untuk rumah tinggal. Untuk hitungan World Bank minimal 2 hektar. Inilah permasalahannya. Kita masih menjumpai petani-petani itu atau masyarakat yang memerlukan karena hidup maupun karena profesi, kekurangan tanah. BPN sebagai pemegang regulasi di bidang pertanahan dan agraria harusnya terus mengoptimalkan macam-macam program yang sifatnya memfasilitasi atau pemberdayaan kepada tipe masyarakat seperti ini. Programnya banyak seperti land reform atau redistribusi tanah itu, maupun program legalisasi asset. Namun belum maksimal".

"From the perspective of land issues and our socio-economic conditions, the ratio of people to the land is very important [i.e., the amount land which each household has to farm and build its house on]. If our society claims most of us still work in the agrarian sector (then) land availability is vital. Farmers should have land (based) on economies of scale not just for residential homes. For example, the World Bank minimum of 2 hectares. Here's the problem. We still encounter these peasants or people who need land because of life or because of their profession, (but they) lack land. BPN as the holder of regulations in the field of land and the agrarian sector should continue to optimize various programs that are facilitating or empowering to this group of society. The program is much like land reform or land redistribution, as well as asset legality programs. But (it is) not maximized." (Interview with BPN Officer, December 2014).

However, legally it is private companies and the government who are seen to benefit most from HGU (production) rights assigned to land. Even though there are time limitations on these rights, these owners also have the the right to renew them and are given priority in extending them (Section 2.2.2). This means that once poor rural communities see that companies have land with HGU rights in their locale, they know that opportunities to legally obtain rights to the land in the future are limited. The outlook must look bleak indeed for these poor, rural households. The poverty that these households experience were succinctly stated by a farmer:

"Itu urusannya perut. Saya tidak punya lahan pertanian, hanya menyewa tempat pertanian sekitar 1 hektar 10 juta per tahun. Rumahpun tinggal sama mertua".

"It's about the stomach (sic. meaning provision of food for the household). I do not have (my own) agricultural land, (I) just rent a farm (of) approximately 1 hectares (at a rent of) 10 million (Rupiah) per year. I even live with my parents in-law" (Interview with farmer in Gadungan, April 2015).

The unequal distribution of land is a form of social-economic inequity that leads to land disputes. Granting land-use permits to a plantation company for large tracts of land is motivated by the additional income stream this provides to the local, provincial and national governments and, though not explicitly stated, various types of relationships between individual businessmen or companies and people of influence that are close to government decision-makers (Yusran et al., 2017) (Section 2.2.2). Yet, the government and the general public is well aware that land is also needed by other people, especially by those whose livelihoods depend on land such as farmers and people who gather non-timber forest products. The inequity this engenders becomes acute when government grants a large land holding to a plantation company and neither party acknowledges the rights of the community that had previously been using the land. For example, in the allocation of HGU rights to PT. Asiatic Persada (*Case study 1*) both the company and government failed to consider that the forest was previously used by the SAD of Bungku village for the collection of forest products in fulfilment of some of their basic needs under customary *Adat* law. The allocation of rights to the company also ignored the fact that rights to collect forest products is recognized in the BAL (Section 2.2.2).

The higher overall wealth ranking of Belanti Jaya compared to the other two villages studied shows that a reasonable land allocation to smallholder farmers can bring about real improvements to rural households and lift them out of poverty. Most people in this village received the standard land allocation of two hectares for farming and a quarter of a hectare for housing as part of the National Transmigration Program in 1996. The same land allocation was recorded in transmigrant villages in adjacent Riau Province (Aulia, 2017). The clear message from Belanti Jaya, and Aulia's work in Riau, is that if farmers receive adequate amounts of land to farm as part of an equitable land distribution there are generally positive socio-outcomes in terms of livelihoods. The importance of this is clear from Table 6.2, Belanti Jaya (*Case study 2*) is

the only case study where socio-economic factors are not a major cause of the land disputes researched.

6.2.2 Political causes

All four disputes had at least one political cause. There is evidence for overt political decisions being one of causes of both disputes in Blitar District. Land disputes in this district are intricately linked to the political history of the island. During the Dutch Colonial Era land tenure was based on Dutch land law. Many large plantations were owned by Dutch companies and customary ownership of land in Java was more-or-less ignored. Therefore, it can be assumed that this type of political causation is common throughout Java. This raises an interesting point which is while this was the case in Java, indigenous groups on other islands still benefited from customary land and ownership during Dutch rule, e.g., the SAD in Bungku.

However, it is not so much that the Dutch administration rode somewhat rough shod over customary land rights in Java that is the key political point, but the responses of politically-charged post-independence administrations. Plantation companies who had disputes, or have been in dispute, with farmers from Gadungan received HGU rights *ex-Erpacht* during the early post-independence land reforms when properties like these reverted to state land (Bachriadi and Lucas 2001) (Section 5.2). The land with *ex-Erpacht* rights was occupied and used by the community when it became state land. Both the *Ngusri* (Figure 5.13) and *Rotorejo Kruwuk* plantations (Figure 5.16) were *ex-Erpacht* and land redistribution was undertaken as part of Old Regime land reforms. Farmers in Gadungan received their land redistribution according to Ministry of Agriculture and Agrarian Affairs Decree 30/Ka/1962, dated November 8 1962. This era of land redistribution was an intensely political act on behalf of the government, and has parallels in agrarian and land reform programs elsewhere in the developing world at this time (Section 2.3.3).

After the rebellion by the Communist Party of Indonesia (PKI) in September 1960 and the subsequent massacre of PKI members and sympathizers, the

New Regime came to power and the land reform program was terminated (Bachriadi and Lucas 2001). However, because the farmers in Gadungan were suspected of PKI involvement they were subject to another overtly political act in relation to their land. The lands that were given to them during Old Regime's land reform program were confiscated without compensation and reverted to state land. The Sukarno's government set about awarding confiscated land, such as that in Gadungan, to businesses. PT. Blitar Putra (*Case study 3*) obtained HGU to the *Ngusri* plantation and PT. Candiloka (later PT. Rotorejo Kruwuk) (*Case study 4*) obtained them for the *Rotorejo Kruwuk* plantation. The land dispute in *Case study 3* arose later when the community claimed back their land that was part in the HGU of PT. Blitar Putra (Section 5.4.1).

An important similarity in the political causality in all four disputes researched is that all of them either arose or were re-initiated after 1998, i.e., after the fall of Suharto's New Regime (Figures 4.9, 4.19, 5.13 and 5.16). During the oppressive New Regime people were unable to articulate complaints and grievances in many sectors of society and government, not the least of which was land rights. This particularly affected the rural poor who were often forcibly deprived of their rights and access to land during Suharto's rule (Section 2.2.3). The end of the New Regime in 1998 acted like a pressure valve being released. Peasant farmers, in particular, spoke out about injustices in the countryside and articulated what they considered were their legitimate rights: even if they recalled a deeper history from the colonial era (Figure 6.1).





Figure 6.1a and b: Farmers from Gadungan demonstrating in front of the Regent of Blitar's Office in April 2015.

Rapoport (1974) states disputant parties and the dispute itself are the two primary elements of all disputes and according to Deutsch (1969), disputes arise when overlapping interests occur. Table 6.1 summarises the disputes, lists the parties involved, provides a time scale for each, and ranks them in terms of their intensity.

In some disputes, political manipulation of land rights is at least a partial cause. An example is the dispute between Gadungan village and PT. Blitar Putra, where the historical land rights of the village were evoked to support a claim against the company. During Sukarno's Old Regime land was allocated to farmers in the tidal wave of post-independence land reforms on Java (Hardiyanto, 1998 and Sakai, 2014). This land was subsequently taken away from the villagers for overt, politically-motivated reasons during the New Regime (Table 6.1). The descendants of the farmers who were awarded land during Old Regime land reforms have lodged a claim to get their land back as one side of reform effect after Post-Soeharto Era.

6.2.3 Demographic causes

Demographic pressures have been one of the causal factors that have led to land disputes in Belanti Jaya and the two cases studies in Blitar District. The link between these three case studies is either their origin or location in Java. In terms of the two disputes involving farmers in Gadungan demographic pressure is a direct causal factor due to the high population density (East Java Province = 809.9 people/km²). Land is scarce in rural Java and therefore can be considered a background consideration to all the land disputes in the island. In Jambi, where Belanti Jaya is located, the population density is only 57.9 people/km² and therefore land shortages cannot be considered as a direct cause. However, I have assigned an indirect demographic cause to the dispute in between PT Sawit Jambi Lestari and people from Belanti Jaya (*Case study 2*) because most of the farmers involved are Javanese transmigrants who left the island because demographic pressures and land scarcity.

Overpopulation in Java provided a major impetus for the government to implement the National Transmigration Program between 1969 to 1997. Though the program had worthy goals such as reducing unemployment and population density in Java, but lack of supervision and field checking of the transmigration villages and plantation development by the government has led to land disputes. Therefore, invoking demographic pressures in Java as an indirect cause of land disputes, as in *Case study 2*, could be applied to disputes in transmigrant villages elsewhere in Sumatera, and in Kalimantan, Sulawesi and Papua.

Transmigrants villages are intricately linked to PIR/NES schemes (White 2005, McCarthy and Cramb 2000, McCarthy 2010, and Aulia 2017). It has been argued that PIR/NES schemes were ideal for oil palm companies as they obtained low cost labour (transmigrants) and large areas of state forest from the government simultaneously (McCarthy and Cramb 2009). *Case study 2* in Belanti Jaya is typical, PT. Sawit Jambi Lestari received HGU rights to a core plantation and the transmigrants were given plasma plantations (Figure 4.20). But a lack of control by the local government in implementing and developing

of this NES scheme has been a cause of the dispute. In particular, the abandonment of HGU land by the company when offset by population growth in the transmigrant community, which created an increased demand for land. Illegal land occupation could not be avoided. This is a complex dispute involving indirect and direct demographic causes, and legal and juridical causes related to the status and fate of abandoned land.

Population density and land shortage are major problems which by landless farmers in Indonesia, especially in Java. In this context, good governance should be applied to overcome or at least reduce the links between population density and land shortage. According to Enemark (2012), land governance concerns establishing and performing sustainable land policies. By making rules regarding the regulation of land-use change from agriculture to non-agriculture, especially in Java in the context of this research project, currently land transitions are very high due to high market demand. In addition of making rules, the implementation of these rules must be supervised so that the outcomes are in accordance with targets.

6.2.4 Socio-cultural causes

Perhaps the most important socio-cultural measure I obtained in order to measure the socio-culture perspective of people's views on the causes of a particular land dispute was the level of education of the people interviewed. In Bungku and Belanti Jaya they were either elementary or junior high school, or no formal education (Figure 4.24). While in Gadungan, the standard was slightly higher: elementary school (54 percent), junior high school (23 percent) and senior high school (13 percent) (Section 5.3.3). This most likely reflects the higher levels of investment in education in Java over many decades in comparison to other provinces (Purnastuti et al., 2015). I argue that the education background of the farmers interviewed effects on how they consider and act in disputes. A lower educational level will probably be reflected in a shallower understanding of laws and regulations that may lead to misunderstandings and disputes. The quotes below from households who were occupying unregistered land in Belanti Jaya and Bungku, and a farmer from

Gadungan shows a clear difference in how they articulated their positions vis-à-vis land rights. The farmer in Gadungan providing a more considered and detailed case.

"Lebih baik saya mati dari pada saya kehilangan tanah"

"I'd rather die than I lose the land" (Interview with a farmer in Belanti Jaya, February 2015).

"Tanah yang saya buka ini adalah hutan dan tanah desa, jadi saya pun berhak atas tanah ini".

"The land that I cleared was the forest so the land is owned by the village, so I am entitled to this land" (Interview with a farmer in Bungku, January 2015).

"Warga di sini kondusif tidak ada anarkisnya. Warga di sini mengharapkan sekali, merasa bermimpi sekali untuk mendapatkan tanah tersebut agar petani itu punya garapan. Sebelumnya yang sekarang ini adalah buruh tani perkebunan sedangkan selama ini kebijakan perkebunan itu sangat tumpang tindih dan petani pun banyak merasa dirugikan. Sehingga dengan matinya hgu per 31 des 2009 inilah petani merasa mendapatkan kesempatan, ada celah, kalau hgu sudah mati status tanah menjadi tanah Negara."

"This community is not into violence. We dream to get the land so that we can have our own farms. Until now we are only labourers for the plantation company, we do not get benefits because of their rules. When the HGU rights expired on 31 December 2009 we feel we have a chance (to own farms) because these rights have expired and the land has become state land. (Interview with a farmer in Gadungan, April 2015).

In the land disputes involving farmers from Gadungan, and the SAD in Bungku, and a different cultural issue that implicitly led to the disputes arising was articulated. That is the deep historical attachment the people have with the land in these communities. Much of that land is now owned by businesses, and they invoke the rights of their forbears in terms of legal arguments. However, I am left with the impression that there is a stronger attachment to landscape. In Indonesia land is a part of life, land not only considered an economic commodity but there is also a strong psychological relationship between landowners and the land itself. For farmers whose whole life depends on the agriculture production, the land is considered a heritage land (heirloom land) and not just symbols or commodity (Ningtyas et al, 2010).

"Masyarakat akan mengangkat sumpah secara adat mengakui bahwa tanah yang punyai leluhur namun seiring jalan pemerintah daerah mengakui itu".

“The community will take the adat oath that the land was owned by (our) ancestors but now the local government acknowledges it” (Interview with a SAD elder, February 2015).

“Tahun 1965 pemberontakan PKI kemudian Orde Baru, lalu semua lahan yang diokupasi masyarakat berdasar SK 49 kembali ke perusahaan. Sekarang itu yang menjadi permasalahan, ketika masyarakat menggunakan kata nenek moyangku, kakek neneknya yang pernah menguasai tanah tersebut. Kalau di luar Jawa ada tanah adat, tetapi di Jawa jaman nenek moyang itu tanah sudah dimiliki dan diusahakan oleh Belanda, nenek moyang disini yaitu buruh penggarap. Jaman Orde baru masalah tanah malah sangat aman, Aman karena dulunya yang bermacam-macam itu kemudian takut atau menjadi transmigran”.

“In 1965 the PKI rebellion then the New Regime, then all the land that occupied by society based on Government Regulation 49 (Land Reform Program) were back to the company. Now the problem is, when people use the word my ancestors, grandparents who once controlled the land. If outside Java there is customary land, but in Java, the ancient time, the land is owned and cultivated by the Dutch, the ancestors here were laborers. New Regime Era the problem of land is even very safe, safe because of afraid or become transmigrant” (Interview with a shareholder in several plantation companies, April 2015).

Of course, this is a causal factor that cannot be shared with villages in transmigration landscapes.

6.2.5 Legal and juridical causes

From these case studies, it is possible to discern five main legal issues leading to land disputes: illegal land occupation, lack of attention to the rights of indigenous people, a failure by businesses to verify that land is ‘clean and clear’ before establishing farms or plantations, the lack of land registration, and difficulties in implementing government regulations when land has been abandoned. The last of these positions appears to be the most intractable. Of the five legal issues evident from the case studies, land tenure is the most important. If tenure is assigned correctly, it can result in good and efficient agricultural production, poverty and conflict reduction, and it can go a long way toward achieving social equality (Espinoza et al, 2015).

In all four disputes a key element of the legal issue is that a local community has occupied land that another party, usually a business, owns. For example, in the dispute involving PT. Rotorejo Kruwuk (*Case study 4*), which is not yet resolved, local farmers are still occupying company land. In the first case study, the SAD occupied part of the HGU land of PT. Asiatic Persada and continued to do so until the dispute was resolved. They now legally own ex-HGU land and

once they agreement was reached they stopped their illegal occupation. Large land acquisitions that do not pay attention to the rights of indigenous people can lead to disputes. In the case of PT. Blitar Putra and the SAD (*Case study 1*), a root cause of the dispute was the fact that PT. Blitar Putra did not properly verify that the land they had been awarded was as 'clean and clear'. In fact, the area had been and still was occupied and utilized by the indigenous SAD.

Many contemporary land disputes in Indonesia are rooted in policies in which national economic interests take precedence over indigenous peoples' rights, and given the nature of these policies land tenure becomes fluid and unclear during land acquisition negotiations (Dhialulhaq et al., 2014). The key problem that frequently occurs in rural areas, and is the case in all four case studies, is that HGU rights are given to businesses when the land in question is not 'clean and clear' (Section 2.2.2), even though the land legally should be 'clean and clear' for the transfer of HGU rights to take place. It is the responsibility of the companies that will ultimately receive HGU rights to verify land is 'clean and clear' but there are short-term incentives that could discourage businesses from making thorough checks prior to verification. Two in particular are the up-front costs of conducting surveys, especially for very large estates, and the time and costs involved in moving occupants and the compensation they have to be paid. Nonetheless, these 'savings' may pale into insignificance when long-drawn out land disputes may occur in the future. Nonetheless, it is evident from this research that 'illegal' occupation of the HGU land owned by the companies is commonplace, and can escalate into moderate or high intensity land disputes. This is always due to some element of poor verification by the companies concerned.

Another issue with illegal occupation concerns land registration. This was common in Bungku and Belanti Jaya, where 50.8 percent of land parcels were claimed to be owned but unregistered (Figure 4.25). The unregistered parcels were mostly forest or abandoned land (Figure 4.26). It is likely that the reason for such a high percentage of unregistered land in these villages (compared to Gadungan where only three of 52 land parcels were unregistered) is that

compared to Java there is a relatively short history of land parcel registration. But for some people lack of land registration is no impediment to the development of a local land market: in Belanti Jaya there is evidence of sale and purchase of land that is legally still owned by PT. Sawit Jambi Lestari (Figure 4.22a, 4.22b and 4.22c) within the community.

Peasants farmers in rural areas often farm land that the state officially owns. They often do not have official land certificates, so they run the risk of being labelled squatters on their own land. When there are expropriations of "their" land to establish large plantations, they are easily evicted without adequate compensation or even no compensation at all (cf. *Case study 1*). The government must become an institution that protects these poor people through the application of good land governance. For example, before giving land rights to companies to establish large plantation a thorough check on whether the land is occupied or used by local farmers should be mandatory and always undertaken. Moreover, legal security should be given to the peasantry in rural areas through official land title, even though it is complicated to register land in rural areas (Otto and Hoekema, 2012). Finally, handling and resolving land disputes must be supported by authoritative land institutions, effective coordination between government agencies, technology-based land administration, and the application of good governance principles.

Some of the land disputes studied in this research are partially due to a part of land that is subject to HGU rights being abandoned and subsequently occupied by the local community. This introduces another thorny legal and juridical causal factor, the way in which government policy and regulation concerning abandoned land is implemented. Abandonment needs to be defined at this point. It can be land which a company has planted and subsequently abandoned, but more often it is part of a land grant that a company has not yet planted. This may be due to undercapitalisation when rights were awarded or a subsequent downturn in the businesses financial position, e.g., due to the Asian Financial Crisis in 1998.

Government Regulation 11/2010 states that abandoned land can be taken back by the state (Section 2.2.2). However, this regulation has been difficult to implement in practice for three reasons:

- 1) Supervision and control of the use of HGU is not executed well. Three years after HGU rights have been issued the checks have to be carried out to see if it is being used as proposed. This new regulation was issued in 2010, while most HGU rights were issued during the New Regime. Consequently, the three years passed in most cases. This has led BPN to try and record all abandoned land (Section 2.2.2) and through their provincial and district offices to field verify if the HGU lands in question are actually abandoned. If this regulation can be executed well it will act as an early warning system for companies to use and utilize their HGU lands before the three warning letters are issued at monthly intervals, after which if not action is taken by the company which constitutes use and utilization the land will be considered abandoned according to the regulation. BPN then has the right to revoke its HGU rights.

“Sengketa tanah yang timbul akibat tanah terlantar, Peraturan Pemerintah 11/2010. Di dalam peraturan tersebut negara diberikan sebuah kewibawaan yang besar untuk menentukan bahwa di atas tanah-tanah yang tidak dimanfaatkan sesuai dengan peruntukannya, sebagaimana sifat pemberian haknya, kemudian di atas tanah-tanah yang tidak diusahakan sesuai dengan teguran yang pada saat pengajuan SKnya maka Negara berhak melakukan teguran-teguran yang jika tidak disikapi dengan positif maka akan berujung dengan pencabutan hak sekaligus pemutusan hubungan hukum antara objek dan subjek pemegang hak”.

“Some land disputes are arising from abandoned land (regulated in) Government Regulation 11/2010. In the regulation, the state is given a great authority to determine that on the unused land in accordance with its designation, as the nature of the granting of its rights, and then on the lands which are not cultivated according to the commodity which at the time of the submission of its decree, the state shall be entitled to give warnings that if not addressed with a positive attitude it will lead to the revocation of rights (HGU) as well as termination of the legal relationship between the object and subject of the rights holder” (Interview with a Government Officer, December 2014).

- 2) A further difficulty in implementing this regulation is as follows. After BPN has issued the three warning letters, the Head of BPN issues a decree which states that the HGU land in question is proven abandoned and it becomes state land. Where this has happened the companies almost

always challenge the decree in a civil court, using the argument that the companies still have HGU rights to the land (Section 5.4.3). During an interview, I learnt that BPN has issued 19 decrees for ex-abandoned land, and that 18 of these were taken to a civil court.

“Sengketa tanah terjadi manakala bekas pemegang tanah terlantar melakukan perlawanan hukum. Selalu yang diangkat oleh pemegang hak ini adalah hak keperdataan dia. Padahal kalau kita mau berasumsi UU 5/1960 jika tidak ada itikad baik dari pemegang hak untuk melaksanakan haknya maka negara berhak melakukan pemutusan itu. Pada tahun 2013, dari 19 SK penetapan tanah terlantar yg dikeluarkan oleh BPN, 18 itu digugat di pengadilan. Dan bisa dipastikan bahwa jika peradilan agraria atau peradilan pertanahan masih dilakukan di peradilan umum kita akan kalah seluruhnya. Karena kaidah-kaidah yang dipakai oleh peradilan umum itu sering agak bertolak belakang dengan agraria yang lebih menekankan pada sosiologis ekonomi dimana rakyat ini di back up oleh pemerintah. Contohnya jika sebuah HGU besar, 1000 hektar hanya digunakan 250 hektar dan 750 hektar dianggur dan masuklah masyarakat melakukan okupasi itu jika ini di bawa ke peradilan umum anda bisa tau sendiri bagaimana hasilnya”.

“(A type of)land dispute occurs when former abandoned land holders take legal action. ... If we want to assume (the) BAL, if there is no good faith on behalf of the rights holder to exercise his rights then the state is entitled to make the termination. In 2013, out of 19 declared abandoned land decrees issued by BPN, 18 were sued in court. And it can be ascertained that if agrarian or land matters are brought to a civil court [which is the only legal avenue available to BPN] we will be defeated entirely. Because the rules that are used by the public court are often contradictory to agrarianism that emphasizes the sociological economy where the people are supported by the government. For example, if a company with HGU 1000 hectares only used 250 hectares, 750 hectares a is abandoned and communities do the occupation. If this is brought to the public court you know for yourself how the results will be” (Interview with a BPN Official, December 2014).

- 3) It is also difficult to revert abandoned land with HGU rights or land where the rights have expired and make it state land due to conflicting government regulations. In addition to Government Regulation 11/2010, Government Regulation 11/201040/1996 also applies (Section 5.4.3). The problem not only arises because they appear to have some contradictory clauses, but because they also sit at the same level in the hierarchy of Indonesian laws and regulations (Section 2.2.2). Practically, even though HGU land can be proven to be abandoned or the rights expired, the state cannot revoke the land if the owner does not legally release it. In *Case studies 1 and 3*, PT. Asiatic Persada and PT. Blitar Putra, the companies that owned the HGU rights to land, signed land

release letters. However, this is a far from easy process for a company to manage.

"Diberikan hak apapun tanah itu baru akan bisa diredistribusi bila diijinkan atau diberikan ijin oleh pemegang saham. Saya merasa lebih tinggi dari negara, karena tanah negara (tanah bekas HGU) pun harus ada rapat umum pemegang saham (rups). Karena Undang-undang masih melindungi pengusaha..... Mengapa konflik terjadi. Karena, perusahaan diberikan hak menolak atau kalau tidak akan tetap sengketa"

"The land it will only be redistributed when (it is) permitted by shareholders (of a company with HGU rights) or they grant permission. I feel higher than the state, because the state cannot do anything to land that has ex-HGU rights without a general meeting of shareholders of the company that owned rights to the land. Because the law still protects the entrepreneurs...Why (does) conflict occurs?. Because, companies are given the right to refuse, otherwise (it) will remain in dispute." (Interview with a shareholder in several plantation companies, April 2015).

However, the reason why it is hard to implement Government Regulation 11/2010 regarding control and utilization of abandoned land is that the civil rights that are attached to anything found on former HGU land, e.g., plants and buildings, in accordance with the provisions of Article 17 of Government Regulation 40 of 1996 (Chapter 5.4.3). Since the enactment of the BAL, the articles concerning abandoned land have not been immediately implemented, because the operational guidelines for Article 17 have been issued and as yet they cannot be used as references. As a result, the prohibition on abandoning land is not effective as it might be. This results in abandoned land being widespread and uncontrolled (Bahtiar Ari Rahadi et al, 2013).

Based on an analysis of the completion of the determination of HGU on abandoned land (court decision Number: 25 / G / 2013 / PTUN.JKT), abandoned land can be solved in two ways (Mahruf, 2018). First, through Determination of Neglected Land where land rights are erased if cancelled by the authorized official (BPN) because of any sanctions not fulfilled by the holder of certain obligations or by violation of a prohibition. For example, the cancellation of rights caused by the rights holders who neglect their obligations. As far as HGU plantation rights are concerned, Article 34 letter E states that HGU is deleted because it is abandoned. The cancellation of these rights is carried out by a constitutive authorized official issuing a decree, because it is

a sanction, and the cancellation of land rights is not accompanied by compensation. Secondly, through 'Revocation of Rights'. For both good administrative order and legal certainty for the parties concerned, the abolition of land rights must be by decree from the competent authority. For the abolition of rights that occur because of the law stipulated in Article 21, the decree is a declaratory statement about the abolition of the rights (Mahruf, 2018).

According to BPN, a revision of the Land Law must include strengthening their legal position in carrying out control of abandoned land as it would provide BPN with stronger legal powers to cancel ownership of rights land because it must have social functions, Revisions to this law are under discussion (Kontan.co.id., 2019).

The implementation of good governance also relates to the result of stemming the flow of land disputes. The difficulties in implementing government regulations in this respect relies on four essential elements of governance (Hyden, 1992) (Section 2.5). These are firstly trust; if society has a lack of trust in government their opinion is that government will be disinterested in them. According to testimonies from farmers, the government had done nothing in relation to implementing their government regulation Subsection 5.4.3. Secondly, reciprocity; it is important to socialize the negative impacts of abandoned land and its regulation, both before the land is declared abandoned and the utilization mechanism for land that has been designated as abandoned land by BPN and related institutions to prevent further increases in the amount of abandoned land (Bahtiar Ari Rahadi et al, 2013). Thirdly, accountability: the ineffectiveness of the processes to implement Government Regulation 11/2010 regarding control and utilization of abandoned land. For example, to find whether the businesses use and utilize their land properly, the government should carry out checks on plantations that have been given land rights. Finally, authority: convoluted land settlement problems in government bureaucracy causes land issues to continue for too long a time, and increase the likelihood that they will escalate into land conflicts. In the case studies examined in this research, the minimum length of time of the disputes was nine years.

The case studies analysed in this thesis overlap strongly with the findings of Syarief (2013) who argues that, in general, land disputes arise due to the following factors:

1. incomplete regulation;
2. regulatory non-compliance;
3. land officials who are less responsive to the needs and amount of land available;
4. data that is inaccurate and incomplete;
5. incorrect land data;
6. limited human resources tasked with resolving land disputes;
7. wrong land transactions;
8. the right of the applicant or rights; and
9. resolutions from other agencies so that authority overlaps occur.

6.2.6 Summary of causal factors

No one type of [Wehrmann's] causal factors dominates the disputes studied and in each dispute most of the causes she identifies are present to some extent. However, while the disputes are multi-causal it can also be concluded that two classes of cause dominate to a certain extent. First, legal factors such as:

- 1) Inadequate regulation: regulations in the land sector have not fully referred to the basic values of the philosophy of Pancasila Article 33 of the 1945 Constitution, concerning morals, justice, human rights and welfare. On the other hand law enforcement often stops the formal mechanism of the rule of law and ignores its substantive values.
- 2) Overlapping justice: at present there are three judicial institutions that can handle a land dispute, namely civil justice, criminal justice, and the State Administrative Court (PTUN). In a particular dispute, one party that wins in a civil court does not necessarily win in a criminal court.

- 3) Settlement and convoluted bureaucracy: Settlement of cases through courts in Indonesia is tiring, costs are high and settlement times are long; especially when stuck with the judicial mafia. Sometimes justice does not take the right course. It is no longer compatible with simple, fast, and low-cost judicial principles, because the current conditions in courts are not simple because the court bureaucracy is complicated, old and expensive.

Secondly, non-legal factors such as:

- 1) Issues related to population growth and land use: Rapid population growth results in increased food demand, especially if associated with increased urbanisation, while food production decreases. Simultaneously, the government is undertaking rural development projects, which changes the values of individual land parcel with food production characterised by low land values. The combination of these has factors has led to the growth of land disputes.

Furthermore, high population growth fuelled by high birth rates and rural-to-rural migration in some parts of Indonesia has occurred while the stock of land is relatively fixed. This has made land an economic commodity whose value can be very high, even for relatively low value food production (see (2) below).

- 2) High economic value of land: Since the New Order era, the economic value of the land has increased nationwide. This is related to the politics of increasing economic growth by focusing on urban, rural and infrastructure development. The New Order government established a policy in which land is considered as a national development asset in promoting economic growth and no longer considered as a source of production or prosperity of farming households people. In addition, the social functions of the land have been usurped by the business-oriented model of development. New Order government policies have therefore led to disputes over the control of land (agrarian) resources between

rural land owners and new, capital-rich landowners which these government policies have encouraged.

- 3) **Poverty:** Poverty is a complex problem that is influenced by a number of compounding factors. In fulfilling their land needs, the poor face the problem of inequality in land ownership and ownership structures, as well as uncertainty in the control and ownership of agricultural land. The sustainability of farming households is strongly influenced by their access to land and the ability to mobilize family members to work on agricultural land. The problem is exacerbated by the unequal tenure structures because most smallholders do not formally control land through ownership of property rights, and even if they own land, protection of their land rights is not strong because the land is often not certified

This does not resolve the issue of uniqueness of disputes raised at the beginning of this section. Rather it suggests there is a common set of five categories of causes implicit in each dispute and that in each dispute most of these causes are present. Wehrmann's (2008) scheme appears to be applicable in Indonesia. The category that was most difficult to apply was socio-cultural which, in these case studies, had two main contrasting elements—levels of educational achievement and multi-generational cultural attachment to a particular landscape. It is also clear that causes can be direct or indirect within a category.

6.3 Resolving rural land disputes

The parties involved in the land disputes that were investigated in the research have attempted two forms of resolution:

- 1) litigation through criminal and state administrative courts; and
- 2) mediation.

These two processes as applied in the four land disputes are analysed in this section.

6.3.1 Litigation

Litigation was attempted in two of the disputes—those between farmers from Belanti Jaya and PT. Sawit Jambi Lestari (*Case study 2*) and farmers from Gadungan and PT. Rotorejo Kruwuk (*Case study 4*).

In the Belanti Jaya dispute (*Case study 2*, Section 4.5.3) documentation I acquired from BPN/KESBANGPOL (i.e., a report of research into the land dispute in the HGU of PT. Sawit Jambi Lestari in 2013 and 2014, and the minutes of meeting between plasma farmers, PT. Sawit Jambi Lestari and the mediation team on June 6 2014) indicate that mitigation had been attempted prior to litigation and that it would continue. However, I did not find evidence of further mediation meetings between the plasma farmers and the company. The stalled mediation process prompted 200 plasma farmers from Belanti Jaya bring a joint action before the State Administrative Court (PTUN) to sue PT. Sawit Jambi Lestari in 2016. I was unable to obtain the details of the verdict of the court. However, I assume that the verdict was not executed as mediation between the parties was initiated again by TIMDU on February 1 2017 (Section 4.5.3).

The other attempt at litigation was in *Case study 4*, details of which are provided in Section 5.4.3. During an interview, a representative of PT. Rotorejo Kruwuk outlined their efforts to have their HGU rights extended. They applied for an extension of the HGU on May 13 2008, well before the rights were due to expire. BPN rejected the request based on the Minute 07/HGU/XII/35/2008 of Examination Committee B of Land (*Risalah Pemeriksaan Tanah B*) of East Java dated December 16 2008 which stated that approximately 48.2230 hectares of the land for which an extension was being requested had been occupied by the community since 1999. It was also stated that the extension request would not be considered further until the company had settled the occupation issue, and the land was verified as 'clean and clear'. However, the dispute was not resolved by the time the rights expired at the end of 2009. The Gadungan farmers wrote to the Head of BPN in January 2014 requesting that HGU rights not be extended as they were still in conflict with the company.

They also requested BPN to set aside the ex-HGU as a land reform object and redistribute the land to them. A letter from the farmers to PT. Rotorejo Kruwuk dated May 9 2014 indicates mediation was completed on April 29 2014, and they demanded that the company release 350 ha ex-HGU land to 420 households.

It appears the land was not released and the farmers acted because litigation was triggered in September 16 2014 when PT. Rotorejo Kruwuk brought an action to the Blitar Criminal Court against farmers from Gadungan who were occupying their land. Both parties to the dispute wrote letters to the BPN. The company only sued two farmers who had occupied part of their HGU land: both were found guilty (Section 5.4.3). However, as pointed out in Section 5.4.3 the farmers are still occupying the land to this day.

In both cases unsuccessful mediation appears to have prompted litigation. Though a verdict was reached in both courts cases, both attempts at litigation can also be considered unsuccessful. The plantation companies won both cases, which is unsurprising because *de jure* they were the legal owners of the rights to the disputed land, but *de facto* the farmers did not abide by the court decisions and continued to occupy the land,

The two cases show that litigation has significant limitations in resolving land disputes in Indonesia. The main reason for this is that farmers do not trust the legal system, which they feel favours companies. In both cases, the communities put pressure on government to re-check the facts around their cases through letters and demonstrations. The question of corruption has arisen in litigation related to other land disputes, but was not raised by anybody interviewed in the four disputes I researched. In the dispute between PT. Sumber Air Mas Pratama and farmers from Karawang, the farmers urged the Corruption Eradication Commission (*Komisi Pemberantas Korupsi*) to investigate the land dispute in Telukjambe as they suspected there was bribery behind a court ruling in favour of the company (Rastika, 2014).

6.3.2 Mediation

Mediation and land law in Indonesia

The farmer groups involved in the four land disputes studied were, in each instance, the parties who did not have contemporary legal rights to the disputed land. Each group, however, had a grievance concerning the disputed land and each was seeking justice from the local government or land office in the district where the conflict was situated. Some had already resorted to litigation (Section 6.3.1) and others had resorted to demonstrations to draw to their grievances (e.g., Figure 6.1, Section 4.4.3).

Article 2 of the Basic Agrarian Law (Section 2.2.2) clearly states that land affairs are part of the task of government, and that land is administered by the government. This includes the settlement of land disputes. This was reaffirmed in Presidential Regulation 63/2013 regarding the The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency of the Republic of Indonesia (BPN), which expressly provides that the agency is vested with the task of conducting government business in the land area. This regulation specifically refers to the handling and the settling of land disputes. However, Presidential Decree 34/2003 regarding the National Policy on Land Affairs, states that the local government of district or city is vested with some of the government's authority in land affairs. Amongst other items included in this decree, it includes the settlement of land disputes (Section 2.2)

“Prosedur penanganan sengketa dan konflik, dimana pihak masyarakat mengajukan pengaduan ke BPN. Setelah ada pengaduan dari masyarakat dilakukanlah pengkajian masalah sengketa dan konflik dan melakukan penanganan. Proses penyelesaian dapat melalui hukum dan non hukum. Pemilihan cara tergantung dari para pihak yang berperkara. BPN bertugas memfasilitasi penanganan sengketa dan konflik antara para pihak”

“Dispute and conflict handling procedures (occur) when there is a public report to BPN. After a complaint is reported from the community, a review of disputes and conflicts and handling is conducted. The settlement process can be through a court or a non-court way. The choice of the way depends on the disputant parties. BPN is tasked with facilitating the handling of disputes and conflicts between the parties” (Interview with Government Officer, January, 2015).

Appointment of mediation teams

In the disputes concerning Bungku (*Case study 1*) and Belanti Jaya (*Case study 2*), the Local Government of Batanghari was appointed as the mediator and the mediation team (The Integrated Handling of Social Conflict Team - TIMDU), which consisted of representatives of different district level local government offices (Section 4.4.3), was based on Decree 158/2013 issued by the Regent of Batanghari. Most mediation sessions were held at the offices of The National Unity, Politics and Community Protection Agency (*Badan Kesatuan Bangsa, Politik dan Perlindungan Masyarakat - KESBANGPOL*) (Sections 4.4.3 and 4.5.3). The two disputes involving Gadungan were mediated by different agencies— BPN and the Local Government of Blitar in association with the Discussion Village Institution (*Lembaga Musyawarah Desa*) (Section 5.4.2). The mediators in these four cases illustrate the discrepancies in the legislation around resolving land disputes. While the lead in mediation in two disputes (*Case studies 1 and 2*) was taken by local government, which aligns with more recent Presidential Decree 34/2003, the dispute covered in *Case study 3 and 4* was lead in mediation by BPN, which aligns with earlier Article 2 of the Basic Agrarian Law. Moreover, while in each case a mediation team was drawn from various local agencies or local branches of government agencies, the teams were different. How the team members were decided upon is unclear from the interviews I conducted, or perhaps it may be better stated that the thinking behind the selection of agencies to include in specific mediation teams is unclear. Table 6.3 lists the composition of the mediation teams.

Teams of specialists such as those listed in Table 6.3 are needed to obtain clarity about the status, legal aspects and security repercussions related to the land disputes. They work under the assumption that the officers involve in mediation have the capacity to understand the dispute they are dealing with and to be able to give legally sound, constructive ideas to the disputants.

Table 6.3: The mediation teams for each land dispute

Parties to the dispute	The Mediation Team
<p>Case study 1</p> <p>An indigenous community (the SAD) and an oil palm plantation company (PT. Asiatic Persada)</p>	<p>The Regent of Batanghari; the Head of the Police of Batanghari; the Head of the House of Representative (DPRD) of Batanghari; Adat Constitution of Batanghari; the Chief Prosecutor of Batanghari; the Chairman of the District Court of Batanghari; the Head of BPN of Batanghari; District Military Commander of Batanghari; the Head of Legal Section, the Head of the Plantation Service, the Head of Industry Trade Cooperatives and SMEs Service, and the Head of Forestry Service, and the Head of KESBANGPOL of Batanghari.</p>
<p>Case study 2</p> <p>A transmigrant community and an oil palm plantation company (PT. Sawit Jambi Lestari)</p>	<p>The Regent of Batanghari; the Head of the Police of Batanghari; the Regent's Asistant II, the Head of KESBANGPOL, the Head of Economic Section, the Head of the Plantation Service, the Head of Legal Section, the Head of BPN, the Head of Mersam Sub-district</p>
<p>Case study 3</p> <p>Farmers from Gadungan village and a plantation company (PT. Blitar Putra)</p>	<p>The Regent of Blitar; the Head of BPN Blitar; the Regent's Asistant of Blitar; the Head of Gandusari Sub-district; the Head of Gadungan Village and the Chairman of the Discussion Village Institution.</p>
<p>Case study 4</p> <p>Farmers from Gadungan village and a plantation company (PT. Rotorejo Kruwuk)</p>	<p>The Regent of Blitar; BPN Blitar; the Plantation Service, the Forestry Service, KESBANGPOL of Blitar.</p>

The local government and BPN district offices act are members of all mediation teams (cf. Table 6.3) for land disputes, especially those that involve community groups. However, all four communities studied felt the government representatives could not take a neutral stance in the mediation processes. For example, in *Case study 1* concerning customary law (PT. Asiatic Persada and SAD, Bungku Village, Section 4.4.3), SAD household heads told me repeatedly that while customary law is recognized in the BAL but only lip service is paid

too it, and because there are no further regulations concerning it the current government prioritizes statutory law over customary law (Section 2.2.2). Another example is *Case study 4*, the dispute between PT. Rotorejo Kruwuk and Gadungan, although the BAL and subsequent have rules regarding expired HGU rights, these were difficult to implement because the company in question still has decision-making powers over the land. This led the farmers involved in this dispute to lose trust in BPN and question further why the plantation company still had HGU rights to the land which they believed to be the legal position: i.e., that when HGU rights had expired and not been renewed, the land in question has once again become state land and that they had rights to own and utilize the land.

These examples show why local government offices and BPN district offices find it difficult to act as neutral and independent mediators as they are working in an atmosphere of partial trust, or perhaps mistrust, on behalf of the communities. Secondary evidence I obtained from interviews suggests this view of local government or BPN mediators is not shared by companies as the law appears to be on their side and decisions appear to favour them. It is perhaps the lack of trust in the mediators by community groups that is one of the causes of the protracted nature of the land disputes in the case studies.

The mediation process

The aim of mediation in the disputes studied was to settle them so that:

- 1) land tenure and land use assignments were clear to all parties;
- 2) disputes did not escalate to violence; and
- 3) to bring about general improvement in the local socio-economic situation.

In order for the mediation process to run smoothly, each member of a mediation team was given a specific role and a series of responsibilities. These consisted of roles such as lead mediator, meeting facilitators, organisation of meeting venues, logistics and documentation. For example, the dispute that was mediated by TIMDU in Batanghari at the offices of KESBANGPOL. The

KESBANGPOL representative on the mediation team was given the responsibility for logistics and documentation. In Blitar, mediation meetings were held in the Office of the Regent. I attended one mediation meeting in in Batanghari and another in Blitar to observe the processes in operation (Section 3.4.1). A comparison of the salient points in each mediation are outlined in the Table 6.4.

To fully understand a land dispute, the mediation team has to make a thorough assessment of it before the first meeting with all the parties to the dispute. The pre-mediation assessment meeting described above, was the meeting I attended in Blitar (*Case study 4*).

Mediation is triggered when at least one of the parties report a dispute to BPN or local government, mount a demonstration or litigation is ignored. In the four disputes studied:

- 1) in *Case study 1* the SAD demonstrated at the PT. Asiatic Persada guard post (Section 4.4.3);
- 2) the most recent attempts at mediation in the second and fourth cases studies were prompted by the communities ignoring court decisions (Section 6.3.1);
- 3) demonstrations were part of the sequence of events which triggered mediation in the dispute in Bungku (*Case study 1*); and
- 4) letters about their land rights issues were sent by farming to the local government and BPN in all four disputes.

Table 6.4 Comparison of the mediation process in four case studies

Parties in Dispute	Key issues	The agreement
<p><i>Case study 1:</i></p> <p>The SAD and an oil palm plantation company (PT. Asiatic Persada)</p>	<p>The customary lands which the SAD claim they had rights too prior to HGU rights being granted PT. Asiatic Persada, form part of the companies HGU land. Previously it was forest which the SAD used. Prior use and customary rights form the basis of the SAD claim.</p> <p>PT. Asiatic Persada has used and utilized the HGU land for oil palm plantation and has invested considerable capital in the developing the plantation, including planting trees.</p>	<p>PT. Asiatic Persada agreed to release an area of 2000 ha over which they had HGU rights. This was approved by the SAD.</p> <p>SAD also agreed that the farmers who would receive land allocations would join the plasma of PT. Asiatic Persada.</p> <p>Another agreement made was the mechanism that would determine which member of the SAD were entitled to receive the land.</p> <p>In summary, previous customary ownership was recognized, and an agreement reached which appears to be mutually beneficial to both parties.</p>
<p><i>Case study 2:</i></p> <p>A transmigrant community and an oil palm plantation company (PT. Sawit Jambi Lestari)</p>	<p>PT. Sawit Jambi Lestari has a core plantation (HGU) of 2,430 ha of which approximately 1,080 ha were considered to be abandoned. Members of the transmigrant have occupied this abandoned land in the form of family-run oil palm plantations.</p> <p>PT. Sawit Jambi Lestari claimed that they had not given permission for these people to use this land. But the farmers occupying it refused to leave and the dispute started.</p> <p>A prior court verdict in favour of the company was ignored by the village.</p>	<p>The mediation process had failed to reach an agreement by the end of my fieldwork (June 2015).</p> <p>In summary: mediation has failed to resolve the dispute as both parties are still adamant that they have the legal right to the land in question.</p>
<p><i>Case study 3:</i></p> <p>Farmers from Gadungan Villagers and a plantation company (PT. Blitar Putra)</p>	<p>Peasant farmers from Gadungan occupied part of HGU lands of PT. Blitar Putra. The basis of the claim was that they had rights to use land occupied as it was re-distributed to them during the land reform program of the Old Regime in 1963.</p>	<p>The farmers agreed to receive 90 ha of land from the HGU land owned by the company. PT. Blitar Putra agreed to release the 90 ha on condition that people from Gadungan will not attempt to annex any more land from the company's estate.</p> <p>In summary, an agreement was reached which appears to benefit the community more than the company. The agreement has a significant future condition attached to it.</p>
<p><i>Case study 4:</i></p> <p>Gadungan villagers (local community) and a plantation company (PT. Rotorejo Kruwuk)</p>	<p>The 557 ha HGU of PT. Rotorejo Kruwuk expired on December 31 2009. Farmers from Gadungan occupied and used between 125-130 ha this land. A prior court verdict in favour of the company was ignored by the village.</p>	<p>The company agreed to released 24 ha of the disputed land to the village. The Gadungan community has rejected this amount and is demanding 130 ha from the company.</p> <p>In summary, no agreement yet reached. An offer from the company is on the table but has been rejected. A counter claim has been submitted. It appears that the area of land to be released could be agreed in the future.</p>

The initial step is for the mediation team to study the database of the HGU rights held by BPN to examine the history of land rights allocations and find the decree(s) which granted companies land rights for a plantation. Then, field visits and interviews with the heads of the villages involved are undertaken either BPN or other members of the mediation team. These tasks are done so that the mediation team obtains both *de jure* and the *de facto* perspectives on the dispute. I was invited to go on a field visit by a mediation team in Batanghari, though it was not one of the two disputes I studied. This was a one-day visit to verify what the geographical distribution of land uses was in the disputed area. Neither the company nor the people in the village in this particular dispute were interviewed on this trip.

All the land disputes I studied involved a large number of people from each community. Therefore, in the early stages of the mediation procedure for each dispute, community representatives were chosen. It is not clear to me how these people were selected but it is clear from letters and other documents (e.g., maps of an agreed land allocation, meeting minutes) that only a few signatories were from the communities.

Mediation theory indicates that rules about the behaviour of the disputants in the meeting and on the disputed land are argued at the beginning of the mediation process, issues should be discussed and that understanding and trust between the parties to the dispute is built. Using the minutes of the meetings for all four cases studied, it is clear that initial rules were established, e.g., mutual respect between parties, zero tolerance of verbal or physical assault, agreement of meeting arrangement and time allocated for each party to speak:

- 1) each party was given an adequate opportunity explain their situation, express their feelings and outline their expectations.
- 2) in each dispute the parties were able to identify their highest priority in terms of demands, and there is abundant evidence in the minutes of how they lowered their demands.

In terms of developing understanding and trust between the parties in the disputes between PT. Asiatic Persada and the SAD (*Case study 1*), and PT. Blitar Putra and Gadungan (*Case study 3*) enough trust was developed for the parties to reach agreement. However, the conditional clause in the agreement of the dispute in *Case study 3* (Table 6.4) suggest that an element of mistrust still exists on behalf of the company. In the disputes involving PT. Sawit Jambi Lestari and PT. Rotorejo Kruwuk is must be the case that not enough understanding and trust have been developed, as these disputes are still ongoing at the time of thesis submission. These disputes have not been resolved yet because:

- 1) both of the disputants have not moved from their position that, according to land law, are they have rights to the disputed land;
- 2) neither disputant had lowered their initial demands;
- 3) the rules and regulation regarding expired HGU rights (*Case study 4*) are still interpreted differently by each party; or
- 4) there has been a lack of coordination between BPN and local government agencies/offices. A particular issue here is that during the implementation of land redistribution, BPN should not be asked to evaluate the economic conditions of each household so that they can decide who to redistribute land too. This should be the task of local government, though BPN often has to play the role of appraiser. But this is not always the case, in *Case study 1* land redistribution was being registered and verified by *Adat* Constitution of Batanghari (Section 4.4.3) who know and understood the SAD. This allowed BPN to redistribute the land through land reform program and it is an example of good practice. Good practice was also evident in the dispute between PT. Blitar Putra and Gadungan (*Case study 3*) (Section 5.4.2). It is perhaps not surprising therefore that these are the two disputes that have been resolved.

Mediation outcomes

PT. Asiatic Persada and SAD (*Case study 1*); and PT. Blitar Putra and Gadungan villagers (*Case study 3*) resolved their land disputes using mediation and successfully achieved agreements. Table 6.5 presents the results of the mediation on those two case studies.

Table 6.5 The agreements reached in the successful mediations

Parties to the dispute	Form of agreement	Content of agreement
The SAD and PT. Asiatic Persada.	Decree 180/2014 issued by the Regent of Batanghari on March 11 2014 containing the names of SAD personnel and maps of the 2,000 ha of land being given by PT. Asiatic Persada. BPN Batanghari undertook redistribution of the 2,000 ha to 994 households through the land reform program.	PT. Asiatic Persada agreed to release 2,000 ha of the oil palm plantations. The members of SAD entitled to land were verified by the <i>Adat</i> institution (Bumi Serentak Bak Ragam of Batanghari). Each household received 2 ha of land.
Gadungan villagers PT. Blitar Putra.	The Head of the Blitar Land Office issued decree 07/10.35.05.400/VI/2013 on June 26 2013 granting of the right of ownership (<i>hak milik</i>) in the framework of land redistribution under the land reform program.	PT. Blitar Putra released 90 ha of land. The land was redistributed to 174 households in Gadungan. It was divided into 245 land parcels.

However, factors beyond those in the legal domain also positively influenced mediation and helped to achieve agreement in these two cases; specifically, social and economic factors. In both cases, the disputants benefitted from

better relationships with each other after agreeing to cooperate, e.g. in term of selling the harvest of the farmer's plantations. Furthermore, the companies were given roles in village development and celebrations. In the case of the agreement between the SAD and PT. Asiatic Persada (*Case study 1*) it is clear that there was a mutually beneficial (win-win) agreement (Section 4.4.3).

Now the farmers have permanent employment and relatively good incomes, whereas before most were jobless. Even though the agreement is only four years old their livelihoods are improving. Most now have a motorbike, though their houses are still small and they do not yet have high wealth rankings. The agreement between PT. Blitar Putra and Gadungan households (*Case study 3*) tells a different story in terms of economic outcomes. The size of the land parcels redistributed as part of the agreement in this dispute were considered to be too small by some of the households, and they proceeded to sell them. This was not against the terms of the agreed resolution. In the land redistribution resulting from the terms of the resolution arrived at in Case Study 3, PT. Blitar Putra and Gadungan nowhere was it stated that the land could be sold and it was not binding on the community receiving the redistributed land. As the matter of fact, that kind of land has high demand, especially in Java. The entire process can be viewed potentially as a circular land dispute pattern (Figure 6.2). It can argue that process of land redistribution to help landless farmers in this case failed. And suggests that in the terms of agreement in cases like this should have clauses restricting or banning the sale of agricultural land to other party for a specified period of time.

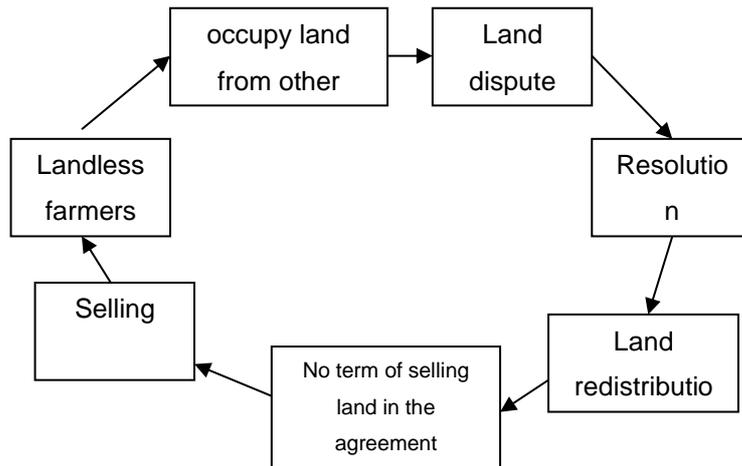


Figure 6.2 Land redistribution leading to land sales developed from PT. Blitar Putra and Gadungan Case (Case Study 3)

Summary of litigation and mediation in the case studies

Litigation was pursued in *Case studies 2 and 4* because previous attempts at mediation had stalled. However, while the courts come to a verdict, in both cases in favour of the companies, the verdicts were not accepted by the communities. A major reason for this is that communities have lost trust in the courts, which they see as siding with business. In addition, verdicts would not have provided positive economic benefits for either community.

Two disputes (*Case studies 1 and 3*) have been resolved through mediation, whereas *Case studies 2 and 4* have not yet been resolved through post litigation mediation. The most successful and potentially-sustainable solution was reached in *Case study 1*, in which each SAD household received two hectares of plantation land and employment by PT. Asiatic Persada in their NES scheme. This has improved their livelihoods and provided a level of economic stability. The company has benefitted by extending its plasma to the SAD who will sell their oil palm fruits to them, as well as work for them. The theft of fruits will be reduced. This win-win solution has not been reached in *Case study 3* where, despite agreement being reached, the elements of long-term sustainability that characterize *Case study 1* are not apparent.

Intervention of a dispute by an acceptable, impartial and neutral third party that does not have the authority to make decisions in assisting disputing parties in an effort to reach agreement voluntarily in resolving disputed problems (Noone, 1996; Sourdin, 2005; Liebmann, 2000). In these four case studies the third party is the local government. Mediation attempts to provide results that meet the needs of the parties to the dispute in a way that satisfies all of them (Bush, 1994). But in the two of the case studies it failed as the parties involved did not achieve agreement.

6.4 Contemporary Land Reform in Indonesia

The experience of land reform in some Latin America, Sub-Saharan Africa and East Asia countries, where the aim has often been to break up the large landholdings of rich people and/or companies and redistribute them to landless and poor peasants, was reviewed in Section 2.3.3. In Latin America and Sub-Saharan Africa land reform often stimulated by peasant uprisings (though often orchestrated by a left-wing urban-based political elites), while in East Asia, land reform was part of the foundation of the modern, industrialized state. Indonesia has elements of both modern, industrial state formation and the political dimension in its land reform program.

6.4.1 The evolution of land reform in Indonesia

The land reform conducted by the Old Regime of Sukarno is typical of post-independence land reform programs carried out after World War Two and has parallels elsewhere in the developing world (Section 2.3.3). Ostensibly it was focussed on Java and was designed to break up large landholdings that had been created with *Erpacht* rights in Dutch Colonial Era and redistribute the land to poor families with no or little land. These people almost always lived around the estates being broken up and their forbears and older members of the communities had benefitted from *Adat* rights to the land before the Dutch introduced *Erpacht* rights. This program lasted from 1962 to 1965 and was shut down during the New Regime of Suharto (Section 2.2.3 and 5.2). This episode of land reform is now known as the *Land Reform of Indonesia*. Its tenor was

pro-poor and pro-landless, and the rules that were issued to support it are still extant. The most important of these are Article 33 of the 1945 State Constitution of the Republic of Indonesia and the BAL (Section 2.2.2).

The New Regime initiated an effective program of providing land rights to large companies and wealthy people anew when they were in power and simultaneously the very people who had benefitted from the earlier *Land Reform of Indonesia* lost their land rights again. However, there are differences between the actions of the colonial government and the New Regime. First, whereas the Dutch mainly concentrated their large land holdings in Java and left the other islands relatively untouched, the New Regime created large land holdings on other islands as well as Java. Secondly, the creation of large estates was done in parallel with the National Transmigration Program (Section 2.2) which moved people from Java, thereby reducing the potential for confrontation between people who had been stripped of their land rights, to the islands where large estates that needed labour were being created. While the farmers that migrated have benefitted from the NES schemes established around industrial plantations (Section 4.5; Aulia, 2017), the indigenous communities that lived in the areas being converted to estates in transmigration destinations often lost out (e.g., the SAD Section 4.4). In terms of the latter issue, the New Regime repeated the mistakes of their former Dutch colonial masters.

Indonesia is now dealing with the fallout from the land policies of the New Regime, which were exacerbated by two things in particular:

- 1) some companies were undoubtedly given land rights to areas far in excess of their managerial capabilities. These grants may have been politically motivated, but the fact is that some companies were undercapitalised from the start and/or their business plans did not properly consider how their operations would evolve; and
- 2) the Asian Economic Crisis of the late 1990s had significant negative affects on many of these companies by either exacerbating existing

undercapitalisation or creating cash flow issues where they had not existed before.

The government has recognised that if it can effectively deal with this issue through the work of BPN, it can bring some level of resolution to the mounting number of land disputes that are spreading across the country like a rash, and thereby stave off any political repercussions. This contemporary land reform program is called the *Agrarian Reform of Indonesia*.

Land abandonment has been considered in recently promulgated Government Regulation 11/2010 (Section 2.2.2). But as the *Case studies 2 and 4* show, implementing this regulation in Belanti Jaya (Section 4.5.3) and Gadungan (Section 5.4.3) has been fraught with difficulties.

From a legal stance, land which benefits from HGU rights is to be unused and utilized in accordance with the purpose for which the grant was given, e.g., PT. Sawit Jambi Lestari obtained HGU rights for an oil palm plantation in accordance with BPN Decree 67/JHU/BPN/1994. A further aim of this regulation is to restructure tenure, ownership, use and utilization of land to achieve social welfare and justice, not simply to improve business profitability.

BPN issued regulations 4/2010 on February 1 2010 regarding procedures for the control of abandoned land, and 5/2011 on July 14 2011 regarding procedures for empowerment decisions about state (ex-abandoned) land. The 2010 regulation also includes the rule that the use and utilization of HGU land be verified three years after it is acquired, and that if it is suspected of being abandoned, warning letters are to be issued to the company:

“Tanah terlantar menghasilkan tanah cadangan umum negara untuk yang sudah ditetapkan menjadi tanah terlantar. Menurut Peraturan Kepala BPN 5/2011 yang menetapkan surat keputusan penetapannya Kepala BPN, untuk mendayagunakan tanah cadangan negara, untuk tanah reforma agraria, untuk cadangan strategis negara dan cadangan negara lainnya. Redistribusi tanah masuk dalam reforma agrarian”.

“Abandoned land (that has been set as state land ex-abandoned land by the Head of BPN) produces a common (pool) of state reserve land. Accordingly the Head of BPN regulation 5/2011 stipulates that the Head of the BPN issues degree for ex-abandoned land: for utilizing state reserve land; for agrarian reform land; for strategic

reserves of state land; and other state land reserves. Land redistribution is part of agrarian reform (Interview with a Government Officer, December 2014).

If Government Regulation 11/2010 can be executed effectively it will underpin the *Agrarian Reform of Indonesia*, resolve the land issues created by the New Regime, and provide hope for the landless and the rural poor. Effective and legal use of abandoned land is considered to be crucial plank in the framework of contemporary agrarian reform in Indonesia, it aligns with government strategies and it is in the interest of the state and individuals. Specifically, it is argued that it will cover the deficit in the rural poor's need for land as the main factor of production.

“Tanah yang sudah ditetapkan menjadi tanah terlantar dan sudah ditetapkan menjadi tanah cadangan negara maka petani yang gurem yg tanahnya kecil-kecil itu bisa mendapatkan tanah itu, tentunya dengan mekanisme mengenai siapa yang berhak mendapatkan tanah itu”.

“(When, HGU) land that has been established into abandoned land and has been established into the (pool of) land of state reserves peasant smallholders who have little land can get the land (from this state land), of course, with a mechanism (developed) on who is entitled to get the land” (Interview with a Government Officer, December 2014).

6.4.2 Land redistribution in resolving land disputes

Based on the experiences of land reform experiences in Latin America and Sub-Saharan Africa the key issues being tackled in all cases was inequality of access to land, especially for poor people. This is reflected in the case studies from Indonesia. For example, Case study 2 - transmigrant community and an oil palm plantation company (PT. Sawit Jambi Lestari) - where the company has large landholdings but has failed to use and utilize them. Consequently, the land is considered to be abandoned, while the peasant farming communities in the surrounding HGU have insufficient land to farm. According to Barraclough (1973), much of the land that was redistributed during land reforms in Latin America was state-owned land and this led to less successful land reform. While in Japan, one of the main aims of land reform was to remove absentee land right holders (World Bank, 1975). Alignment of land reforms with local peasant community needs have to be of central concern to government if they are to provide adequate land for farming households to pursue their livelihoods sustainably.

However, as I have shown in *Case studies 2 and 4* in this thesis operationalising Government Regulation 11/2010 is fraught with issues. A key issue revolves around the issue of ownership of HGU rights after land has been declared abandoned which can stymie land redistribution. This occurs when, even after BPN has declared a parcel of land to be abandoned and returned it to the pool of state land, the business that has or had HGU rights retains legal rights and has a say in the fate of the land (Section 6.3).

Other factors influence the effectiveness of land redistribution. A problem arose in *Case study 3* in which farmers in Gadungan were redistributed land previously owned by PT. Blitar Putra. They felt that the area was inadequate and many of them sold their land allocations (Section 5.3.2). Their decisions to sell small land parcels can be related to economic pressures external to the village, i.e., the market generated by urban residents who buy land in rural areas (Suhendar, 1994). The situation in Bungku (*Case study 1*) contrasts with Gadungan. Here land redistributed by PT. Asiatic Persada was considered sufficient by the SAD because their livelihoods improved and they were incorporated into the NES scheme. The contrast between the two cases has two implications. First, that an acceptable resolution requires more than a 'simple' transfer of land parcels, i.e., it should be part of a wider package. Secondly, adequate amounts of land for a household to use need to be transferred. Evidence from this and other research (e.g., Aulia 2017) show that two hectares is adequate in an oil palm area, but the equivalent areas for other crops are less clear. Furthermore, while redistribution of larger areas is feasible in islands like Sumatera, historical land shortages in Java mean large land redistributions may not be feasible (Section 6.2.3). In these instances, households will quickly sell their redistributed land (Section 5.4.2).

The question that remains in using land redistribution under Government Regulation 11/2010 to resolve disputes is: are the resolutions permanent or temporary? In using this regulation as a key element in agrarian reform, the government argues that it is a permanent and sustainable pro-poor and pro-landless solution. However, not enough time has elapsed to know if this is really

the case, and the lack of resolution to two of the four disputes I studied suggests that it may not be.

6.4.3 Summary of issues with contemporary land redistribution

Section 6.4 has reviewed the need for, and evolution of, land reform programs in Indonesia. Most attention has been paid to the contemporary land reform program or *Agrarian Reform of Indonesia*. BPN is the arm of government responsible for delivering this. This contemporary reform package mainly deals with the fallout the New Regime's land policies, particularly the issue of land abandonment.

Government Regulations 11/2010 and 5/2011 from 2010 and 2012 deal with abandoned land and, if they can be executed effectively, they resolve the biggest land issues created by the New Regime, and provide equitable land redistribution. However, operationalising these two regulations has proven difficult. Even after land has been proven to be abandoned by BPN, the issue of ownership of HGU rights can stymie the next step, which land redistribution. This occurs because even after BPN has declared a parcel of land to be abandoned, the business that has or had HGU rights retains legal rights and has a say in the fate of the land. Most cases brought by companies challenging BPN's right to redistribute (the companies) abandoned land have found in favour of business, not the government.

6.5 Summary

This chapter attempts a comparative analysis of the four land disputes examined in Chapter 4 and 5. The comparison attempts to find commonalities and differences in the factors that caused the land disputes and the best ways that have been found to resolve them to resolve it. With the outcome that this can be applied in Indonesia in general.

CHAPTER 7: CONCLUSIONS

7.1 Introduction

The final chapter of this study presents the key research findings in the framework of the research aims and objectives stated in Chapter 1. It also includes a summary of the limitations that were faced in executing study. The chapter concludes with recommendations for further research.

7.2 Key research findings

The three aims of the study were to:

- document and detail four contrasting rural land disputes (Aim 1);
- develop an understanding of the causes of these four land disputes (Aim 2); and
- understand why some disputes have been resolved and others have not (Aim 3).

During the research I reviewed literature on land disputes and their resolution and undertook case studies of four land disputes in Java and Sumatera. I conducted an analysis of each case study and then compared the causes and attempts at resolution to address the aims of the research. The key findings of each aim are as follows:

Aim 1 has the following objectives:

- (1.1) to obtain and collate documentary evidence for each land dispute; and
- (1.2) to carry out field-based research for each land dispute using interviews, questionnaires and participant observation to extend the knowledge base gained in objective 1.1.

The case studies can be summarised as follows, the first two case studies are from Sumatera, and the latter two from Java:

1. *Case study 1:* a land dispute between PT. Asiatic Persada and indigenous people (*Suku Anak Dalam*) in Bungku Village, Batanghari District, Jambi;
2. *Case study 2:* a land dispute between PT. Sawit Jambi Lestari and transmigrants in Belanti Jaya Village, Batanghari District, Jambi;
3. *Case study 3:* a land dispute between PT. Blitar Putra and peasants in Gadungan Village, Blitar District, East Java;
4. *Case study 4:* a land dispute between PT. Rotorejo Kruwuk and peasants in Gadungan Village, Blitar District, East Java.

In order to document and detail these case studies, I conducted fieldwork between December 2014 and May 2015. Primary data was based on:

- 1) questionnaires and interviews to 20 households in Bungku, 20 households in Belanti Jaya, and 30 households in Gadungan;
- 2) two companies involved in the land disputes in Case studies 3 and 4, and central, provincial and district level government agencies in all four case studies were interviewed; and
- 3) and participant observation.

To support the primary data I collected secondary data such as official reports and legal documents from central, provincial and district level government departments; the BPN land dispute data base; letters, meeting minutes and other documents about the case studies; and newspaper articles.

The research objectives associated with second aim are:

- (2.1) to analyze the causes of each dispute individually; and
- (2.2) to develop a deeper understanding of the land disputes by undertaking a comparative analysis of their causes.

The history of these disputes is essential to understanding the causes. In the summary the histories are:

Case study 1: customary land of the SAD was part of land that was the subject of HGU rights held by PT. Asiatic Persada. The overlap in interests between

the parties occurred because land acquisition by PT. Asiatic Persada was not 'clean and clear'. The SAD lost their access to land, which impacted their traditional livelihoods.

Case study 2: PT. Sawit Jambi Lestari obtained HGU rights for a core plantation with transmigrants working plasma plantations in the surrounding land (a PIR/NES scheme). The 1998 monetary crisis in Indonesia impacted the company, which then failed to use and utilize all of its HGU land and abandoned part of it. The transmigrants in the surrounding area occupied and used the abandoned land.

Case study 3: In 1962 part of the *Ngusri* Plantation (which in colonial times was subject to *Erpacht* rights) was redistributed to peasants as part of the first land reform program. In 1965 those peasants were suspected of supporting a communist rebellion and their land redistribution was revoked. PT. Blitar Putra then acquired *Ngusri* Plantation with HGU rights. The peasant farmers in Gadungan claimed that the land belonged to them based on historical precedents.

Case study 4: The HGU rights awarded to PT. Rotorejo Kruwuk expired in December 2009. The local community had the impression that when HGU rights expire the land reversion becomes state land. Therefore, they claimed that they had a right to the land and occupied and used part of it. Simultaneously the company was trying to extend its HGU rights.

The causes of land disputes in each case study are different and unique. Using Wehrmann's (2008) scheme, the causes of four land disputes implicate socio-economic, political, demographic, socio-cultural, and legal and juridical causes. Wehrmann (2008) and Rubin & Ihle's (2017) (cf. Chapter 2) were used to guide the mapping and categorization of the causes of the land disputes as either political, economic, socio-economic, socio-cultural, demographic, legal and juridical, administrative, technical, ecological or psychological. The causes are both direct or indirect in summary the causes are as follows.

- 1) *Socio-economic causes.* Based on house wealth rankings poverty and unequal distributions of land are shown in *Case studies 1, 3 and 4*. The fact that the community in *Case study 2* are transmigrants, most of whom own at least two hectare plantations, is reflected in their better wealth rankings. However, none of the villages can be considered wealthy.
- 2) *Political causes.* In all four case studies the prevailing political situation results from actions taken by the New Regime; actions which have strongly favoured plantation companies over local communities.
- 3) *Demographic causes.* High population density has direct affect in *Case studies 3 and 4* which are located in Java. Population density and inter-island migration is an indirect cause in *Case study 2* because the community involved are transmigrants who left Java as part of the governments attempts to reduce land scarcity issues there.
- 4) *Socio-cultural.* Based on the comparison of the questionnaires and interviews, in all four case studies the people interviewed generally had relatively low education levels. I argue this might be reflected in how they understand disputes and their actions in disputes. Some evidence to support this is presented which shows that the slightly better educated populace in Gadungan were able to articulate then side of conflict better than in Bungku or Belanti Jaya.
- 5) *Legal and juridical causes.* Three case studies have different backgrounds of disputes from this perspective. In *Case studies 1 and 4*, the land acquisition by companies did not consider the needs of local people to access to land. In *Case study 2*, insufficient supervision of the use of the HGU land after abandonment led the communities surrounding the HGU area to occupy and use and utilize the land.

The research objectives associated with the third are:

- (3.1) to analyze the attempts to resolve each dispute individually;
- (3.2) to identify and evaluate successes and failures in the types of dispute resolution applied to the disputes studied, and to undertake a

- comparative analysis of the attempts at dispute resolution (Section 6.3);
and
(3.3) to evaluate the potential of land redistribution (as part of contemporary land reform) in obtaining long-term solutions to land disputes (Section 6.4).

Each of the case studies used mediation as a tool to try and resolve the dispute. The mediation teams were made up of local government and BPN officers from the district where the land dispute occurred. The mediation was triggered in one of the following ways: when at least one of the disputant parties reported it to the local government or BPN, through public demonstrations or because of failed litigation.

Litigation was also used in *Case studies 2 and 4*, but as the verdicts' favoured the companies and the communities did not gain any economic benefits, they were ignored by the two communities involved

Case studies 1 and 3 have been resolved through mediation. The analysis of *Case study 1* shows how a 'win-win' solution was reached with both disputants have benefitting from the settlement. In the agreement the 994 SAD households received a land redistribution of two hectares of planted oil palms each, and they became part of the PT. Asiatic Persada PIR/NES scheme. They feel their livelihoods are improving. From the company side, even though they released 2,000 hectares of land, the SAD will sell the oil palm fruits to them and they will work as casual labour for the company. In *Case study 3*, company released 90 hectares to the farmers from Gadungan in settlement, each of whom received an average redistribution of approximately 0.30 hectares. This is too small to profitably farm and some have already sold their land. These case studies shows that long-term sustainability is not necessarily achieved by mediation.

Case studies 2 and 4 are still ongoing, and have not been resolved because the disputants have not compromised on their initial demands. All parties still claiming that they believe they have rights to the land.

7.3 Mediation to resolve land disputes between groups of people and plantation companies

This study underlines the importance of the good land governance, agrarian reform, and mediation processes and outcomes during disputes over large rural areas in Indonesia. Drawing on the analyses of the four disputes, particularly the two were resolved through mediation, the following factors relating to the preconditions, process and outcomes of the mediation can be identified.

First, it can be argued that the weaker parties in the disputes were the local communities who have to make significant efforts to be recognized by government in order to gain access to a mediation process. To be recognized they need to mobilize a large number of people to represent them at the offices of the government office and strong parties in the dispute. Mobilization by weaker parties can change power relations and the interdependence between parties in a dispute (Maryudi et al., 2016). Very few plantation disputes in Indonesia have been resolved. Therefore, a suggestion arising from this research is to improve procedural justice in the mediation of disputes over large areas of land acquired by companies in Indonesia. For although, initiatives to empower local communities are very important and the role of government in facilitating mediation should not have to wait until large mass mobilisation has occurred.

Secondly, prolonged land disputes are expensive, particularly for poor farming communities who do not have the means or time to maintain months years of struggle (Afrizal and Anderson, 2016). However, plantation companies are also affected by prolonged disputes, as they place costs on business operations as they cannot utilize the disputed land and reputational damage occurs when disputes escalate into conflicts which often appear in the mass and social media (IBCSD, 2017). This research found that trust-building, fairness and accountability are important points for effective mediation. The four case studies were characterised by their long duration, which lead to a lack of trust in the government as a fair and impartial mediator. However, building trust itself

consumed large amounts of time. In such cases, disputant parties need to consider the possibility of prolonging land disputes, and this should be made clear at the beginning of mediation. Plantation companies in particular should act in a way that prevents disputes or deal with them soon after they arise.

Thirdly, although mediation can play a role in mitigating disputes and facilitating agreements, in the case studies researched mediation only established partial or limited solutions. That occurred because mediation cannot overcome the root causes of land disputes, especially structural problems related to land acquisitions. In Indonesia, rural land acquisition by private companies and population growth are leading to new demands on land. Most farmers in rural Indonesia have weak or even no legal land ownership, and are therefore in a weak position when faced with large-scale external land development. Political reform in Indonesia has coexisted with the continuation or even expansion of the concession system associated with the New Order, which has led to an increase in the level of conflict over resources. Mediation between companies and communities alone cannot overcome rampant land conflict. In addition, the number of people with mediation skills in Indonesia is relatively small compared to the number of land disputes; and mediation tends to be applied on a case-by-case basis allowing unmediated disputes to escalate. In the long term, given the limited capacity of mediation to address these structural issues, new and better structural and public policies, legal reforms and improved land governance are prerequisites if the poor are to receive justice.

7.4 Limitations of the study

Like any research project undertaken the methods were, and therefore the results are, subject to certain limitations. These are discussed below.

I was unable to interview two companies involved in *Case studies 1 and 2*. They declined to be interviewed and became quite evasive in the tactics they used to avoid me. Of course, this is not unexpected in the field of conflict and dispute studies. If I had more time, it may have been possible to get these companies to cooperate; and given much greater amounts of time I may have been able to replace these case studies with others where all parties

cooperated. As it stands, their side of the story in each case has to be left unrecorded at the present time.

On reflection, I could have expanded the number of interviews with government agencies in each case study, as at least in each district. In particular the views of the Forestry Department in each district could have been illuminating regarding the state of the laws, rules and regulations, following up the points at the end of Section 2.2.

Though I had excellent engagement with households that I administered questionnaires too in the three villages as evinced by the amount of time people were prepared to spend with me, I feel the number in each village (20 households in Bungku, 20 in Belanti Jaya and 30 in Gadungan) were less than I would have liked. While revealing, maybe other households would have revealed other themes and opinions. The limitation in numbers was due to the fact that I experienced transport difficulties during the wet season, the fact that most interviewees could only be interviewed in the evening, and simply the time one has in which to complete doctoral fieldwork (which in this case has some financial limitations on behalf of my sponsor). Nonetheless, I am grateful to these householders who were interested and excited to share their experiences of land tenure and land disputes.

I analysed four case studies. Would the results have been different if I had sampled more disputes? Would the results have been different if I had chosen case studies on other islands? In Chapter 6 I made the point that each dispute is unique in its mix of causes and their interactions over time, in particular the details behind each cause. and each story of each dispute turn out different. To answer the two questions posed at the start of this paragraph, more cases studies would have revealed more stories, but given what I have found out from these four studies and the other material regarding the causes of disputes and their resolution in rural Indonesia I do not think I would have found out anything fundamentally different. In terms of islands, clearly Java is distinct and case studies situated there will be different from those on other islands. In terms of

transmigration destinations, I believe very broadly similar stories to those from Jambi would have been revealed if I had chosen to study disputes in Kalimantan, but new regional or local factors would come into focus.

The land disputes that are the focus this research covering large plantation operation in conflict with group of people, making them sensitive propositions. The potential to huge impact is high if the research is not carried out prudently. The disputes have been going on for a long time, and the disputant parties are impatient for resolution, making it difficult to bring together the disputing parties in an FGD without emotion. In these contexts I had to be aware of my safety. When I applied for ethics approval I did not have full knowledge of the sensitivity that some of the land disputes involved. Another potential limitation that might influence on the veracity of the data is that I am a BPN officer. Most of the people interviewed knew that the BPN office has the authority of issuing land certificates, especially the HGU land certificates which are/were on the disputes. So there was a possibility that they were not strictly honest in providing information and opinions.

7.5 Recommendations

The important roles played by the various branches of the Indonesian government in resolving rural land disputes is evident and confirmed by the four case studies in this research project. However, while the causes of disputes are often very clear to a research analyst, there can be intractable aspects that are more obscure. It is these types of issues that mean that some disputes fail to be resolved in court or by mediation despite the best efforts of government. Therefore, it is perhaps valuable to conclude this thesis by making some recommendations about where further research needs to be undertaken in the field of rural land dispute resolutions in Indonesia. Two particular issues appear to be the major stumbling blocks. These are the implementation of government regulations related to abandoned land and expired HGU land.

Consequently, one line of further research is to carefully review how the the laws, rules and regulations concerning abandoned land and expired HGU

land rights are operating over a wider range of case studies. As their implementation has proven very difficult in some cases in this research, a key research question that needs to be asked is: Are failures to resolve disputes due to the way the laws, rules and regulation are framed, or it is due to difficulties in the ways they are implemented by BPN? An answer would imply either a legal impediment (and the need to redraft legislation) or an institutional failing and the need for training and/or capacity building. Whichever is the case, more research on failed or unresolved disputes is required.

Based on the case studies in this thesis, disputes that have been handled through the criminal, civil or administrative courts failed to resolve disputes in a manner that the communities were able to accept. It appears this is both a matter of lack of trust in the legal system and a lack of perceived economic benefit for the rural communities beyond the business stakeholders. While the legal decisions are sound and the laws as they stand are being applied correctly in these cases, the laws are failing to bring disputes to a resolution that can to be accepted by all stakeholders or is simply prolonging disputes. It appears that a fundamental review of the law in this area may be necessary as it appears to fail from a broader societal perspective.

The experience of other countries needs to be examined to see if agrarian courts are better qualified to judge in land disputes, if they do have to go to litigation. Agrarian courts do appear to consider socio-economic perspectives in addition to legal arguments in reaching decisions. Such considerations should be mandatory as it is a key element of the Basic Agrarian Law which, at the present time, courts appear to more-or-less ignore.

The roles that respected community figures could have on land dispute resolution in the rural areas in Indonesia needs further research. These figures include community elders, tribal chiefs, village and clan head. Their role can be helpful determining, designating and supervising land use in their territory because they intimately know the history of the land and communities respect and obey the decisions.

How urgent an issue is solving the 'rural land dispute problem' in Indonesia? The lessons from land reform in many Latin American and Sub-Saharan African countries is that the combination of a landless or land-poor peasantry, poverty and perceived injustices in land distribution are a ticking 'time-bomb'. If not resolved, forces beyond 'the land' and 'the legal' can be brought into play. In some countries, these forces have been manipulated and become politically charged, that has sometimes been a pre-cursor to revolution or the overthrow of government. As the problem is widespread across some of Indonesia's most populous islands, surely action is essential.

REFERENCES

- ALSTON, L. J., LIBECAP, G. D. & MUELLER, B. 2010. *Titles, Conflict, and Land Use*, Ann Arbor, UNITED STATES, University of Michigan Press.
- AMMAN, H. M. A. D., A.K 2001. Modeling Instrumental Rationality, Land Tenure and Conflict Resolution. *Computational Economics*, 18(3), 251-257.
- ANDERSON, C. 2010. Presenting and evaluating qualitative research. *American journal of pharmaceutical education*, 74, 141.
- ANGELSEN, A. 1995. Shifting cultivation and “deforestation”: a study from Indonesia. *World Development*, 23, 1713-1729.
- ASTUTI, P. Kekerasan dalam konflik agraria: Kegagalan negara dalam menciptakan keadilan di bidang pertanahan. *Forum*, 2011. 52-60.
- AULIA, A. 2017. RURAL LIVELIHOODS AND ECOSYSTEM SERVICES IN OIL PALM LANDSCAPES IN RIAU, SUMATRA, INDONESIA. Flinders University, School of the Environment.
- BACHRIADI, D. 2009. Land, Rural Social Movements and Democratisation in Indonesia. *Transnational Institute Working Paper on Agrarian Justice*.
- BACHRIADI, D. 2011. Between discourse and action [manuscript] : agrarian reform and rural social movements in Indonesia post-1965.
- BACHRIADI, D., FARYADI, E., SETIAWAN, B. & KONSORSIUM PEMBARUAN, A. 1997. *Reformasi agraria : perubahan politik, sengketa, dan agenda pembaruan agraria di Indonesia*, Jakarta, Indonesia, Jakarta, Indonesia : Konsorsium Pembaruan Agraria bekerja sama dengan Lembaga Penerbit, Fakultas Ekonomi, Universitas Indonesia.
- BACHRIADI, D. & LUCAS, A. E. 2001. *Merampas tanah rakyat: kasus Tapos dan Cimacan*, Kepustakaan Populer Gramedia.
- BAPPEDA-JATIM 2012. *Blitar dalam angka*, Regional Development Planning Agency of Blitar.
- BARRACLOUGH, S. 1973 *Agrarian structure in Latin America; a resume of the CIDA land tenure studies of: Argentina, Brazil, Chile, Colombia, Ecuador, Guatemala, Peru*, Lexington, Mass., Lexington Books.
- BECKERT, B., DITTRICH, C., & ADIWIBOWO, S 2014. Contested Land: An Analysis of Multi-Layered Conflicts in Jambi Province, Sumatra, Indonesia. *Austrian Journal of South - East Asian Studies*, 7(1), 75-91.

- BESLEY, T. & BURGESS, R. 2000. Land reform, poverty reduction, and growth: evidence from India. *The Quarterly Journal of Economics*, 115, 389-430.
- BINSWANGER-MKHIZE, H. P., BOURGUIGNON, C. & VAN DEN BRINK, R. 2009. *Agricultural Land Redistribution : Towards Greater Consensus on the "How"*, Herndon, UNITED STATES, World Bank Publications.
- BORRAS JR, S. M. & FRANCO, J. C. 2010. Contemporary Discourses and Contestations around Pro-Poor Land Policies and Land Governance. *Journal of Agrarian Change*, 10, 1-32.
- BORRAS, S. M. 2007. *Pro-Poor Land Reform A Critique* [Online]. Ottawa : University of Ottawa Press. [Accessed].
- BPS 2010a. *Kewarganegaraan, suku bangsa, agama, dan bahasa sehari-hari penduduk Indonesia*, Badan Pusat Statistik.
- BPS 2010b. Statistics of Jambi Jambi: Badan Pusat Statistik Provinsi Jambi.
- BPS 2013. *Batang Hari in Figure*, Badan Pusat Statistik Kabupaten Batang Hari.
- BPS 2017. Statistics of Indonesia. In: BPS (ed.). Jakarta: Badan Pusat Statistik Republik Indonesia.
- BRUCE, J. W. 2006. *Land Law Reform: Achieving Development Policy Objectives*, World Bank Publications.
- BUSH, R., & FOLGER, JOSEPH P. 1994. The promise of mediation : responding to conflict through empowerment and recognition. San Francisco, CA : Jossey-Bass.
- BYAMUGISHA, F. 2014. *Agricultural Land Redistribution and Land Administration in Sub-Saharan Africa*, Herndon, UNITED STATES, World Bank Publications.
- COLEMAN, P. T. 2014. *The Handbook of Conflict Resolution Theory and Practice*, Hoboken, Hoboken : Wiley.
- COSTANTINO, C. A. & MERCHANT, C. S. 1996. How to design conflict management systems. *Alternatives to the High Cost of Litigation*, 14, 48-49.
- CRIBB, R. 2002. Unresolved problems in the Indonesian killings of 1965–1966. *Asian Survey*, 42, 550-563.
- DALA, T. & JAYA, A. 2002. *Pranata hutan rakyat, pustaka kehutanan masyarakat*, Debut, Yogyakarta.

DARYONO 2010. The transformation of land law in Indonesia: the persistence of pluralism. *Asian Journal of Comparative Law*, 5.

DE GROOT, R. 2006. Function-analysis and valuation as a tool to assess land use conflicts in planning for sustainable, multi-functional landscapes. *Landscape and Urban Planning*, 75, 175-186.

DEININGER, K. W. 2003. *Land policies for growth and poverty reduction*, World Bank Publications.

DEUTSCH, M. 1969. Conflicts: Productive and destructive. *Journal of social issues*, 25, 7-42.

DHIAULHAQ, A., DE BRUYN, T. & GRITTEN, D. 2015. The use and effectiveness of mediation in forest and land conflict transformation in Southeast Asia: Case studies from Cambodia, Indonesia and Thailand. *Environmental Science & Policy*, 45, 132-145.

DHIAULHAQ, A., GRITTEN, D., DE BRUYN, T., YASMI, Y., ZAZALI, A. & SILALAH, M. 2014. Transforming conflict in plantations through mediation: Lessons and experiences from Sumatera, Indonesia. *Forest Policy and Economics*, 41, 22-30.

DING, C. 2007. Policy and praxis of land acquisition in China. *Land Use Policy*, 24, 1-13.

DORNER, P. 1971. Land reform in Latin America; issues and cases.

FARID, H. 2005. Indonesia's original sin: mass killings and capitalist expansion, 1965–66. *Inter-Asia Cultural Studies*, 6, 3-16.

FAY, C. & SIRAIT, M. 2005. Kerangka Hukum Negara dalam Mengatur Agraria dan Kehutanan Indonesia: Mempertanyakan Sistem Ganda Kewenangan atas Penguasaan Tanah¹.

GRANOVSKY-LARSEN, S. 2013. Between the bullet and the bank: agrarian conflict and access to land in neoliberal Guatemala. *The Journal of Peasant Studies*, 40, 325-350.

GUNAWAN, R., THAMRIN, J. & GRIJNS, M. 1995. *Dilema petani plasma*, Akatiga.

GUO, X. 2001. Land Expropriation and Rural Conflicts in China. *The China Quarterly*, 422-439.

GUSPIN, S. 2017. *Respon Pemerintah Republik Indonesia (Pusat dan Daerah) Dalam Menyikapi Konflik Suku Anak Dalam Merujuk Pada Nilai-Nilai United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*(Studi

kasus: Sengketa dan Kekerasan Oleh PT. Asiatic Persada Terhadap Suku Anak Dalam Di Provinsi Jambi). University of Muhammadiyah Malang.

HARDIYANTO, A. 1998. *Agenda land reform di Indonesia*, Konsorsium Pembaruan Agraria bekerja sama dengan INPI-Pact.

HERMAN, F. 2005. Learning the lessons of land reform. *Appropriate Technology*, 32(1), pp.31-33.

KAY, C. 2002. Why East Asia overtook Latin America: Agrarian reform, industrialisation and development. *Third World Quarterly*, 23, 1073-1102.

KAY, C. 2007. Land, Conflict, and Violence in Latin America. *Peace Review*, 19, 5-14.

KINSEY, B. H. 2004. Zimbabwe's Land Reform Program: Underinvestment in Post-Conflict Transformation. *World Development*, 32, 1669-1696.

LEE PELUSO, N., AFIFF, S. & RACHMAN, N. F. 2008. Claiming the grounds for reform: agrarian and environmental movements in Indonesia. *Journal of Agrarian Change*, 8, 377-407.

LI, T. M. 2004. *Transforming the Indonesian Uplands*, Routledge.

LIEBMANN, M. 2000. *Mediation in context*, London: Jessica Kingsley.

LIMB, M. & DWYER, C. 2001. *Qualitative methodologies for geographers: Issues and debates*, Arnold London.

LUBMAN, S. 1967. Mao and mediation: politics and dispute resolution in Communist China. *California Law Review*, 1284-1359.

LUCAS, A. 2013. *Land for the People The State and Agrarian Conflict in Indonesia*, Athens, OH, Athens, OH : Ohio University Press.

MALADI, Y. 2013. Reforma Agraria Berparadigma Pancasila Dalam Penataan Kembali Politik Agraria Nasional. *Mimbar Hukum*, 25, 27-41.

MCCARTHY, J. F. 2010. Processes of inclusion and adverse incorporation: oil palm and agrarian change in Sumatra, Indonesia. *The Journal of Peasant Studies*, 37, 821-850.

MCCARTHY, J. F. & CRAMB, R. A. 2009. Policy narratives, landholder engagement, and oil palm expansion on the Malaysian and Indonesian frontiers. *Geographical Journal*, 175, 112-123.

MENKEL-MEADOW, C. 2001. Mediation, Arbitration, and Alternative Dispute Resolution (ADR) A2 - Smelser, Neil J. In: BALTES, P. B. (ed.) *International Encyclopedia of the Social & Behavioral Sciences*. Oxford: Pergamon.

MEQUANENT, G. 2016. The Application of Traditional Dispute Resolution in Land Administration in Lay Armachiho Woreda (District), Northern Ethiopia. *World Development*, 87, 171-179.

MITCHELL, C. C. 1949. Land Reform in South Korea. *Pacific Affairs*, 22, 144-154.

MOLA-YUDEGO, B. & GRITTEN, D. 2010. Determining forest conflict hotspots according to academic and environmental groups. *Forest Policy and Economics*, 12, 575-580.

MONTELLO, D. & SUTTON, P. 2006. *An introduction to scientific research methods in geography*, Sage.

MOYO, S., YEROS, P. & AFRICAN INSTITUTE FOR AGRARIAN, S. 2005. *Reclaiming the land : the resurgence of rural movements in Africa, Asia, and Latin America*, London

New York, London

New York : Zed Books.

MUJIBUROHMAN, D. A. 2016. PROBLEMATIKA PENGATURAN TANAH NEGARA BEKAS HAK YANG TELAH BERAKHIR. *BHUMI: Jurnal Agraria dan Pertanahan*, 2.

MURISA, T. 2011. Local farmer groups and collective action within fast track land reform in Zimbabwe. *The Journal of Peasant Studies*, 38, 1145-1166.

NOLON, S., FERGUSON, O. & FIELD, P. 2013. *Land in Conflict : Managing and Resolving Land Use Disputes*, Cambridge, UNITED STATES, Lincoln Institute of Land Policy.

NOONE, M. 1996. *Mediation (Essential legal skills)*, London: Cavendish.

OBIDZINSKI, K. & CHAUDHURY, M. 2009. Transition to timber plantation based forestry in Indonesia: towards a feasible new policy. *International Forestry Review*, 11, 79-87.

OJHA, G. 1976. Land problems and land reforms (a study with reference to Bihar. *Land problems and land reforms (a study with reference to Bihar*.

PENTECOST, A. 1999. *Analysing environmental data*, Prentice Hall.

- PETERS, P. E. 2009. Challenges in Land Tenure and Land Reform in Africa: Anthropological Contributions. *World Development*, 37, 1317-1325.
- POFFENBERGER, M. 1990. *Keepers of the forest : land management alternatives in Southeast Asia*, West Hartford, Conn., West Hartford, Conn. : Kumarian Press.
- POTTER, L. & LEE, J. 1998. Tree planting in Indonesia: Trends, impacts and directions. CIFOR Bogor.
- PRESTON, D. A. 1980. *Environment, society, and rural change in Latin America : the past, present, and future in the countryside*, Chichester ; New York, Chichester ; New York : J. Wiley.
- PURNASTUTI, L., SALIM, R. & JOARDER, M. 2015. THE RETURNS TO EDUCATION IN INDONESIA: POST REFORM ESTIMATES. *The Journal of Developing Areas*, 49, 183-204.
- RAPOPORT, A. 1974. *Conflict in man-made environment*, Penguin (Non-Classics).
- RASTIKA, I. 2014. Farmers Union Karawang Urges KPK to Investigate Land Dispute in Telukjambe. *Kompas*.
- ROGNES, J. R. & SKY, P. K. R. 2003. Intervention methods in land disputes. *European Planning Studies*, 11, 965-978.
- ROSE, L. L. 1992. *The politics of harmony: Land dispute strategies in Swaziland*, Cambridge University Press.
- ROSE, M. & SUFFLING, R. 2001. Alternative dispute resolution and the protection of natural areas in Ontario, Canada. *Landscape and Urban Planning*, 56, 1-9.
- RUBIN, O. D. & IHLE, R. 2017. Measuring Temporal Dimensions of the Intensity of Violent Political Conflict. *Social Indicators Research*, 132, 621-642.
- SAKAI, M. 2002. Land Dispute Resolution in the Political Reform at the time of Decentralization in Indonesia. *ANTROPOLOGI INDONESIA Special Volume*,.
- SAKAI, M. 2014. Solusi Sengketa Tanah di Era Reformasi Politik dan Desentralisasi Indonesia. *Antropologi Indonesia*.
- SAVITRI, L. A., LUTHFI, A. N. & TOHARI, A. 2010. Pengembangan Kebijakan Agraria untuk Keadilan Sosial, Kesejahteraan Masyarakat, dan Keberlanjutan Ekologis. Yogyakarta-Bogor: STPN dan Sains.

SCHIRMER, J. 2007. Plantations and social conflict: exploring the differences between small-scale and large-scale plantation forestry. *Small-scale Forestry*, 6, 19-33.

SHAPIRO, M. M. 1981. *Courts, a comparative and political analysis*, Chicago, Chicago : University of Chicago Press.

SIKOR, T. & MÜLLER, D. 2009. The Limits of State-Led Land Reform: An Introduction. *World Development*, 37, 1307-1316.

SOETRISNO, L. 1983. Aspek Sosial dan Politik Dari Sitem Pertanian Perkebunan. Dalam "Perkebunan Indonesia Di Masa Depan". Jakarta: Yayasan Agroekonomika.

SOURDIN, T. 2005. *Alternative dispute resolution (2nd ed.)*, Pyrmont, N.S.W.: Lawbook.

SUARTIKA, G. A. M. 2007. Territoriality and the market system—Adat land vs. state regulations on land matters in Bali. *Habitat International*, 31, 167-176.

SUARTIKA, G. A. M. B. E. F. O. B. E. U. 2005. Vanishing paradise :planning and conflict in Bali. *In: SUARTIKA, G. A. M. B. E. F. O. B. E. U. (ed.)*.

SUHENDAR, E. 1994. *Pemetaan pola-pola sengketa tanah di Jawa Barat*, Bandung, Bandung : Yayasan AKATIGA.

THAWORN, R., KELLEY, L. & YASMI, Y. 2010. Can biodiversity conservation go hand in hand with local livelihoods? A case of conflict resolution in Thailand. *Unasyva*, 236, 28-33.

THE NATIONAL LAND AGENCY OF REPUBLIC OF INDONESIA (BPN RI) 2007. *Reforma Agraria: Mandat Politik, Konstitusi, dan Hukum Dalam Rangka Mewujudkan Tanah untuk Keadilan dan Kesejahteraan Rakyat*.

URY, W. L., BRETT, J. M. & GOLDBERG, S. B. 1988. Designing an Effective Dispute Resolution System. *Negotiation Journal*, 4, 413-431.

VALENTINE, G. & CLIFFORD, N. J. 2003. *Key methods in geography*, London, London : SAGE Publications.

VAN DER HAAR, G. 2001. *Gaining ground: land reform and the constitution of community in the Tojolabal highlands of Chiapas, Mexico*, Rozenberg.

VERMEULEN, S. & GOAD, N. 2006. *Towards better practice in smallholder palm oil production*, lied.

VON BENDA-BECKMANN, F. & VON BENDA-BECKMANN, K. 2011. Myths and stereotypes about adat law: A reassessment of Van Vollenhoven in the

light of current struggles over adat law in Indonesia. *Bijdragen tot de taal-, land- en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia*, 167, 167-195.

VON DER DUNK, A., GRËT-REGAMEY, A., DALANG, T. & HERSPERGER, A. M. 2011. Defining a typology of peri-urban land-use conflicts – A case study from Switzerland. *Landscape and Urban Planning*, 101, 149-156.

WALL, J. A. & CALLISTER, R. R. 1995. Conflict and Its Management. *Journal of Management*, 21, 515-558.

WARREN, C. & LUCAS, A. E. 2010. *The State, the People and their Mediators: The Struggle over Agrarian Law Reform in Post-New Order Indonesia*.

WEHRMANN, B. 2008. *Land Conflicts: A Practical Guide to Dealing with Land Disputes*, Eschborn, Germany, Deutsche Gesellschaft für Technische Zusammenarbeit.

WINOTO, J. 2009. Taking land policy and administration in Indonesia to the next stage and National Land Agency's strategic plan. *Workshop in International Federation of Survey's Forum, Washington D.C March 2009*.

WIRADI, G. 2000. *Reforma agraria : perjalanan yang belum berakhir*, Yogyakarta, Yogyakarta : Insist Press, Konsorsium Pembaruan Agraria and Pustaka Pelajar.

XIE, Y. & HE, L. 2014. Analysis on Causes of Rural Land Expropriation Disputes Based on Smith's Model. *Asian Agricultural Research*, 06.

YIN, R. K. 2003. *Case study research : design and methods*, Thousand Oaks, Calif., Thousand Oaks, Calif. : Sage Publications.

YUSRAN, Y., SAHIDE, M. A. K., SUPRATMAN, S., SABAR, A., KROTT, M. & GIESSEN, L. 2017. The empirical visibility of land use conflicts: From latent to manifest conflict through law enforcement in a national park in Indonesia. *Land Use Policy*, 62, 302-315.

ZEN, Z., BARLOW, C. & GONDOWARSITO, R. 2005. Oil palm in Indonesian socio-economic improvement: a review of options.

ZHENJUN, Z. 2007. The Trap of the Collective Ownership of Land in Countrysides—Analysis Based on the Requisition of Land [J]. *Journal of Social Sciences*, 8, 004.

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Appendix 3.1 The Flinders University Social and Behavioural Ethics Committee

- **Human Research Ethics** <human.researchethics@flinders.edu.au>

To:yudi0001@flinders.edu.au, andrew.millington@flinders.edu.au, brendan.grigg@flinders.edu.au

Nov 4, 2014 at 10:47 AM

Dear Rahmi,

The Chair of the [Social and Behavioural Research Ethics Committee \(SBREC\)](#) at Flinders University considered your response to conditional approval out of session and your project has now been granted final ethics approval. This means that you now have approval to commence your research. Your ethics final approval notice can be found below.

FINAL APPROVAL NOTICE

Project No.:

6638

Project Title:

The role of land reform in minimising the probability and resolution of rural land disputes in Indonesia

Principal Researcher:

Ms Rahmi Yudianti

Email:

yudi0001@flinders.edu.au

Approval Date:

4 November 2014

Ethics Approval Expiry Date:

31 August 2018

The above proposed project has been **approved** on the basis of the information contained in the application, its attachments and the information subsequently provided with the addition of the following comment:

Additional information required following commencement of research:

1. Please ensure that copies of the correspondence granting permission to conduct the research from (a) BPN Head Office and (b) the Head of the Regency office are submitted to the Committee *on receipt*. Please ensure that the SBREC project number is included in the subject line of any permission emails forwarded to the Committee. Please note that data collection should not commence until the researcher has received the relevant permissions (item D8 and Conditional approval response – number 15).

RESPONSIBILITIES OF RESEARCHERS AND SUPERVISORS

1. Participant Documentation

Please note that it is the responsibility of researchers and supervisors, in the case of student projects, to ensure that:

- all participant documents are checked for spelling, grammatical, numbering and formatting errors. The Committee does not accept any responsibility for the above mentioned errors.
- the Flinders University logo is included on all participant documentation (e.g., letters of Introduction, information Sheets, consent forms, debriefing information and questionnaires – with the exception of purchased research tools) and the current Flinders University letterhead is included in the header of all letters of introduction. The Flinders University international logo/letterhead should be used and documentation should contain international dialling codes for all telephone and fax numbers listed for all research to be conducted overseas.
- the SBREC contact details, listed below, are included in the footer of all letters of introduction and information sheets.

This research project has been approved by the Flinders University Social and Behavioural Research Ethics Committee (Project Number 'INSERT PROJECT No. here following approval'). For more information regarding ethical approval of the project the Executive Officer of the Committee can be contacted by telephone on 8201 3116, by fax on 8201 2035 or by email human.researchethics@flinders.edu.au.

2. Annual Progress / Final Reports

In order to comply with the monitoring requirements of the [*National Statement on Ethical Conduct in Human Research \(March 2007\)*](#) an annual progress report must be submitted each year on the **4 November** (approval anniversary date) for the duration of the ethics approval using the annual / final report pro forma available from [Annual / Final Reports](#) SBREC web page. *Please retain this notice for reference when completing annual progress or final reports.*

If the project is completed *before* ethics approval has expired please ensure a final report is submitted immediately. If ethics approval for your project expires please submit either (1) a final report; or (2) an extension of time request and an annual report.

Student Projects

The SBREC recommends that current ethics approval is maintained until a student's thesis has been submitted, reviewed and approved. This is to protect the student in the event that reviewers recommend some changes that may include the collection of additional participant data.

Your first report is due on **4 November 2015** or on completion of the project, whichever is the earliest.

3. Modifications to Project

Modifications to the project must not proceed until approval has been obtained from the Ethics Committee. Such matters include:

- proposed changes to the research protocol;
 - proposed changes to participant recruitment methods;
 - amendments to participant documentation and/or research tools;
 - change of project title;
 - extension of ethics approval expiry date; and
 - changes to the research team (addition, removals, supervisor changes).
-

To notify the Committee of any proposed modifications to the project please submit a [Modification Request Form](#) to the [Executive Officer](#). Download the form from the website every time a new modification request is submitted to ensure that the most recent form is used. Please note that extension of time requests should be submitted prior to the Ethics Approval Expiry Date listed on this notice.

Change of Contact Details

Please ensure that you notify the Committee if either your mailing or email address changes to ensure that correspondence relating to this project can be sent to you. A modification request is not required to change your contact details.

4. Adverse Events and/or Complaints

Researchers should advise the Executive Officer of the Ethics Committee on 08 8201-3116 or human.researchethics@flinders.edu.au immediately if:

- any complaints regarding the research are received;
- a serious or unexpected adverse event occurs that affects participants;

- an unforeseen event occurs that may affect the ethical acceptability of the project.

Kind regards

Andrea

Mrs Andrea Fiegert and Ms Rae Tyler

Ethics Officers and Executive Officer, Social and Behavioural Research Ethics Committee

Andrea - Telephone: +61 8 8201-3116 | Monday, Tuesday, Wednesday and Thursday morning

Rae – Telephone: +61 8 8201-7938 | ½ day Wednesday, Thursday and Friday

Email: human.researchethics@flinders.edu.au

Web: [Social and Behavioural Research Ethics Committee \(SBREC\)](#)

Manager, Research Ethics and Integrity – Dr Peter Wigley

Telephone: +61 8 8201-5466 | email: peter.wigley@flinders.edu.au

[Research Services Office](#) | Union Building Basement

Flinders University

Sturt Road, Bedford Park | South Australia | 5042

GPO Box 2100 | Adelaide SA 5001

Appendix 3.2 from BPN to conduct research



BADAN PERTANAHAN NASIONAL REPUBLIK INDONESIA

JALAN SISINGAMANGARAJA NO. 2 JAKARTA SELATAN 12014 KOTAK POS 1403
TELEPON : 7228901, 7393939 : www.bpn.go.id

Nomor : 1301/3.21-100.3/X/2014
Lampiran :
Hal : Izin Melakukan Riset

Jakarta, 14 Oktober 2014

Yth. Sdri. Rahmi Yudianti, S.H., M.Sc.
di -
Tempat

Memperhatikan surat Saudari tertanggal 3 Oktober 2014 perihal Permohonan Izin Untuk Melakukan Riset di Badan Pertanahan Nasional Republik Indonesia, bersama ini disampaikan bahwa pada prinsipnya kami dapat menyetujui dan memberikan izin kepada Saudari untuk melakukan riset di BPN RI dalam rangka penyusunan Disertasi dengan judul "Peranan *Land Reform* Dalam Meminimalkan Kemungkinan dan Penyelesaian Sengketa Pertanahan di Pedesaan di Indonesia".

Demikian untuk menjadi maklum.

a.n. Sekretaris Utama
Kepala Biro Organisasi dan Kepegawaian,



[Signature]
Ir. Putu Suweken, MURP.
NIP. 19550911 198103 1 005

Tembusan:
Sekretaris Utama BPN RI, di Jakarta.

Appendix 3.3 from the Ministry of Home Affairs, Directorate General of The National Unity, Politics and Community Protection to conduct survey research in Jambi and East Java Provinces



KEMENTERIAN DALAM NEGERI
REPUBLIK INDONESIA
DIREKTORAT JENDERAL KESATUAN BANGSA DAN POLITIK
Jalan Medan Merdeka Utara No. 7 Telp.(021) 3450038, Fax (021) 3454270, Jakarta, 10110

REKOMENDASI PENELITIAN

NOMOR... 460.02/4754.DI

- a. Dasar : 1. Peraturan Menteri Dalam Negeri Nomor 41 Tahun 2010 tentang Organisasi dan Tata Kerja Kementerian Dalam Negeri (Berita Negara Republik Indonesia Tahun 2010 Nomor 316) sebagaimana telah diubah dengan Peraturan Menteri Dalam Negeri Nomor 14 Tahun 2011 tentang Perubahan Atas Peraturan Menteri Dalam Negeri Nomor 41 Tahun 2010 tentang Organisasi dan Tata Kerja Kementerian Dalam Negeri (Berita Negara Republik Indonesia Tahun 2011 Nomor 168);
2. Peraturan Menteri Dalam Negeri Nomor 7 Tahun 2014 tentang Perubahan Atas Peraturan Menteri Dalam Negeri Nomor 64 Tahun 2011 tentang Pedoman Penerbitan Rekomendasi Penelitian;
- b. Menimbang : Surat Flinders University, South Australia Tanggal 18 Desember 2014 perihal Permohonan Rekomendasi Penelitian.

MENIMBANG BAHWA :

- a. Nama/Obyek : Rahmi Yudianti.
- b. Jabatan : Peneliti Utama/Rom. Social Science North 257 Bedford Park/Perum The Address Blok G/134 Cibubur Telp. 61 416 454 644 No. KTP 3276106804800002.
- c. Untuk : 1) Melakukan penelitian, dengan proposal berjudul Peran Land Reform Dalam Meminimalkan Kemungkinan Dan Penyelesaian Sengketa Tanah di Pedesaan di Indonesia;
- 2) Lokasi penelitian : Provinsi Jambi, Jatim dan NTB (3 provinsi);
- 3) Waktu/lama penelitian : Desember s.d Mei 2015;
- 4) Anggota tim penelitian : -
- 5) Bidang penelitian : Sosial;
- 6) Status penelitian : Baru;
- d. Melaporkan Hasil penelitian kepada Menteri Dalam Negeri c.q. Dirjen Kesbangpol, paling lambat 6 bulan setelah penelitian.

Demikian rekomendasi penelitian ini dibuat untuk digunakan seperlunya.

Jakarta, 31 Desember 2014

a.n. DIREKTUR JENDERAL
KESATUAN BANGSA DAN POLITIK
SEKRETARIS,


Drs. INDRA BASKORO, M. Si
Pembina Utama Madya (IV/d)
NTP 19600925 198503 1 001

Appendix 3.4 The National Unity, Politics and Community Protection Agency of Jambi Province to undertake the research in the relevant districts



PEMERINTAH PROVINSI JAMBI BADAN KESATUAN BANGSA DAN POLITIK

Jl. R. M. Nur Admadibrata No. 4 Telp./ Fax (0741) 64341 - 62486

REKOMENDASI NOMOR. *05* /R/BANKESBANGPOL-5.1/2015

- a. Dasar : 1. Peraturan Mendagri Nomor 9 Tahun 1983 tanggal 9 Nopember 1983 tentang Pedoman Pendataan Sumber dan Potensi Pembangunan.
2. Peraturan Mendagri Nomor 64 Tahun 2011 Jo. Permendagri Nomor 7 Tahun 2014 tentang Pedoman Penerbitan Rekomendasi Penelitian
3. Peraturan Daerah Nomor 15 Tahun 2008 tanggal 10 Nopember 2008 tentang Organisasi dan Tata Kerja, Inspektorat, Bappeda dan Lembaga Teknis Daerah Provinsi Jambi
- b. Menimbang : a. Surat Dirjen Kesbangpol Kemendagri RI Jakarta Nomor 460.02/4754.DI tanggal 31 Desember 2014 tentang Permohonan Rekomendasi Penelitian/Riset/Survei a.n. RAHMI YUDIANTI
b. Berdasarkan pertimbangan sebagaimana dimaksud huruf (a) di atas perlu dikeluarkan rekomendasi riset / penelitian sesuai dengan proposal yang diajukan.

KEPALA BADAN KESBANG DAN POLITIK PROVINSI JAMBI, memberikan rekomendasi kepada :

- a. Nama : RAHMI YUDIANTI
b. Jabatan/Pekerjaan : Peneliti Utama School Of The Environment, Flinders University, South Australia
c. Identitas/NIM/KTP : 3276106804800002
d. Alamat : Perum The Address Blok G No. 134 RT. 01/03 Kel. Leuwinanggung Kcc. Tapos Kota Depok Jawa Barat

Untuk : Mengadakan Riset, Penelitian/Observasi dengan judul "Peranan Land Reform Dalam Meminimalkan Kemungkinan dan Penyelesaian Sengketa Tanah di Pedesaan Indonesia" dengan waktu penelitian 20 Januari 2015 s.d 31 Mei 2015 sebagai bahan untuk Penelitian.

- Dengan Ketentuan : 1. Sebelum melakukan Riset /Penelitian terlebih dahulu melapor kepada Pejabat Pemerintah setempat untuk mendapatkan petunjuk dan informasi yang diperlukan.
2. Wajib menjaga tata - tertib dan mentaati semua ketentuan yang berlaku serta mengindahkan adat - istiadat daerah setempat.
3. Tidak dibenarkan melakukan Riset /Penelitian yang tidak sesuai/tidak ada kaitannya dengan judul kegiatan Riset/Penelitian tersebut.
4. Melaporkan hasil Riset/Penelitian kepada Gubernur Jambi Cq. Badan Kesbang dan Politik Provinsi Jambi serta Ka. Balitbangda Provinsi Jambi.
5. Surat ini bersifat Rekomendasi, sebagai dasar Pemerintah Kabupaten/Kota setempat untuk menerbitkan izin kegiatannya di daerah
6. Surat Rekomendasi ini dicabut kembali apabila pemegangnya tidak mentaati ketentuan- ketentuan tersebut di atas.

Demikian rekomendasi ini dibuat untuk dipergunakan seperlunya.



Ditetapkan : di Jambi
Pada tanggal : 22 Januari 2015

a.n. KEPALA BADAN
Sekretaris,

Badawi
BADAWI, SH, M.Si
Pembina Tk. I

NIP. 19621231 199503 1 015

Tembusan :

1. Gubernur Jambi (sebagai laporan)
2. Kepala Balitbangda Provinsi Jambi
3. Dirjen Kesbangpol Kemendagri RI Jakarta
4. Bupati/Walikota Se-Provinsi Jambi Cq. Kaban Kesbangpol
5. Yang Bersangkutan

Appendix 3.5 The National Unity, Politics and Community Protection Agency of East Java Province to undertake the research in the relevant districts



PEMERINTAH PROVINSI JAWA TIMUR
BADAN KESATUAN BANGSA DAN POLITIK
JALAN PUTAT INDAH NO.1 TELP. (031) - 5677935, 5681297, 5675493
SURABAYA - (60189)

REKOMENDASI PENELITIAN/SURVEY/KEGIATAN

Nomor : 070 /2838 /203.3/2015

- Dasar** : 1. Peraturan Menteri Dalam Negeri Nomor 64 tahun 2011 tentang Pedoman Penerbitan Rekomendasi Penelitian, sebagaimana telah diubah dengan Peraturan Menteri Dalam Negeri Nomor 7 tahun 2014 tentang Perubahan atas Peraturan Menteri Dalam Negeri Nomor 64 tahun 2011 ;
2. Peraturan Gubernur Jawa Timur Nomor 101 Tahun 2008 tentang Uraian Tugas Sekretariat, Bidang, Sub Bagian dan Sub Bidang Badan Kesatuan Bangsa dan Politik Provinsi Jawa Timur.

Menimbang : Surat Dirjen Kesbangpol Kemendagri Republik Indonesia tanggal 31 Desember 2014 Nomor : 460.02/4754.DI perihal Rekomendasi Penelitian atas nama Rahmi Yudianti

Gubernur Jawa Timur, memberikan rekomendasi kepada :

- a. Nama : Rahmi Yudianti
b. Alamat : Perum The Address blok G/134 Dekok Jawa Barat
c. Pekerjaan/Jabatan : Mahasiswa/PNS
d. Instansi/Organisasi : Flinders University
e. Kebangsaan : Indonesia

Untuk melakukan penelitian/survey/kegiatan dengan :

- a. Judul Proposal : "Peran Land Reform dalam meminimalkan kemungkinan dan penyelesaian sengketa tanah di pedesaan di Indonesia"
b. Tujuan : Pengambilan data skunder + primer
c. Bidang Penelitian : Sosial
d. Penanggungjawab : Prof Andrew Millington
e. Anggota/Peserta : -
f. Waktu Penelitian : 2 bulan
g. Lokasi Penelitian : Kabupaten Blitar

- Dengan ketentuan**
1. Berkewajiban menghormati dan mentaati peraturan dan tata tertib di daerah setempat / lokasi penelitian/survey/kegiatan;
 2. Pelaksanaan penelitian agar tidak disalahgunakan untuk tujuan tertentu yang dapat mengganggu kestabilan keamanan dan ketertiban di daerah/lokasi setempat ;
 3. Wajib melaporkan hasil penelitian dan sejenisnya kepada Gubernur Jawa Timur melalui Badan Kesatuan Bangsa dan Politik Provinsi Jawa Timur dalam kesempatan pertama.

Demikian rekomendasi ini dibuat untuk dipergunakan seperlunya.

Surabaya, 27 Maret 2015

an. KEPALA BADAN KESATUAN BANGSA DAN POLITIK
PROVINSI JAWA TIMUR
Kepala Bidang Budaya Politik



Tembusan :

- Yth. 1. Dirjen Kesbangpol Kemendagri Republik Indonesia di Jakarta;
2. Gubernur Jawa Timur (sebagai laporan).
3. Yang Bersangkutan

Appendix 3.6 The National Unity, Politics and Community Protection Agency of Batanghari District



PEMERINTAH KABUPATEN BATANG HARI KANTOR KESATUAN BANGSA DAN POLITIK

Jl. Jend. Sudirman Tel. (0743) 21022

Kode Pos 36613

REKOMENDASI

No : 503/056 /Kesbangpol

- a. Dasar : Surat dari Pemerintah Provinsi Jambi tanggal 22 Januari 2015
Nomor : 85/R/BANKESBANGPOL-5.1/2015 Tentang Rekomendasi
- b. Menimbang : Sehubungan dengan hal diatas, dan untuk tertibnya administrasi maka perlu dikeluarkan surat rekomendasi.

KEPALA KANTOR KESATUAN BANGSA DAN POLITIK BATANG HARI,

Memberikan rekomendasi kepada :

Nama : RAHMI YUDIANTI
NIM : 3276106804800002
Jabatan/Pekerjaan : Peneliti Utama School Of the Environment, Flinders University, South Australia
Alamat : Perum The Address Blok G No.134 Rt. 01/03 Kel. Leuwinanggung Kec. Tapos

Untuk mengadakan Riset , Penelitian /Observasi dengan Judul “ Peranan Land Reform Dalam Meniminalkan Kemungkinan dan Penyelesaian Sengketa Tanah di Pedesaan Indonesia” Dengan waktu Penelitian 20 Januari 2015 s/d 31 Mei 2015.

Demikian rekomendasi ini dibuat untuk dapat dipergunakan sebagaimana mestinya.

Muara Bulian, 28 Januari 2015

KAKAN KESBANG DAN POLITIK
KABUPATEN BATANG HARI



FARIZAL,SH.MH

NIP. 196910191995121001

Appendix 3.7 The National Unity, Politics and Community Protection Agency of Blitar District



PEMERINTAH KABUPATEN BLITAR BADAN KESATUAN BANGSA DAN POLITIK

Jalan Dr. Sutomo Nomor 53 Telepon/Faximile (0342) 801243
E-mail : badan.kesbang@blitarkab.go.id

BLITAR

SURAT IZIN

Nomor : 072/148/409.202/2015

Membaca : Surat dari Badan Kesatuan Bangsa Dan Politik Provinsi Jawa Timur Nomor : 070/2838/203.3/2015 tanggal 27 Maret 2015 perihal Rekomendasi Penelitian atas nama RAHMI YUDIANTI, Flinders University.

Mengingat : 1. Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 64 Tahun 2011 tentang Pedoman Penerbitan Rekomendasi Penelitian, sebagaimana telah diubah dengan Peraturan Menteri Dalam Negeri Nomor 7 Tahun 2014 tentang Perubahan Atas Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 64 Tahun 2011;
2. Peraturan Daerah Kabupaten Blitar Nomor 6 Tahun 2011 tentang Perubahan atas Peraturan Daerah Kabupaten Blitar Nomor 20 Tahun 2008 tentang Organisasi dan Tata Kerja Inspektorat, Badan Perencanaan Pembangunan Daerah dan Lembaga Teknis Daerah Kabupaten Blitar;
3. Peraturan Bupati Blitar Nomor 44 Tahun 2011 tentang Penjabaran Tugas dan Fungsi Badan Kesatuan Bangsa dan Politik Kabupaten Blitar;
4. Peraturan Bupati Blitar Nomor 20 Tahun 2012 tentang Pedoman Pelayanan Perizinan Pelaksanaan Survei, Penelitian, Pendataan, Pengembangan, Pengkajian dan Studi Lapangan di Kabupaten Blitar.

Diizinkan untuk melakukan kegiatan survei, penelitian, pendataan, pengembangan, pengkajian dan studi lapangan kepada :

Nama : RAHMI YUDIANTI
Alamat : Perum The Address blok G/134 Depok Jawa Barat
Judul Kegiatan : Peran Land Reform Dalam Meminimalkan Kemungkinan dan Penyelesaian Sengketa Tanah di Pedesaan di Indonesia.
Lokasi : BPN, Perum Perhutani, Dinas Kehutanan dan Perkebunan, Desa Rejoso dan Desa Kedungwungu Kecamatan Binangun, Desa Gadungan dan Desa Ngaringan Kecamatan Gandusari Kabupaten Blitar
Waktu : Tanggal 08 April sampai dengan 31 Mei 2015
Bidang Kegiatan : Penelitian
Nama Penanggungjawab/Koordinator : Prof. ANDREW MILLINGTON
Anggota/Peserta : -

Dengan ketentuan sebagai berikut :

1. Dalam melaksanakan kegiatan tersebut harus selalu berkoordinasi (menyampaikan maksud dan tujuan) dengan Pemerintah Desa setempat serta Satuan Kerja Perangkat Daerah (SKPD) atau Instansi terkait untuk mendapatkan petunjuk seperlunya;
2. Wajib menjaga ketertiban dan mematuhi Peraturan Perundangan yang berlaku;
3. Izin hanya digunakan untuk kegiatan sesuai izin yang diberikan;
4. Izin dapat dibatalkan sewaktu-waktu apabila tidak memenuhi ketentuan tersebut diatas;
5. Memenuhi ketentuan, etika dan norma yang berlaku di lokasi/tempat kegiatan;
6. Dalam jangka waktu 1 (satu) bulan setelah selesai dilakukannya kegiatan survei, penelitian pendataan, pengembangan, pengkajian dan studi lapangan diwajibkan memberikan laporan tentang hasil-hasil pelaksanaan kegiatan dalam bentuk softcopy dan hardcopy kepada :
 - a. Bupati Blitar cq Badan Kesatuan Bangsa dan Politik Kabupaten Blitar;
 - b. Satuan Kerja Perangkat Daerah/Instansi di Lingkungan Pemerintah Kabupaten Blitar yang terkait.
7. Izin ini tidak boleh disalahgunakan untuk tujuan tertentu yang dapat mengganggu ketertiban umum dan kestabilan pemerintah serta hanya diperlukan untuk keperluan ilmiah.

Dikeluarkan di : Blitar
Pada Tanggal : 08 April 2015

**KEPALA BADAN KESATUAN BANGSA DAN POLITIK
KABUPATEN BLITAR**



TEMBUSAN disampaikan kepada Yth :

1. Bupati Blitar (sebagai laporan)
2. Sdr. Kepala Badan Pertanahan Nasional Kabupaten Blitar
3. Sdr. Kepala Dinas Kehutanan dan Perkebunan Kabupaten Blitar
4. Sdr. Kepala Perum Perhutani KPH Blitar
5. Sdr. Kepala BPP dan Sdr. Kepala Seksi Kabupaten Blitar

Appendix 3.8 Questionnaires

Questionnaire for household

Province :

District : _____ Sub-district : _____ Village : _____.

Date (D/M/Y) : _____ / _____ /20_____ Time : _____ / _____.

A. Pre-interview guide

Researcher (interviewer) introducing herself

Hello, my name is Rahmi Yudianti. I am a PhD student at Flinders University in Adelaide, Australia. The research I am undertaking for my PhD thesis on the whether and how land reform in Indonesia minimizes the likelihood of rural land disputes occurring, and whether it has a role in resolving disputes. The purpose of my study is not only to understand why disputes arise, but to identify potential solutions. I am seeking your help to answering some questions that will advance my research. Please read an information sheet, and then, if you agree to agree to participate, please sign the consent form which I have given you with information sheet. You are free to ask any question at any time during the interview/questionnaire and, if at any time you do not wish to continue please ask me to stop. None of your responses will be used in any way that identifies you.

Clarification of the participation

Have you received and read the information sheet regarding to this study?

(if **Yes** – start the interview – sign the consent form)

(if **No** – provides the participants with the information sheet – then sign the consent form)

Observed Household Characteristics: (*circle as reluctant*)

CONSTRUCTION: all wood/brick; unfinished brick; finished brick; fancy finish.

ROOF: zinc; tiled.

WINDOW: shutter; glass.

SATELLITE TV: yes; no.

SHOP/BUSSINESS ATTACHED: yes; no.

LOCATION: on through road; on side/track.

B. Personal information or profile of respondent and household (HH)				
B.1	Gender	Male / Female		
B.2	Are you the head of this HH?	Yes / No	B.3	If no, what is your relationship to the head of HH
				<ul style="list-style-type: none"> a. Husband b. Wife c. Son d. Daughter e. Son in law f. Daughter in law g. Other,
B.4	How old are you?			
B.5	Where were you born?	Village:	Province	
B.6	Which of these do you do to earn a living?	<ul style="list-style-type: none"> a. Work at your family farm b. Work as a labourer on another farm c. A government job d. Own business e. Household task (cooking, child raising, washing) f. Other, 		
B.7	Which is your main occupation? (takes up most of your time)	<ul style="list-style-type: none"> a. Work at your own farm b. Work as a labourer on another c. Have a government job d. Have your own business e. Other, 		

B.8	What is your highest level of education?	a. No formal education b. Elementary school c. Junior high school d. Senior high school e. University/tertiary education f. Other,			
B.9	Tell me about the other people who are living in your HH today				
Gender		Age	Relationship to you	Highest Education	Main Employment
B.10	How long have you lived in this village				

B.11	If you are originally not from here, why did you move to this village				
B.12	When did you live immediately before moving to this village?				
B.13	Where did you live immediately before moving to this village?				
B.14	How many rooms do you have in your house?	Living room : _____ room(s) Bed room : _____ room(s) Kitchen : _____ room(s) Bath room : _____ room(s) Other :			
B.15	How many of the following do you have in your HH?	Motorcycle	Refrigerator	TV	Car
B.16	Do you own any other house/houses?	Yes / No	If yes, how many?		

C. The following questions are about land tenure, land use and land disputes based on the participant's experiences.

C.1 For each individual parcel you have interests in, tell me where it is located and whether you own it or not?

Number of parcel <i>(inserted by me)</i>	Location	Own <i>(tick)</i>	Co-own <i>(tick)</i>	Do not own <i>(tick)</i>

For the parcels you own or co-own, tell me:

Parcel number (from C1)	C.2 Area (Ha)	C.3 Years you have had on interest in this parcel	C.4 In whose name is this parcel registered	C.5 How did you acquire your ownership of this land?	C.6 How do you use the land in this parcel?
		(years/months)		<ul style="list-style-type: none"> a. Inherited b. Bought it c. Land distribution d. Transmigration e. Other, explain 	

C.7	Do you have interest in parcels of land that have not been registered?	Yes / No
C.8	If Yes, why have you not registered them?	a. Cost of registration b. Don't know about registration c. Not important to me d. Other

For the parcel/parcels you do not own/co-own:

Parcel number <i>(from C1)</i>	C.9 What kind of land is this?	C.10 Who owns this land?	C.11 What is the nature of your interest in this land?	C.12 How do you acquire this interest?
	a. Communal land b. Forest land c. Abandoned land d. Don't know e. Other, explain			

C.13	Are you concerned that you may lose the land you own (or use but do not own) in the future?	Explain:
C.14	Have you ever been involved in a land dispute?	Yes / No
C.15	If yes, with whom?	<ul style="list-style-type: none"> a. Another individual land owner b. Government company c. Foreign company d. Domestic private company e. Forestry land f. Other
C.16	Please provide me with some details of the disputes	
	<i>Dispute 1:</i>	
	C.17	Has the dispute been resolved?
		Yes / No <i>(if yes go to number C.19, if no go to number C.20)</i>

	C.18	How it has been resolved?	<ul style="list-style-type: none"> a. Adat (customary) system b. State court c. Mediation d. Other
	C.19	Why do you think it has not resolved yet?	
<p><i>Dispute 2:</i></p>			

C.17	Has the dispute been resolved?	Yes / No <i>(if yes go to number C.19, if no go to number C.20)</i>
C.18	How it has been resolved?	e. Adat (customary) system f. State court g. Mediation h. Other
C.19	Why do you think it has not resolved yet?	
<i>Dispute 3:</i>		

C.17	Has the dispute been resolved?	Yes / No <i>(if yes go to number C.19, if no go to number C.20)</i>
C.18	How it has been resolved?	<ul style="list-style-type: none"> i. Adat (customary) system j. State court k. Mediation l. Other
C.19	Why do you think it has not resolved yet?	

Appendix 3.9 and 3.12 Interviews

Interview

Province :

District : _____ Sub-district : _____ Village : _____.

Date (D/M/Y) : _____ / _____ /20_____ Time started : _____ / _____ . Time completed : _____ / _____.

D. Pre-interview guide

Researcher (interviewer) introducing herself

Hello, my name is Rahmi Yudianti. I am a PhD student at Flinders University in Adelaide, Australia. The research I am undertaking for my PhD thesis is on whether and how land reform in Indonesia minimizes the likelihood of rural land disputes occurring, and whether it has a role on resolving disputes. The purpose of my study is not only to understand why disputes arise, but to identify potential solutions. I am seeking your help to answer some questions that will advance my research. Please read the letter of introduction and information sheet, and then, if you agree to participate, please sign the consent form which I have given you with the letter and information sheet. You are free to ask any question at any time during the interview/questionnaire and if, at any time, you do not wish to continue please ask me to stop. None of your responses will be used in any way that identifies you.

Clarification about participation: Have you received and read the letter of introduction and information sheet?
(if **Yes** – start the interview – sign the consent form) (if **No** – provides the participants with the letter of introduction and information sheet – then sign the consent form)

E. List of interview questions

1. What is the name of your company (add url for company website if they have one)?
2. Is your company Indonesian owned, foreign owned or jointly owned?
3. What is the main focus of the company's business?
4. How do you identify the location of the company's land?
5. When did the company acquire the land?
6. What is the area of the land?
7. What land right does the company have to this parcel(s) of land?
8. When will your right to the land end?
9. How did the company acquire the land?
10. Do you know if any other person, business or community group owned the land before your company acquire?
11. Did the company compensate the previous owners or occupants of the land?
12. What is the land used for?
13. Has the company utilized the land properly according to the land rights?
14. Is there any dispute(s) with people who live in the neighbourhood?
15. Nature of dispute(s) resolved? (Yes/No)
16. If yes, how it resolved?
17. If no, why ?

F. List of interview points for discussion during interview with local government agencies/officer.

1. Evaluation of the social and economic condition of people in the relevant village.
2. Program about land distribution and PRONA (a program from BPN about legalizing asset/land registration with free of charge)
3. Program for poor peasant
4. Criteria for choosing group of people or community who receive land distribution and PRONA
5. Cases about land disputes
6. How many have been resolved
7. How many remain unresolved
8. Alternative approach for land dispute(s) (ideas)
9. Disputes concerning forestry land, idle land
10. Any further suggestion

Appendix 3.10 and 3.13

Letter of introduction and an information sheet



School of the Environment
Dean of School of the Environment Office
Bedford Park
Adelaide SA 5042
GPO Box 2100
Adelaide SA 5001
Tel: 08 82017577
Fax: 08 82013567
Email: dean.sote@flinders.edu.au
www.flinders.edu.au
CRICOS Provider No. 00114A

LETTER OF INTRODUCTION : BUSINESS

Dear Sir/Madam

This letter is to introduce Rahmi Yudianti who is a Doctor of Philosophy (PhD) student in the School of the Environment at Flinders University. She will produce her student card, which carries a photograph, as proof of identity. She is also on leave of her duty as a staff in the National Land Agency of Republic of Indonesia (BPN) in Directorate of Implementation of Land Policy and Program Control.

She is undertaking research leading to the production of a thesis or other publications on the subject of the role of land reform in minimizing the probability and resolution of rural land disputes in Indonesia to investigate rural land disputes at different geographical scales in Indonesia, with a focus on minimizing the chances of disputes and/or resolving disputes through contemporary land reform policies and Indonesia.

She would like to invite you to assist with this project by agreeing to be involved in an interview to discuss this topic. The interview should last about 20-30 minutes.

Be assured that any information provided will be treated in the strictest confidence and none of the participants will be individually identifiable in the resulting thesis, report or other publications. You are, of course, entirely free to discontinue your participation at any time or to decline to answer particular questions.

Since she intends to make a tape recording of the interview, she will seek your consent, on the attached form, to record the interview, to use the recording or a transcription in preparing the thesis, report or other publications, on condition that your name or identity is not revealed, and to make the recording available to other researchers on the same conditions.

Any enquiries you may have concerning this project should be directed to me at the address given above or by telephone on 08 82017577, fax 08 82013567 or e-mail dean.sote@flinders.edu.au

Thank you for your attention and assistance.

Yours sincerely

Professor Andrew Millington
Professor
School of the Environment

This research project has been approved by the Flinders University Social and Behavioural Research Ethics Committee (Project number 6638). For more information regarding ethical approval of the project the Executive Officer of the Committee can be contacted by telephone on 8201 3116, by fax on 8201 2035 or by email human.researchethics@flinders.edu.au

inspiring
achievement



School of the Environment
Dean of School of the Environment Office
Bedford Park
Adelaide SA 5042

GPO Box 2100
Adelaide SA 5001
Tel: 08 82017577
Fax: 08 82013567
Email: dean.sote@flinders.edu.au

www.flinders.edu.au
CRICOS Provider No. 00114A

LETTER OF INTRODUCTION : GOVERNMENT

Dear Sir/Madam

This letter is to introduce Rahmi Yudianti who is a Doctor of Philosophy (PhD) student in the School of the Environment at Flinders University. She will produce her student card, which carries a photograph, as proof of identity. She is also on leave of her duty as a staff in the National Land Agency of Republic of Indonesia (BPN) in Directorate of Implementation of Land Policy and Program Control.

She is undertaking research leading to the production of a thesis or other publications on the subject of the role of land reform in minimizing the probability and resolution of rural land disputes in Indonesia to investigate rural land disputes at different geographical scales in Indonesia, with a focus on minimizing the chances of disputes and/or resolving disputes through contemporary land reform policies and Indonesia.

She would like to invite you to assist with this project by agreeing to be involved in an interview to discuss this topic. The interview should last about 20-30 minutes.

Be assured that any information provided will be treated in the strictest confidence and none of the participants will be individually identifiable in the resulting thesis, report or other publications. You are, of course, entirely free to discontinue your participation at any time or to decline to answer particular questions.

Since she intends to make a tape recording of the interview, she will seek your consent, on the attached form, to record the interview, to use the recording or a transcription in preparing the thesis, report or other publications, on condition that your name or identity is not revealed, and to make the recording available to other researchers on the same conditions.

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Thank you for your attention and assistance.

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Professor
School of the Environment

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inspiring
action research



Rahmi Yudianti
School of the Environment
Faculty of Science and
Engineering

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Bedford Park SA 5042
GPO Box 2100
Adelaide SA 5001

Tel: +61 416 454 644
Fax: +61 8 82013567
Email: yudi0001@flinders.edu.au

www.flinders.edu.au

CRICOS Provider No. 00114A

INFORMATION SHEET

Title: 'The role of land reform in minimizing the probability and resolution of rural land disputes in Indonesia'

Investigators:

Ms Rahmi Yudianti
School of the Environment – Faculty of Science and Engineering
Flinders University
Ph: +61 416 454 644

Supervisor(s):

Professor Andrew Millington
School of the Environment – Faculty of Science and Engineering
Flinders University
Ph: +61 8 82017577

Mr. Brendan Grigg
Law School – Faculty of Education, Humanities and Law
Flinders University
Ph: +61 8 82013987

Description of the study:

This study is part of the project entitled '*The role of land reform in minimizing the probability and resolution of rural land disputes in Indonesia*'. This project will investigate rural land disputes at different geographical scales in Indonesia, with a focus on minimizing the chances of disputes and/or resolving disputes through contemporary land reform policies and Indonesia. This project is supported by Flinders University, School of the Environment – Faculty of Science and Engineering.

Purpose of the study:

This project aims to find out:

- a broad understanding of rural land disputes related to internal land reform and land appropriation by external entities globally
- on how to minimizing the probability and/or resolving rural land disputes in Indonesia by 1) analysing rural land disputes in Indonesia using secondary sources at the national and provincial scales; 2) undertaking local-scale case studies which will investigate in detail selected rural land disputes in Indonesia; and 3) evaluating how land reform can be used to minimize the chances of rural land disputes arising, and in resolving solutions to rural land disputes in Indonesia.

What will I be asked to do?

You are invited to attend a one-on-one interview with Rahmi Yudianti who will ask you a few questions about your views about land tenure, land use and land disputes based on the your experiences. The interview should last about 20-30 minutes. The interview will be recorded using a digital voice recorder to help with looking at the results. Once recorded, the interview will be transcribed (typed-up) and stored as a computer file and then destroyed once the results have been finalised. This is voluntary.

What benefit will I gain from being involved in this study?

The sharing of your experiences will improve not only understanding why land disputes arise, but to identify potential solutions.

Will I be identifiable by being involved in this study?

We do not need your name and you will be anonymous. Once the interview has been typed-up and saved as a file, the voice file will then be destroyed. Any identifying information will be removed and the typed-up file stored on a password protected computer that only the coordinator (Rahmi Yudianti) will have access to. Your comments will not be linked directly to you.

Are there any risks or discomforts if I am involved?

The investigator anticipates few risks from your involvement in this study. If you have any concerns regarding anticipated or actual risks or discomforts, please raise them with the investigator.

How do I agree to participate?

Participation is voluntary. You may answer 'no comment' or refuse to answer any questions and you are free to withdraw from the focus group at any time without effect or consequences. A consent form accompanies this information sheet. If you agree to participate please read and sign the form and send it back to me at yudi0001@flinders.edu.au.

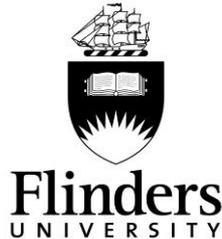
How will I receive feedback?

Outcomes from the project will be summarised and given to you by the investigator if you would like to see them.

Thank you for taking the time to read this information sheet and we hope that you will accept our invitation to be involved.

This research project has been approved by the Flinders University Social and Behavioural Research Ethics Committee (Project number 6638). For more information regarding ethical approval of the project the Executive Officer of the Committee can be contacted by telephone on 8201 3116, by fax on 8201 2035 or by email human.researchethics@flinders.edu.au

Appendix 3.11 Consent Form



CONSENT FORM FOR PARTICIPATION IN RESEARCH (by interview)

The role of land reform in minimizing the probability and resolution of rural land disputes in Indonesia

I
being over the age of 18 years hereby consent to participate, as requested, in the
..... for the research project on

1. I have read the information provided.
2. Details of procedures and any risks have been explained to my satisfaction.
3. I agree to audio recording of my information and participation.
4. I am aware that I should retain a copy of the Letter of Introduction, the Information Sheet and Consent Form for future reference.
5. I understand that:
 - I may not directly benefit from taking part in this research.
 - I am free to withdraw from the project at any time and is free to decline to answer particular questions.
 - While the information gained in this study will be published as explained, I will not be identified, and individual information will remain confidential.
 - I may ask that the recording/observation be stopped at any time, and I may withdraw at any time from the session or the research without disadvantage.

Participant's signature.....Date.....

I certify that I have explained the study to the volunteer and consider that he/she understands what is involved and freely consents to participation.

Researcher's name: Rahmi Yudianti

Researcher's signature.....Date.....

Appendix 4.1 wealth ranking of the houses

Variable	Questions	Questionnaires' number	1	2	3	4	5	6
A1	Household number							
A2	Household wealth ranking		#C+#R+#W+#S+#B+#L+RO+MB+RF+TV+CA+#H+#A+OH					
A2.a	Construction	A.1	fancy finish = 4	finished brick =3	unfinished brick =2	wood = 1	not brick or wood = 0	#C
A2.b	Roof	A.2	tile = 2	zinc = 1	not both = 0			#R
A2.c	Window	A.3	glass = 2	wood = 1	shutter = 0			#W
A2.d	Satellite TV	A.4	yes = 1	no = 0				#S
A2.e	Shop/Business attached	A.5	yes = 1	no = 0				#B
A2.f	Location	A.6	on big road = 2	on through road = 1	on side/track = 0			#L
A2.g	How many total rooms in the house	B.14	Number					RO
A2.h	Have motorbike	B.15	as numbers					MB
A2.i	Have refrigerator	B.15	yes = 1	no = 0				RF
A2.j	Have TV	B.15	as numbers					TV
A2.k	Have car	B.15	yes = 1	no = 0				CA
A2.l	How many other houses do you have	B.16	As numbers					#H
A2.m	House area (m2)	C.2	50 - 150 m2 = 1	151 -300 m2 = 2	301 - 450 m2 = 3	<450 m2 = 4		#A
A2.n	Rent house	C.1	yes = 0	no = 5				OH