

CHANGING CONFLICT INTO EQUAL PARTNERSHIP

Reflections of Scale Up's Experience in Mediating Natural Resource Conflicts between Indigenous
People and the Company

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In expert analysis, conflict is assigned various meaning, some are of the opinion that conflict is a way to achieve objectives by weakening the opponent with complete disregard for existing norms and values (Hartini and Kartasapoetra, 1992). Conflict does not merely involve physical, material or worldly goods but is also related to respect/appreciation. The second aspect is associated with Dignity, Self Worth, Prestige et cetera.

Conflict has the potential to occur in each and every social interaction, not only caused by the struggle to stay alive with limited space and resources, also due to aggressive and competitive instincts which are innately human.

In the classical socialist theory, the root of conflict, whether already emerging (manifest) or still below the surface (latent) is the outcome of disparity in the social economic political structure between the majority class (proletariat) which is lacking access, power and knowledge and the elite/landowners (aristocrats/bourgeoisie) who rules the access, has mighty powers and knowledge which directly impacts on the survival of the majority class. Between these two classes there exists a fundamental conflict of interest because the owners of capital have a vested interest in gaining maximum profit at the lowest possible cost, whilst workers/laborers/farmers are interested in obtaining wages or revenue from production with the highest possible value to improve the prosperity of their family. Profit and wages are two always opposing interests, because high profits will sacrifice wages and high wages will sacrifice profits.

The definition of this theory developed by stating that conflict occurs because society consists of various stakeholders with interests, which generally consist of the State as one group, Businesspeople

(the Private Sector) and the ethnic or religious/faith as well as indigenous/local people group.

The various opinions listed above are correct and do exist if we carefully scrutinize the many conflicts that occur in the field. Scale Up has at least proven this through simple research; identifying and classifying natural resource conflicts between the indigenous people with various natural resource based companies. In 2007, as many as 35 conflicts were identified between the Oil Palm Companies and the indigenous people in Riau, meaning that more than 2 conflicts emerged each month. These conflicts have mostly been discussed through tripartite discussions between the 2 parties in conflict (the people and the company) and the government (executive and legislative) however, on average halts without any definite resolution, if resolved tends to be unsatisfactory on one side, especially on the people's side.

Valuable lessons learned from these conflict resolution practices include: (1) legal certainty (formal and informal), (2) comfort in conducting business and (3) corporate sustainability. These three apply primarily for communities and companies that are in conflict, however, it is also vital for the government as a guarantee for drawing investors, improving welfare and employment, as well as increasing state foreign exchange. These three aspects become even more pressing to address, keeping in mind the ever developing market instruments requiring good corporate governance to be implemented to a standard beyond state laws, particularly for social and environmental corporate responsibility. In the oil palm plantation sector, through dialogues and lengthy negotiations, this issue has been translated into principles and criteria for sustainable oil palm (RSPO) which will be used as guidelines in conducting audits on oil palm plantations belonging to companies and even smallholders.

Scale Up initiatives

Since its establishment in 2007, Scale Up (Sustainable Social Development Partnership) realized the importance of developing solutions acceptable to all parties that address all unsustainable social issues.

Drawing on its ‘ human capital’ of board and staff members from a variety of backgrounds: social NGO activists, anthropology and sociology expert lecturers and researchers, Scale Up continues to engage experts from various fields to develop new initiatives in establishing natural resources conflict resolution models.

Scale Up’s initiatives and objectives were then defined as “Changing conflict into equitable partnership” and on a more operational level, “Managing Rights, Developing Equitable Partnerships”. This initiative has been implemented in several conflicts mediated by Scale Up, including the Lubuk Jering Village, Siak District conflict in Riau, between the Perusahaan Hutan Tanaman Industri (HTI) PT. Riaupulp (APRIL Group), dan the conflict between the villages of Kuala Cenaku and Kuala Mulya with Perusahaan Perkebunan Sawit PT. Bertua Aneka Yasa (Duta Palma Group).

Scale Up lays emphasis on informal approaches to gain trust of the community and company as mediators, primarily through informal relationships developed through conflict advocacy and collaborative research already done prior to the establishment of Scale Up. The crucial initial step taken by Scale Up in conflict mediation is as follows:

(1) Creating mutual trust among conflicting parties (trust building).

This is a precondition leading towards negotiations, that greatly determine the ensuing processes, as the ongoing conflict (particularly for conflicts that have been ongoing for considerable periods of time) means both parties would automatically be suspicious of each other, or even have long-held hatreds and show aggression towards each other, and forgive the quote, in other words “fight like cat and dog”. Government facilitated mediation, according to Scale Up research, often fails to create a conducive conditions in which the conflicting parties, thus emotions and ego often lead to failures in creating agreement. The key, possible only subsequent to Scale Up after fully comprehending the conflict map on the ground, thus initial assessments should be completed prior to entering this stage). It might be reasonable for companies to start by carrying out small projects pertinent to community/public interests such

as building much needed public infrastructure; this will help restore trust towards the company.

(2) Developing village/community institutions

This is necessary in order to provide a forum in which all demands can be discussed and to evaluate achievements as well as act as representatives in negotiation forums. Scale Up's experience also shows the importance of the theoretical and technical knowledge transformation regarding the process and achievements of negotiations for the community before entering the negotiations phase. This is important to ensure that the community delegation persists in the face of negotiation results and process which is a boring and winding road. To fulfill this need Scale Up positioned a transformer in the community/village with a main agenda of responding to possibilities which may render the negotiation process ineffective.

(2) Preparing an Independent Expert Team.

As mediators, Scale Up has a board of experts committed to working independently in their respective fields. Scale Up will offer their Expert Board to both parties, particularly when both parties seem lacking in terms of coming to agreement. Expert opinion is highly sought after if and when during negotiations, there is a difference in substantial interpretation/opinion which could lead to a deadlock. Agreement to stipulate expert opinion as mutual data/facts which will be utilized in the preliminary stages of the negotiations must be agreed upon in the code of conduct). In Scale Up's experience mediating conflict between the village of Lubuk Jering and PT. Riaupulp, the expert team worked to make a social economic analysis in order to see the long term impact of conflict both for the people and well as the company. The findings showed a trend towards threats against the prosperity of the people should their land be taken over by the company, the next hazard will lead to unharmonious relationships and the continuation of investments would be further unsecured.

(4) Preliminary Cross Meetings exploring needs

Beginning meetings with both parties in conflict is done by Scale Up to obtain a picture of the

extent of the differences in both parties' respective interests and the elements of their stance. The needs and a picture of the next process can be formulated through this process in order for the mediator to be able to offer a plan. Cross meetings can be repeated if a clearer picture is desired.

(5) Mutual agreement on critical stages.

This can be part of the outcome of the cross meetings or can be achieved through a introductory/first meeting between both parties. The Mediator should offer steps to both parties based on preliminary needs assessment findings which has been conducted, don't allow this to deteriorate into a wildcard. If the conflict is related to the overlap in management (utilization and domination) thus the early steps which are essential to perform are: (a) Clarify the boundaries of each party's claim through participative mapping performed by a joint team of the public, company and mediator and the government (as witnesses). The determination of coordination points must be done together using one tool (GPS/Global Position System) or carries a GPS for comparison. Before the survey, both parties must be given standard mapping knowledge through small training (sessions) conducted by skilled personnel as invited by the mediator. Mapping must be done together by assigning representatives, then having them authorized together also by being witnessed/acknowledged by mediators and local government. (b) Social economic mapping for discovering potential cooperation/partnership between both parties as an illustration of land conflict resolution. This mapping must be performed in direct association to the mapped conflict area. Therefore the existence of the expert team which has been mutually agreed upon previously is essential in this task.

(6) Negotiation to seek points of agreement.

To embark on this process, the relationship between the two parties must already be conducive, issues and the respective demands and already having data regarding the object of conflict as well as an illustration already have good comprehension of the negotiation process, already cognizant of the object of conflict as well as a picture of the opportunities

for cooperation which can be built according to each party's potential. Meaning at this point each party is ready for battle but not with weapons (emotion and ego). The role of the mediator is crucial in this process in order to avoid critical situations which cannot be resolved. The mediator must always prepare middle of the road offers which keep both parties comfortable in the negotiation forum. Thus even the smallest achievements in each negotiation meeting must be documented and signed by the two parties and the mediator as well as the attending government witnesses.

Reflection; Valuable experience

Negotiation is actually not a new matter for the people, although (their experience has been) within the simple scopes such as buying and selling transactions as well as deliberations or *musyawarah* to determine the development planning for the *kampung* and in their households as the smallest scope. However negotiations with external parties in resolving natural resources conflict in relation to public interest is certainly different to the simple negotiations often performed by the people. Therefore preconditioning is required before the main negotiation is conducted. Preconditioning will help them to not prioritize emotion and ego but to invite them to think long term strategy. Scale Up's experience in mediating conflict between the village of Lubuk Jering and PT. Riaupulp shows a significant shift in perspective after the preconditioning process – the people began to accept the presence of the company on the village deliberations or *musyawarah*, and vice versa – the company was more open to the public's visits to the company offices.

However, it must kept in mind that during a lengthy negotiation process we cannot avoid boredom from emerging in the people, even in the company. The feeling of boredom will be followed by a diminishing enthusiasm and the feeling of self confidence in the negotiation delegates when they must face questions from other members of the public. The suspicions aimed at the negotiation delegates due to the prolonged process may cause the delegation members to experience a legitimacy crisis. Now,

here is where the transformer plays a role in providing motivation for the delegation members to give understanding to other members of the public and to underline that the delegation team has worked optimally and needs the support of other members of the public. Therefore the accountability mechanism from the delegation team to the members of the public must be formulated from the start of the assignment of delegates, in order to enable a transformer to always bring the public to return to the existing rules of play.

The legitimacy crisis may also happen to the company delegation team because they must constantly provide accountability reports to their superiors. Delegates are usually under pressure from their superiors (especially from the production department) to resolve the conflict as quickly as possible. Therefore, good communication between the mediator and the company leadership will help to ensure that the company delegates are not “punished” by their superiors. Scale Up’s experience shows the importance of building good communication between the company leadership and the public in helping the continuation of the negotiation.

Other important reflection points occur when the negotiation has resulted in an agreement expressed in a MoU/Memorandum of Understanding) and a MoA/Memorandum of Agreement. The function of the transformer is important in assisting the delegation team explain the meaning of each article of the understanding/agreement. Different interpretations amongst members of the public will raise the potential for violations and will make the notes of understanding/agreement lose its potency. Therefore, Scale Up recommends the necessity of having a mediator (or other independent team) to continue the work by conducting monitoring and evaluation of the implementation of the agreements reached and the mediator will issue a progress report post agreement between the two parties. This is important to avoid violations by one of the parties which may trigger a second chapter of the conflict, causing renegotiations whereby we certainly do not want to waste funds and energy in order to fall into the same hole (by) repeating the mistakes of the past. (Az)