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Mediating forest conflicts in Southeast Asia

Getting the positives out of conflicts over forests and land

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THE CENTER FOR PEOPLE AND FORESTS

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RECOFTC aims to better understand forest conflict, including the causes, the impacts, and the management options for conflict transformation. For this we analyze the disputes, relevant policies, forestry programs, and regulatory frameworks. This knowledge is used to raise awareness and develop the capacity of all stakeholders to contribute to preventing, mitigating and managing conflict. Our research is continuously mainstreamed in our training courses, which help develop the knowledge, and the skills of conflict management practitioners.

When it comes to forest conflict, prevention is better than a cure. RECOFTC advocates participatory forest-management approaches, especially community forestry, as essential strategies for reducing and transforming forest conflict in the region. Our thematic programs use analysis, training, advocacy, and networking towards participatory resource management and, thus, contribute to helping transform forest conflict.

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Executive summary

The high incidence of forest conflict in Southeast Asia underscores the need for conflict-transformation tools to maximize the positive impacts and reduce potential damage. Mediation is considered one of the most effective approaches in transforming conflict over natural resources. Mediation is often chosen when negotiation between conflict parties fails due to the complexity and intensity of the conflict and because of unequal negotiating power. It is also chosen when the judicial process is considered too complex and requires higher transaction costs.

This issues paper is based on analysis of six conflict mediation cases in three countries in Southeast Asia (Cambodia, Indonesia and Thailand). The study aimed to increase the understanding of how mediation has been applied in transforming forest conflicts, including what factors led to the success and the challenges encountered. The paper also provides suggestions on how mediation, as an approach for conflict transformation, can be strengthened in Southeast Asia.

The findings of the study indicate that mediation was crucial in transforming the six forest and land conflicts. It facilitated the creation of an environment conducive for multi-stakeholder dialogue, built trust among conflict parties and instilled problem-solving capacity of the conflict parties. Mediation brought out several positive outcomes for the conflict parties beyond just the settlement of the conflict: It improved mutual understanding and respect, fostered better social relations and long-term cooperation and increased the parties' capacity to find sustainable solutions to conflict. The impacts from the six cases are categorized from economic, environmental and social points of view, with the social outcomes considered the most notable impact of the mediation experience.

The study also found that mediation can be applied in various types of forest and land conflicts that involved different actors, issues and at varying levels of intensity. Five of the mediation cases studied involved communities in conflict with external actors (plantation companies, mining companies and protected area authority); the sixth case involved a conflict between communities. In terms of conflict intensity, the cases were of medium to high intensity.

The success of the mediation process in the six cases hinged, to a large extent, on the commitment, participation and trust of all the conflict parties to the mediation as well as the skills and competence of the mediators. The achievement of the agreements, for example, was largely possible because the mediators possessed the right skills, knowledge and personality traits needed for mediating the conflict. In achieving their mediation objectives, those mediators worked as a team and performed several roles, including process facilitator, communication facilitator, advisor, capacity developer and resource provider.

Although the six cases studied followed a general mediation process, the approaches and type of mediation used varied, depending on the dynamics and context of the conflict. There did not seem to be a one-size-fits-all approach. However, there are principles governing the mediation process that were apparent across all the case studies, including the participatory nature of the process, capacity development, restoration of relationships and communication.

Despite mediation's important role in transforming conflict in the six cases, the study found that it is not a silver bullet for all situations. Like other conflict-transformation approaches, mediation has limitations. In some cases, for example, the results of mediation are difficult to be enforced because the decisions are not legally binding; therefore, its' implementation depends on the willingness of all parties to comply with the agreement. It is also not immune to the influence of internal and external factors, such as the socio-political climate at the local or higher level. Nor can it stand alone in addressing the root causes of a conflict; sometimes it requires policy changes. There are also a limited number of skilled mediators available to mediate the vast number of forest and land conflicts in the region.

Taking into account the potential of mediation in transforming conflict, the challenges and the lessons learned from the six cases, we offer the following ideas for supporting and promoting the mediation recourse in the region:

1. Mediation capacity needs to be strengthened by providing more integrated capacity development programmes on mediation.
2. More research and analysis needs to be conducted, including on the failed mediation attempts, and the good practices in mediation need to be more broadly disseminated.
3. Mediation needs much greater promoting and awareness-raising of its merits, particularly about its availability and effectiveness as a tool for transforming natural resource conflict.
4. A network or a community of practice of mediation practitioners and experts should be established as a platform for collaborative learning, particularly to exchange their knowledge and experiences.
5. Policies that favour mediation should also be put in place to promote and justify the use of the mediation in addressing forest and land conflicts.

1. Introduction

Overview

Being blessed with abundant forest resources, Southeast Asia is prone to forest and land conflicts due to differing and often competing interests and values regarding the management of the forests, compounded by weak natural resource governance that afflicts most countries in the region. The high incidence of forest conflict has made the region a forest-conflict "hotspot" (Mola-Yudego and Gritten, 2010) and hinders sustainable forest management.

Although forest conflicts can have positive outcomes, they are potentially disastrous for forest users, especially for communities greatly dependent on forest resources for their livelihoods (Yasmi et al., 2011; Patel et al., 2013). In Indonesia, forest conflict has affected between 12.3 million and 19.6 million people – as much as 10 percent of the total population, while in Cambodia it has affected about 1.7 million people – as much as 12 percent of the population (USAID, 2006). For companies, conflict with communities can significantly augment financial risks, such as higher operating costs – as much as 29 times over a normal baseline scenario – and even closure of their operations (The Munden Project, 2012). This underscores the need to develop management approaches that can transform conflicts into positive social change that ultimately is good for environmental sustainability, economic stability and growth.

A number of conflict-management methods, such as negotiation, mediation, arbitration and adjudication, can be used to transform conflict in different contexts and intensity (Glasl, 1999). Mediation is one of the most effective approaches in transforming conflict over natural resource management (Yasmi et al., 2010). Mediation is often chosen after negotiation between conflict parties failed due to the complexity and intensity of the conflict and because of unequal negotiating power (Bercovitch and Jackson, 2001). In some countries, mediation is mandated by law and used to overcome the problems of case backlogs in the courts as well as to avoid the high transaction costs of the judicial process.

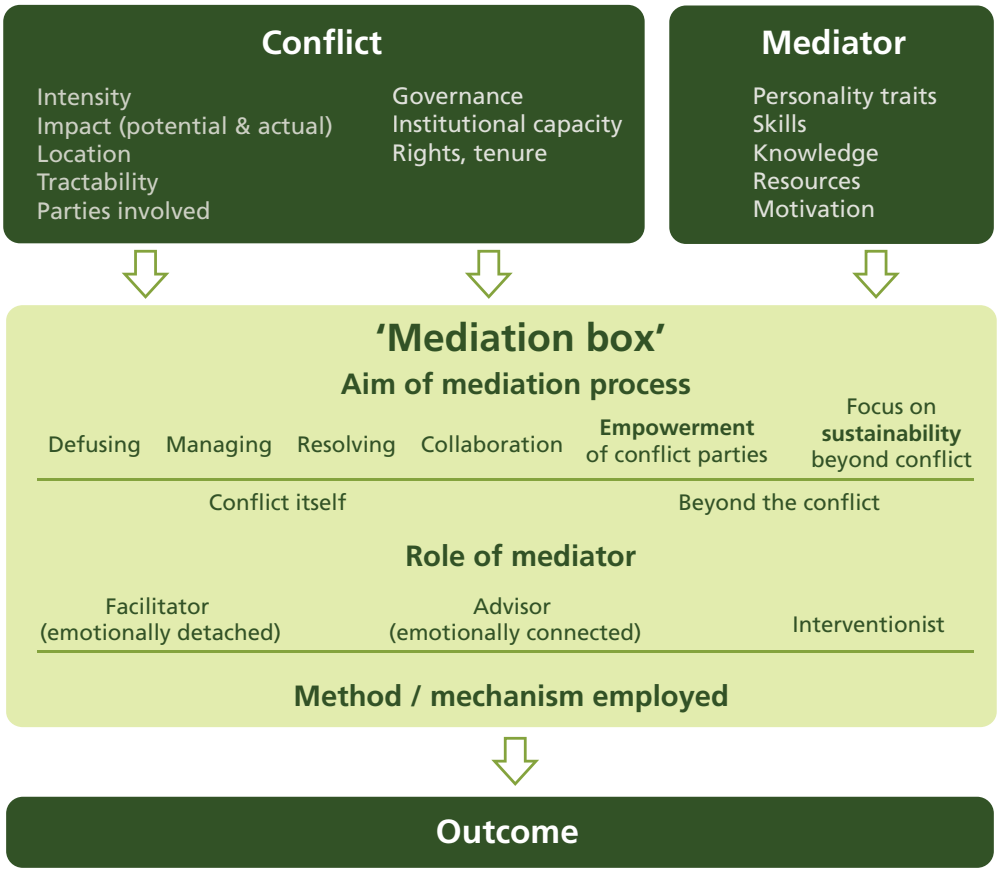
Scope and approach

This issues paper presents analysis of six cases of conflict mediation in three countries in Southeast Asia (Cambodia, Indonesia and Thailand). The purpose of the study was to better understand mediation practices in the region and thus improve future mediation practices. The analysis was guided by three questions:

1. How has mediation been applied to forest conflicts in the region?
2. What factors define the outcome of mediation?
3. How can mediation as a tool for conflict transformation be mainstreamed?

The analysis focused on six elements, as outlined in the conflict mediation analysis framework (figure 1): the conflict, the mediator, the aims of mediation, the roles of the mediator, methods employed and the outcomes. The framework reflects the conclusions of previous research (such as Wall et al., 2001, Bush and Folger, 2005) – that the outcomes of mediation are affected by certain factors: the nature of the conflict (intensity, the parties), the nature of the mediator (skills, personality) and the nature of the mediation process (the aim of the process, the roles of the mediators and the methods employed). The framework was developed to help understand how these factors may shed light not only on how mediation was applied in the six cases but also on the particulars that led to the successful mediation and the challenges encountered in the process.

Figure 1: Framework for analysing conflict mediation



Source: Dhiaulhaq et al. (2014)

The six cases were selected using the following criteria:

(1) occurrence of conflict related to forest and land;
(2) mediation approach applied;
(3) need to cover different types of forest and land conflict;
(4) accessibility of the site, cost-effectiveness and safety of the researchers and
(5) longitudinal dimension to the research, returning to sites where RECOFTC – The Center for People and Forests had previously conducted research on conflict management.

Table 1 reflects the selected case studies and figure 2 shows the location of the six cases.

Table 1: The case studies

Conflict issue	Primary actors	Selected case
1. Rock mining	Local community vs. rock mining company	Kampong Speu, Cambodia*
2. Rubber plantation	Local community vs. rubber plantation	Kampong Thom, Cambodia
3. Oil palm plantation	Local community vs. Oil palm plantation company and cooperatives	Jambi, Indonesia
4. Pulpwood plantation	Local community vs. pulp and paper company	Riau, Indonesia
5. Watershed	Highland vs. lowland communities in watershed	Chiang Mai, Thailand
6. Protected area	Local community vs. National Park authority	Kanchanaburi, Thailand*

Note: * = The cases in in Kampong Speu and Kanchanaburi are the sites where RECOFTC previously conducted forest conflict research (Yasmi et al., 2010), with additional data gathered in 2012–2013 to understand more about the mediation process.

Figure 2: Map of the location of the case studies

The fieldwork was carried out between July 2012 and May 2013. In total, 314 in-depth interviews and 19 focus group discussions involving 123 people were conducted with representatives from communities, companies, governments, mediators and non-government organizations (NGOs). A workshop of international experts was convened in Bangkok at the beginning of the study (March 2012) to discuss the methodologies and the research framework.

The data were collected collaboratively by RECOFTC researchers and conflict mediators not related to the conflict or mediation process in the selected sites. This method, labelled by the authors as "research-facilitated professional development", aimed not only to maximize the quality of the research but also to further develop the professional capacity of the mediators. The method captures the perspective of researchers and mediation practitioners as well as from locals and non-locals and it enriches the mediators' knowledge and skills (by learning from other cases of conflict mediation).

This paper presents the findings in eight sections which the structure follows the conflict mediation analysis framework (figure 1). **Section 1** provides the general background to the study, its scope and approaches, and key concepts. **Section 2** describes the six conflict cases covered in this study, and is followed by the description of the mediators and their capacities in **Section 3**. **Section 4** elaborates the objectives and roles taken by mediator to achieve their objectives. The detailed processes of mediation are explained in **Section 5**. **Section 6** discusses the social, economic and environmental outcomes of mediation, while **Section 7** elaborates the lessons learned and discusses the success factors, limitations of mediation and limitations within this study's research. **Section 8** presents the key findings and recommendations.

Key concepts

Conflict

In this paper, "conflict" is defined as a situation in which one or more parties pursues goals and interests through behaviour or actions that impair another party (Glasl, 1999). Conflicts over forests and land manifest at different levels of intensity, ranging from a simple disagreement to destructive war. Yasmi et al. (2006) identified eight categories of escalating stages in natural resource conflict (from the lowest to highest): (1) feeling anxiety; (2) debate and critiques; (3) lobby and persuasion; (4) protest and campaigning; (5) restricting access; (6) court case; (7) intimidation and physical exchange; and (8) nationalization and internationalization.

Conflict transformation

"Conflict transformation" is understood as a process for addressing the negative interactions between parties in a conflict and promoting conditions that create long-term cooperative relations. Conflict transformation sees conflict as an opportunity and catalyst for social change, aiming not only to stop the conflict but also to change the negative or destructive interaction to positive, constructive and humanizing interaction by empowering parties and recognizing shifts in their interaction (Reimann, 2004; Bush and Folger, 2005).

Conflict transformation is differentiated from "conflict resolution" and "conflict management." Conflict resolution comes with the assumption that conflict is negative and therefore should be resolved and ended, often indicated by achievement of mutually acceptable agreement between conflict parties. Resolution often does not entail addressing the underlying causes of the conflict. Conflict management comes with the assumption that conflict is complex and can never be resolved entirely, and therefore the approach works to manage the conflict by avoiding destructive escalation and attaining positive outcomes for all parties (Kriesberg, 1998; Reimann, 2004).

There are at least three indications that a conflict is transformed (Augsberger, 1992):

1. *The parties' attitudes change.* This is illustrated by "new" perceptions among the conflict parties, based on a commitment to view each other in a spirit of goodwill and mutual respect.
2. *The parties' behaviours change.* Parties focus on collaborative behaviour, including in their communication, and commit to mutually beneficial actions.
3. *The conflict changes.* Parties, by attempting to remove incompatibilities to pursue mutual gains.

Conflict mediation

"Mediation" is a process of conflict transformation that involves a mutually agreed upon and independent or impartial third party who has no authority to impose a solution (Wall et al., 2001; Bush and Folger, 2005). Mediation is also known as a process of assisted negotiation in which a third party, called the "mediator", assists conflict parties in developing an approach to solving their conflict problems. The mediator helps the conflict parties improve their communication and reach a better understanding of the conflict situation so that they can identify solutions and choose one that meets the interests and/or needs of all of the conflict parties (win–win solution) (Engel and Korf, 2005). The mediator may provide suggestions regarding options and potential solutions throughout the process, although she/he cannot impose the solution (Wall et al., 2011).

2. The six conflicts

Description of the conflicts

The cases covered in this study represent various types of forest and land conflicts that involved different actors, issues and at varying levels of intensity. They cover conflict related to pulpwood, rubber and oil palm plantations, protected area establishments and management, rock mining and watershed management (table 2).

Five of the six cases involved communities in conflict with external actors (plantation companies, mining companies and protected area authorities), while the sixth case involved conflict between communities in a watershed. Even though each conflict studied was unique, the case studies share common land issues involving conflict related to the changes in the use of the land, such as the conversion of forest and land for plantation, mining or agriculture uses or to protected areas. The prominent root cause of the conflicts was the contested tenure and overlapping claims to the forest and the land.

Most of the cases were of medium intensity, with the others higher (medium-high and high intensity) (table 2). A medium intensity level is indicated by the infringement and/or restriction of one party's activities to other parties' activities (such as blocking a road, restriction of livelihood activities and access to forest resources), while high-intensity conflict is indicated by the presence of violence.

The conflicts impacted on the conflict parties in social as well as economic and environmental terms. In the Jambi (Indonesia) case, which had a high level of intensity, six villagers were seriously injured after being shot with rubber bullets by the police during an occupation of the oil palm plantation (table 2).

Why did each conflict turn to mediation?

In all six cases, mediation was sought by the parties after several attempts with other management approaches failed to achieve a solution to their conflict. The lack of mutual trust, negative interaction due to the prolonged conflict and the imbalance in negotiating power among the parties were some of the reasons why the negotiation attempts failed. In other cases, such as in Kampong Speu (Cambodia), the negotiation failed because both the mining company and the community had legal documents issued by the Government that granted them each the right to manage the same piece of land (for community forestry and for mining).

In the two cases from Indonesia, the local government authority at first attempted to mediate the conflict, without success. According to the parties, this failure was due to a lack of trust (concern about government partiality), the tendency to prioritize statutory law over customary law, indecisiveness and the lack of a systematic conflict transformation approach. After several unsuccessful attempts, mediation by an independent third party was chosen by the conflict parties as an alternative approach to transform the conflict.

Table 2: Brief summary of the cases

Case	Conflict parties*	Intensity	Description of the conflict
Kampong Speu, Cambodia	Local community vs. rock mining company	Medium–high	The central Government granted a licence to a rock mining company in an area that overlapped with a community forest. In 2009, the company started to clear the forest for its mining establishment. The company, supported by soldiers, felled trees in the community forest, created dust and noise pollution and destroyed the community's forest and farmland. The villagers reacted strongly against the company. The community demanded the company stop its activities and asked for compensation, but without success. This led the community forest members (about 65 people) to take up knives, sticks and poles and seize the company's bulldozer to forcibly stop the clearing of the land. The commune chief and local NGOs asked the parties to engage in peaceful mediation. The commune chief mediated, with support from the Provincial Division of Forestry Administration, resulting in the company eventually agreeing to stop clearing and return the forestland to the community. Uniquely, the agreement was only made orally.
Kampong Thom, Cambodia	Local community vs. rubber plantation company	Medium	Without prior consultation, the central Government granted an economic land concession to a rubber plantation company in an area that overlapped with the three community forests. The conflict occurred when the company started clearing the area, including the parts belonging to the three communities, resulting in disruption to villagers' livelihoods. The community forest leaders tried to negotiate with the company over a period of three to four years, without success. This triggered direct protest by the community to claim back their forestland. The commune and district head attempted to mediate the conflict, without reaching any agreement. The parties then sought help from the provincial government. The Provincial Division of Forestry Administration stepped in as mediator, inviting all parties to seek a reasonable solution. After three years, the parties reached an agreement in which the three affected communities received the right to manage their forests.
Jambi, Indonesia	Local community vs. oil palm plantation company and cooperative	High	A cooperative and an oil palm plantation company offered a partnership with villagers of Karang Mendapo to develop an oil palm plantation under the Primary Cooperative Credit for Members scheme, promoted by the national Government. In their 2001 agreement, the villagers handed over their land to the cooperative for developing the plantation. According to the scheme, the land was to be returned to them four years after that planting. The conflict arose because the plantation land was not handed back to the villagers at the agreed time. Additionally, there were concerns about the lack of transparency on the costs of the plantation development and the benefit sharing. In 2008, the villagers decided to occupy the plantation. The conflict escalated, peaking in January 2011 when the police shot at the occupying villagers with rubber bullets, causing serious injury to six of them. The local government attempted to mediate, without success. Eventually and with the agreement of the community, the company contacted an NGO, to help mediate. After six months, the mediation brought the parties to an agreement in which the community manages the plantation on condition that they sell the oil palm fruit to the company.
Riau, Indonesia	Local community vs. pulp and paper company	Medium	A pulp and paper company was granted a concession to establish a plantation in an area overlapping with community land. Because of the overlap, several low-level conflict incidents (verbal threats) occurred, with tensions between the company and villagers fluctuating since 1994. The conflict peaked in 2006 when the company cleared areas that contained villagers' old farms, a graveyard and ancestral land. The villagers sent letters of objection to the company, demonstrated and blocked roads. They also sought support from local NGOs. The local government attempted

Case	Conflict parties*	Intensity	Description of the conflict
Riau, Indonesia	Local community vs. pulp and paper company	Medium	to mediate, without success. The company initiated a meeting with the villagers and the NGOs, in which the participants agreed to have an independent third party mediate a negotiation between them. A Riau-based NGO, with support from a social anthropologist from a University in Jakarta, mediated. At the beginning of the process, an analysis of the socio-economic conditions and a plantation feasibility assessment were conducted by university researchers in Riau to provide information needed in the discussion about possible solutions. After two years, the mediation resulted in two agreements between the company and the affected communities. However, only the first agreement could be fully implemented while the second one was not implemented at all due to lack of support and recognition of the agreement by the newly installed local government.
Chiang Mai, Thailand	Highland vs. lowland communities in a watershed	Medium	The increased need for water resources resulting from land use changing from opium to cash crop and commercial fruit cultivation (such as cabbage and longans) as well as negative perceptions about traditional shifting cultivation of the ethnic community living in the highland created tensions between the highland and lowland communities in Mae Tia Mae Tae watershed. The conflict peaked in 1997–1998 when there was a drought. The lowlanders blocked the transportation routes, thereby hindering the movement of the uplanders. A local government representative stepped in and helped persuade the lowlanders to unblock the road. After several years of conflict, discussion among the leaders revealed that the villagers had tired of the prolonged conflict and tired of hating each other and they wanted to find a constructive solution. In 2003, An NGO who was based in Chiang Mai and was in the area implementing a project that promoted joint management of the protected area, offered to help mediate the conflict. After a year, a watershed network committee representing all communities in the highland and lowland areas was established. It became a platform for discussion on the conflict problems and solutions. After six years, they reached an agreement on the rules and regulations regarding the watershed management. The network remains active.
Kanchanaburi, Thailand	Local community vs. national park authority	Medium	In 1981, the central Government established two national parks (the Sri Nakarin Dam and Chalerm Rattanakosin national parks) in an area that overlapped with the village of Teen Tok, where the villagers had lived for more than 250 years and remained managing the forests. After the two national parks were declared, the national park authority strictly forbade anyone to settle into the area, extract forest products or conduct any economic or livelihood activity. The new restrictions triggered conflict between the national park authority and the villagers. For more than 20 years, local communities were arrested and had their land confiscated by the national park officials. The local (village and subdistrict) government tried to defuse the tension and negotiate with the national park authority, without any meaningful result (the conflict remains ongoing). The central Government together with the Chalerm Rattanakoshin National Park authority conducted a pilot project on Community Participation in National Park Management to reduce the tension with the communities, but it also was not fully successful in addressing the conflict. In 2004, an NGO (based in Bangkok) started a project on the joint management of the protected area and helped mediate the conflict. The mediation provided a platform for dialogue between the parties, and after two years, resulted in agreement between the national park authorities and villagers, redrawn boundaries and the establishment of a Villagers' Forest Conservation Network.

Note: *= As part of our endeavours to maintain anonymity, whenever possible, the identities and names of the conflict parties and the mediators are omitted.

3. The mediators

The study found that NGOs are important in mediating conflict. Four of the six conflict cases analysed (from Kanchanaburi and Chiang Mai in Thailand and Riau and Jambi in Indonesia) were mediated by NGOs, while the other two, from Cambodia, were mediated by a government official. Mediators in all six cases worked in a team of more than two people in each case, allowing them to share roles and responsibilities among the team members. In the Jambi and Riau (Indonesia) cases, for example, each mediator team consisted of three people, whose roles were shared, such as lead mediator, meeting facilitators, stakeholder engager and the one responsible for logistical preparation and documentation. Although the roles among each team members are clear, all team members assist and complement each other in doing different roles.

The six case studies have differing stories on how the mediators became involved in the conflict and how they mediated it: In both cases in Indonesia, for instance, the mediators (NGOs) were asked by one party to help resolve the conflict, followed by the other parties agreeing to the process. In both the Thailand cases, the mediators (also NGOs) initiated the process by offering their help to mediate the conflict when they saw tensions escalating, which threatened their projects to promote co-management of the national park (joint management of protected areas projects). In the Kampong Thom case in Cambodia, after the failure of several negotiation and mediation attempts at the commune and district levels, the director of the Provincial Division of the Forestry Administration offered to take the lead role in mediating. None of the six cases involved a court-ordered mediation.

Different mediation styles were employed in the six cases. The NGO mediators tended to be more facilitative in their methods (the mediators asked the parties to suggest solutions and then agree on one, without much intervention from the mediators). The government mediator in Kampong Thom (Cambodia) tended to be more directive and interventionist in the decision-making (the mediator pushed the conflict parties to accept the government-proposed solution). In that case, the community members thought the proposed solution somewhat favoured the company; but as one of the community forestry members who had participated in that mediation process recalled, they decided "it was better than nothing."

Mediators' capacities

A skilled mediator is a fundamental component of successful mediation. This is particularly important because the success of the mediation process hinges, to a large extent, on the competency of the mediator. The achievement of the agreements in the six cases was possible because the mediators had the skills, knowledge and personal characteristics that proved crucial in handling the conflict negotiation.

This study found that some of the mediators in the six cases had been trained in mediation: The mediators in three cases had participated in training on conflict management before the mediation occurred. However, all the mediators had experience working with communities (community facilitation) and some of them had experience in mediating other conflicts. The mediators in the Riau (Indonesia) case, for example, had never had any mediation training but they had been NGO activists and used their skills and experiences, such as facilitation, participatory mapping, communication and community-organizing skills, to mediate the negotiation. In Riau, support from the external experts (academics from the local university and one in Jakarta) was vital. In particular, they filled the capacity gaps of the mediator; for example, they suggested and conducted an appropriate analysis of the socio-economic conditions and the plantation feasibility assessment.

When interviewed, the mediators in Jambi highlighted the importance of previous field experiences for having helped shape them as effective mediators, while conflict management trainings provided them with a deeper understanding of conflict issues, methods for analysing a conflict and the stakeholders, and systematic and strategic approaches to mediation.

In reflecting on their experiences, mediators and villagers who had been party to a conflict cited the qualities (personality traits, skills and knowledge) that they thought contributed to the success of the mediation in their particular case. In sum, the effective mediators had a combination of all or some of the following qualities:

Core personality traits

Personality traits were considered one of the most important facets of a successful mediator. Because they deal directly with the individuals and groups whose behaviour is greatly influenced by the conflict environment, mediators must gain the trust and respect of all parties. The following traits were cited as crucial:

- ***Trustworthy.*** That all parties trusted the mediators and the mediation process was an absolute requisite in all six cases. However, the study found that trust is not something that can be gained easily. In the six cases, trust had to be worked at and built up at the beginning of the mediation process, especially if the mediators were external and/or new to the conflict case that they are being asked to mediate.

- ***Impartial.*** Clear impartiality of the mediator was one of the most sensitive issues discussed during the research. It was demanded by the parties in all six cases. However, according to one of the mediators, the parties' suspicions of him were to be expected: "Although I did my best to be fair and accommodate both parties, there were still people who thought that I had taken sides with another party. Nevertheless, the parties were still following the mediation process until they reached agreement, which seemed a sign that the parties still trusted the mediation process." In the Kampong Thom case, the community's suspicions of the mediator's neutrality were reflected in their dissatisfaction with the results of the mediation process, although they still accepted it.

- ***Empathetic.*** Villagers in Indonesia and Thailand case study sites explained that one of the reasons they were interested and agreed to join the mediation was because they felt their mediator was empathic – wanted to listen, to discuss and to understand their needs and aspirations. Some of the mediators in the Thailand and Indonesia cases were even willing to temporarily move in with the community in their village to better understand the problems and the conflict situation. There are risks in doing this, including possible suspicion from the other party. As well, emphasized by one of the Indonesian mediators, within the community there may be groups with different interests in the conflict and in the mediation process. This can lead to suspicion even within one party to the conflict if a mediator stays in the home of someone from one of those groups.

- ***Culturally sensitive.*** This trait was highlighted by both mediators and villagers who had been party to the conflict. All six conflicts involved local communities, including ethnic minority groups who use traditional methods in managing their natural environment and in how they interact and deal with conflict. In the Kanchanaburi and Chiang Mai (Thailand) cases, for example, one of the drivers of the conflict was a misunderstanding of the communities' traditional farming system (rotational farming), which is sometimes considered by others as degrading the forest. In these cases, the mediators tried not only to understand the culture for themselves but encouraged the other party in the conflict to better understand and respect the traditions.

- ***Patient and self-controlled.*** This trait is also considered important, particularly in dealing with the long and exhausting mediation process as well as in dealing with the stress and tensions of interacting with all parties during the mediation meetings. The mediators in Jambi and Riau (Indonesia) explained that self-control is vital because people on all sides sometimes are unable to control their emotions. They also highlighted this trait for dealing with criticism from the parties who express dissatisfaction, sometimes quite demonstrably, with the process or the results of mediation meetings.

Core skills

- ***Communication skills.*** According to the villagers in the case study sites, the ability of the mediators to get along with them and the ability to communicate effectively with all parties, to listen attentively and to speak in simple and understandable language mattered to the success of the mediation process. Additionally, the ability to enable positive communication between parties was also important. For example, in the mediation meetings, the mediators needed to reduce the tension when the parties expressed strong emotions and used negative and emotional language. In such moments, the mediators in the Indonesian cases used a "reframing" or "rephrasing" technique in which they paraphrased a party's negative statements as more positive and constructive.

- ***Analytical skills.*** The mediators considered this skill was valuable for truly understanding the root causes of a conflict and to map the actors, the parties' interests, the issues, the impacts and the internal and external situations that could influence the conflict's transformation. They also needed to be capable of identifying possible strategies for transforming the conflict as well as options for agreement. Some mediators used stakeholder mapping, the conflict stages model and/or problem tree analysis to help them.

- ***Process facilitation skills.*** The mediators in all cases cited this as one of the fundamental skills of a successful mediator. It includes not only the ability to facilitate the mediation meetings but also the ability to design and explain to the parties how the mediation will be conducted, convene the parties, manage time and track and report on the mediation process while assisting the parties in developing an agreement.

- ***Problem-solving skills.*** This broad skill includes the ability to help the conflict parties to clarify and reframe their differing views about the problems, to facilitate the parties in realizing for themselves what the conflict is really about and to encourage them to move forward towards a solution. This skill also includes the ability to facilitate the parties to generate ideas on potential solutions to the conflict. When the parties could not find the solutions themselves or if a deadlock occurs, the mediators sometimes needed to come up with creative ideas or options that could be considered by the parties. In the Chiang Mai (Thailand) case, for example, the mediator introduced an idea of forming a watershed network committee in order to create a platform for discussion between the upland and lowland people on the management of the watershed. This idea was agreed by the parties.

- ***Documentation and information management skills.*** Mediation in forest and land conflicts often deals with a large amount of information. In the Kanchanaburi (Thailand) case, for example, the mediation produced numerous participatory boundary demarcation maps, partly as a result of the negotiation and re-negotiation. In that situation, it was necessary that the mediator keep track of the different versions of the map agreed by the conflict parties to avoid any confusion. Mediators in the Jambi (Indonesia) case also recorded and tracked the process of mediation in the form of meeting minutes signed by all parties' representatives and an assessment report that was useful for reference during the mediation process.

Core knowledge

- ***Understanding of the conflict issue and context*** is critical in addressing the conflict. This includes understanding the underlying causes, the impacts, the primary actors and the history of the conflict as well as the relevant policies and legal framework. Most of the six conflict cases were directly or indirectly caused by government policies and regulations (non-transparent process of granting concessions and establishment of a national park, for instance). In the Cambodian cases, both the company and the community forestry management committee had their own legal document from different government agencies to support their position, which meant the mediators had to understand the particular legal and procedural issues fully in order to resolve the problem.

- ***Understanding of the concepts of conflict and mediation*** are also important, including a master grasp of the different sources and types of conflicts, the power dynamics in the conflict (and how to best handle them), the general processes and principles of mediation, the roles of mediators and co-mediators, a comprehensive familiarity with the many options and strategies for interventions and mediation meeting management.

4. Aims of mediation and the roles of mediators

In its simplest form, mediation seeks to assist the conflict parties in reaching a decision and/or a mutually acceptable solution to their conflict. Depending on what they consider as an appropriate solution, the mediators and parties involved in mediation may have differing goals regarding the mediation. The aim of a particular conflict's mediation is a critical factor determining what roles the mediator takes on and the methods and strategies applied in the mediation process. The mediation's aim also influences the strategies of mediation chosen.

Aims of mediation

While having the ultimate or long-term objective to transform the conflict into collaboration, in some of the cases the mediators set an immediate objective as a stepping stone to achieve the ulterior one. This was particularly the situation in the cases involving violence and where lives were at risk, such as in Jambi (Indonesia), where police shot six villagers during the occupation of an oil palm plantation. In Jambi, the mediator and the parties put the reduction of conflict intensity as the immediate objective of the mediation.

In most of the cases studied, the mediation was pursued with the intent to transform the negative interactions between the conflict parties into something positive that would foster a long-term cooperative relationship between them. In short, the mediation was to go beyond just stopping the conflict.

In both the Thailand cases, for example, the ultimate aim of mediation was to enable both conflict parties to work together over the management of the natural resources. In the Kanchanaburi case, the mediation promoted cooperation between the communities and the national park officers (joint management) in conserving the national park. In the Chiang Mai case, the mediation sought to enable the highland and lowland people to work together in managing the Mae Tia Mae Tae watershed.

Roles of mediators

In achieving their mediation objectives, the mediators in the six cases worked as team and took on all or some of the following roles:

- **Process facilitator.** In all six cases, the mediators shared a common role as facilitator of the mediation process, such as convening the conflict parties, creating an environment conducive for healthy dialogue and facilitating the mediation meetings. In the Jambi (Indonesia) case, the mediators also facilitated the process for selecting the representatives of both parties in the mediation process to ensure that they were legitimately chosen and acknowledged by their constituents to make decisions or agreements on their behalf.

- **Communication facilitator.** Prolonged conflict often breaks the communication channel between parties. In the Chiang Mai (Thailand) case, the mediator actually created and showed a video describing the lives and livelihoods of both parties, including interviews with influential people on either side. The purpose was to enlighten both sides and encourage mutual awareness that both parties have the same interests and objectives in managing the watershed sustainably.

- **Advisor.** Most of the mediators helped the parties to explore alternative options for solutions and, when necessary, provided suggestions to the parties, especially when the parties could not propose any solution themselves.

- **Capacity developer.** Some mediators helped develop capacities among the parties. In the Riau (Indonesia) case, for example, the mediator noted the imbalance between the community and company regarding negotiation skills. Before the mediation process began, the mediator (in this case) provided informal training to the community on negotiation techniques and ethics in negotiation. In the Kanchanaburi (Thailand) case, to facilitate the process of boundary demarcation, the mediator provided a one-day training on global positioning system (GPS) technology and mapping. One of the aims of the training was to empower villagers to "talk the same language" as the national park officials, especially regarding mapping.

- **Resource provider.** In some cases, the mediators provided the resources needed in the mediation process. The mediator in Kanchanaburi, for example, provided technical assistance in using GPS and computer-based mapping application to facilitate the process of participatory boundary demarcation, which involved the national park officers, the villagers and the mediator. In the Riau and Jambi (Indonesia) cases, the mediator secured experts (academics) needed during the preparation phase for the mediation to conduct a socio-economic assessment and to be a resource person during a seminar on cooperative credit for a members scheme, which was attended by all parties.

5. The mediation process

The study found that the mediation in all six cases followed different approaches. There certainly was no one-size-fits-all approach, as it depended considerably on the dynamics and context of the conflict. In terms of duration, the mediation processes ranged between six months and six years (table 3) to reach an agreement.

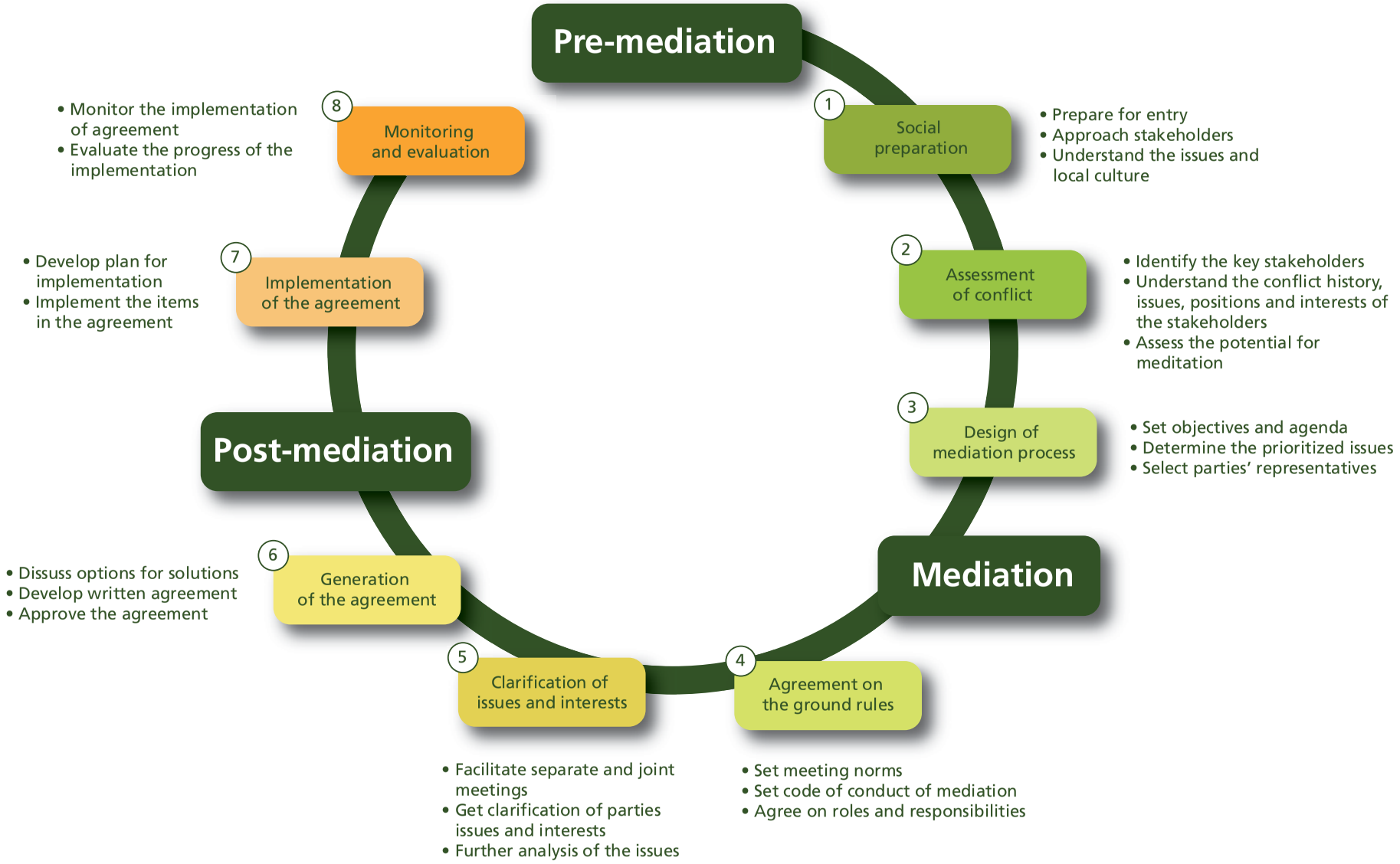
Table 3: Duration of each conflict and mediation process

Case	The duration of conflict*	The duration of mediation*
Chiang Mai, Thailand	20 years	6 years
Jambi, Indonesia	4 years	6 months
Kampong Speu, Cambodia	8 years	3 years
Kampong Thom, Cambodia	5 years	2 years
Kanchanaburi, Thailand	20 years	2 years
Riau, Indonesia	10 years	2 years

Note: * = approximate.

This section presents a general overview of the processes of mediation in the six cases. These processes can be divided into three main stages: pre-mediation, mediation and post-mediation, each consisting of a number of steps (figure 3). Please note that the process maybe iterative.

Figure 3: The process of mediation



Source: Authors

Pre-mediation phase

The pre-mediation phase consists of preparatory steps that the mediator makes. In discussions with both mediators and villagers who had been party to the conflict, this initial phase was emphasized as important for ensuring the success of the mediation.

Social preparation

In the Kanchanaburi (Thailand) case, the mediator's team spent about a year making the "social preparations" for the mediation as part of a project to promote the joint management of the protected area. The point of the social preparation was to build trust, get to know the parties, build relations as well as understand the culture and conflict issues. Part of the social preparation involved the mediators making contact with formal and informal village leaders as well as the national park officials; this was considered a critical step for "opening the door" for the mediators' work in the area.

Trust-building was critical, regardless of whether a mediator was completely external to the conflict or had direct links beforehand. In the Riau and Jambi (Indonesia) cases, for instance, there were expressed concerns about the independence and neutrality of the mediators in each case, but for different reasons. In the Riau case, the company was worried that the mediators, who were members of the NGO that previously had advocated on behalf of the community, would take the side of the community. In the Jambi case, the community was concerned at the beginning about the mediator team because they had been contacted initially by the company. After several intensive meetings in both sites, which included clarification of the mediators' objective to help resolve the conflict, all the parties soon agreed to pursue the mediation process.

Assessment of the conflict

To gain a deeper understanding of the conflict (the underlying issues, the main actors and their interests), the mediators in the six cases conducted a conflict assessment in the early stages of their involvement. The mediator in the Chiang Mai (Thailand) case, for example, made field observations, interviewed a variety of people and initiated group discussions with community leaders or villagers from the watershed area.

In the assessment process, the mediators also analysed the potential of the mediation, particularly whether it was suitable for transforming the conflict. They considered the willingness and commitment of the parties to resolve the conflict, the clarity of the issue and the availability of the resources (time, human resources and funding) before deciding to continue to the mediation process. In some cases, however, the decision of whether "go" or "no-go" to mediation was not based on a proper analysis.

Design of the mediation process

After both parties in each conflict agreed to mediation, the mediators and the representatives of the parties in all six cases met to discuss and develop a strategy on how they would achieve the mediation's objectives. The plan encompassed specifying the mediation steps, the timetable, who would be involved, their roles and responsibilities and the likely expenses.

Because the conflict involved a large number of community members, the mediators in the two Indonesian cases facilitated the process of selecting representatives to ensure that they had the authority to make decisions on behalf of the whole community. In the Riau case, the Lubuk Jering community formed a tim sebelas (team of eleven) as their representative in the mediation process. The team members were selected based on their position as a village governance leader, a youth leader, religious leader, a customary leader and as other influential residents of the village. In the Jambi case, the mediator facilitated separate meetings for each party to appoint three representatives.

Mediation phase

The mediation phase often consists of a series of meetings (joint and separate) to clarify and discuss the issues and negotiate the options for solutions, including how to build long-term positive relationships between the parties. The formality of the meetings can vary and can be attended either by only the representatives of the parties or, in some stages and if necessary, by a larger number of persons (such as a village meeting).

Agreement on the ground rules

It is important that all parties agree on the rules for the mediation process, before it begins. For example, in the Jambi (Indonesia) case, the parties agreed to respect others when they speak, to refrain from any physical or verbal attack of the other party, to honour the confidentiality of the discussions and to not smoke during the meetings. They also agreed that both parties had a right to request break sessions and that both sides should have equal time and opportunity to speak.

Clarification of issues and interests

In all cases, the mediator facilitated sessions in which the conflict parties described their interests, needs and expectations and could ask for clarification from other parties regarding their concerns. The discussion included which issues were to be prioritized and to be the focus of the mediation.

These sessions transpired both in joint meetings attended by all parties and in separate meetings with the individual parties (caucus). They helped bring out a deeper understanding of the underlying interests and values within both parties and what each party perceived as the best alternative to a negotiated agreement, should the mediated negotiation fail. In the Kanchanaburi (Thailand) case, for example, the mediator was invited to one of the village's monthly meetings to lead a discussion on the ongoing conflict. In one of the meetings, around 100 villagers and some national park officials were present. Individuals from both sides expressed their concerns, issues, problems and opinions. To safeguard against any misunderstanding, nearly everyone spoke in their native (Karen) language. Additionally, the mediator also facilitated several dialogues (in separate and joint negotiations and through shuttle diplomacy between the parties) between the parties to discuss and clarify their interests, needs and problems. Through those processes and meetings, it was revealed that the community's underlying interests were they still wanted to remain settled in the national park and be allowed to continue their agricultural livelihood activities. The national park authority was willing to allow the present villagers to stay living in the national park but they could not extend their land beyond the current settlement area and not to sell the land to others. The villagers also were restricted from extracting timber from the national park.

Generation of the agreement

After all parties had expressed and clarified their concerns and interests, the mediator began facilitating the process of exploring options for resolving those concerns and issues. At this stage, the mediators in all the cases articulated the differing views by "reframing" them in a positive way to create mutual understanding of the conflict's core issues and yet to encourage the parties to move forward towards a sustainable solution.

At this point in the Kampong Thom (Cambodia) case, the mediator invited not only the representatives of the conflict parties (the community and the rubber plantation company) but representatives from NGOs, local government and various sectors of the government to jointly develop options that would resolve the conflict. The community and company representatives talked about their interests and demands while the NGO and local authority representatives contributed their perspectives on how to achieve a solution.

In the Riau (Indonesia) case, the community and company had different demands over the disputed 1,627 ha of land. The company wanted the land to be planted with Acacia trees under a community-based forest management scheme while the community wanted the land to be used for planting rubber and oil palm trees that they would manage. The mediator steered both parties to think of options that would accommodate both interests. Eventually, the parties arrived at the idea of diversifying the land use – using "integrated interest-based solutions" – to ensure that they both benefited from the land but not at the expense of the other party's needs and interests. In this option, they could divide the land for different uses (community-based forest management, industrial plantation, oil palm plantation, rubber plantation) that would accommodate the demands of both parties.

After several meetings in which small incremental agreements were achieved, each party drafted a written agreement and then shared it with the other party. The mediator looked at each party's draft agreements for the common ground that everyone saw as the way forward. At this stage, the role of the mediator was to facilitate the exchange process and to provide assistance, particularly to the community, in drafting their agreement and to explain the company's drafted proposal to them. Once both parties were clear in their understanding of the other side's draft, the parties met together again and discussed a consolidated agreement. This led to a written and signed memorandum of understanding.

In both Cambodian cases, no officially drafted agreement ever surfaced. The final agreement in Kampong Thom appeared as the minutes of the concluding meeting, while in Kampong Speu, there was no written agreement (no meeting minutes were taken) – just an orally agreed resolution.

Post-mediation phase

Implementation of the agreement

The mediators and various members of the conflict parties from the six cases differed on whether mediators should stay involved for the implementing of the agreement. Some thought the mediator's responsibility is fulfilled when the parties reach a final agreement; others thought the mediator is also responsible to make sure that the agreements are implemented as agreed and that the longer-term objectives, such as improving social relationships, are achieved. According to members of the conflict parties, some tense issues arose in the implementation phase, which they thought required the mediator to help address.

The case study research found that the success of achieving an agreement is not automatically followed with successful implementation. In fact, implementing an agreement is as complex – or more – as developing one. In the Riau (Indonesia) case, for example, two agreements were signed (in 2007 and 2008). But only the first one was fully implemented with the handover of the management of the palm oil plantation from the company to the Lubuk Jering community in 2007. The implementation of the second agreement (regarding the disputed 1,627 ha of land) was constrained by the lack of support and recognition from the newly installed local government. In the regular election of the village head, the person in place during the mediation period was replaced. The newly elected village head as well as the new subdistrict head did not recognize the signed agreement, leading to setbacks in the implementation. According to the mediator team and the conflict parties, the new village head and subdistrict head both explained to them that because they had not been involved in the mediation, they had no relationship with the agreement. The new village head dissolved the "team of eleven" (the villagers' representatives in the mediation). The implementation failed, which actually left both the company and the community disappointed.

Monitoring and evaluation

In both cases in Cambodia, the agreements were implemented under the provincial government's supervision, which had the authority to enforce, monitor and evaluate the implementation. The involvement of the provincial government in the conflict mediation provided the opportunity for them to improve their understanding of the impacts of the economic land concession policies; based on that experience, the central Government began reviewing its sub-decrees on forestry and economic land concessions across the country, although with mixed results (Milne, 2013).

6. Outcomes of mediation

Conflict transformation aims to achieve fundamental changes in the relationship between opposing parties. This includes changes in their attitudes, perceptions and behaviour towards each other as well as removing the source of the incompatibility that brought about the conflict (Augsberger, 1992). This study found such changes. The following reflects the positive outcomes of the mediation examples studied and their impact on the conflict parties (the communities, the companies and the government). There were no negative outcomes mentioned during the interviews and the focus group discussion.

Social outcomes

Social outcomes were the most notable impacts of mediation in the study sites. These include:

- **Reduction of conflict intensity.** The common result of mediation in the six study sites was the significant reduction of conflict intensity. In the Jambi (Indonesia) case, for example, the mediation reduced the intensity from an intimidation and physical exchange level (six villagers were shot by police) to achievement of the agreement, although the conflict continues at a low level, which means debates and disagreements over some decisions and issues (without any intimidation and violence).

- **Attitude and behaviour change.** Where they had occurred, the hostile attitudes and behaviour of the conflict parties changed towards an atmosphere of mutual understanding and respect as well as mutual commitment for long-term cooperation. A national park ranger in Kanchanaburi described the change as general civility and even friendship:

  > *"In the past [during the conflict], national park rangers and villagers never talked to each other. Now, when we pass the village for regular forest patrol, the villagers call us to offer meals or drinking water."*

- **Improved social relationships.** Following the reduction of the conflict and the attitude and behaviour changes, the tensions dramatically reduced and the relationship between the parties improved. In the Riau (Indonesia) case, for instance, the improved relationship is evident by the company employers feeling comfortable visiting the village for social events, such as weddings, or to pray in the village mosque. After the case in Kanchanaburi (Thailand) was resolved, the village leader began communicating directly with the national park superintendent to discuss any issue, something he never did before due to the prolonged conflict.

- **Security.** The improved relationships are reflected in the increased sense of security among the parties to continue their conflict-related activities, with implications for sustainability. For example, in the Kanchanaburi (Thailand) case, the villagers grow their crops throughout the year on the land that was once the source of their tension – without fear of being arrested. The sense of security is also felt on the national park side, in working to conserve the forest, based on improved relations with the local villagers. As one villager remarked:

  > *"When the conflict happened, I had to work quietly in the farm [in order to avoid being caught by the national park officers]. After the conflict was resolved, now I farm without fear and can sing again while working in the field. The forest condition is also better."*

- **Long-term collaboration.** For sustainable transformation to occur, an environment for long-term collaboration is important. In the Chiang Mai (Thailand) case, for example, the Mae Tia Mae Tae Watershed Network Committee was established as a formal organization, focused on managing the watershed. The committee consists of representatives from all 23 villages of the highland and lowland communities previously embroiled in dispute who meet at least once a month to discuss any issues and topics related to the management of the watershed. The network remains active.

- **Empowerment.** Mediation empowered both parties of the conflict. The capacity-development activities organized by the mediators improved the parties' understanding of the conflict issues and beyond by leaving them with problem-solving skills and technical and soft skills. In the Kanchanaburi (Thailand) case, for example, to facilitate the process of boundary demarcation, the mediator provided a one-day training on the use of GPS technology and mapping to help the villagers and national park officials "talk the same language", especially regarding mapping. Those skills are useful now for other purposes. In the two cases from Cambodia, the involvement of the provincial government in the conflict mediation provided the opportunity for policy-makers to understand the issues and impact of their policies in the field and how to redress the negative outcomes.

Economic outcomes

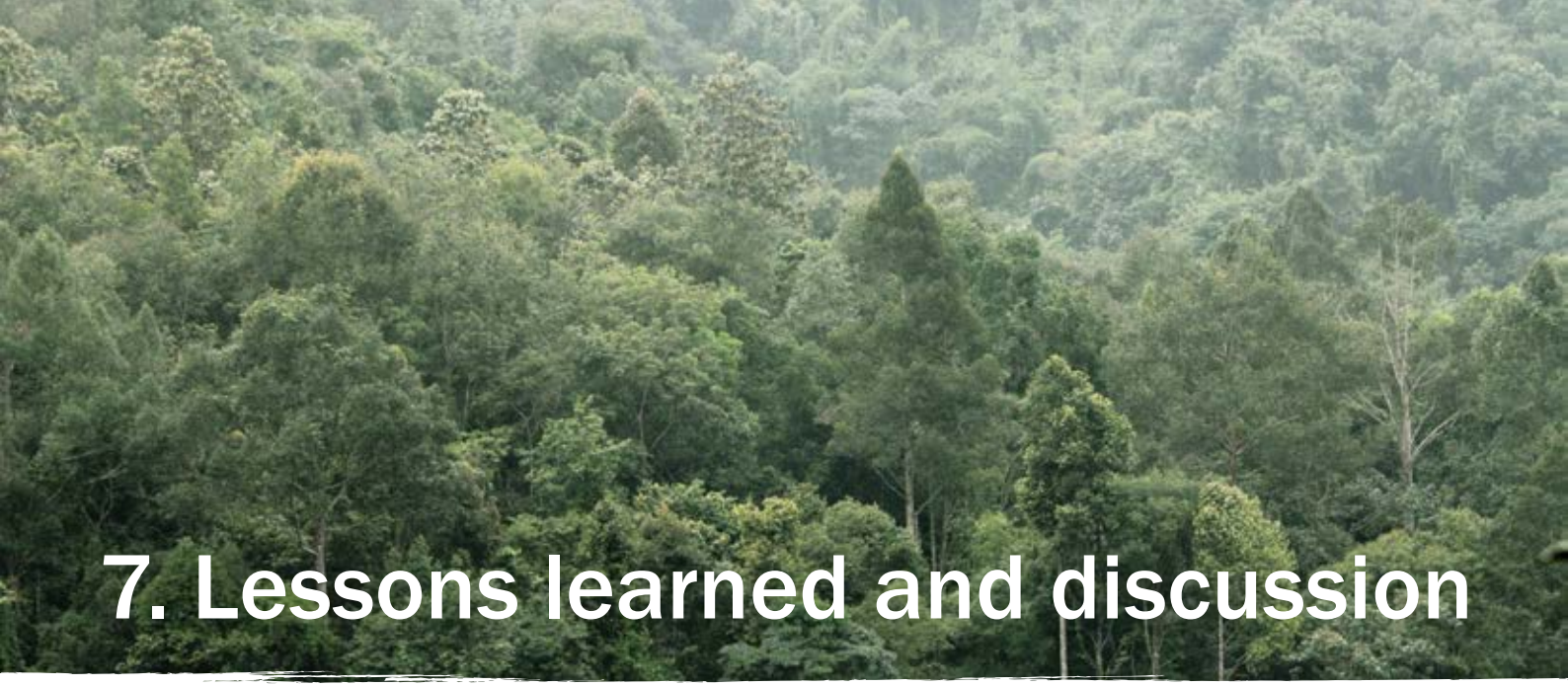
- **Improved livelihoods.** In general, most of the interviewed parties in the six cases reported that after the settlement of the conflict, they had better opportunity to improve their livelihoods and income. In the Jambi (Indonesia) case, the mediated agreement allowed the villagers to continue managing the oil palm plantations, which meant opportunities for employment and income generation. In the Kanchanaburi (Thailand) case, the villagers were able to use the land for agriculture and other income-generating activities without any disruption (such as arrest by national park officers). This made them more confident to invest time and money in their agricultural activities; they now can, for example, grow their crops throughout the year, resulting in more stable and secure income. In the Kampong Speu (Cambodia) case, the mediated agreement allowed the villagers to continue managing their forest and earn income from the forest resources, such as vegetables and mushrooms.

- **Better corporate reputation and image.** For the companies, the transformed conflict was used as a success story to increase their corporate reputation and image. In the Riau and Jambi (Indonesia) cases, for example, the two companies used the stories of conflict transformation in their reports and publications (such as the company's sustainability report and a conference paper to improve their corporate image.

Environmental outcomes

- **Improvement of participation and environmental awareness.** In the Kanchanaburi (Thailand) case, the mediation was part of the Joint Management of Protected Area Project, which included awareness-raising on forest conservation and alternative livelihood programmes. Those activities in conjunction with the mediation increased the communities' awareness of the importance of forest conservation and increased their willingness to participate in forest management and conservation. In 2008, the villagers created a forest protection volunteer network, which now numbers more than 150 members who work together with national park officers on forest protection and forest fire management.

- **Improvement in forest quality.** Based on the interviews and the focus group discussions with villagers and national park officers who had been involved in the Kanchanaburi (Thailand) case, the increased participation of the community in forest management as well as the compliance with the rules and regulations on forest use agreed during the mediation indirectly led to the perceived improvement of forest quality (not yet scientifically confirmed), such as forest density, biodiversity (increased number of wild animals, such as tigers, birds and elephants found in the forest) and the provision of ecosystem services (water flow from the forest, which are important for forest habitat and local community's agriculture and daily needs).



7. Lessons learned and discussion

The case study research indicates that mediation had a crucial role in the transforming of the forest and land conflicts, particularly in reducing conflict intensity, finding resolution and fostering improved relationships between the conflict parties. Mediation facilitated the creation of an environment conducive for multi-stakeholder dialogue. It built trust among once-opposing parties and it left problem-solving processes in place.

This study suggests that mediation works well in different types of forest and land conflicts, tensions over oil palm and pulpwood plantations, mining, protected areas and watershed management. The flexibility in the mediation approaches used in the six cases allowed its application by different actors with differing backgrounds. While most of the conflicts studied in this paper are mediated by NGOs and Government, there are other cases in the region that were mediated by customary institutions and court-annexed mediators (Maring et al., 2011; Syukur and Bagshaw, 2013). In the two cases in Thailand, mediation was combined with or as part of a participatory forest management project and a conservation project, indicating that mediation does not have to be a stand-alone process or be conducted by a mediation organization.

As a tool for conflict transformation, the effectiveness of mediation relies on the person who facilitates it, how it is applied (which approaches and strategies) and with whom it is implemented. In some cases, mediation was conducted with a facilitative approach while in others, such as mediation overseen by the government, a more directive and assertive approach was employed (which ultimately affected the satisfaction of one side of the conflict parties towards the final agreement). This finding confirms what Wall et al. (2011) found: an assertive strategy reduces parties' satisfaction with the mediation process and results, although it is likely to produce more agreements than a neutral strategy would.

Success factors

The findings of this study suggest that three or more factors, at the least, are necessary for the success of mediation:

- One of the most important factors is the **commitment and participation** of all conflict parties (or their representatives) for the mediation. The involvement of the parties' legitimate representatives and decision-makers is important to demonstrate not only the commitment to the other parties but also to ensure that decisions in the mediation meetings are valid, can be made quickly, are realistic (implementable) and build a sense of ownership of the final solution. This issue of representation is important because a conflict is often not only between parties but also within each party, which can render the mediation process more complicated as it struggles to accommodate all the different interests.

- Additionally, **trust of the process** by all parties in the mediation as well as between the parties is critical. Without trust, mediation cannot reach any meaningful result. In the two cases from Indonesia, the lack of success of the previous mediation (by the local government) was attributed to the lack of trust from the parties (regarding government partiality) and the lack of a systematic approach in mediating the conflict. Trust is not something that can be easily gained, however. Transparency, impartiality and participatory dialogue in a safe and comfortable environment are necessary conditions for building trust of the process and the mediators.

- Another imperative is the **capacity and the teamwork of the mediators.** The achievement of the agreements in the six cases was possible partly because the mediators had the skills needed for mediating the conflict. Those mediators acquired their skills and knowledge either from their previous experiences or through training in conflict management. Bercovitch and Derouen (2004) argue that mediators' experience in mediating conflicts strongly influences their style and effectiveness. The mediators in the six cases who had had previous formal conflict management training thought that it helped equip them with mediation tools (such as conflict analysis and stakeholder analysis) and gave them a good

grasp of how to facilitate the mediation process in a more systematic and effective way. The mediators also highlighted as important for their success their ability to work together as a team, with shared roles and responsibilities. This is understandable considering that the complexity of the natural resource conflict issues in the six cases required the mediators to take on many interventions and approaches, which would have been too difficult for one person to handle.

Limitations with mediation

The study found that the transformation of forest and land conflicts can take a long time (as shown in table 5, most of the conflicts studied took years to reach a final agreement). The nature and complexity of the conflicts in the study sites required time for proper management. Most of the conflicts (Kanchanaburi, Riau, Kampong Speu, Kampong Thom) were caused by contested tenure and overlapping claims; thus, the mediation process required clarification on the status and boundaries of the land, which included participatory mapping, before any agreement could be reached. The large number of stakeholders involved as well as the vast forest area meant that time was required to establish that clarity. Commitment and good collaboration between the parties and the mediator in designing and implementing the mediation process was critical. The skill of the mediator to facilitate and be strategic in the process (such as planning and discussing options for solutions) was also critical to ensure a "speedy" and meaningful process.

This study makes a strong case for only recruiting mediators who have facilitation and process management skills. Without strong skills, mediators may likely have difficulty in managing the process of conflict transformation quickly and effectively. A previous regional study (Yasmi et al., 2010) found that the number and capacity of mediators in Asia was relatively low. Improving conflict transformation skills, including mediation, is required at all levels, from local to national – for community leaders, government and NGO mediators and for forestry companies and land developers, on how to prevent, address and deal with conflict in an appropriate way that will maximize the positive potential of conflict and minimize the negative potential.

Mediation is also not immune to the influence of internal and external factors, such as the socio-political climate at the local and higher levels. In some cases, the results of mediation are also difficult to be enforced, partly because the decisions are not legally binding. The Riau (Indonesia) case is a good example of this, in which the change of village head nullified the results of the long and tiring mediation process, which then became a barrier to implementation of the agreement. One possible way to avoid this is a hybrid approach (between mediation and a legal approach) that formalizes the mediation solution in a binding agreement endorsed by a notary or legal authority. This could include specific agreements on the implementation mechanism as well.

Another limitation is that mediation in forest and land conflicts often cannot stand alone in addressing the underlying conflict causes, especially if the conflict originates from policy (such as the improper granting of a concession by the government or in the establishment of a protected area). Although the conflict can be transformed and the parties' relationships can be restored, the policies that were the source of conflict remain and could lead to conflict elsewhere. In the Kanchanaburi (Thailand) case, for example, although the agreement allowed the communities to continue living in the national park, it has no legal standing in clarifying land rights for those communities because the National Park Act, 1961 strictly prohibits any settlement and livelihood activities in the national park. Thus, there are still no legal provisions to secure the communities' tenure and legal rights to the land. The villagers are concerned that these issues could be a source of renewed conflict in the future. This Kanchanaburi case can also be an example of legal impediment in the implementation of mediation results, which reflects the limitations of informal decision making processes in mediation over formal forest policies.

Considering the likelihood of conflicts due to the future expansion of plantations, agriculture and mining as well as other forest and land interventions through REDD+ schemes (see Patel et al., 2013; Dhiaulhaq et al., 2014) and large-scale land acquisitions, governments and developers (companies, investors) must include carefully devised conflict transformation mechanisms, including mediation, as an integral part of their policies and management. This should include improving the capacity of individuals and organizations to address future conflicts.

Limitations within this study's research

Although this study aimed to be comprehensive, it had a couple important limitations. First, the assessment of the impacts of mediation in conflict transformation relied on qualitative data primarily gathered through interviews and focus group discussion. Although it is scientifically valid and reliable, future research could be improved by using a more comprehensive approach that includes both qualitative and quantitative assessments, such as assessing the social, economic and environmental impacts of mediation. Second, although it is worthwhile studying successful mediation experiences, future research should also cover cases in which mediation attempts failed and look at why. Learning from failure may help us understand more about the fundamental attribution of errors (whether mediators' strategies or external factors outside their control led to the failure) and more about the limitation of mediation in transforming forests and land conflict.

8. Conclusions and ways forward

In the six cases studied, mediation encouraged and provided a platform for multi-stakeholder dialogue, built trust among the conflict parties, created an environment for positive dialogue and left problem-solving capacity of the conflict parties. However, mediation, like other conflict-transformation approaches, is not immune to internal and external influences, such as the socio-political climate and some legal impediments. And it is not a panacea in resolving all conflict issues.

The study also found that the application of a conflict mediation analysis framework (figure 1) is useful for analysing conflict mediation in the context of plantation establishment and management; it can potentially function as a preliminary methodological foundation for future research on conflict mediation in natural resource management in general. The framework provides a list of factors and indicators that are necessary for researching conflict mediation, including external and internal factors (such as conflict intensity, governance, the parties), the mediator (capacity and skills), the mediation box (the aim of mediation, the role of the mediator and methods applied) and the outcome of mediation.

Taking into account the potential of mediation in transforming conflict, the challenges and the lessons learned from the six cases (in three countries) that were studied, we offer the following ideas for supporting and promoting mediation practice in the region:

- **Integrated capacity development programmes on mediation.** The mediation skills among local government authorities, NGOs and community leaders should be strengthened to ensure that there is local capacity to manage conflicts. This would be a prudent long-term strategy to deal with the ever-increasing number of conflicts over forests and land. The capacity development, however, must go beyond providing specialized training programmes on conflict mediation. It must cover a suite of activities, including on-the-job coaching and reflection with peers through learning networks and exchanges. Ultimately, this capacity development would contribute to the strengthening of organizations and institutions and lead to the more effective handling of conflicts. Such competencies as facilitation and process management skills, conflict assessment, communication, administration, and monitoring and evaluation of the process and outcomes of mediation need to be mastered.

- **Analysis and dissemination of good practices in mediation.** Theory-based knowledge is typically not sufficient for capacity development activities (training resources, etc.). Empirical research based on real practice in the field is needed to make sure that the skills and understanding developed among mediators is relevant and so that they can better see what worked and why. It would also be highly valuable to study cases in which mediation attempts failed and to see why.

- **Promoting mediation and raising awareness of its merits.** Although mediation is not a new practice in Southeast Asia, it is minimally used in addressing natural resource conflicts. And it faces several cultural and structural challenges. The low use of mediation in Indonesia, for example, is partly attributed to its unfamiliarity among conflict parties of a formal structured mediation process and failure to recognize the similarity between it with the traditional form of mediation that they have been practising (Moore and Santosa, 1995). There is need to raise the awareness among the general public through the media and civil society about the availability and effectiveness of mediation as a tool for transforming natural resource management conflict. Practical information about who are the potential mediators and how to contact them also should be made available and promoted to the general public.

- **Building a network or a community of practice** of mediation practitioners and experts is recommended by mediators. It can function as a platform for collaborative learning, particularly to exchange knowledge and experience among practitioners.

- **Meaningful changes at the policy level** must be pursued in addition to the adoption and successful use of the mediation process to achieve sustained results that transform forest and land conflicts. Especially for policy-driven conflicts. Concerted action involving all parties, including policy-makers, are required to address the underlying causes of forest and land conflict in the region. It may also require fundamental change towards good governance in natural resource management. As long as government policies and regulations ignore or fail to secure the rights of local and forest-dependent people and the tenure is unclear, the roots of forest and land conflicts may not be fully withdrawn.

Key recommendations

Taking into account the potential of mediation in transforming conflict, the challenges and the lessons learned from the six cases, we offer the following ideas for supporting and promoting the mediation recourse in the region:

1. **Mediation capacity** needs to be strengthened by providing more integrated capacity development programmes on mediation.
2. More **research and analysis** needs to be conducted, including on the failed mediation attempts, and the good practices in mediation need to be more broadly disseminated.
3. Mediation needs much greater **promoting and awareness-raising** of its merits, particularly about its availability and effectiveness as a tool for transforming natural resource conflict.
4. A **network** or a community of practice of mediation practitioners and experts should be established as a platform for collaborative learning, particularly to exchange their knowledge and experiences.
5. **Policies** that favour mediation should also be put in place to promote and justify the use of the mediation in addressing forest and land conflicts.

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