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For whom do NGOs speak? Accountability and legitimacy in pursuit of just environmental impact assessment

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1 For Whom Do NGOs Speak? Accountability and 2 Legitimacy in Pursuit of Just Environmental Impact 3 Assessment

4 **1 Introduction**

5 Incorporating stakeholders' justice concerns is a significant challenge in sustainable forest
6 governance. If stakeholders perceive the decision-making process to be "unjust", this can
7 undermine the implementation of both conservation and development projects (Hirsch et al.,
8 2011; Mariki et al., 2015). While obtaining institutional legitimacy is a critical step in
9 providing a benchmark of justice, it is inadequate in determining whether and to what extent
10 justice is achieved in environmental practice. Research has demonstrated that legal
11 procedures that do not address the existing power relations in institutional and social settings
12 often preserve or exacerbate injustice, and put those already socially marginalised in a more
13 disadvantaged position in environmental management (Carmin and Agyeman, 2011; Ulloa,
14 2017).

15 Research has emerged that explores justice and its implications for achieving an
16 'effective' impact assessment (IA) (Connelly and Richardson, 2005; Walker, 2010). The
17 focus on effectiveness in IA discourse is twofold. Firstly, it discusses to what extent the
18 formal procedure of IA addresses specific goals (procedural outcomes). Secondly, it
19 examines the extent to which the practices of IA actually achieves those goals (substantive
20 outcomes) (Cashmore et al., 2010). Researchers have identified several constraints in
21 evaluating substantive outcomes of IA due to its predominantly procedural nature (Arts
22 et al., 2012; Jha-Thakur and Fischer, 2016). This limitation has resulted in an unbalanced
23 focus on procedural outcomes, while the theoretical and practical issues of substantive
24 outcomes remain mostly unexplored (Bond and Morrison-Saunders, 2011; Jay et al., 2007;

25 Morgan, 2012). If informing the future development of IA and reflecting broader trends
26 in environmental planning and decision-making are critical concerns of IA theories
27 (Borgert et al., 2018; Sinclair et al., 2018), then more attention to the incorporation of
28 environmental justice in IA discourse will be required.

29 Contemporary framing of environmental justice highlights three interconnected
30 dimensions: procedure, distribution, and recognition (Walker, 2011). Discussion of
31 procedural justice is closely linked to IA public participation. But IA is also assumed to
32 improve distributive justice, because the objectives of IA are fundamentally concerned
33 with the impact of project actions on a specific group or population (Krieg and Faber,
34 2004; Lawrence, 2000; Walker, 2010). The IA process may also improve recognitional
35 justice by engaging cultural minorities' voices in decision-making processes (Hanna et al.,
36 2014; Heiner et al., 2019; Papillon and Rodon, 2017). Issues of procedural justice are the
37 primary focus of this paper, because improving the effectiveness of participation provides
38 both an institutional platform for promoting the substantive outcomes of distributive
39 justice and recognition of cultural minorities' interests in IA processes (Gibson et al., 2015;
40 Sheate, 2012).

41 This paper contributes to the understanding of the role of intermediary actors in
42 enhancing procedural justice in IA processes. Intermediaries are the individuals and
43 institutions that communicate among various actors and stakeholders to identify,
44 negotiate, and represent justice goals in local environmental practices (Dawson et al.,
45 2018; Stovel and Shaw, 2012). Decision-making processes in IAs regularly involve Non-
46 Governmental Organisation (NGO) intermediaries who claim or are claimed to represent the
47 interests of local stakeholders (Fagan and Sircar, 2010; Harris-Roxas and Harris, 2011;
48 Partidario and Sheate, 2013). Following the completion of an IA process, NGOs often monitor
49 the implementation of impact management (Hasan et al., 2018). Taking into account the fact
50 that NGOs are important intermediaries in IA, academics are increasingly concerned with
51 procedural justice issues regarding representation by NGOs and their engagement (Kolhoff

52 et al., 2018; Sheate, 2012).

53 By examining the extent to which Indonesia's EIA (Environmental Impact Assessment),
54 particularly its public participation provisions, supports a legitimate and accountable
55 representation by NGOs, this paper identifies the areas to improve access to procedural
56 justice in EIA. Indonesia has one of the world's highest deforestation rates (Wijaya et al.,
57 2015), and EIA is linked to forest governance through the granting of licenses for
58 development projects (Swangjang, 2018). During Indonesia's authoritarian Suharto regime,
59 NGOs operated in support of the government rather than democratic values (Herdiansah,
60 2016). Also, it is mandatory for NGOs to be involved in EIA commissions for the country. A
61 case study of Indonesia's NGO sector, therefore, allows us to explore a complex reality in
62 which the discourse of IAs are negotiated at the intersection of discussions of politics, public
63 participation, and the controversial role of NGOs. We argue that to be effective and legitimate,
64 representation by NGOs in IA processes must incorporate an accountability mechanism that
65 is equally accessible to local stakeholders.

66 The overall research questions that this paper addresses are how NGOs are perceived
67 within the Indonesian IA process, and whether that involvement actually helps achieve
68 procedural justice goals. This paper commences with a policy analysis of Indonesia's EIA
69 legislation to understand the procedural justice goals and outcomes as supported by the
70 legislation, with regard to representation by NGOs. The analysis of EIA legislation offers
71 insights into the procedural outcomes of EIA, and shows the role NGOs can play in the EIA
72 decision-making processes. Finally, this paper discusses the viewpoints of other EIA actors
73 on NGO representation. Interviews and group discussions were held with key EIA actors,
74 including government officials, NGO staff, consultants, and academics, along with villagers
75 from two sites affected by resource extraction projects subjected to EIA. This work will
76 therefore identify strengths and weaknesses of the current system regarding NGO
77 involvement, highlighting how and why achieving procedural justice goals can be hindered
78 by NGO involvement.

79 **2 Literature review**

80 **2.1 Effective participation and environmental justice**

81 IA is often envisaged as a tool for identifying and minimising the adverse impacts of
82 development activities throughout the design cycle (International Association of Impact
83 Assessment, 2012). More recently, commentators have viewed IA as an instrument for
84 sustainability and informing decision-making (Rozema et al., 2012). However, by its
85 procedural nature, IA inevitably focuses on refining an ideal decision-making model rather
86 than confronting the real-world constraints of the practice (Jay et al., 2007; Lawrence, 2013).
87 Furthermore, the incorporation of local values and interests remains a big challenge for the
88 practice of IA (Taylor et al., 2004), meaning the purported goals of IA do not necessarily lead
89 to more environmentally or socially sensitive, and locally appropriate, outcomes.

90 The effectiveness of IA is hard to define, because the extent to which specific IA purposes
91 integrate into local practices varies between systems and actors (Bragagnolo et al., 2017;
92 Cashmore et al., 2010). Therefore, IA should be considered as a tool for negotiating a politically
93 agreed outcome, in which diverse actors interact and make compromises to secure their
94 interests (Lawrence, 2007; Owens and Cowell, 2011). Environmental justice can be
95 instrumental in advancing the effectiveness of IA because it draws attention to possible ethical
96 conflicts that may affect actual outcomes (Walker, 2010). Consequently, this justice lens can
97 push us to seek more just solutions rather than simply make trade-offs between social positives
98 and environmental negatives, or vice versa.

99 Achieving procedural justice requires equal access for affected parties to decision-making,
100 especially for those socially or culturally marginalised (Suiseeya and Caplow, 2013).
101 Considerable attention has been placed on developing meaningful opportunities for public
102 participation in IA. Glucker et al. (2013) categorise the rationales behind participation in IA
103 into normative, substantive, and instrumental. Normative grounds include influencing
104 decisions, promoting the democratic capacity of participants, enabling the social learning of

105 different viewpoints among people, and empowering those least advantaged. The substantive
106 rationale of participation is to improve decision quality (e.g. Ocampo-Melgar et al., 2019;
107 Simpson and Basta, 2018; Zhou et al., 2019). Public participation should improve decisions by
108 informing decision-makers of socially relevant, experimental, and value-based information
109 and knowledge. Also, public involvement can provide a platform to test the robustness of the
110 information, which is expected to lead to “better” decisions. Instrumental rationales of public
111 participation emphasise legitimacy and conflict resolution (e.g. Bratman and Dias, 2018;
112 Udofia et al., 2017). While participation in IA is expected to legitimise the decision-making
113 process, it may also contribute to identifying and resolving conflicts around the decisions
114 made.

115 **2.2 Representation by intermediaries, accountability and** 116 **legitimacy**

117 Defining ‘meaningful’ or ‘effective’ participation, however, remains challenging due to
118 uncertainties around power relations (Cashmore and Axelsson, 2013). IA commentators have
119 been careful in regard to the use of participation instruments because participation alone of
120 any particular group does not necessarily result in more sustainable or just outcomes. A
121 formalistic or tokenistic participation, for example, may bring harm to people who are already
122 marginalised in the decision-making arena (Cashmore and Axelsson, 2013; Kolhoff et al.,
123 2016). Evidence suggests that IA participation instruments often fail to redistribute power in
124 environmental decision-making (Harris-Roxas et al., 2012; Sairinen et al., 2010). Therefore,
125 how stakeholders are represented in such environmental negotiations can affect the extent to
126 which their interests are reflected in policy.

127 IA participation processes involve a wide range of actors. Different actors may interpret the
128 purposes of IA in different ways according to their role, position, personal or
129 organisational objectives, and experience in particular social and political contexts

130 (Lawrence, 2007). At the same time, these actors may apply various strategies to influence
131 the outcomes of, and power relations within, IA processes (O’Faircheallaigh, 2010; Zhang
132 et al., 2018). Intermediaries are the governmental, private sector, and civil society individuals
133 and institutions who may act as proponents for either side of any given debate (Dawson, 2018).
134 Intermediaries play a dominant role in environmental practices through the choices they make,
135 the interests they prioritise and mobilise, the strategies and platforms they seek to influence,
136 and the other actors they interact with and represent (Gupta, 2014). The actions of of
137 intermediaries can be shaped by power relations, traditions, cultural norms, and legitimate
138 authority (Cleaver, 2012). These actors do not necessarily act selflessly or consistently for the
139 interests of local stakeholders (Collingwood, 2006). Instead, they may pursue multiple
140 economic, environmental, or social agendas, as well as prioritising their individual or
141 organisational status/aims, network-building, and tactical positioning in different forums
142 (Brass et al., 2018). The issue of representation by intermediaries therefore raises important
143 questions concerning public participation in IA—not only who gets to participate and how, but
144 also whether the involvement of intermediaries changes the effectiveness of IA. NGO
145 intermediaries are significant representatives for channelling stakeholders’ concerns in IA
146 projects. Their role in promoting procedural justice in IA processes should therefore be further
147 examined.

148 Accountability is a core concern underlying the conception of procedural justice.
149 Essentially, accountability is about the mechanisms that authorise a representative, make
150 them act in a way that promotes the interests of those they represent, and holds them
151 accountable for their actions (Li, 2009; Sheate, 2012). Accountability is often assumed to be
152 a principle for enhancing the effectiveness of IA (Cashmore et al., 2010; Hanna et al., 2014;
153 Rega and Spaziante, 2013). However, little attention has been given to understanding either
154 the role of the IA process in delivering accountability, or the implications of accountability
155 for the effectiveness of IA (Sheate, 2012). Only a few articles, such as Li’s (2009), have looked
156 empirically at the accountability mechanisms in decision-making processes of IA.

157 Accountability is closely tied to the principles of democratic governance, as it is expected to
158 provide some means for local stakeholders to voice their opinions to their representatives and
159 compel them to act (Blair, 2000). Accountability has become an increasingly important aspect
160 of mediating land-use conflicts, and IA, as a globally adopted governance tool, has vast
161 potential to standardise and implement accountability mechanisms and address these issues
162 (Sheate, 2012).

163 Research on governance has identified several accountability models (Ackerman, 2004;
164 Erkkilä, 2007). The democratic model considers the political and bureaucratic accountability
165 of decision-makers. Corporate accountability seeks to hold companies to account. Professional
166 accountability addresses the responsibility of professionals who are involved in the
167 governance process (Sheate, 2012), and this paper focuses on professional accountability
168 concerning the involvement of NGOs in IA processes.

169 Legitimacy is interconnected with accountability in the framing of procedural justice. In the
170 practice of IA, NGO involvement may contribute to legitimising a decision, and these actors,
171 therefore, should take responsibility for their actions (Goodin and Dryzek, 2006; Karjalainen
172 and Järvikoski, 2010). The concept of legitimacy involves questions such as who are the
173 representatives, how are they selected, what is the outcome of representation, and how does
174 this outcome affect stakeholders (Arnesen and Peters, 2018)? Global environmental
175 governance is often said to lack legitimacy primarily due to its mode of top-down decision-
176 making that runs counter to democratic accountability (Bernauer and Gampfer, 2013;
177 Biermann and Gupta, 2011; Suiseeya and Caplow, 2013). Evidence has shown that a lack of
178 consideration of legitimacy decreases public support for environmental decisions (Gross,
179 2007; Jijelava and Vanclay, 2017). Addressing the issue of legitimacy therefore matters,
180 because stakeholders' perception of the legitimacy of IA processes can trigger conflicts and
181 affect the outcomes of IA (Bond et al., 2018).

182 A legitimate IA process, as Bond et al. (2016) defined in consideration of sustainability

183 and equity, is one which is consented to and delivers an outcome that is acceptable to all
184 stakeholders. Organisational or institutional legitimacy can be created through regulative
185 rules and/or the appropriateness of societal, political, or cultural norms (Cashmore and Wejs,
186 2014). Knowledge legitimacy, on the other hand, emphasises the role of knowledge, such as
187 its accuracy and reliability, in constructing legitimacy (Bond et al., 2018). This paper seeks to
188 apply this conceptual understanding of legitimacy and examine representation by NGOs in
189 local EIA practice.

190 **2.3 NGO intermediaries, EIA, and justice in Indonesia**

191 Contexts of power and politics have important implications for the frameworks and practices
192 of IA. Unequal power relations among actors (that structure IA frameworks and practices) can
193 influence the accountability and legitimacy of the decisions made (Cashmore and Wejs, 2014).
194 The involvement of civil society NGOs is a common attempt to improve accountability and
195 legitimacy in global environmental governance (Ha, 2017; Hasan et al., 2018; Wang et al.,
196 2020). Proponents argue that greater civil society involvement improves transparency by
197 enabling greater access to information, the monitoring of policy implementation, and by
198 holding the government accountable for their actions (Aguilar-Støen and Hirsch, 2017; Park,
199 2010). Civil society involvement can also empower marginalised groups whose voices may
200 otherwise not be heard (Dombrowski, 2010; Stevenson and Dryzek, 2012). Moreover,
201 involving NGOs that have expertise in a specific field of knowledge may improve the capacity
202 to address and solve environmental problems (Schroeder and Lovell, 2012). Conversely, critics
203 argue that civil society involvement may increase the costs and time of governance (Bernstein,
204 2004). Three common concerns surrounding accountability and legitimacy are: 1) NGOs may
205 compromise the interests of stakeholders for other agendas (Piewitt et al., 2010); 2) their
206 involvement does not necessarily mean a more balanced representation of interests
207 (Dombrowski, 2010); and 3) the decisions made in which NGOs are involved are often not
208 legitimised through democratic procedures (Mitchell, 2011). Also, in many cases, NGOs are
209 criticised as undemocratic and unaccountable to their own constituencies (Hahn and Steffek,

210 2011). This paper therefore uses a case study of Indonesia's EIA to illustrate the implications
211 of political factors on the legitimacy and accountability of NGOs in local practices of IA.

212 The environmental legislation of Indonesia has been shaped by a 32 year-long
213 authoritarian regime, and then a democratic government since 1999 (Myers and Ardiansyah,
214 2014; Sulistiawati, 2012). Internationally, justice movements, international aid, and
215 development interventions have also significantly influenced the country's environmental
216 and development strategies. The policies of NGOs, EIA, and Transmigration were arguably
217 the political-economic products of the domestic and international response to Indonesia's
218 environmental and development agendas (Muslihudin et al., 2018; Wilson, 2010).

219 NGOs emerged as important actors of justice and environmental governance during the
220 'New Order' regime in Indonesia (Dauvergne, 1993). Between 1966 and 1998, the country
221 experienced rapid deforestation and increased foreign investment in its large-scale and
222 extractive industries, such as oil and gas, mining, and logging (Anggara, 2017). President
223 Suharto sought to consolidate his regime by strengthening the power of the military and
224 police, and bureaucratising societal organisations, including NGOs (Herdiansah, 2016).

225 At this time, the NGOs predominantly operated in support of the regime and not the
226 concept of democracy (Wilson, 2015). For example, the terms "nongovernmental
227 organisation" or "NGO" were rarely used and often interpreted as "anti-government
228 organisation" (Ibrahim et al., 2007). In the early 1970s, in line with the authoritarian
229 development plans carried out by the regime, NGOs were widely engaged in supporting
230 government desired social and economic activities (Aspinall, 2005).

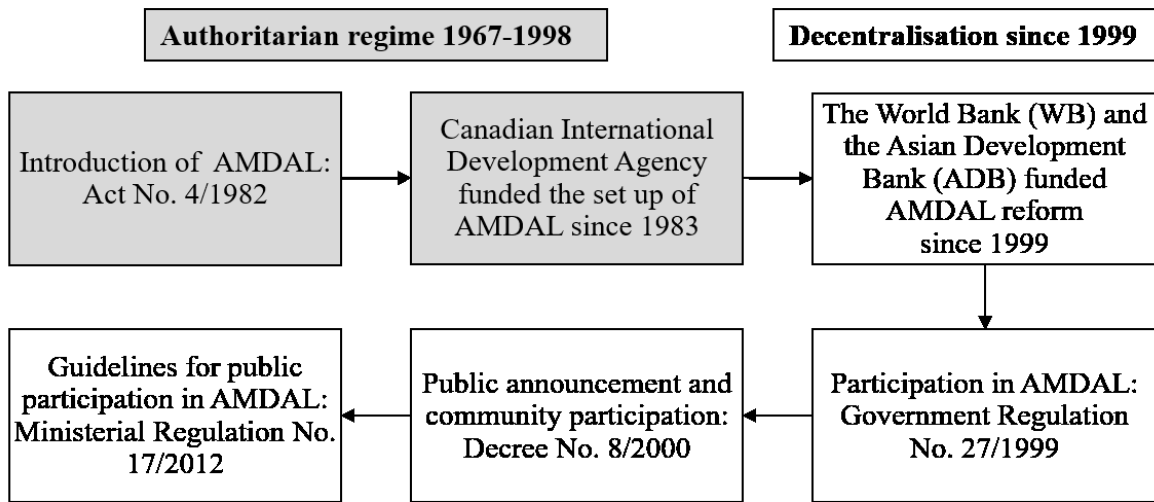
231 Both international and domestic NGOs now have to register in Indonesia as one of four types
232 of legal entity: foundation (*Yayasan*), association (*Perkumpulan*), societal organisation
233 (*Organisasi Kemasyarakatan* or *OrMas*) or self-reliant community development institution
234 (*Lembaga Swadaya Masyarakat* or *LSM*) (Ibrahim et al., 2007). *Yayasan* is an organisation
235 based on social, religious, educational, or humanitarian objectives. Due to loose regulations

236 on the entity's function, many *yayasan* were historically used by the military and politicians
237 connected to the Suharto regime for profit-making. *Perkumpulan* are membership-based
238 organisations with a non-profit social service objective. *OrMas* were initially non-state
239 paramilitary groups, with a long history regarding the country's resistance against the Dutch
240 colonial forces and subsequent independence. During the authoritarian regime, these groups
241 carried out violent and repressive actions against the population in furtherance of the regime's
242 objectives (Bakker, 2015). Finally, *LSM* were initially organisations that functioned as
243 development agents in a wide variety of government programs, ranging from health services to
244 microcredit provision (Hadiwinata, 2003). This paper uses the term "NGOs" to refer to all
245 these types of organisations because they are all qualified to participate in the Indonesian
246 EIA processes.

247 Following the democratisation of Indonesia starting in 1999, more NGOs, particularly
248 OrMas and LSM, began to move beyond the agenda of economic development, and more
249 political spaces were opened up for international and local NGOs to promote justice in public
250 policy (Tsing, 2005). However, political scholars remain concerned about the impact of
251 prolonged political repression on the development of the NGO sector (Herdiansah, 2016;
252 Wilson, 2015). Many OrMas and LSM are still found to straddle the line between violence-
253 brokers, development agents, and/or political alliance agents (Bakker, 2019; Henley et al.,
254 2007; Wilson, 2010). A case study of Indonesia's NGO sector thus offers a unique perspective
255 on how such a historical transformation affects the issue of legitimacy and accountability.

256 Indonesia's EIA, often referred to as AMDAL (*Analisis Mengenai Dampak Lingkungan*),
257 was introduced in 1982, primarily as a donor-driven safeguard during General Suharto's
258 "New Order" regime. It was promulgated—in line with the country's rapid economic
259 development—in response to the requirements of international investments and global calls
260 for justice and sustainability (World Bank, 2004). AMDAL originated from a Canadian model
261 and struggled to be implemented effectively under a centralised model (Asian Development
262 Bank, 2012). The World Bank and the Asian Development Bank provided financial aid for the

263 reform of AMDAL following the country's decentralisation. Figure 1 shows a timeline of
 264 AMDAL against the country's political transformation.



265

266

Figure 1: Early development of AMDAL

267 Transmigration (*Transmigrasi*) was a national program aiming for more balanced
 268 demographic development, alleviating poverty and extracting natural resources (Whitten,
 269 1987) through the movement of people within Indonesia. Transmigrants received a two-
 270 hectare plot of agricultural land through the program from the national government
 271 (Adhiati and Bobsien, 2001). However, inadequate land-use planning and site preparation
 272 resulted in large-scale forest conversion to agricultural land and settlements (Darmawan et
 273 al., 2016; Sunderlin and Resosudarmo, 1999). Transmigration sites were often found to take
 274 over indigenous customary lands without the communities' consent or providing
 275 compensation (Colchester and Lohmann, 1993). Critics accused the program of being the
 276 primary factor of deforestation (Jewitt et al., 2014), and a political effort of the Java-based
 277 central government to extend greater economic and political control over other regions
 278 under the disguise of poverty elimination (Gietzelt, 1989). The resistance of the indigenous
 279 populations resulted in violence around the country (Hedman, 2008; Human Rights Watch,
 280 2001). While land-use scientists and practitioners widely agreed that transmigration had
 281 ended following the political transformation of Indonesia, the long-lasting land tenure

282 conflicts between indigenous and transmigrant communities have remained unresolved.

283 Previous research has explored the concerns of local stakeholders in the AMDAL decision-
284 making processes (Asian Development Bank, 2012; Purnama, 2003; Qipra, 2005). For
285 instance, environmental activists and local communities criticised AMDAL for ignoring
286 overlying land tenure (Excell and O'Donnell, 2013), the impact of deforestation (Mongabay,
287 2018), and corruption (Muslihudin et al., 2018). Studies on AMDAL recognise the potential
288 for NGO participation for better integration of justice into the project cycle (Myers and
289 Ardiansyah, 2014; Sanjaya, 2009). While it is mandatory to involve NGOs in the AMDAL
290 commissions for evaluating the impacts of developments, issues of representation by NGOs
291 remain ambiguous in practice. Taking into account the historically controversial role of NGOs
292 in Indonesia and their broad engagement in environmental decision-making, investigating the
293 practices of NGO intermediaries in the AMDAL process offers critical insights into the
294 challenges of promoting justice in sustainable forest governance at the subnational and local
295 level.

296 **3 Methodology**

297 **3.1 Case selection**

298 Fieldwork for this study was carried out in the East Kalimantan province of Indonesia. While
299 many other areas in Indonesia have passed the peak of forest conversion, it is suggested that
300 East Kalimantan is the next hotspot of forest transition (Wijaya et al., 2015). Natural resource
301 exploitation, particularly of coal, palm oil, and timber, dominates the economy of the
302 province (Fünfgeld, 2016). Simultaneously, the majority of the population still live in rural
303 areas and are dependent on the use of forest resources (Obidzinski and Barr, 2003). A large
304 number of actors, including NGOs, the private sector, and international aid organisations,
305 seek to influence forest management policy while land-use conflicts related to deforestation
306 and development activities arise.

307 The selection of two village case studies aims to capture the perception of representation

308 by NGOs in formal and informal land-use negotiations. Land tenure conflicts in Village 1
309 involved a palm oil company, indigenous landowners, and transmigrant landowners. Both the
310 indigenous and transmigrants claimed ownership of the same piece of land that the palm oil
311 company proposed should be cleared for plantations. Only the indigenous representatives
312 were involved in the public consultations and AMDAL commission of the palm oil project.
313 The palm oil company gained consent from the indigenous representatives and received the
314 environmental permit in the AMDAL process. The transmigrants rejected the AMDAL
315 decisions due to their exclusion from the decision-making process. Protests and conflict
316 resolution negotiations have been going on for over ten years, followed by judicial action.
317 Several NGOs participated in assisting the transmigrants. Those NGOs initiated or were
318 involved in the conflict resolution negotiations between the transmigrants and the company
319 by acting as their representatives.

320 Village 2 has been in conflict with mining and palm oil companies for the past 15 years. The
321 village has been involved in AMDAL processes for several mining and palm oil projects.
322 AMDAL public consultations involved landowners and some of the opinion leaders of the
323 village (i.e. village head, customary head, village council members, etc.). s. In Village 2, the
324 land-use conflicts had various causes. In one case, the villagers resisted the palm oil project
325 because the company received the environmental license regardless of the fact that the village
326 representatives rejected the plan in the AMDAL commission. In other cases, the mining and
327 palm oil activities expanded into an area that was not agreed to. There were also constant
328 conflicts because the companies did not execute the environmental management or
329 compensation plan as committed to. Protests and conflict negotiations were carried out for
330 reasons such as overlaying land tenure, safety concerns of development activities, water
331 pollution, and livelihood disturbance. Several NGOs were involved in protests and also in
332 conflict resolution negotiations with the companies as village representatives.

333 **3.2 Methods**

334 The present study used content analysis, semi-structured interview, and group discussion to

335 understand the role of NGOs in promoting accountability and legitimacy in the processes of
 336 AMDAL. Content analysis is used to investigate how representation by NGOs is embedded in
 337 the AMDAL legislation. Laws and regulations were collated based on a review of the
 338 literature, AMDAL project reports, and documents. This list was then discussed with three
 339 heads of the AMDAL division in the provincial and district environmental agencies. Four
 340 regulations that were agreed as being the participatory framework of AMDAL are: 1) Law No.
 341 32 of 2009 concerning environment protection and management; 2) Government Regulation
 342 No. 27 of 2012 concerning environmental permit; 3) Ministerial Regulation No. 17/2012
 343 concerning the guidelines for the preparation of environmental documents; and 4)
 344 Ministerial Regulation No. 16/2012 concerning procedures for assessing environmental
 345 documents and issuances of environmental permits. See Appendix 1 for a description of the
 346 regulatory framework.

347 Content analysis was conducted in NVivo 11 and used thematic coding to identify
 348 procedural justice elements in legislation (see Table 1). The coding criteria were developed by
 349 1) a literature review of procedural justice; and 2) tailoring the criteria for the legal processes
 350 described in the regulations. The coded data was used to analyse the commitment to
 351 procedural justice and the role of NGOs, as stated in the AMDAL's objectives.

352

353 Table 1: Coding criteria for policy analysis of the AMDAL regulatory framework.

Parent code	Elements to be identified in the legislation
Procedural Justice	Influencing decisions
	Democratic capacity
	Social learning
	Citizen empowerment
	Knowledge exchange

Information verification

Conflict resolution mechanism

354 The provincial AMDAL commission, two district commissions, and two villages were
355 involved in data collection between February and July 2018. This paper has omitted the
356 names of districts, villages, and participating NGOs for anonymity. Lists of AMDAL
357 commissioners, consultancies, and NGOs were collected from the provincial and district
358 environmental agencies. Twenty-three intermediaries participated in 32 interviews and seven
359 group discussions. This includes one consultant who carried out impact analyses for
360 development projects, six government officials from three agencies, three academics involved
361 in EIA evaluation, and 13 staff in six NGOs that monitor the implementation of AMDAL.
362 Sixteen of the 23 intermediaries were the AMDAL commissioners who were responsible for
363 reviewing analysis reports. See Appendix 2 for anonymised intermediaries' information.

364 Twenty-four respondents participated in 10 interviews and four group discussions in
365 Village 1. Twenty-nine respondents participated in 14 interviews and three group discussions
366 in Village 2. See Appendix 3 for the information of research participants in the two villages.
367 Village participants volunteered as individuals (or their family members) who were involved
368 in the land-use negotiations, such as public consultations of AMDAL and/or protests.

369 The interviews with the intermediaries consisted of three sets of open-ended questions.
370 The first set of questions explored the intermediaries' experience of participating in AMDAL.
371 Secondly, the interviews investigated the interviewees' perceptions of NGO participation in
372 land-use negotiations, including their interactions with NGOs in land-use negotiations, the
373 role of NGOs, and the influence of NGOs on the processes and outcomes. The final set of
374 questions examined their perceptions of representation by NGOs. The respondents discussed
375 the sources of legitimacy for NGO representatives, the interests NGOs are representing, and in
376 what ways NGOs are accountable for their actions. Interviews with villagers focused on their
377 experience of land-use conflicts and their interaction with NGOs (the second and the third

378 set of questions). The first set of questions was excluded because many villagers did not
379 participate directly in the AMDAL processes, only the post-AMDAL conflict resolution
380 negotiations.

381 Group discussions with the intermediaries followed the same sets of questions. A group
382 setting was used when the conversations took place at work, and those intermediaries shared
383 the same workplace. While the intermediaries were more comfortable with one-to-one
384 encounters with strangers due to the nature of their work, the villagers preferred to
385 communicate in a group. The group discussions at first focused on the villagers' livelihood
386 and everyday concerns. For the topic of livelihood, the questions included their source of
387 income, the impact of development projects on their livelihood, and their knowledge about
388 the operation of those development projects in their villages. The topic of everyday concerns
389 intended to capture the villagers' interests regarding land use. The set questions included
390 their daily spending, their relationship to their community, and village infrastructure. The
391 villagers also initiated various topics such as employment, education, and corruption.

392 Interviews and group discussions were audio-recorded after explaining the research
393 objective and obtaining informed consent. The respondents were reminded that the session
394 was being recorded, and their permission was reconfirmed when the conversation involved
395 sensitive topics. Supplementary data includes official and personal documents provided by
396 the respondents, such as videos, photos, police reports, and maps. Data was transcribed and
397 analysed through thematic coding, which included governance scales, interaction settings,
398 and procedural justice (see Table 2). The governance scales aimed to capture how NGOs
399 mobilise across levels. The interaction settings illustrate their role and influence in formal
400 and informal settings. The procedural justice theme explores the priorities and agendas in
401 environmental negotiations, and the issues of accountability and legitimacy.

402 Table 2: Coding criteria for interviews and group discussions.

Parent code	Elements to be identified in the data collected from interviews and group discussions
Governance scale	International; National; Subnational; Village
Interaction setting	Formal; Informal
Justice dimensions	Distributive justice: impacts of project actions Recognitional justice: cultural minorities' voices in decision-making Procedural justice: representation, accountability, and legitimacy
Procedural justice/representation	Representation of whom Interests that are prioritised and mobilised Strategies and platforms the actors seek to influence Interactions with other actors
Procedural justice/accountability	Authorisation of representative Strategies to promote the interests of those they represent Ways to hold one accountable
Procedural justice/legitimacy	Who are the representatives? How are they selected (organisational legitimacy or knowledge legitimacy) What is the outcome of representation? How are stakeholders affected by the result of representation?

403 **3.3 Analysis of the regulatory context of AMDAL**

404 Justice was indicated as one of the objectives of environmental protection and management,
 405 in order “to guarantee justice (fairness) for the sake of the present and future generations”, as
 406 stated in Article 3f of Law No. 32/2009. Descriptions concerning procedural justice (or
 407 participation) were identified in all four regulations and detailed in Ministerial Regulation No.

408 17/2012. Affected individuals, communities, and organisations were the subjects of
409 participation in AMDAL, where participation should be performed through “a. business
410 and/or activity plan announcement; and b. public consultation” as in Article 9(2). The
411 representative mechanism is described as such in Article 45(4): “The suggestions,
412 opinions, and responses as specified in paragraph (3) may be delivered through the affected
413 people’s representative and/or community organisation being the member of AMDAL
414 Review Commission”.

415 Government Regulation No. 27/2012 gave NGO representatives the authority to be
416 involved in the AMDAL commission. Several terms, including “environmental organisation”,
417 “community organisation”, and “environmentalist” were used to describe the organisations
418 involved in AMDAL. The varying definition (if any) and identification of these organisations
419 were not given. The objective of involving NGOs in the commission and their representation
420 was also not mentioned. The selection criteria for NGOs as AMDAL commission members
421 was not detailed but briefly stated as “13. environmental organisation;” in Article 56(3b). In
422 contrast, the representatives of government agencies were given in considerably more detail
423 in the same Article 56(3b),

424 *1. agency which organises government’s affair in spatial area; 2. agency [...] in*
425 *provincial environmental protection and management; 3. agency [...] in provincial*
426 *investment; 4. agency [...] in provincial land; 5. agency [...] in provincial defense; 6.*
427 *agency [...] in provincial health area; 7. central and/or regional agency in the respective*
428 *business and/or activity area; 8. representative of central, provincial, and/or regional*
429 *agencies in government’s affair related to business and/or activity impact; 9. the*
430 *respective regional/city government representative;*

431 Government Regulation No. 27/2012 granted rights to NGOs to provide feedback on the
432 environmental and social implications of AMDAL projects. NGOs can also monitor the
433 activities that may disrupt the environment beyond the AMDAL process and provide

434 feedback, conduct protests, and file lawsuits against those activities. The legislation, however,
435 did not regulate the responsibilities of the government and project proponents in their
436 response to the NGOs' intervention actions with regard to the licensing and implementation
437 of the project.

438 The accountability of NGOs for participation in AMDAL and environmental monitoring
439 was not indicated. Government Regulation No. 27/2012 detailed the responsibilities of
440 project proponents and the government for fund allocation, public education, pollution
441 prevention facilities, and penalties. Conversely, the legislation did not address the possible
442 violation of laws by NGOs on environmental management. Consequently, there is no
443 identifiable information on the liabilities of NGOs, the subjects for which NGOs are
444 accountable, and which authority was responsible for monitoring the activities of NGOs on
445 environmental management. The responsibility of NGOs in terms of participation and
446 representation are ambiguous in the AMDAL legislation, particularly in comparison to the
447 detail given to other equally important aspects of the legislation. Lack of any criteria for
448 representation raises questions for the legitimacy and accountability of NGOs in representing
449 environmental and social causes in the AMDAL decision-making processes.

450 **4 Results**

451 **4.1 Representation by NGOs as perceived by AMDAL**

452 **intermediaries**

453 **4.1.1 Institutional and knowledge legitimacy**

454 The terms 'organisation', 'LSM', 'OrMas', and 'forum' were interchangeably used by the
455 interviewees during the discussions. This paper has replaced these terms with NGO(s) when
456 the conversations referred to a general context or the type of organisation was unknown,
457 however the specific terms are used when the interviewees indicated a specific organisation.

458 NGO intermediaries commonly justified their representation of local interests through
459 legislation. As an interviewee (22) who worked on land-use conflicts said,

460 *Look, why are NGOs involved [in AMDAL]? Because the laws regulated it [...] The*
461 *process must involve communities and NGOs. It is not what I asked for, but the*
462 *inclusion of NGOs represents the aspiration of the community.*

463 NGO intermediaries were concerned about the NGOs' legal mandate in the participation
464 procedures. A founder of an NGO (18) explained the motivation for setting up an NGO:

465 *We wanted to deliver the voice of people. If we did not register as a legal [entity], the*
466 *company and the government would not listen to us.*

467 Institutional legitimacy of participation allowed NGOs to access previously excluded
468 political space and power. NGO respondents commonly situated themselves as authorised
469 actors in negotiation platforms. As one NGO representative in the AMDAL commission (21)
470 said,

471 *Not everyone can participate. You can only participate in the AMDAL commission and*
472 *public consultation by official invitation.*

473 NGOs' affiliation with traditional institutional actors contributed to shaping the role of
474 NGOs serving as a government alliance. As an NGO officer (20) explained,

475 *Only the NGOs that cooperate with the government can participate in AMDAL. You need*
476 *the support of the government to be involved in AMDAL.*

477 Another NGO interviewee (19) said that the participation of NGOs should represent the
478 development-oriented objectives of national policies,

479 [The purpose of] *AMDAL is to find a balance between economic development and*
480 *environmental protection [...] Not all NGOs understand that. The priority is*

481 *'development'*.

482 In contrast to the NGOs' perception of legitimacy, the other AMDAL commissioners
483 evaluated legitimacy through the capabilities of NGOs. The interviewees commonly agreed
484 that NGOs had difficulty accessing financial and social resources. As an example, eight of
485 thirteen NGO respondents worked voluntarily and sponsored themselves through other
486 sources of income. A former AMDAL division head (7) said,

487 *They are struggling to survive. There is no way they can improve themselves.*

488 An NGO intermediary (19) described the limited development of the NGO sector in the
489 district and its impact on the practice of AMDAL,

490 *Our NGO joined the AMDAL [commission] soon after it was set up. There were no*
491 *environmental NGOs [in the district]. Ours was one of the first. In fact, there were few*
492 *NGOs registered until now.*

493 The limited capabilities of NGOs had led to doubts about legitimacy, as perceived by the
494 other commission members. As an academic (9), involved in the AMDAL commission as a
495 hydrology expert, pointed out,

496 *NGOs that are involved in AMDAL should be familiar with the [specific project's]*
497 *industry and location. Some regions simply lack an NGO that could fulfil those*
498 *requirements.*

499 Another AMDAL commissioner and hydrology scholar (10) questioned the recruitment
500 criteria for NGO inclusion in AMDAL,

501 *Some NGOs are critical on environmental issues [...], but those have never been*
502 *recruited into the commission [...] Some NGOs in AMDAL share the interests of the*
503 *company. They participate in supporting the project.*

504 Although the other commissioners were sceptical of the legitimacy of NGOs, the
505 participation of NGOs serves as a requisite to the implementation of AMDAL. Loose
506 standards of recruitment were applied by the government environmental agencies to fulfil
507 these legal commitments of participation. An AMDAL division head (6) commented,

508 *There are only a few NGOs registered in my district and qualified to participate in*
509 *the commission. We invite them by turns.*

510 **4.1.2 Accountability of NGOs in the AMDAL process**

511 Interviews with NGOs revealed that the local interests, which NGOs claimed to represent,
512 were sometimes inconsistent with the NGOs' actions. In the discussion on representation, an
513 NGO founder (23) described his NGO's agenda as accommodating the interests of local
514 communities in institutional decision-making platforms,

515 *Sometimes we approach the people, sometimes the people approach us [...] We bring*
516 *the community's voice to the government and company.*

517 Following that comment, the interviewee (23) was invited to talk about any community
518 activity undertaken by his NGO. After repeated questioning, the interviewee confirmed that
519 participation in AMDAL was the only activity of the NGO, with no apparent impact or actions
520 from that participation. The interviews with the other NGO commissioners led to similar
521 outcomes. Although the interviews with those NGOs who acted as AMDAL commissioners
522 advocated for their representation of local interests, four out of five NGOs that were involved
523 in AMDAL commissions failed to show evidence of community engagement activities. Two
524 NGOs were admitted to be operated solely to participate in AMDAL.

525 The accountability of NGOs was a significant concern for the other AMDAL
526 commissioners and consultants. Some perceived that NGOs did not represent the social or
527 environmental interest of the local community, but rather existed to seek profit. As an
528 academic involved in the AMDAL evaluation (9) commented,

529 *Sometimes NGOs came to the meeting and made a fuss. The companies often prepared*
530 *some peace-making money for them.*

531 A former division head of AMDAL (7) described how NGOs pursued personal agendas
532 through participation,

533 *An NGO [representative] asked about my concern for a project. Later on, this person*
534 *blackmailed the company with the information I gave [...] [NGOs] prioritise profit over*
535 *conservation.*

536 An AMDAL consultant (1) perceived that some NGOs took advantage of their
537 participation,

538 *Those NGOs only wanted money. Sometimes they were so eager to participate [in the*
539 *commission], the environmental agency had to reject them again and again.*

540 The same consultant also shared his experiences of corruption on the part of some NGOs
541 commissioners (this was understood to imply bribery, partly based on the context of the
542 discussion, and partly based on the general fact that the AMDAL commissions in our case
543 studies often provided necessary allowance, such as transportation and accommodation, to
544 support NGOs to attend meetings).

545 *NGO participation is mandatory. Sometimes we invited them to attend public*
546 *consultations or commission meetings, but they refused to come. [...] We asked for the*
547 *reason, it was always [showing the gesture resembling money].*

548 A government official from the transportation agency (3) confirmed,

549 *Companies usually pay attention to particular NGOs that act aggressively in the*
550 *meeting. If the NGOs reject the project, everyone knows it is to ask for bribery.*

551 The legitimacy of NGOs in institutional decision-making is often authorised through

552 legislation. The data presented here demonstrates a complex reality of forest governance,
553 where subnational governments are struggling to implement the objectives of national
554 policies with limited human and technical resources. Local governments seek to fulfil the
555 legal standards put upon them. In turn, the participation of NGOs becomes formalistic, which
556 compromises their accountability. Furthermore, NGO representatives make use of
557 institutional legitimacy to pursue their personal or organisational agendas, which results in
558 the exacerbation of procedural injustice in AMDAL.

559 **4.2 Representation by NGOs in village land-use conflicts**

560 **4.2.1 Legitimacy in informal settings**

561 This section illustrates villagers' experiences of participating in AMDAL and the subsequent
562 conflict negotiations. Those experiences contribute to developing an understanding of the
563 grounds for the legitimacy of NGOs in representing local interests. The villagers commonly
564 perceived participation in AMDAL as a formality to legalise development projects. An office
565 worker in Village 2 described his experience participating in the consultations and AMDAL
566 commissions of several palm oil and mining projects,

567 *The AMDAL meeting was just 'sweet talk'. People talked about the vision that would*
568 *never be achieved. It was to get the license.*

569 He was also frustrated by the outcome of licensing on a palm oil project, which did not take
570 into account the villagers' objections in the AMDAL meeting,

571 *I rejected the proposal and pointed out false information on the document. The AMDAL*
572 *head instructed the company to revise the document and organise consultation in our*
573 *village [...], but we were never invited to the [AMDAL] meetings anymore, and neither*
574 *did the company organise a consultation in the village.*

575 AMDAL was perceived to function as a political tool to marginalise the villagers, who are

576 already in a disadvantaged position when negotiating land-use issues. In Village 1, where the
577 profit sharing of palm oil partnership scheme (Plasma) was in disagreement, the village head
578 said,

579 *When we confronted the company, they showed a thick AMDAL report and the*
580 *[environmental] permit. What we cared about was their commitment to the village and*
581 *the impact of the activity, not to see some papers.*

582 The villagers also highlighted their concerns regarding corruption. A transmigrant in
583 Village 1 detailed his attempts to seek land compensation in a corrupt system,

584 *No one supported us, neither from the village office, subdistrict office, police, or military*
585 *[...] They were all corrupted. They are on the side of the company [...] These people*
586 *oppressed our voice.*

587 A farmer in Village 2 described the villagers' experience of suppression concerning land
588 tenure conflicts with a palm oil company,

589 *Some police came to negotiate on behalf of the company. They asked us not to make*
590 *trouble and accept the deal. They spoke nicely. But you would be scared if some police*
591 *randomly came to your door. Of course, the villagers agreed about whatever it was.*

592 Struggling to be heard by the powerholders (i.e. the village head, subdistrict head, the
593 AMDAL authority, police, or military), the villagers sought to voice their demands through
594 protest. As the customary chief and protest leader of Village 2 commented,

595 *A demonstration is the last option we have left. Other ways of voicing our opinions have*
596 *failed.*

597 As a result of the unsuccessful resolution of conflicts in institutional settings, the villagers
598 sought support from NGOs to voice their demands. As a fisher in Village 2 described the

599 collaboration between the fishing group and an NGO,

600 *We did not receive any response from the village office. That was why we asked for help*
601 *from people outside the village.*

602 **4.2.2 Accountability of NGOs in the eyes of the villagers**

603 NGO intermediaries obtain legitimacy as representatives of local interests because of the
604 locals' experience of corruption, political suppression, and inadequate influence over the
605 processes and outcomes of land-use decision-making. However, many villagers were
606 disappointed with the results of collaborating with NGOs in resistance actions. Many villagers
607 perceived that NGOs pursued their own agendas instead of representing the villagers'
608 interests, as a neighbourhood head in Village 1 argued,

609 *The OrMas initiated the protest, contacted the media. They wore their uniforms and*
610 *asked the villagers to wear those uniforms.*

611 A farmer said that several NGOs offered to negotiate land compensation on behalf of the
612 villagers,

613 *An OrMas approached us and asked for tokens to intervene in the negotiations with the*
614 *company [...] They protested [on behalf of the villagers]. However, they left after the*
615 *company gave them money. After some time, another OrMas or LSM came using the*
616 *same tactic, and then another. We had enough of them.*

617 The head of a Plasma cooperative in Village 2 talked about the strategy of some NGOs in
618 seeking profit from land conflicts,

619 *Those organisations initiated protests, stood on the frontier. If the villagers got [land]*
620 *compensation, they wanted a share of it.*

621 The villagers also identified several ways in which NGOs could benefit from development

622 projects. A village office worker described the hidden cost of getting jobs, due to some NGOs
623 intervention in recruitment,

624 *Some organisations offered services to the palm oil company. The company informs*
625 *them when there are vacancies. Then the forums inform the villagers. You often need to*
626 *pay tokens to get the job. If you tried to apply to the company individually, those forums*
627 *would make trouble.*

628 The head of a plasma cooperative discussed how several NGOs acted as land brokers and
629 sought to profit from land competition between companies,

630 *Some OrMas or LSM seek to influence the villagers [...] to withdraw from one land deal*
631 *to another. [...] If they managed to change the villager's mind, the company would pay*
632 *them.*

633 Some NGOs serve as a “peacemaker” in land conflicts. As a farmer said about land tenure
634 issues in Village 2,

635 *Whenever it looked like we [the villagers] were at a disadvantage on land negotiations,*
636 *they [NGOs] offered to mediate by asking for some peace-making money.*

637 The head of the plasma cooperative perceived that some NGOs made use of their
638 legitimacy as local representatives to pursue other interests,

639 *Those NGOs only cared for their advancement [...] They use local people as their shields,*
640 *made letters with local people to prove [to the company] that they were appointed to*
641 *handle the conflict. However, it was just for their agenda. Their position looked strong*
642 *as if local people supported them.*

643 When the villagers questioned representation by NGOs, they also have no means to hold
644 NGOs accountable. As a protester in Village 1 commented,

645 *The OrMas asked us to take palm fruits from the company [plantation] to express our*
646 *dissent. We did that, but some were arrested for theft [...] The OrMas just disappeared*
647 *after the incident.*

648 A transmigrant farmer in Village 1 described the cost of protest on his livelihood,
649 *After collaborating with those OrMas [...], we were asked to protest all the time. We did not*
650 *have time to work and feed our family.*

651 A stay-at-home mother described the impact of protests on the villagers, which NGOs were
652 not accountable for,

653 *The military often patrolled in the village after the protests. I felt unsafe [...] Some*
654 *protesters lost their jobs in the plantation. The company also refused to hire people from*
655 *our neighbourhood.*

656 Legitimacy and accountability are two essential elements of representation. Instead of
657 *who* represented local interests, the villagers were more concerned about the outcome of
658 representation. Notably, whether local perspectives and preferences were represented and
659 whether the representative was accountable for the outcome. Although the villagers legitimise
660 NGOs as representatives, the villagers had no means to hold the representative to account.
661 The findings also showed that legitimacy can be revoked when the ones represented perceive
662 a lack of accountability.

663 **5 Discussion**

664 Studies of environmental governance and justice have explored how intermediary actors
665 shape the processes and outcomes of decision-making across various governance levels, and
666 through various organisational and individual resources and strategies (Dawson, 2018; Fagan
667 and Sircar, 2010; Gupta, 2014). These actors do not always work consistently for the interests
668 of local stakeholders and may pursue other individual or organisational agendas (Brass et al.,

669 2018; Cashmore and Axelsson, 2013; Zhang et al., 2018). This paper linked these studies with
670 the role of legitimacy and accountability in creating effective participation in IA, which is a
671 topic still underdeveloped in the IA literature (Morgan, 2012; Sheate, 2012).

672 This paper investigated both the regulative perspective and the perceptions of NGOs, their
673 peers, and the local villagers whose interests NGOs claimed to represent. These perspectives
674 helped to identify and compare conceptions of legitimacy as perceived by different actors
675 (Bond et al., 2018; Jijelava and Vanclay, 2017). Our results show that the perception of being
676 'legitimate' is crucial for the interviewees in defining a meaningful participation in EIA. An
677 absence of consent on the decisions being "just" and "acceptable" affected the perception of
678 legitimacy (Bond et al., 2016). Disagreements about what constitutes legitimacy also affected
679 the effectiveness of participation as perceived by the interviewees (Bragagnolo et al., 2017;
680 Cashmore et al., 2010). Moreover, it created conflicts among the stakeholders (Bratman and
681 Dias, 2018; Udofia et al., 2017) and undermined the implementation of the EIA outcomes
682 (Lawrence, 2013; Rozema et al., 2012).

683 A focus on legitimacy helped this study to investigate how intermediaries were authorised
684 to act (Arnesen and Peters, 2018). Institutionally, the legitimacy of NGOs was granted by
685 regulative rules (Cashmore and Wejs, 2014). NGOs were also concerned for their institutional
686 legitimacy as representatives. They actively shaped their organisational agenda in compliance
687 with the objectives of EIA policies. A top-down decision-making culture in the subnational
688 government further consolidates the influence of regulative rules in creating legitimacy
689 (Bernauer and Gampfer, 2013; Biermann and Gupta, 2011; Suiseeya and Caplow, 2013). For
690 example, the other EIA commissioners and consultants doubted the legitimacy of NGOs but
691 did not seek to challenge the government's decisions on the NGO commissioners.
692 Additionally, the subnational government, which struggled to access human resources,
693 sought to fulfil the legal requirement of involving NGOs in the EIA commission by applying
694 loose standards of recruitment for NGOs, instead of seeking to influence such policy upwards.
695 Our findings demonstrate that legitimacy granted by regulative rules alone is

696 inadequate to secure full representation of local stakeholders, and therefore the legitimate
697 participation of NGOs in EIA practice (Ocampo-Melgar et al., 2019; Simpson and Basta,
698 2018; Taylor et al., 2004; Zhou et al., 2019). However, the data collected did not explicitly
699 show a correlation between such decisions of various EIA practitioners and power
700 relations in the EIA decision-making process (Cashmore and Axelsson, 2013; Harris-
701 Roxas et al., 2012; Lawrence, 2013; O’Faircheallaigh, 2010). Further studies are required
702 to explore the “passive” dissatisfaction of the EIA practitioners and its implications
703 for effective and just participation.

704 Institutional legitimacy created through top-down national policies, coupled with the
705 weak capacity of subnational government, is likely to undermine achieving just decisions in
706 EIA, because the NGO intermediaries and other relevant actors were perceived to take
707 advantage of those political constraints to pursue their own agendas. Participation, without
708 considering political factors and power, brought harm to marginalised groups in IA decision-
709 making (Bond et al., 2018; Cashmore and Axelsson, 2013; Kolhoff et al., 2018; Zhang et al.,
710 2018). The experience of the subnational governments in this case study could improve the
711 effectiveness of IA by empowering local governments. A considerable number of studies
712 have emphasised the importance of empowering local stakeholders and strategies to
713 achieve this aim (e.g. Glucker et al., 2013), in order to improve the decision quality of IA
714 (Ocampo-Melgar et al., 2019; Simpson and Basta, 2018; Zhou et al., 2019). More scholarly
715 attention is required to identify the supports that are needed for the institutional
716 (intermediary) actors to effectively fulfill their responsibilities in IA practice.

717 Results from this study indicate that there is extreme variability in how NGOs act, ranging
718 from NGO that truly seek to represent the people concerned and seek proper IA outcomes,
719 through to NGO that seem to be acting only for their self-interests. Ongoing limited access to
720 political and social resources has been found to hinder the discussion of justice concerns in
721 land-use conflicts (Walker, 2010). This structural inequity in the distribution of resources has
722 harmed the legitimacy and accountability of decision-making in IA. Our findings show that

723 local villagers authorised NGOs as their representatives partly because they struggled to be
724 heard by more powerful actors in the decision-making arena (Bratman and Dias, 2018;
725 Kolhoff et al., 2018; Udofia et al., 2017). However, it was also because they had limited options
726 for whom they could authorise. That said, whether or not a representative is authorised is not
727 the sole indicator of legitimacy. Another indicator is how they are selected, as shown by
728 Arnesen and Peters (2018). More studies are needed to address the structural injustice
729 underlying the formation of legitimacy, and how EIA participatory mechanisms assess the
730 legitimacy of representatives.

731 In order to understand why NGOs (were perceived to) follow specific economic and
732 development agendas in the EIA processes in Indonesia, this study examined the factors that
733 influence NGOs' perception of representation in a broader social and political context
734 (Bragagnolo et al., 2017; Cashmore et al., 2010; Cleaver, 2012; Lawrence, 2007; Owens and
735 Cowell, 2011). Review of the historical role of NGOs in Indonesia (Bakker, 2019; Henley et
736 al., 2007; Herdiansah, 2016; Wilson, 2015) provides critical insights into the structural
737 challenges facing the representation by NGO intermediaries in EIA, including historical
738 prejudice towards NGOs, effects of long-lasting political suppression, and limited access to
739 technical and financial resources. That said, addressing the procedural justice concerns of the
740 stakeholders needs to look not at a single project but the whole political and economic context
741 that shapes perceptions of legitimacy and accountability. In addition, (perceptions of) the
742 function of NGOs as government alliances and development agents brings into question
743 whether other worldviews and interests regarding land-use (recognition justice) were equally
744 recognised and represented through NGO representatives in the EIA processes. The
745 incorporation of an accountability mechanism is, therefore, urgently needed for enhancing
746 the effectiveness of EIA (Cashmore et al., 2010; Hanna et al., 2014; Rega and Spaziante,
747 2013). While providing exhaustive insights on the conceptualisation and establishment of
748 such mechanisms is beyond the scope of this paper, our empirical findings uncovered some
749 challenges that should be addressed for advancing accountability of EIA policy and practice.

750 Accountability mechanisms should consider the ways of authorising a representative,
751 ensuring they act in congruence with the interest of those they represent, and holding them
752 to account (Blair, 2000; Li, 2009; Sheate, 2012). Some NGOs are portrayed as self-seeking
753 or illegitimate (Bratman and Dias, 2018; Udofia et al., 2017) partly because the screening of
754 EIA commissioner nominees lacks transparency. This screening process does not involve EIA
755 project-affected communities and companies in our case, and these stakeholders are not
756 provided information on the NGOs that are claimed to represent local interest. Besides, these
757 affected parties do not have institutional means to provide feedback on such representation.
758 Our paper suggests that incorporating a democratic screening system of the EIA committee
759 is instrumental in increasing the accountability of EIA decision-making. While such
760 systematic change of the EIA policy may take considerable time, some useful measures within
761 an existing EIA model include providing tracked information of the commissioners in the
762 impact analysis report, and encouraging feedback on the representativeness in public
763 consultations and EIA review meetings.

764 Our findings also revealed that providing institutional means for evaluating the
765 representativeness alone is inadequate to address the accountability issues in EIA practice.
766 In our case, the local communities cannot hold NGOs to account partially due to a lack of
767 capabilities to equally participate in EIA decision-making (Glucker et al., 2013). These
768 stakeholders often have limited access to political spaces for voicing their demands, lack
769 knowledge of their participation rights and lack information about the potential
770 consequences of the decisions made (e.g., the unexpected cost of resistance actions to the
771 villagers' social life). An accountability mechanism, therefore, may provide indicators for
772 capability development of those socially marginalised stakeholders (Ocampo-Melgar et al.,
773 2019; Simpson and Basta, 2018; Zhou et al., 2019), which may subsequently help the
774 representatives to act for these stakeholders' interests. Such limited capabilities of local
775 communities should be considered alongside the social resources held by NGOs.

776 Our result shows that the villagers collaborated with NGOs is primarily an attempt to

777 access to the resources such as NGO's relationship with media, negotiation skills, and
778 knowledge of constitutional or regulative rules. These findings have two implications for
779 accountability. Firstly, the result illustrates some empowerment resources needed by local
780 stakeholders. Secondly, it implies an unbalanced power relationship between local
781 stakeholders and the intermediaries (Lawrence, 2007; Owens and Cowell, 2011), which has
782 hindered local stakeholders from negotiating their interests to the intermediaries equally.
783 Addressing unequal power relationship around the EIA decision-making (Cashmore and
784 Axelsson, 2013; Harris-Roxas et al., 2012; Kolhoff et al., 2016; Sairinen et al., 2010) will,
785 therefore, offer valuable insights to further the understanding of accountability issues and its
786 implications on achieving procedural just and sustainable EIA policy and practices.

787 **6 Conclusions**

788 The main research question addressed in this study is whether NGO involved in the AMDAL
789 process are perceived to be legitimate and accountable by the various actors involved, and
790 further how the results influence achieving procedural justice. Our study examined the
791 components of the EIA legislation in Indonesia and the implications of the regulative
792 principles of procedural justice in the eyes of the NGO intermediaries, the EIA
793 commissioners, consultants, and local stakeholders.

794 Through analysing EIA legislation, it was found that NGOs were authorised to represent
795 local interests, but there was a lack of clarification and consistency regards their influence
796 and accountability concerning their participation in the EIA processes. Empirical evidence
797 further revealed the connection between representation, legitimacy, and accountability in
798 shaping the perception of procedural justice concerning intermediary actors. These key
799 connections were: 1) regulative rules alone did not establish legitimacy, and enhancing
800 legitimacy needs to consider the priorities of different actors; 2) whether NGO
801 representatives are legitimate and accountable affected the perception of the EIA
802 commissioners and local stakeholders on meaningful participation; and 3) a lack of

803 legitimacy and accountability led to the perception of ‘unjust’ participation in EIA.

804 These findings imply that incorporating procedural justice needs to address the concerns
805 of legitimacy and accountability perceived by the actors involved in the processes of IA.
806 Practically, this paper suggests incorporating an accountability mechanism in the IA policies
807 and practices, and creating political spaces for negotiating the principles underpinning
808 legitimacy among the policy makers, the intermediaries, and the stakeholders. These
809 strategies may enhance the legitimacy of representatives in IA decision-making settings.
810 Furthermore, it is necessary for clarifying the roles and responsibilities of the intermediaries,
811 which may help identify the support needed by both the representatives and the practitioners
812 in IA.

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Appendix 1: AMDAL legal framework for public participation.

Laws and regulation	Description
Law No. 32 of 2009 concerning environment protection and management	Environmental and social impacts should be evaluated at all the essential stages of a project cycle, including pre-construction, construction, and post-construction (operations and maintenance) activities.
Government Regulation No. 27 of 2012 concerning environmental permit	The participatory mechanism of AMDAL includes public announcements, public consultation, and project review commission. AMDAL commission is responsible for evaluating impact analysis reports and providing recommendations on the issuance of the environmental permit. AMDAL commissioners include the representatives from related government agencies, independent knowledge fields (usually academics), NGOs, and local communities.
Ministerial Regulation No. 17/2012 concerning the guidelines for the preparation of environmental documents	The stakeholder is defined as 1) the would-be affected people, 2) environmentalists (usually NGOs), and 3) the people who will be affected by any decision in the process of AMDAL.
Ministerial Regulation No. 16/2012 concerning procedures for assessing environmental documents and issuances of environmental permits	Impact analysis and the corresponding impact management plans should consider the potential consequences for geological resources (e.g. water and soil), biological resources (e.g. flora and fauna), socioeconomic and culture (e.g. heritage and livelihood), and public health.

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1138 **Appendix 2: Description of 23 AMDAL intermediaries based**
 1139 **on participants' self-description.**

1140 Note: 'Subnational' is a deliberate category to maintain anonymity, which could indicate either
 1141 provincial level, district level or both levels. Participant numbers were sorted by alphabetical
 1142 order.

Participant No.	Work Role				Field of Work									Scale of Work			AMDAL Commissioner	Age	Gender
	Consultant	Government	Academic	NGO	AMDAL	Biodiversity	Conservation	Corruption	Environmental Conflicts	Health	Hydrology	Transparency	Transportation	National	Subnational	Local			
1	v				v									v	v	v		56	M
2		v								v					v		v	49	F
3		v										v			v		v	42	M
4		v			v										v	v	v	43	M
5		v			v										v	v	v	49	F
6		v			v										v	v	v	50	M
7		v			v										v	v	v	67	M
8			v			v									v		v	42	M
9			v							v					v		v	50	M
10			v							v					v		v	58	M
11				v							v			v	v	v		30	F
12				v			v							v	v	v		37	M
13				v			v								v	v	v	46	M
14				v			v						v	v	v			50	M
15				v				v							v	v		28	F
16				v				v							v	v		39	M
17				v				v							v	v		41	M

18	v	v	v	v	v	35	M
19	v	v	v	v	v	38	M
20	v	v	v	v	v	42	M
21	v	v	v	v	v	50	M
22	v	v	v	v	v	53	M
23	v	v	v	v	v	58	M

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Appendix 3: Information on research participants in two villages based on self-description.

Village 1				Village 2			
No.	Occupation	Gender	Age	No.	Occupation	Gender	Age
1	Subsistence labour	M	30	1	Office administrative	M	31
2	Subsistence labour	M	34	2	Village official	M	29
3	Subsistence labour	M	35	3	Primary school teacher	M	30
4	Subsistence labour	M	33	4	High school student	M	17
5	Subsistence labour	M	26	5	High school student	F	18
6	Homemaker and Head of Women Association	F	-	6	Housework helper	F	18
7	Homemaker and subsistence labor	F	-	7	Homemaker and subsistence labor	F	47
8	Homemaker and subsistence labor	F	-	8	Homemaker and subsistence labor	F	30
9	Homemaker and subsistence labor	F	-	9	Farmer	F	36
10	Homemaker and street trader	F	-	10	Homemaker and subsistence labor	F	36
11	Neighbourhood head and subsistence labour	M	31	11	Homemaker and street trader	F	38
12	Farmer	M	46	12	Food stall owner	F	50
13	Farmer	M	55	13	Homemaker and subsistence labor	F	50
14	Farmer	M	53	14	Village official and farmer	M	45
15	Farmer	M	48	15	Village official	M	32
16	Neighbourhood head and farmer	M	-	16	Homemaker and village official	F	38
17	Farmer	M	-	17	Village head	M	45

18	Neighbourhood head and farmer	M	49	18	Farmer	M	-
19	Farmer	M	58	19	Village official	M	34
20	Sub-neighbourhood head and farmer	M	34	20	Village official	M	36
21	Village head	M	-	21	Head of fisher association and fisher	M	58
22	Village official	M	55	22	Former head of fisher association and fisher	M	-
23	Farmer	M	49	23	Palm oil smallholder	M	38
24	Palm oil cooperative staff	M	63	24	Head of palm oil cooperative	M	48
				25	Former village head	M	44
				26	Head of village council	M	48
				27	Customary chief	M	73
				28	Unemployed and protestor	M	24
				29	Village official	M	44

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