

# Resolving palm oil conflicts in Central Kalimantan

## An evaluation of the effectiveness of conflict resolution mechanisms

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A joint publication of Andalas University, KITLV Leiden,  
Wageningen University, Lembaga Gemawan, Scale Up, Walhi West Sumatra,  
Walhi Central Kalimantan, Epistema Institute and HuMa

*A team of researchers involved in the ‘Palm Oil Conflict and Access to Justice in Indonesia’ (POCAJI) project prepared this policy report. This research is a collaboration between Andalas University, KITLV Leiden, Wageningen University as well as six Indonesian NGO’s (Epistema, HuMa, Scale Up, Walhi West Sumatra, Lembaga Gemawan and Walhi Central Kalimantan), coordinated by Afrizal (Andalas University), Ward Berenschot, Ahmad Dhiaulhaq (both KITLV Leiden) and Otto Hospes (Wageningen University). Supported by these organizations, a team of, in total, 19 researchers studied 150 conflicts in four Indonesian provinces: Riau, West Sumatra, West Kalimantan and Central Kalimantan.*

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## Summary

This policy report presents proposals to improve the resolution of palm oil conflicts in Central Kalimantan, based on the results of a large collaborative effort to study the trajectories and outcomes of company-community conflicts in the palm oil sector across Indonesia. A team of 19 researchers supported by Andalas University, Wageningen University, KITLV Leiden and six Indonesian NGO's documented the trajectories and outcomes of 150 conflicts in Riau, West Sumatra, West Kalimantan and Central Kalimantan. This policy report focuses on the 45 conflicts studied in Central Kalimantan. The main findings include:

### How communities voice their grievances?

- Palm oil conflicts generally stem from a sense of unfairness about how the lands are acquired by the company and how the benefits of land use are being shared.
- Communities generally voice their grievances in a peaceful manner, through demonstrations and hearings with local authorities. Yet we observed a worrying tendency that protest leaders are frequently criminalized by police and company management: community members were arrested in 20 out of the studied 45 conflicts, involving in total 272 arrests. During the course of these conflicts 76 people were wounded and 4 people were dead.
- Palm oil conflicts are rarely solved. In Central Kalimantan, in 71 percent of the studied 45 conflicts the communities did not (or barely) succeed in addressing their grievances. When conflicts are successfully resolved, the process takes very long: 8 years on average.

### Why conflicts are rarely solved?

- An important reason for this large number of unresolved conflicts is that local authorities often fail to adequately facilitate the conflict resolution process between communities and companies. While in Central Kalimantan such facilitation and mediation was attempted regularly (in 76 percent of all cases), of the 37 studied attempts by local government officials, DPRD and police to facilitate the resolution of conflict, only in 8 cases an agreement between companies and communities was reached and implemented.
- Another reason for the large number of unresolved conflicts concerns the difficulties to access formal conflict resolution mechanisms such as the courts and RSPO's dispute facility. They are rarely employed (in Central Kalimantan only 10 cases were taken to court and 9 to the RSPO), as a combination of legal obstacles, costs, distrust and procedural complexities discourage communities from using these mechanisms. Furthermore, when communities win in court (in only 3 cases), these verdicts are often not implemented.
- In contrast, our study suggests that NGOs or professional mediators with a trained capacity for conflict mediation are much more effective in resolving palm oil conflicts.

## How conflict resolution can be improved?

- This policy report makes a number of recommendations to prevent conflict and to improve conflict resolution mechanisms. To prevent further conflict, this policy report calls on local governments to a. ensure that companies actually obtain free, prior and informed consent from communities before starting operations, b. better monitor the implementation of joint-venture (inti-plasma) schemes.
- To improve conflict resolution, this report proposes a. to create a provincial or district level mediation board, b. to boost the capacity of local authorities to resolve conflicts, c. to enable local authorities to impose sanctions on uncooperative companies, and d. a more professional law enforcement that avoids informal pressure from business actors.

## 1. INTRODUCTION

The rapid growth of Indonesia's palm oil sector is transforming the character of rural Indonesia. As the size of plantations is growing fast, palm oil companies are obtaining and changing large tracts of land. This process of land-use change is sparking palm oil conflicts<sup>1</sup> between rural communities and palm oil companies. Focusing on the last two decades, In Central Kalimantan alone we identified a total of 182 conflicts between local communities and companies over the establishment and management of palm oil plantations. These palm oil conflicts cause significant economic and personal damage not only for communities but also for companies. Finding ways to solve these conflicts is an urgent, but also challenging task.

What is the character of palm oil conflicts in Central Kalimantan, what is being done to solve them, and how effective are these conflict resolution measures? This policy report addresses these questions by analyzing the trajectories and outcomes of 45 conflicts. By studying a large number of conflicts, we were able to evaluate the effectiveness of conflict resolution efforts and identify strategies to strengthen these efforts. In this way, this policy report provides ideas for communities, companies and local governments to better address company-community conflicts in Indonesia's plantation sector.

This report is drawn from a first-ever large-scale effort to document the trajectories and outcomes of palm oil conflicts across four provinces in Indonesia: West Sumatra, Riau, West and Central Kalimantan. A team of, in total 19 researchers, supported by six Indonesian NGOs, Andalas University, Wageningen University and KITLV Leiden, set out to document 150 conflicts in four provinces.

While also engaging with comparisons with other provinces, in this policy report we focus in particular on the 45 conflicts that we studied in Central Kalimantan (see the annexure for the list of cases)<sup>2</sup>. To study these conflicts we engaged in 91 interviews and collected a wide range of relevant documents in the period of May 2019-May 2020. We collected over 6.3 GB of material for this study, involving 216 newspaper articles, 26 government documents, 43 NGO documents, 2 academic studies, 190 online sources and 6 community documents.

In this policy report we provide a summary of our findings concerning the character of the grievances sparking palm oil conflicts, the strategies that communities employ, and the usage and effectiveness of conflict resolution mechanisms. We end by discussing a number of policy implications of our findings.

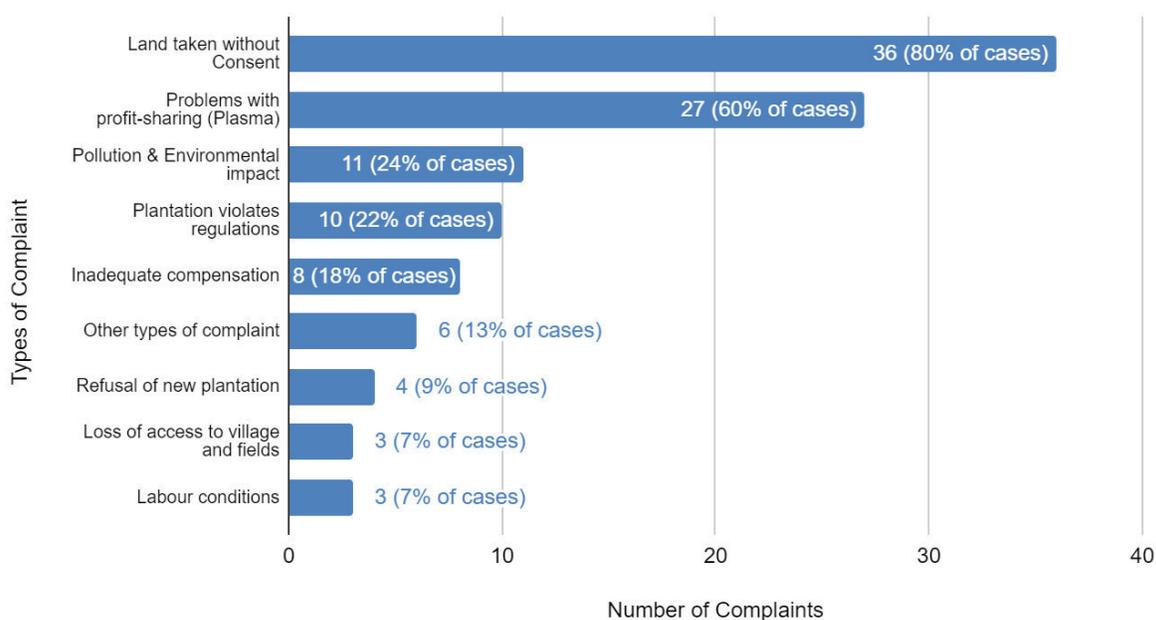
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<sup>1</sup>Here we define palm oil conflict as a publicly expressed disagreement between members of rural communities and oil palm companies and/or state institutions over the establishment or management of plantations.

<sup>2</sup>These conflicts were selected largely randomly out of a 'long list' of, in total 182 conflicts that were identified by examining newspapers and government reports over the last decade. As time, access and budgetary constraints prevented us from studying all these conflicts, initially we randomly selected 80 cases, of which 35 cases had to be dropped due to a lack of reliable sources (to safeguard the reliability of our findings, we decided to drop all cases for which we found less than six different sources).

## 2. THE GRIEVANCES SPARKED BY OIL PALM EXPANSION

In Figure 1 we provide an overview of the character of grievances fueling palm oil conflicts in Central Kalimantan. Most conflicts involve two or more different grievances (which is why the percentages add up to more than 100 percent). A common threat of the vast majority of these conflicts is that they are fueled by a sense of unfairness about how the lands are acquired by the company (80% of the cases), how benefits of land use are being shared (60%), and pollution & environmental impacts (24%). In almost all cases people express the feeling that they are not getting enough in return for the land that they have lost. Below we discuss the most salient issues.



**Figure 1. Type of Complaints in Central Kalimantan**

### ***Land taken without consent***

The most common grievance concerns the manner in which companies obtain (or not obtain) prior consent from communities during land acquisition process, a grievance voiced by communities in 36 of the studied conflicts (80% of the total). Although companies are obliged – both by legal as well as palm oil industry standards – to obtain the consent of a community and while most (but not all) companies indeed make such efforts, communities feel that they are cheated out of their land. In obtaining local ‘consent’, companies tend to rely on community leaders that often poorly represent their members, provide incomplete or false information of the impacts of plantation development, use of intimidation by *preman*, or lack transparency of compensation payments.

### ***Inadequate profit sharing (plasma)***

The implementation of profit-sharing schemes ('plasma') is also highly problematic. As can be seen from the table, complaints about these plasma-schemes are very common. These complaints basically take three forms: 1. Some companies are not providing plasma land while this was promised; 2. Plasma land is provided, but the no profits are shared with community 3. The cooperative set up to manage the plasma scheme is not functioning properly as community members running these cooperatives are not sharing the profits in a transparent manner.

Given these kinds of complaints, what kind of solutions do communities generally pursue? An important finding of our study is that in response to the above-mentioned grievances in general people are not rejecting oil palm plantation development or calling for the halt of plantation operation (only in 8 (18%) of the studied conflicts we encountered such claims). Instead, in most cases, the main aim of communities in Central Kalimantan is to receive compensation for the land they lost (in 39 (87%) of total studied conflicts). Another common demand is for (some of) their land to be returned (involving 25 cases (or 56%) of the conflict). Furthermore, communities also demand a better share of the benefits of palm oil: people want for example, (more) profit sharing through plasma-schemes (involving 44% of the cases), better implementation of plasma-schemes (16% of the cases), more contribution of companies to communities in terms of jobs opportunities (4%) and CSR (4% of the cases).

This pattern also suggests that in general people do not want the plantation to go entirely. They want, instead, to be compensated better for the land that they have contributed to the plantation development.

## **3. HOW COMMUNITIES VOICE THEIR GRIEVANCES?**

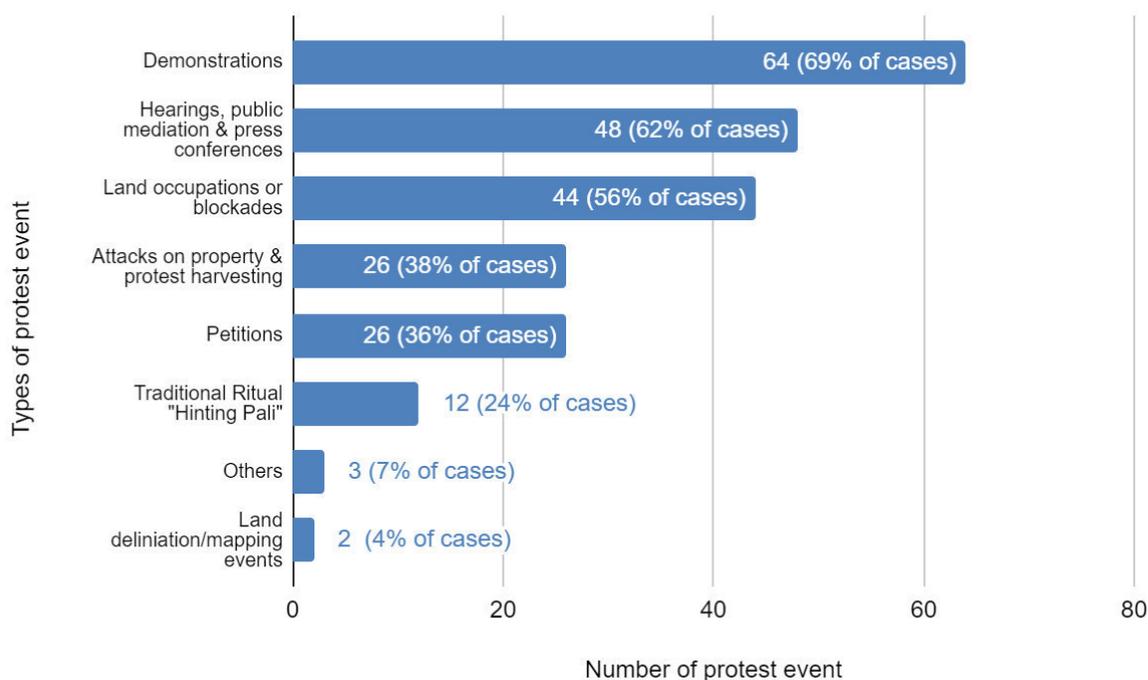
Communities are adopting a very varied range of protest strategies to express their grievances and to deal with their conflicts with palm oil companies, ranging from confrontative to accommodative strategies (Figure 2). Compared to other provinces, communities in Central Kalimantan display a stronger preference for confrontative protest strategies. The number of confrontative protest strategies in Central Kalimantan is the highest among the four provinces.

In Central Kalimantan, up to 64% of studied conflicts involved demonstrations while land occupations or blockades involved 56% of total cases. Attacks on property & protest harvesting also reached to 38% of the cases. In Central Kalimantan, there is a special type of protest event organized by the community, the Dayak traditional ritual called *Hinting Pali*. In this ritual, the chief or Damang installs a customary portal called *hinting* to close the (road to) the disputed customary land occupied by the company.

Communities also engage with local authorities to organize hearings during which they ask for their support (62% of the cases). It is remarkable that communities often direct their protests at the local governments. Many communities do start out trying to negotiate with the company directly, but as companies often do not respond, communities then very commonly organize protests in front of local government buildings or the local parliament (DPRD). A very common strategy, in other words, is to

try to enlist the support of the local government in order to put more pressure on the company.

These conflicts are taking up a lot of energy of not only communities and palm oil companies but also the police and district and provincial governments. Over the last two decades, we were able to document a total number of 64 demonstrations, 48 hearings led by local politicians and bureaucrats in Central Kalimantan, 44 land occupations, 26 attacks on property and protest harvesting, 26 petitions, 12 traditional ritual *hinting pali*, 2 land delineation/mapping, and 3 other type of protest events such as witness summon and hostage taking.



**Figure 2.** Protest strategies used by communities

In Central Kalimantan, communities generally avoid violence: while violence occurred in 15 cases of the total 45 conflicts, in 4 cases this violence was perpetrated by the police. Only in 1 case communities were the sole perpetrator of violence. However, there were 5 cases of the total 15 cases in which violence was perpetrated by both community and the police or company security. In Central Kalimantan, there were 2 cases where *preman* (likely hired by the company) caused violence.

A partial exception concerns attacks on the company's property and a practice which we call 'protest harvesting': the harvesting by villagers of oil palm fruit bunches from disputed land (38% of the cases). While protest harvesting is often considered 'illegal' and quite often leads to arrests, people quite often engage in this practice, particularly when they feel it is the only way to get some compensation for their land.

In short, open confrontations with either the company or the government are generally avoided. An explanation for these rather accommodative protest strategies lies perhaps in another pattern that we found: particularly protest leaders run considerable risk at being arrested. Communities regularly complain about *kriminalisasi*, as protest leaders are regularly arrested, mostly for very minor violations such as carrying a machete in a plantation or using threatening language. We found that community members were arrested in 20 cases (44 percent) of the 45 cases in Central Kalimantan, involving in total 272 arrests. We also recorded that during the course of these conflicts 76 people were wounded and 4 people died. As a result, the local government and law enforcement officials (e.g. police) are often seen as favouring investors' interests over the interests of indigenous people.

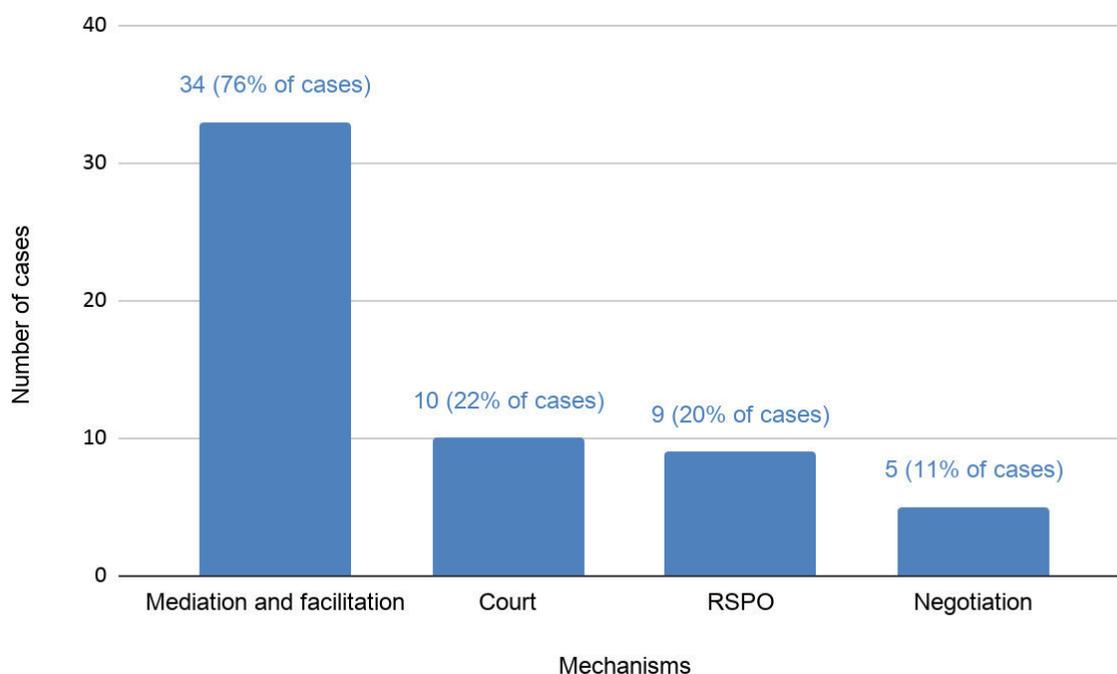
**Table 1.** Cases involving violent incidents and arrests

	Central Kalimantan	West Kalimantan	Riau	West Sumatra	Total (150 cases)
<b>Incidence of Violence (cases)</b>	15 (33%)	6 (19%)	14 (29%)	8 (32%)	43 (29%)
<b>Arrests (cases)</b>	20 (44%)	10 (31%)	26 (54%)	7 (28%)	63 (42%)
<b>no. wounded</b>	76	12	56	62	195
<b>no. deaths</b>	4	0	12	0	16
<b>no. of arrests</b>	272	94	233	101	700

#### 4. CONFLICT RESOLUTION STRATEGIES

What kind of conflict resolution mechanisms did communities employ to address their grievances? Figure 3 shows that formal conflict resolution mechanisms are rarely employed. The involvement of courts (22% of the total cases) and RSPO's dispute facility (20%) are relatively uncommon. During our interviews, respondents often expressed a distrust of the courts, while the costs and the perceived complexity of procedures also seem to be obstacles. Another reason for the limited use of courts is that Indonesian law restricts land ownership for rural Indonesians while such formal ownership is important to win court battles related to land.<sup>3</sup> The lack of (the possibility of obtaining) formal land titles is discouraging rural communities from taking their land-related grievances to court.

<sup>3</sup>See Berenschot, '150 tahun belenggu atas hak tanah', Kompas 20 July 2020 (<https://kompas.id/baca/opini/2020/07/20/150-tahun-belenggu-atas-hak-tanah/>)



**Figure 3.** Use of conflict resolution mechanisms

As a result of this distrust and inaccessibility of formal mechanisms, communities instead rely on informal conflict resolution mechanisms such as mediation and facilitation. Such informal conflict resolution mechanisms were employed in 76% of all of the studied conflicts. Informal mediation has many advantages compared to formal mechanisms, as it is cheaper, allows communities to participate in decision making, and better accommodates traditional land claims. In practice, mediation and facilitation in Central Kalimantan are led by several actors (see below), but in most cases local politicians or bureaucrats organize a meeting with company and community representatives and try to work out a compromise between them. This reliance on facilitation by local authorities corresponds with the above-mentioned tendency to demonstrate in front of government offices: the most common strategy of communities is to use demonstrations and hearings as means to get local authorities to mediate between them and the company. Unfortunately, while this is apparently the most accessible mechanism, this informal facilitation provided by local authorities is remarkably unsuccessful. We will explore this ineffectiveness of informal facilitation below.

## 5. EFFECTIVENESS OF CONFLICT RESOLUTION MECHANISMS

In light of our aim to identify how palm oil conflicts can be most effectively solved, we asked community representatives to evaluate the outcome of their conflict and assess to what extent communities succeeded in realizing their claims. In this manner the interviewed community members as well as the researchers studying these conflicts ranked the outcome from 1 (we had no success at all) to 5 (we fully achieved our aims)<sup>4</sup>.

The results – reported in Table 2 – indicates that communities feel that they rarely succeed in achieving their aims. In Central Kalimantan, in 29% of the conflicts, communities did not achieve anything at all and in 42% of cases barely achieved a result (such minor results concern token gestures of goodwill from the company such as contribution of CSR money or offering labour opportunity, unrelated to the main claims of the community). In other words, in 32 (71 percent) of the studied 45 conflicts the communities did not (or barely) succeed in addressing their grievances. This reflects a common pattern: in all our provinces communities rarely succeed in realizing their claims vis-à-vis palm oil companies. These findings suggest that all three of the main conflict resolution mechanisms – the courts, RSPO's complaint facility as well as informal mediation by local authorities – are rather ineffective. Below we discuss each of these mechanisms.

**Table 2.** Overall evaluation of conflict outcomes in four provinces

	Central Kalimantan*	West Kalimantan*	Riau*	West Sumatra*	Total (150 cases)
<b>No success at all</b>	13 (29%)	12 (38%)	23 (48%)	9 (36%)	57 (38%)
<b>Barely</b>	19 (42%)	9 (28%)	10 (21%)	7 (28%)	45 (30%)
<b>Partially</b>	9 (20%)	7 (22%)	9 (19%)	4 (16%)	29 (19%)
<b>To a large extent</b>	3 (7%)	4 (13%)	5 (10%)	5 (20%)	17 (11%)
<b>Fully successful</b>	1 (2%)	0 (0%)	1 (2%)	0 (0%)	2 (1%)

\*number of conflict cases

<sup>4</sup>To strengthen the reliability of these assessments, we endeavoured to have at least two community representatives to provide assessments, which we complemented by independent assessment of local researchers.

## Court

Our study of the 10 conflicts in Central Kalimantan (22% of all the cases) that did go to court suggests that, indeed, courts are often rather ineffective to address community grievances. In 1 out of 10 court cases, the court declared the case as inadmissible. Out of the 10 court cases that community members started against palm oil companies they won only in 3 cases (of which one ruling was mixed). In fact, in Central Kalimantan palm oil companies more often took villagers to court for alleged violations such as protest harvesting: we documented 13 court cases against villagers, of which the company won 8 cases. These findings confirm the widespread perception that it is difficult for citizens to obtain a favorable ruling in court cases against companies. The lack of firm action by the authorities in enforcing the law also caused conflicts to drag on for years.

**Table 3. Outcomes of court cases**

	Central Kalimantan	West Kalimantan	Riau	West Sumatra	Total
<b>Declared inadmissible</b>	1	2	4	6	13
<b>Ruling in favour of company</b>	5	-	3	2	10
<b>Ruling in favour of community</b>	2	2	3	3	10
<b>Mixed ruling</b>	1	1	1	-	3
<b>Case withdrawn by claimant</b>	1	-	1	2	4
<b>Total</b>	10	5	12	13	40

## RSPO

Another important finding is that communities rarely take their cases to RSPO's dispute resolution facility. This organization has set up a specific body – a dispute settlement facility (DSF) – to facilitate the resolution of conflicts involving one of its member companies. During interviews, most community respondents are not aware of this mechanism. While many companies active in Central Kalimantan are RSPO members, only 9 cases in our study went to RSPO, and only in 2 cases RSPO ordered the company to halt land clearing pending licensing processes. In 1 case, RSPO did not take up the case, in another 2 cases RSPO dismissed the case because the allegations were not well-founded, and in another 2 cases RSPO closed the case due to lack of information. In another 2 cases, RSPO dismissed the complaint because an agreement had been reached by bilateral negotiation between the community and the company. The general pattern is that due to the complexities of their procedures and limited capacity to pressurize companies, RSPO's dispute resolution facility succeeded in resolving only a tiny fraction of the conflicts we studied.

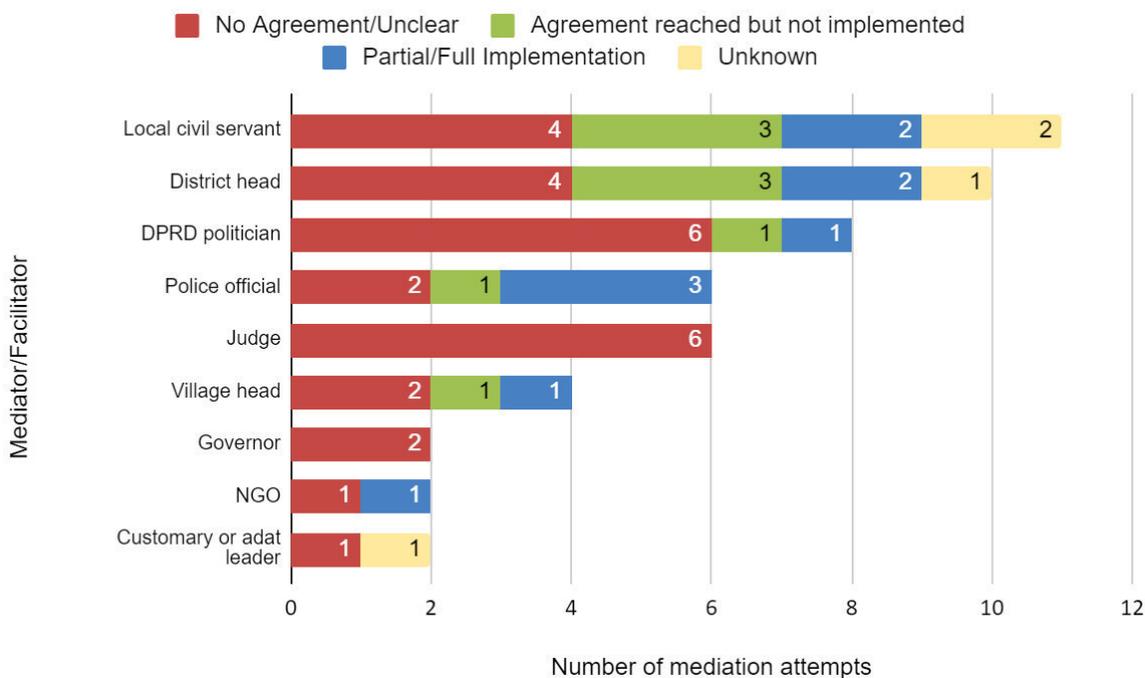
## Mediation and Facilitation

The most commonly employed conflict resolution mechanism – informal facilitation by local authorities and politicians<sup>5</sup> – turned out to be similarly ineffective. When studying the third-party mediation and facilitation, we documented whether these led to agreements between companies and communities, and to what extent these agreements were implemented. The results are sobering: we found that only in 20% of the studied conflicts the conflicting parties reached an agreement that was partially or fully implemented. It turns out that local authorities are failing in their efforts to facilitate conflict resolutions: as the figure below illustrates, while district heads, governors, local bureaucrats, DPRD politicians and police officials are regularly involved in facilitation and mediation, they rarely succeeded: of the, in total, 37 studied attempts by these government authorities (i.e. excluding village heads and ngo's) to facilitate the resolution of conflict, only in 8 cases an agreement between companies and communities was reached and implemented. In 9 other cases an agreement was reached, but it was not implemented.

These results for Central Kalimantan are similar in our three other provinces. In a telling contrast, our material suggests that NGOs or professional mediators with a trained capacity for mediation are much more effective: taking cases together from all our provinces, they succeed in brokering an agreement in 5 out the 7 conflicts they mediated (1 out of 2 in Central Kalimantan). This finding suggests that when mediation is done systematically and facilitated by trained or experienced mediators, it can lead to positive results.

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<sup>5</sup>For practitioners, the term mediation is distinguished from facilitation. In terms of process, mediation generally follows structured stages to reach a consensus or agreement between the disputing parties, starting from the pre-mediation stage (agreeing on the mediator, conflict assessment, actor identification, mediation management design), mediation (the negotiation process and finding points of agreement), and post-mediation activities (implementation of agreements, monitoring and evaluation). Meanwhile, what happens more often in the field is that politicians and local officials are limited to facilitating meetings between the disputing parties and asking both parties to find a common solution.



**Figure 4.** Effectiveness of different mediators and facilitators

The result of this ineffectiveness of conflict resolution mechanisms is that conflicts drag on for many years and that they generally remain unresolved. We found that in Central Kalimantan of those conflicts that research some sorts of resolution, this took on average 8 years. And for the studied conflicts that are as yet unresolved, they have been ongoing for, on average, 10 years.

## 6. WHY IS CONFLICT RESOLUTION GENERALLY INEFFECTIVE?

These sobering findings raise urgent questions: why does conflict resolution generally fail and when does it succeed? Our material on these facilitation processes suggest the following three main reasons for why local authorities are often so unsuccessful in resolving conflicts:

- **Lack of systematic procedures.** A first reason is that local authorities generally facilitate conflict resolution processes with little training or procedures on how to conduct mediation. Contrary to the elaborate step-by-step plans of professional mediators and NGO's, local authorities have to improvise and they generally lack knowledge on how to identify a common ground between disputing parties.
- **Limited commitment.** A related problem is that local authorities generally do not expend the time (and money) and efforts needed to resolve a conflict. At first, local authorities often do spend some time, engaging in a field visit and/or organizing a hearing to hear the viewpoints of both parties. Yet after one or two such sessions, local politicians or officials generally stop their efforts. Yet we know from the

successful mediation cases that such processes can be lengthy, involving numerous rounds of mediation.

- **Lack of sanctions for uncooperative companies.** An important characteristic of palm oil conflicts is that palm oil companies generally face little incentives to resolve them. Particularly when they have already taken control over the land (i.e. in most of the cases), they face no pressing need to resolve the conflict. As a result, we often observed that companies are reluctant to participate constructively in conflict resolution efforts. For example, companies sometimes refuse to attend the meetings called by local authorities, they refuse to provide requested evidence or they simply refuse to commit to any kind of solution or agreement. Currently local authorities are relatively powerless when faced with such behavior: they lack sanctions that could compel companies to participate constructively in conflict resolution efforts.
- **Contested community representation and leadership.** Another obstacle for effective conflict resolution can be found on the side of communities: in quite a number of studied conflicts we found that conflict resolution efforts were hampered by contested and inadequate community leadership. On the one hand community leaders such as *adat* leaders or village heads sometimes make agreements with companies without properly consulting their community, while on the other hand alternative leaders emerge who might not represent all community members. These problems of community leadership are generating conflicts and complicate their resolution, as companies often do not know whether community representatives really represent their community.

## 7. CHARACTERISTICS OF SUCCESSFUL CASES

Sometimes communities do manage to address their grievances. In some cases palm oil companies have been willing to implement effective agreements while in other cases the community managed to make effective use of the RSPO or Indonesia's justice system. We encountered four such 'success cases' in Central Kalimantan. To draw lessons from such cases, we provide an overview of these five cases in the table below.

**Table 4. Relatively successful cases**

Name of successful cases	Main grievances	Process of conflict resolution	Duration	Outcome
1. PT. Usaha Handalan Perkasa	Land taken without consent	Mediation facilitated by local civil servants, with support from NGO's (Walhi, Pusaka, YPD), and helped by community's political connections	7 years	The company let the community reclaim their disputed land (but without a written agreement)

Name of successful cases	Main grievances	Process of conflict resolution	Duration	Outcome
2. PT. Hutan Sawit Lestari	Land taken without consent, Problems with profit sharing (plasma)	Mediation facilitated by the district head with help from NGO.	13 years	Mediation resulted in an agreement to provide and arrange plasma via Koperasi Jaya Makmur. The community did not manage to reclaim their land.
3.PT. Gemareksa	Land taken without consent, Problems with profit sharing (plasma)	Case brought to court by the community. The lower court ruled in favor of the company, however the MA ruled that the villager was the rightful owner of the land.	8 years	After a ruling of the Supreme Court 24.8 ha of land was returned to the villager. However, the problems with plasma sharing have not been resolved
4. PT. Rezeki Alam Semesta Raya	Land taken without consent, loss of access to village and fields	The villagers have occupied the land. Subsequent lobbying of politicians did not yield structural solution.	8 years	The villagers have occupied and harvested the disputed land since 2017. However, the company is still operating despite revocation of their operation license.

While this short policy report cannot do justice to the complexity of these cases, our analysis suggests that there are three main lessons to be drawn from these success cases. A first lesson is that in order to successfully address their grievances, communities need to be well organised and united. For example, in the case of PT Usaha Handalan Perkasa (UHP), the community set up an effective organisation led by various community leaders. This organisation organised various successful demonstrations and proved effective in lobbying government authorities. In cases of PT HSL and PT RASR, local activists consistently led and coordinated the community, thereby preventing the kinds of community divisions that commonly prevented conflict resolution in other cases.

A second, less visible factor concerns the importance of political connections. For three out of four cases—PT UHP, PT HSL and PT RASR—the resolution of the conflict was partly due to the good relationships of community leaders with the local government. In the case of PT UHP, for example, community leaders had friends in local government, received aid from the governor and even managed to meet minister Siti Nurbaya. Conversely, the companies PT UHP and PT RASR had relatively bad

connections with the local government— with one company, PT RASR, even seeing its licence revoked. These good connections seem to have helped to pressurize companies into making compromises during the mediation processes. PT HSL had better connections: initially it used its close connections with the local police to get villagers arrested—a practice of ‘criminalization’ which often serves to suppress (but not solve) conflicts. Yet over the years—after the arrested villagers were freed by a landmark ruling of the supreme court in 2011—PT HSL changed its stance and, stimulated by local government, proved to be willing to provide plasma to the community. In all cases the strength of the personal connections of villagers seemed vital to succeed in reclaiming land or obtaining plasma land.

In that light it is worrisome that these cases are not solved on the basis of legal considerations or state regulations. The legal position of these successful communities was not stronger compared to the many communities who did not succeed in recovering their land. The strength of informal connections often turn out to be more important than legal considerations. The fourth other success case, PT Gemareksa, illustrates why this might be the case. On the face of it, this case seems a symbol of the usefulness of Indonesia’s legal system, as this case was resolved in court. Yet the complexity of this court case—taking, in total, 8 years, involving Indonesia’s highest court and costing, according to the claimant, a lot of money—also illustrates why this avenue is closed for most communities. Generally speaking, communities can only successfully take a case to court if they have a lot of money and stamina.

In short, while successful, these four cases also illustrate how difficult conflict resolution is, as these communities have been exceptionally persistent and skillful in overcoming the obstacles that communities face when dealing with better-resourced and better-connected companies.

## 8. CONCLUSION AND POLICY RECOMMENDATIONS

In the light of the finding that available conflict mechanisms are largely ineffective in solving palm oil conflicts, we derive from our study of 150 conflicts a number of policy recommendations on how conflicts can be avoided and conflict resolution efforts can be made more effective. In this report we focus on measures that the district and provincial governments in Central Kalimantan. Recommendations for measures that could be taken by the national government will be discussed in a future report.

### Conflict prevention

- **Improvement in the process of obtaining ‘free, prior and informed consent’.** It is mandatory for companies to obtain consent from communities before commencing operations. Yet this process of obtaining consent needs to be improved: consent from individual community members is needed, intimidation should be avoided, and a clear (implementation of a) compensation package needs to be provided. From their end, communities need to set up better community representation when engaging with incoming palm oil companies: many conflicts originate from inadequate community leadership or the capture of it, as local leaders regularly consent to companies taking community land without

adequately consulting with community members (and, often, without sharing the benefits they received for providing such consent).

- **Local governments need to better monitor the implementation of joint-venture (inti-plasma) schemes.** A large group of conflicts (60 percent of the total) involves complaints about such schemes: either companies renege on their promise to provide *plasma*, they do not pay out any or very little profits of this scheme, or the management of the scheme (through a cooperation) is very untransparent. Many of these conflicts could be prevented if local governments would take a more proactive role in monitoring the implementation of such plasma schemes. This monitoring would be particularly effective if local governments would have the capacity to sanction companies that are found to be at fault.

## Conflict resolution

- **A provincial or district level mediation board is needed.** In the light of the ineffectiveness of available conflict resolution mechanisms, and the limited success of local authorities to solve conflicts, there is a need for setting up a new impartial mechanism: a 'mediation board' or 'conflict resolution desk' that involve professionally trained mediators that will help facilitate the resolution of conflicts at local level. Institutionally, such a mediation board could be established through either SK Bupati or Perda and funded by the government. Given the considerable suffering and economic damage caused by these conflicts, conflict resolution deserves more government funding.
- **More elaborate procedures and training could boost the capacity of local authorities to resolve conflicts.** Local politicians or officials generally engage in mediation without much training or knowledge of mediation techniques. While there are impressive exceptions, generally the facilitation and mediation efforts by local politicians and officials are limited to bringing the disputing parties to a meeting and asking them to come to an agreement. Generally, little effort is made to explore what kind of common ground can be found between the community and the company. Similarly, local authorities seem to pay relatively little attention to monitoring the implementation of agreements – which is crucial as many agreements are not implemented. Given the local authorities very regularly engage in mediation, provincial governments could make their efforts more effective by providing them with training and guidelines.
- **Local authorities need to be able to impose sanctions on uncooperative companies.** Perhaps the most important reason for why local authorities often fail to resolve conflicts, is that they lack a capacity to impose sanctions (other than revoking licenses) on companies unwilling to participate in conflict resolution. We often observed that mediation efforts failed because companies were unwilling to come to meetings or to provide relevant evidence (of, for example, claims that they had already compensated community members). Similarly, companies regularly reneged on their promises: many agreements with communities ended up not being implemented. At present, there is relatively little local authorities can do in such cases – apart from taking the most drastic step of revoking licenses. Conflict resolution could be strengthened if local authorities were given the authority to impose monetary

finer or temporarily close the plantation. This could serve to incentivize companies to participate more constructively in mediation efforts.

- **There is a need for more professional law enforcement that avoids informal pressure from business actors.** In addition to the enforcement of the above sanctions, the government and law enforcers (police, prosecutors, judges) should be more professional in law enforcement, including in terms of monitoring, enforcement of administrative and criminal sanctions against legal violations by companies. In many cases, law enforcement (punishment) tends to target indigenous peoples, but not companies or officials who are involved in acts that are against the law. Legal violations by the company and the use of force by the security forces against the community are often taken for granted. The findings of this study recommend that law enforcement be carried out professionally and by placing the principles of equality and equal rights before the law. If these principles are applied, it is hoped that conflicts can be prevented and can be resolved more quickly. Apart from that, there is a need for legal empowerment for affected communities to have better capacity when bringing their cases to the court.

There is an urgent need to find better solutions to palm oil conflicts. These conflicts affect the welfare of people of Central Kalimantan, they damage the image and profits of the palm oil industry, and they have negative effects on Central Kalimantan's local economy. In that light, fair and effective conflict resolution mechanisms are needed in order to prevent such damage and to achieve fair and effective agreements between communities and palm oil companies. This policy brief was written with the hope of contributing to that end.

## Annex

List of studied conflicts in this report

No	Company name	Conflict duration (years)	Grievances of community			Overall evaluation of outcome
1	PT Tantahan Panduhup Asi	12	Refusal of new plantation	Inadequate profit sharing (plasma)	Land taken without consent	1. No success at all
2	PT Kapuas Maju Jaya	12	Land taken without consent	Inadequate licencing process	Inadequate compensation	2. Barely
3	PT Kahayan Agro Plantation	10	Refusal of new plantation			1. No success at all
4	PT Suryamas Cipta Perkasa	12	Land taken without consent	Inadequate compensation	Inadequate profit sharing (plasma)	2. Barely
5	PT. Globalindo Agung Lestari	10	Inadequate compensation	Management of profitsharing (Plasma)	Employment practices	1. No success at all
6	PT. Dwie Warna Karya	10	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other Env. impacts	2. Barely
7	PT Katingan Indah Utama	4	Land taken without consent	Pollution		1. No success at all
8	PT. Susantri Permai	9	Land taken without consent	Management of profitsharing (Plasma)	Pollution and other Env. impacts	2. Barely
9	PT. Agri Bumi Sentosa	9	Illegal plantation boundaries	Inadequate compensation	Violation of adat site or public facility	3. Partially
10	PT Maju Aneka Sawit	9	Land taken without consent			1. No success at all
11	PT Wana Sawit Subur Lestari	13	Land taken without consent			1. No success at all

No	Company name	Conflict duration (years)	Grievances of community			Overall evaluation of outcome
12	PT. Satria Hupasarana	7	Land taken without consent	Inadequate profit sharing (plasma)	Inadequate licencing process	3. Partially
13	PT. Sukajadi Sawit Mekar	15	Land taken without consent	Inadequate profit sharing (plasma)	Illegal plantation boundaries	2. Barely
14	PT. Kalimantan Hamparan Sawit	6	Land taken without consent	Pollution		1. No success at all
15	PT. Berjaya Agro Kalimantan	10	Land taken without consent	Inadequate profit sharing (plasma)		1. No success at all
16	PT. Karya Makmur Abadi	14	Land taken without consent			1. No success at all
17	PT. Mentaya Sawit Mas	8	Inadequate compensation	Land taken without consent	Inadequate profit sharing (plasma)	2. Barely
18	PT. Antang Ganda Utama	9	Inadequate compensation	Inadequate profit sharing (plasma)	Inadequate licencing process	2. Barely
19	PT. Karya Dewi Putra	14	Inadequate profit sharing (plasma)	Land taken without consent	Violation of adat site or public facility	2. Barely
20	PT. Mitra Mendawai Sejati	12	Land taken without consent			1. No success at all
21	PT. Hampalit Jaya	5	Inadequate profit sharing (plasma)	Illegal plantation boundaries		2. Barely
22	PT. Bangkit Giat Usaha Mandiri	22	Land taken without consent	Inadequate profit sharing (plasma)		2. Barely
23	PT. Multi Persada Gatra Megah	10	Inadequate compensation	Inadequate profit sharing (plasma)	Labour conditions	2. Barely
24	PT. Bumitama Gunajaya Abadi	8	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other Env. impacts	3. Partially

No	Company name	Conflict duration (years)	Grievances of community			Overall evaluation of outcome
25	PT. Bumitama Gunajaya Abadi (Labour)	5	Labour conditions			3. Partially
26	PT. Agro Mandiri Perdana / Binasawit Abadi pratama	11	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other Env. impacts	1. No success at all
27	PT Unggul Lestari	6	Land taken without consent	Inadequate profit sharing (plasma)		2. Barely
28	PT. Surya Sawit Sejati	6	Land taken without consent			3. Partially
29	PT. Buana Artha Sejahtera	9	Land taken without consent	Inadequate compensation	Loss of access to village and fields	3. Partially
30	PT. Hutan Sawit Lestari	13	Land taken without consent	Inadequate profit sharing (plasma)		4. To a large extent
31	PT. Bangun Jaya Alam Permai	11	Land taken without consent	Inadequate profit sharing (plasma)		2. Barely
32	PT Surya Inti Sawit Kahuripan	9	Land taken without consent	Management of profitsharing (Plasma)		3. Partially
33	PT Sungai Rangit vs Sukaraja	10	Management of profitsharing (Plasma)	Management of profitsharing (Plasma)		2. Barely
34	PT. Putra Katingan Pratama	5	Inadequate profit sharing (plasma)	Loss of access to village and fields	Pollution and other Env. impacts	2. Barely
35	PT Mustika Sembuluh	17	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other Env. impacts	1. No success at all
36	PT Gemareksa (vs fisherman)	4	Pollution and other Env. impacts			3. Partially
37	PT Gemareksa (land grabbing)	8	Land taken without consent	Management of profitsharing (Plasma)		4. To a large extent
38	PT. Kalimantan Lestari Mandiri	3	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other Env. impacts	2. Barely
39	PT Salonok Ladang Mas	20	Refusal of new plantation	Land taken without consent		2. Barely

No	Company name	Conflict duration (years)	Grievances of community			Overall evaluation of outcome
40	PT. Usaha Handalan Perkasa	7	Land taken without consent			5. Fully
41	PT. Agro Bukit	15	Land taken without consent	Inadequate licencing process		2. Barely
42	PT. Rezeki Alam Semesta Raya	8	Land taken without consent	Loss of access to village and fields		4. To a large extent
43	PT Sakti Mait Jaya Langit	8	Pollution and other Env. impacts	Inadequate licencing process		2. Barely
44	PT Hamparan Masawit Bangun Persada	14	Land taken without consent			3. Partially
45	PT. Bumi Sawit Kencana	16	Land taken without consent	Land taken without consent	Cause disturbance among local communities	1. No success at all

What is the general character of oil palm conflict in Central Kalimantan? What has been done to solve it? and how effective are these conflict resolution efforts? This policy report attempts to answer these questions by analyzing the trajectories and outcomes of 45 conflict cases in Central Kalimantan.

By studying a large number of conflicts, we evaluate the effectiveness of conflict resolution efforts and propose strategies for scaling up those efforts. As a result, this policy report provides ideas and recommendations for communities, companies and local governments to better improve the mechanisms for resolving oil palm conflicts in Central Kalimantan. For more information, contact: [pocaji.info@gmail.com](mailto:pocaji.info@gmail.com).

