

Resolving palm oil conflicts in West Kalimantan

An evaluation of the effectiveness of conflict resolution mechanisms

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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 West 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 West Kalimantan, Central Kalimantan, Riau and West Sumatra. This policy report focuses on the 32 conflicts studied in West 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 31 percent of the studied conflicts in West Kalimantan, involving in total 94 arrests. These conflicts led to 12 injured people.
- Palm oil conflicts are rarely solved. In West Kalimantan, in 69 percent of the studied 32 conflicts, the communities did not (or barely) succeed to address their grievances. When conflicts are successfully resolved, the process takes very long: 5 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 West Kalimantan such facilitation and mediation were attempted regularly (in 72 percent of all cases), of the 26 studied attempts by local government officials, DPRD and police to facilitate the resolution of conflict, only in 3 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 West Kalimantan only 5 cases were taken to court and 5 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 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. To prevent further conflict, this policy report calls on local governments to: a. to better 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 conflicts¹ between rural communities and palm oil companies. In the period between 1994 and 2018, in West Kalimantan alone we identified a total of 69 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 West 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 32 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 32 conflicts that we studied in West Kalimantan (see the annexure for the list of cases)². To study these conflicts, we collected over 2.3 GB of material involving over 168 newspaper articles, 10 government documents, 3 community documents, 26 NGO documents, 5 academic studies and 143 online sources. We also engaged in 53 interviews with community representatives in the period between May 2019 - May 2020. 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.

¹Here 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.

²These conflicts were selected largely randomly out of a 'long list' of, in total 69 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 62 cases, of which 30 cases had to be dropped due to a lack of access and 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 West Kalimantan. Most conflicts involve two or more different grievances (which is why the percentages add up to more than 100 percent). The vast majority of these conflicts are fueled by a sense of unfairness about how the lands are acquired by the company and how the benefits of land use are being shared. Almost in 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.

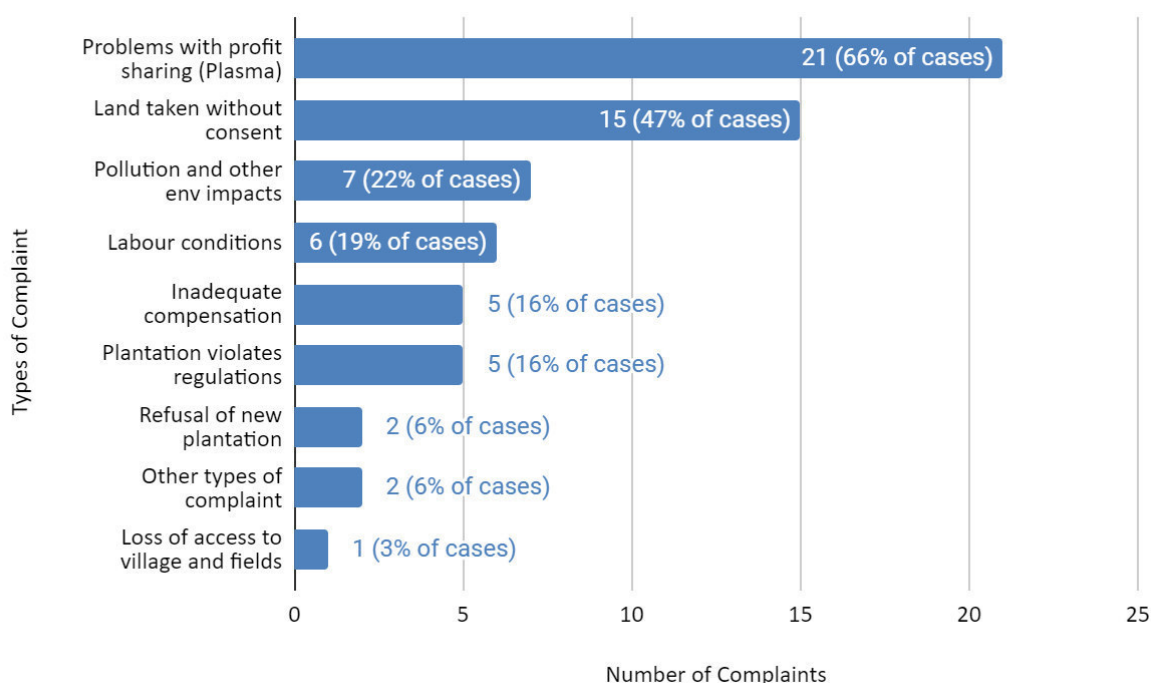


Figure 1. Types of complaints

Inadequate profit sharing (plasma)

The implementation of profit-sharing schemes (plasma) regularly leads to conflict. Figure 1 shows that complaints about these plasma-schemes are very common (66% of the cases). These complaints basically take three forms: 1. Some companies are not providing plasma land while this was promised; 2. Plasma land is provided, but no or too little 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.

Land taken without consent

The second 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 15 of the studied conflicts (47% of the total). Although companies are obliged – both by legal as well as industry standards – to obtain

the consent of a community, not all companies make such efforts, making communities feel that they are cheated out of their land. In some of the cases, companies tend to rely on community leaders that often poorly represent their members, provide incomplete or false information about the impact of plantation development, use of intimidation by *preman*, or lack transparency of compensation payments.

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 3 (9%) of the studied conflicts we encountered such claims). Instead, in most cases, the main aim of communities is to get a better share of the benefits of palm oil: people want for example, (more) profit sharing or better implementation of plasma-schemes (involving 20 (or 63 %) of the studied conflict in West Kalimantan). Furthermore, communities also demand more compensation for the land they lost (47 % of the cases), get (some of) their land returned to them (involving 7 (or 22%) of the cases) and more contribution of companies to communities in terms of jobs opportunities and better management of labour (12%). 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.

3. HOW COMMUNITIES VOICE THEIR GRIEVANCES?

What kinds of strategies are communities adopting to voice their grievances? We found that communities in West Kalimantan adopt a very varied range of protest strategies, ranging from confrontative to accommodative strategies (Figure 2). Demonstrations are the most commonly employed strategy: in 69 percent of the studied cases communities staged at least one demonstration to voice their grievances. Over the period of 1994-2019, we found that in West Kalimantan these conflicts generated 58 demonstrations, 48 hearings mainly led by local politicians and bureaucrats, 18 land occupations and blockades, and 14 attacks on property.

A remarkable finding is that communities often direct themselves to local governments rather than the companies. Many communities do start out to negotiate with the company directly, but as companies often do not respond, communities then very commonly organize demonstrations in front of district government or the local parliament (DPRD) buildings. These demonstrations often convince local authorities to organize a hearing to discuss the issue: In 21 of the cases we studied (66% of the total), hearings either with DPRD members, district heads or governors took place. A very common strategy is to enlist support of local authorities in order to put more pressure on the company.

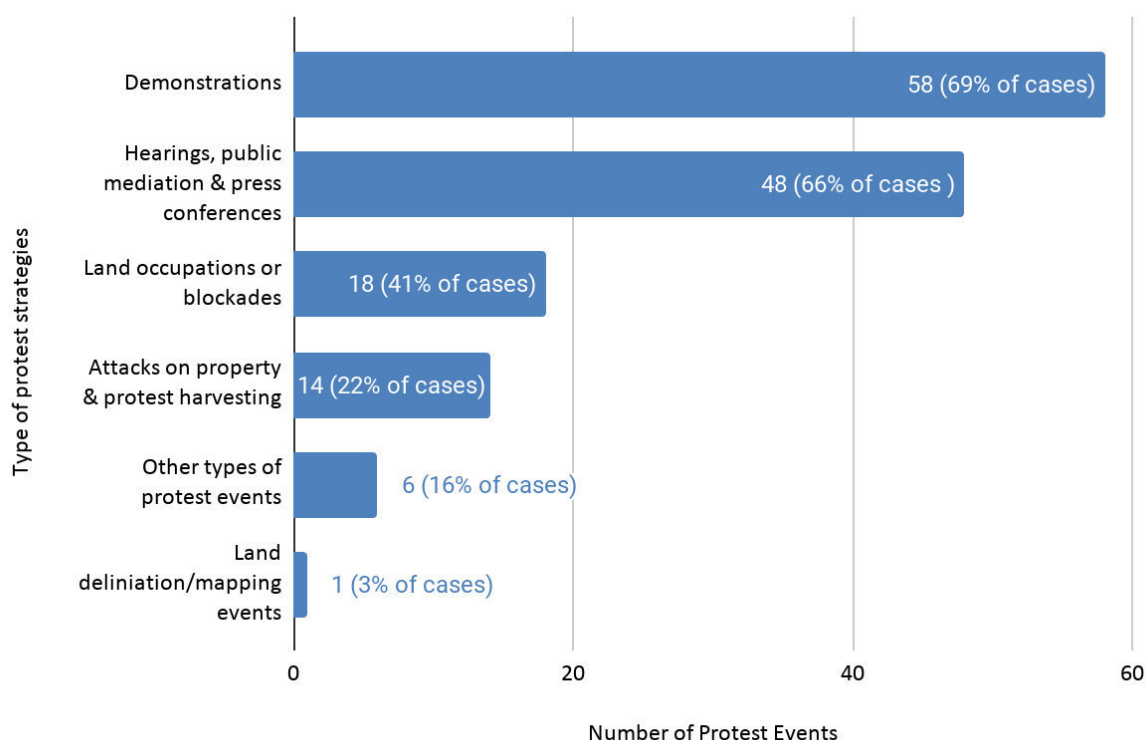


Figure 2. Protest strategies used by communities

Confrontative strategies such as land occupations or blockades are sometimes used (in 17 of the cases we studied). Yet, remarkably, communities generally avoid violence. While violence occurred in 19 percent of the studied conflicts, only half of these violent incidents were perpetrated by the community alone. Often the violence during protest events was perpetrated *against* the community, either by the police or the company's security guards and hired *preman*. Yet community members do sometimes engage in illegal harvesting of palm fruit bunches from disputed land (17% of the cases). We refer to such practices as 'protest harvesting': while often leading to arrests, individuals seem to engage in this practice as a last-ditch attempt 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 by police. 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 31 percent of the conflicts occurring in West Kalimantan (42.7% percent in all four provinces), involving in total 94 people were arrested in West Kalimantan. We also recorded that the studied palm oil conflicts in West Kalimantan led to 12 injured people. This criminalization of protest leaders for, generally, flimsy reasons suggests that the local authorities are not sufficiently safeguarding the communities' right to voice their grievances. As a result, the local government and law enforcement

officials (e.g. police) are often seen as favouring investors' interests over the struggle of indigenous people.

Table 1. Cases involving violent incidents and arrests

	West Kalimantan	Riau	West Sumatera	Central Kalimantan	Total (150 cases)
Incidence of Violence (cases)	6 (19%)	14 (29%)	8 (32%)	15 (33%)	43 (29%)
Arrests (cases)	10 (31%)	26 (54%)	8 (32%)	20 (44%)	64 (43%)
no. wounded	12	56	62	76	195
no. deaths	0	12	0	4	16
no. of arrests	94	233	101	272	700

4. CONFLICT RESOLUTION STRATEGIES

What kind of conflict resolution mechanisms did communities employ to address their grievances? Figure 3 below shows that formal conflict resolution mechanisms are rarely employed. The involvement of courts (16% of the total cases) and RSPO's dispute facility (16%) are relatively rare. During our interviews, respondents often express distrust of the courts, while the costs and the perceived complexity of procedures also seem to be obstacles. Another reason is that Indonesian law restricts land ownership for rural Indonesians while such formal ownership is important to win court battles related to land.³ The lack of (the possibility of obtaining) formal land titles is discouraging rural communities from taking their land-related grievances to court.

³See 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/>)

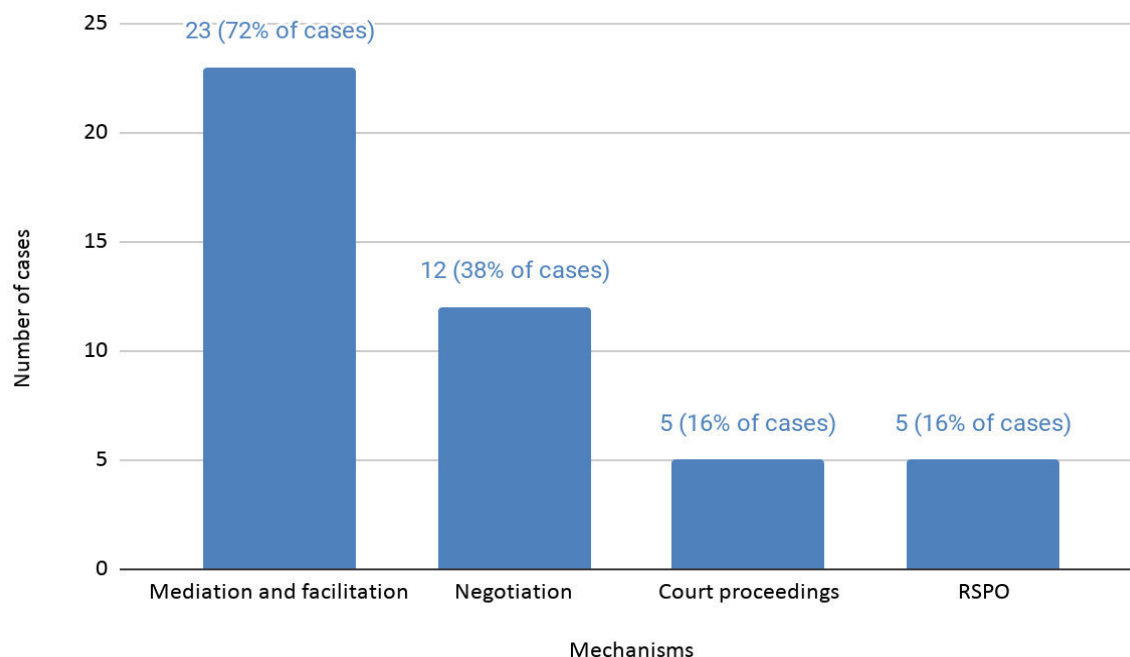


Figure 3. Use of conflict resolution mechanisms

As a result, communities instead rely on informal mediation, facilitation, and negotiation. As companies generally avoid engaging in direct negotiations with communities (taking place only in 38% of the total cases), communities most commonly relied on mediation and facilitation (involving in 72% of the cases). This 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, the mediation and facilitation in West Kalimantan are led by several actors (see below), but in most cases local politicians or bureaucrats facilitate 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 undertake demonstrations in front of local government offices as a means to get 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).⁴

The results – reported in Table 2 - indicates that communities feel that they rarely succeed in achieving their aims. In West Kalimantan, in 12 (38%) of the conflicts, community representatives reported that they did not achieve anything at all. In 9 cases (28%) they consider that they barely achieved a result (apart from minor token gestures of goodwill from the company such as contribution of CSR money unrelated to the main claims of the community). In other words, in 21 (66 %) of the studied 32 conflicts the communities did not (or barely) succeed in addressing their grievances. This reflects a common pattern: in all four 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

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

*number of conflict cases

⁴To 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 conflicts that went to court suggests that, indeed, communities rarely succeed in realizing their claims by employing Indonesia's formal justice system. As Table 3 illustrates, court cases brought by community members are often dismissed, and court victories of communities are relatively rare. In West Kalimantan in only 2 out of 5 cases communities achieved a favourable ruling. In all our four provinces in 13 out of the studied 40 conflicts involving court cases the community achieved either a favourable (10 cases) or a mixed (3 cases) ruling. So communities achieve a favourable ruling in less than one-third of the cases they initiate. Particularly worrying is that even these court victories often turn out to be meaningless, as our exploration of the court victories suggest that in three cases the court verdicts were not implemented. In West Kalimantan, in the case of Sintang Raya the ruling of the Supreme Court was not executed. There seems to be little that communities can do in such cases.

Table 3. Outcomes of court cases

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

RSPO

Another important finding is that communities rarely take their cases to the Roundtable on Sustainable Palm Oil (RSPO). This organization has set up a specific body – a dispute settlement facility – to facilitate the resolution of conflicts involving one of its member companies. During interviews, most community respondents are not aware of this mechanism. In West Kalimantan in only 5 of the studied cases communities opted to ask RSPO for help, which in 3 cases the RSPO did not take up the case and 2 cases pending. This finding reflects a pattern we found across our four provinces: of the 11 number of studied conflicts that were reported to the RSPO, 5 cases were not taken up and 3 cases the complaints were dismissed, while 2 cases remain pending for long periods of time mainly because of the unwillingness of companies to cooperate. 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 politicians⁵ – turned out to be similarly ineffective. When studying the third-party mediation and facilitation, we documented whether this led to agreements between companies and communities, and to what extent these agreements were implemented. The results are sobering: only in 14% of the studied conflicts we found that facilitation and mediation attempts enabled the conflicting parties to reach an agreement that was also partially or fully implemented. It turns out that local authorities are failing in their efforts to facilitate conflict resolution: as the figure below illustrates, while district heads, local bureaucrats, DPRD politicians and police officials are regularly involved in facilitation, they rarely succeeded: of the, in total, 26 studied attempts by these government authorities (i.e. excluding international institution and village heads) to facilitate the resolution of conflict, only in 3 cases an agreement between companies and communities was reached and implemented. In 5 other cases an agreement was reached but not implemented.

These results for West 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: they succeed in brokering an effective agreement in 2 out the 3 conflicts they mediated (4 out of 6 in all four provinces). This finding suggests that when mediation is done systematically and facilitated by trained or experienced mediators, it can lead to positive results.

⁵For 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.

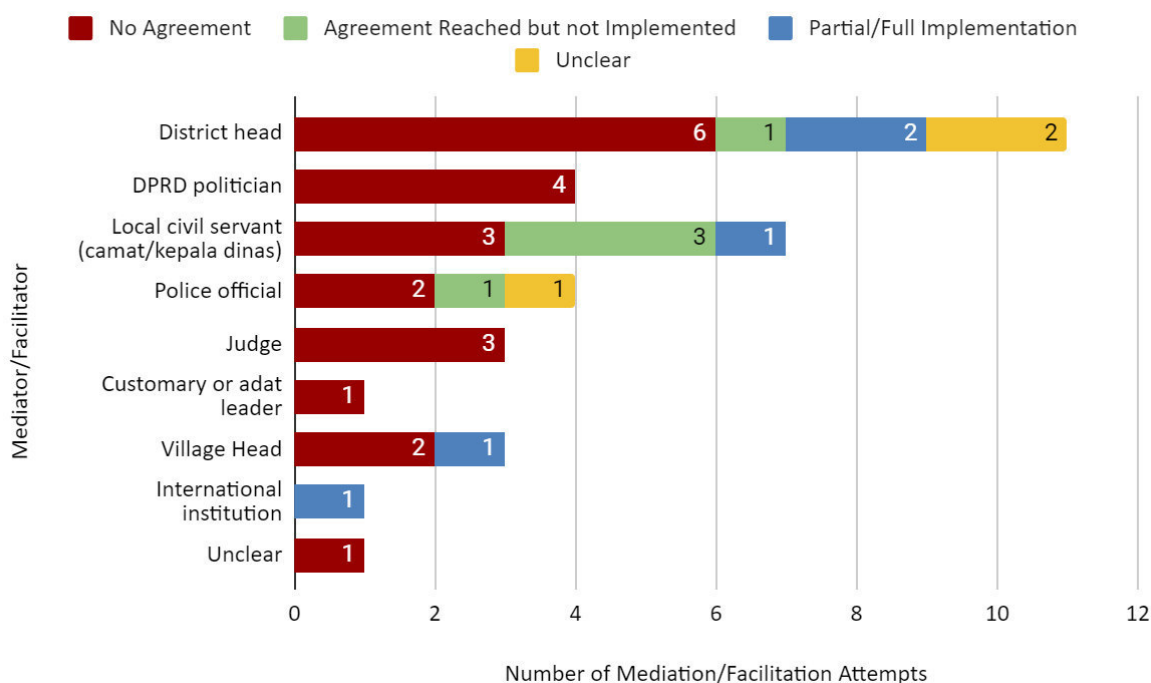


Figure 4. Effectiveness of different mediators

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 West Kalimantan of those conflicts that research some sorts of resolution, this took on average 5 years. And the studied conflicts that are as yet unresolved 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 what explains the rare successes? Our material on these facilitation processes suggest the following three main reasons 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 NGOs, local authorities have to improvise and they generally lack knowledge on how to identify common ground between disputing parties.
- **Limited commitment and capacity of local authorities for mediation.** A related problem is that local authorities generally do not expend enough time, 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 sessions.

- **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 observe that companies are reluctant to send high-level staff to attend the meetings called by local authorities, refuse to provide requested evidence or refuse to commit to the implementation of 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 members, 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 double-check if community representatives really represent their community.

7. CHARACTERISTICS OF SUCCESSFUL CASES

Although communities very rarely succeed in achieving their aims, some 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 CAO-IFC, RSPO or Indonesia's justice system. We encountered four such 'success cases' in West Kalimantan. To draw lessons from such cases, we provide an overview of these four cases in the table below.

Table 4. Relatively successful cases⁶

Name of successful cases	Main grievances	Process of conflict resolution	Duration of conflict	Outcome
Case 1: PT Agronusa Investama	Land taken without consent	Structured mediation by CAO-IFC led to agreement that was subsequently closely monitored by a monitoring team.	About 1 year	<ul style="list-style-type: none"> • Development of smallholder (plasma) plots (403 ha) • Compensation (300.000 rupiahs/ha) • Payment of village development fund (4 million/year for 5 years) • Restoration of community forest (327 ha)
Case 2: PT Agro Wiratama	Overlapping claims/boundaries, leading to refusal of new plantation	The support of RSPO and NGOs helped to facilitate a successful negotiation process.	About 1 year	Following an agreement between company and community, District Head (Bupati) made a decree to enclave over 1000 ha of the community's land from the company's concession.
Case 3: PT Palmdale Agroasia Lestari Makmur	Poor implementation of plasma that the company promised to community	The court accepted the accusation that the company failed to fulfil its promise through the plasma scheme.	About 10 years	Pontianak High Court ruled that PT Palmdale pay compensation to the community 5 Billion rupiahs. However, currently the company is still applying for 'kasasi' to MA.
Case 4: PT Kayung Agro Lestari	Adat land taken without consent	After an advocacy by a local NGO, negotiation between company and community was successful in resolving the conflict. Company eventually agreed to return the land claimed by the community.	2 years	The company returned land claimed by the community.

Of course, this policy paper cannot do justice to the complexity of each of the cases above, but there are several conclusions that can be drawn from these success cases. First, these cases suggest that in order to be successful, communities need to be

⁶Success here means *the outcomes of the cases were 'largely' or 'fully' successful in achieving resolution (according to community members)*

persistent, organized and united. Persistence is very important, especially given the long and complex processes of conflict resolution. In the successful cases above, most community groups received assistance from NGOs who were willing to strengthen the capacity of the community to better understand their rights, help prepare supporting documents, and find alternative conflict resolution mechanisms to obtain a resolution. In the case of PT Agronusa Investama, the people of Sajingan Kecil hamlet asked for help from Lembaga Gemawan (see Table 4). With the help of a network of national and international NGOs, community representatives managed to organize an international campaign and took the case to the CAO-IFC, the financial institution that provided loans to companies. CAO finally sent a team into the field to investigate and offered to mediate the conflict between the company and the community. After more than 11 mediation meetings, the two parties finally reached an effective agreement.

The second general conclusion is that company membership in the RSPO can be an important supporting factor. RSPO requires its member companies to resolve social conflicts in their concessions as a condition for obtaining RSPO certification. The three successful cases above involved RSPO member companies (PT ANI, PT Agro Wiratama and PT KAL). In the PT Agrowiratama case, for example, the community initially held a demonstration at the District Head's office to ask the *Bupati* to revoke the company's plantation permit in their village. The community also reported this case to the RSPO. The company then responded by conducting a series of meetings with the community. After an agreement was reached between the company and the community, the Bupati decided to officially enclave around 1000 ha of community land from the company's concession.

Finally, it is also worrisome that most of these cases are not solved on formal conflict resolution mechanisms, or on the basis of legal considerations or state regulations. Legal formal mechanisms like court cannot accommodate traditional land claims, which discourages communities from bringing their grievances to court. Only in one case (PT Palmdale) where the community brought the case to court and was successful. This is mainly because the community has a formal proof of their land (certificate) to support their court claims. They were also supported by a lawyer.

In short, while successful, these four cases also illustrate how difficult conflict resolution is. 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

The main finding of this policy report is that currently, available conflict mechanisms are largely ineffective in solving palm oil conflicts. In that light, we build on our study of 150 conflicts to provide 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 West Kalimantan can take. 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 (66 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 intransparent. 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 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 fines 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 West Kalimantan, they damage the image and profits of the palm oil industry, and they have negative effects on West 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 report 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 outcome
1	PT Agronusa Investama	1	Land taken without consent			4. To a large extent
2	PT Sintang Raya	13	Land taken without consent	Inadequate licencing process		2. Barely
3	PT Benua Indah Group	11	Intransparent profit sharing (Plasma)	Inadequate profit sharing (plasma)	Labour wages	3. Partially
4	PT Agro Wiratama	1	Refusal of new plantation	Illegal plantation boundaries		4. To a large extent
5	PT Kayung Agro Lestari (Adat case)	1	Land taken without consent	Loss of access to village and fields	Pollution and other env impacts	4. To a large extent
6	PT Adau Agro	6	Intransparent profit sharing (Plasma)	Inadequate licencing process		1. No success at all
7	PT Mulia Indah	9	Land taken without consent			1. No success at all
8	PT Kaliau Mas Perkasa	10	Land taken without consent	Inadequate profit sharing (plasma)	Pollution and other env impacts	2. Barely
9	PT Malindo Persada Khatulistiwa	6	Inadequate profit sharing (plasma)	Land taken without consent		2. Barely
10	PT Harapan Sawit Lestari	25	Land taken without consent			1. No success at all
11	PT Bintang Harapan Desa	9	Inadequate profit sharing (plasma)			1. No success at all
12	PT Fangiono Agro Plantation	10	Inadequate profit sharing (plasma)			1. No success at all

No	Company name	Conflict Duration (years)	Grievances of community			Overall evaluation outcome
13	PT Mega Sawindo Perkasa	7	Employment practices	Pollution and other env impacts	Management of profit sharing (Plasma)	2. Barely
14	PT Mitra Andalan Sejahtera	4	Land taken without consent	Inadequate licencing process		3. Partially
15	PT Putra Lirik Domas	7	Inadequate compensation	Inadequate profit sharing (plasma)	Pollution and other env impacts	3. Partially
16	PT Kebun Ganda Prima	21	Inadequate profit sharing (plasma)			1. No success at all
17	PT Sinar Sawit Andalan	8	Land taken without consent	Land taken without consent	Pollution and other env impacts	1. No success at all
18	PT Riau Agrotama Plantation	8	Inadequate profit sharing (plasma)			3. Partially
19	PT Mitra Austral Sejahtera	14	Breach of partnership agreements	Land taken without consent	Inadequate profit sharing (plasma)	1. No success at all
20	P. Palmdale Agroasia Lestari Makmur	9	Management of profit sharing (Plasma)	Employment practices		4. To a large extent
21	PT Rimba Utara	6	Refusal of new plantation	Inadequate licencing process		2. Barely
22	PT Condong Garut 2 (ketenagakerjaan)	1	Labour wages			2. Barely
23	PT Bumi Pratama Khatulistiwa	8	Inadequate compensation			3. Partially
24	PT Bumi Pratama Khatulistiwa (2, labour)	8	Labour wages	Labour conditions		2. Barely

No	Company name	Conflict Duration (years)	Grievances of community			Overall evaluation outcome
25	PT Mitra Aneka Rezeki	4	Land taken without consent	Management of profit sharing (Plasma)		2. Barely
26	Pt Patiware	15	Inadequate profit sharing (plasma)	Inadequate compensation	Pollution and other env impacts	1. No success at all
27	PT Multi Prima Entakai	1	Management of profit sharing (Plasma)	Management of profit sharing (Plasma)	Inadequate profit sharing (plasma)	2. Barely
28	PT Ledo Lestari	15	Land taken without consent	Pollution and other env impacts	Inadequate profit sharing (plasma)	1. No success at all
29	PT. Grand Utama Mandiri	8	Inadequate compensation	Inadequate profit sharing (plasma)		1. No success at all
30	PT. Rezeki Kencana	16	Land taken without consent	Destruction of trees/property		1. No success at all
31	PTPN XIII Sanggau	1	Smallholders disadvantaged by oil palm mill			3. Partially
32	PT Kayung Agro Lestari (Ganti rugi case)	7	Inadequate compensation	Land taken without consent		3. Partially

What is the general character of oil palm conflict in West 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 analysing the trajectories and outcomes of 32 conflict cases in West 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 West Kalimantan. For more information, contact: pocaji.info@gmail.com

