

PDF NOTES: Unequal access to justice: an evaluation of RSPO's capacity to resolve palm oil conflicts in Indonesia

TOPIC	NOTATION
Purpose of RPSO	<ul style="list-style-type: none"> - Roundtable on Sustainable Palm Oil (RPSO) - Palm oil industry growth good for economy but caused environmental problems and widespread land related conflicts - RPSO established to address negative enviro and social impacts - aim is not only to provide a 'reality check' regarding this mechanism but also to contribute to the wider debate on how communities can seek access to justice when engaged in intractable conflicts with palm oil companies - central question: To what extent does the RSPO conflict resolution mechanism offer an accessible, fair, and effective tool for communities in Indonesia to resolve conflicts with companies?
Observations about RPSO (conflict res, etc	<ul style="list-style-type: none"> - met a 'demand': the RSPO dealt with more than 150 conflicts from around the globe in the period 2009–2020 - NGOs such as Forest Peoples Program (FPP) and Oxfam have hailed the mechanism as a valuable tool for communities - analysts have criticized this mechanism for being ineffective and imperfect - RSPO's mechanisms have very limited usage because of how complex it is to register a case. Online forms, Complaint letters with specific details, scanned docs as evidence etc.
3 part Criteria for CRM Tool	<p>Criteria 1: Recognize and Respect</p> <ul style="list-style-type: none"> - Principle that oil palm growers recognize and respect land rights, including ones based on tradition and culture <p>Criteria 2: Procedural Justice</p> <ul style="list-style-type: none"> - "where there is a conflict on the condition of land use as per land title, growers should show evidence that necessary action has been taken to resolve the conflict with relevant parties" - "Procedural Justice" describes fairness in political processes where actors deliberate and negotiate decisions, including environmental decisions in natural resource management and dispute resolution. (pg.293)

	<p>Criteria 3: Conflict Resolution Mechanism (CRM Tool)</p> <ul style="list-style-type: none"> - Complaint system - Non-judicial
RSPO: Data Sources (Pg. 292)	<p>Types</p> <ol style="list-style-type: none"> 1. RSPO’s Indonesian Database of 150 conflicts between communities and companies in Indonesia 2. RSPO’s ‘case tracker’, which documents RSPO’s handling of 85 complaints against companies in Indonesia in the period 2009–2020 3. RSPO conducted in-depth fieldwork on three conflicts involving RSPO companies to identify reasons for successful and failed conflict resolution. <p>Location</p> <ul style="list-style-type: none"> - Four Indonesian provinces: West Sumatra, Riau, West Kalimantan and Central Kalimantan.
Company POV	<ul style="list-style-type: none"> - (pg.292) “Oil palm plantations have expanded rapidly in Indonesia: between 1980 and 2019, nearly 14.5 million ha of land were converted into plantations, most of which (about 55%) are owned by private companies (Direktorat Jenderal Perkebunan 2019).” - (pg.293) Biases often creep into the rules guiding conflict resolution mechanisms, and the resolution strategy (Benda-Beckmann 1981, pp. 117–145; Gent and Shannon 2011, p. 125), creating a situation where the mechanism favors one side of the dispute (see also Kydd, 2003). <ul style="list-style-type: none"> - In this case we see that the mechanism has been favoring companies so far
Palm Oil Community POV	<ul style="list-style-type: none"> - (pg.292) the palm oil plantation expansion has created economic growth but also created environmental problems and land-related conflicts - (pg.292) there are land rights and based on traditions and culture not just “by the books” - (pg.292) the “case tracker” component could be helpful to see the “follow through” or how much attention complaints are given, can also help with company accountability - (pg.293) there is an “access to justice” issue for communities, both in formal and informal justice systems <ul style="list-style-type: none"> - Important to “... pay particular attention to the extent to which rural Indonesians face such obstacles when trying to bring their grievances to the attention of the RSPO.” - “The perception of a fair decision-making process (procedural justice) can help build trust, legitimacy, and satisfaction with conflict resolution outcomes (Lind and Tyler 1988; Törnblom and Vermunt 2007).” - (pg.295) “In our study of 150 conflicts in Indonesia, we found that rural Indonesians have difficulties with the complexity of the RSPO CRM procedures and tend to prefer other

	<p>mechanisms (Berenschot et al. 2022): they are more likely to rely on informal mediation provided by local politicians and bureaucrats (109 cases, or 73% of our total of 150 conflict cases), or to a lesser extent.”</p> <ul style="list-style-type: none"> - ACCESSIBILITY!! - (pg.298) “Another procedural criterion of the RSPO’s conflict resolution mechanism causing difficulty for villagers (and helping companies) concerns the requirement that villagers’ organizations need to prove their formal legality by having a notary-certified deed of establishment and by being registered with the local government. Failure to submit the requested documents results in a dismissal of the villagers’ complaints.”
Types of Complainants	<p><u>Pg 296 (**Not necessarily mutually-exclusive categories)</u></p> <ul style="list-style-type: none"> -Confidential -Individual -Labor/farmers’ union -Rep of the local community -NGO -RSPO Secretariat
2 other Grievance Procedures (in addition to RSPO):	
Golden Agri-Resources (GAR)	<ul style="list-style-type: none"> - investigate grievances raised and conduct site visit to ensure responsible practices throughout our supply chain - one of the world’s largest seed-to-shelf agribusinesses - Seems like a private company that runs site visits to make sure suppliers are upholding their guidelines, does not buy from the supplier if they are deemed non-compliant - grievance procedure - Columns include no., group, reported company, summary of case, source, date, and status - Website includes detailed grievance reports listing violations and plan of action - Example site visit report
Wilmar International	<ul style="list-style-type: none"> - Addresses grievances from parties, including individuals, government organizations, and non-governmental organizations, concerning the implementation of Wilmar’s No Deforestation, No Peat, No Exploitation (NDPE) Policy. -
Procedures:	<ol style="list-style-type: none"> 1. RSPO: https://www.rspo.org/wp-content/uploads/brochure-rspo-complaints-appeals-procedures-english.pdf 2. Wilmar: https://www.wilmar-international.com/docs/default-source/default-document-library/sustain

	<p>3. ability/grievance/grievance-sop/grievance-procedure_final.pdf?sfvrsn=7670cea2_4 GAR: https://goldenagri.com.sg/sustainability-dashboard/files/file_docs/2KXOGgargrievance_procedure_thirdparty.pdf</p>
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Current Issues with CRM:

- (pg.292) “ analysts have criticized this mechanism for being ineffective and imperfect (Chao 2013; Macdonald and Balaton-Chrimes 2016).”

RSPO (Roundtable on Sustainable Palm Oil) Conflict Resolution Mechanism (CRM) - three main channels:

1. RSPO Secretariat

Role: Central coordinating body for complaints.

Functions:

Receives, reviews, and classifies complaints.

Conducts preliminary diagnosis to check if the complaint falls under RSPO jurisdiction.

Communicates with both complainant and respondent (usually the palm oil company).

Facilitates the entire process from submission to closure of the case.

Limitations: Can dismiss complaints if required documents aren't submitted in time.

2. Complaint Panel (CP)

Role: Main decision-making authority in the CRM process.

Composition: Made up of representatives from RSPO constituencies (e.g., NGOs, growers, financial institutions).

Functions:

Issues interim and final decisions on complaints.

Can dismiss complaints or issue directives to companies to address grievances.

Decides whether a complaint proceeds after company and complainant responses.

Handles appeals against initial (interim) decisions.

Criticism: Heavily relies on company responses without verifying claims; rarely gives complainants a chance to rebut company submissions.

3. Dispute Settlement Facility (DSF)

Role: Provides mediation services for complaints.

Functions:

Offers voluntary mediation if both parties agree.

Arranges and facilitates the mediation process.

Does not mediate directly—it recruits independent mediators.

Originally focused on land disputes, but now also includes labor, environmental, and human rights issues.

Limitations: Not mandatory and effectiveness depends on company cooperation.

Problematic Cases Described in Journal:

1. Desa Kapuk vs. PT BSK II (Central Kalimantan)

Issue: Unpaid compensation for 78 hectares of land.

What happened:

Community submitted a complaint with NGO help.

Company claimed compensation was already paid collectively.

RSPO accepted this explanation without verifying individual payments.

Community failed to appeal; complaint dismissed.

2. Pondok Damar vs. PT Mustika Sembuluh (Wilmar Group)

Issue: Land taken without consent; joint-venture (plasma) not delivered.

What happened:

Community tried RSPO after years of failed protests and mediation.

Couldn't submit required GPS data and notary documentation.

Case dismissed due to missed deadline.

3. Biru Maju vs. PT BAS

Issue: Land taken without consent and pollution; arrests after protests.

What happened:

NGO filed complaint.

RSPO facilitated a bilateral agreement: company would give different land in exchange.

Promised land turned out to be in protected forest; company didn't follow through.

Agreement not implemented years later.

4. Kapa Community vs. PT PHP1

Issue: Customary land rights not respected.

What happened:

RSPO initially dismissed complaint.

With help from NGO Forest Peoples Programme (FPP), community successfully appealed.

RSPO commissioned a study on land rights and facilitated mediation.

Agreement was reached and implemented.

5. PT Bumitama Gunajaya Agro (BGA) vs. 12 Villages

Issue: Plasma land agreements made without proper consent.

What happened:

Complaint filed by villagers with NGO support.

RSPO accepted company's claim that it was an internal cooperative issue.

RSPO dismissed complaint; no further investigation; no appeal filed.

6. PT MAS (Sime Darby) vs. Sanggau Communities pg 298

Issue: Land taken without consent.

What happened:

RSPO asked company for land transfer documents.

Company repeatedly refused or delayed providing them.

RSPO issued no consequences.

Case remained unresolved for 8 years.

7. Multiple Companies (e.g., Genting Plantations subsidiaries) vs. various communities

Issues: Transparency, land rights, environmental violations.

What happened:

Some complaints dismissed due to procedural errors.

Others dismissed based on company-provided reports (without field verification).

NGOs often barred from appealing or seen as not representative.