involvement of recruitment of migrant workers, employment contract, wages, holidays and paid annual leave, weekly break, maternity protection, workers compensation, the right to organize and collective bargaining, freedom of association, labour inspection, housing, and medical care. Consequently, there are many companies who are refusing to give rights to labours because there is not legitimate legal reason for them to do so.

Additionally, no reference to the ILO-related standards of plantations creates a legal gap that makes many labours' rights violated. It then negates the sustainability principle that has been upheld by RSPO.The RSPO should promptly improve PnC spesificly in relation to labor rights because there is no transparency on it. The parties which can do such improvements are the stakeholders who become RSPO members themselves. The stakeholders of the oil palm industry should be actively involved in the RSPO PnC review process so as to ensure that labour's rights are included in sustainable palm oil palm standards, and later on joint monitoring of their implementation.

Meanwhile passive members in the PnC renewal process will become parasites in multistakeholders institutions. If these improvements are not immediately done this will be a very embarrassing and tarnished image of the largest multistakeholder institution in the palm oil sector. The decline in public confidence will certainly have major consequences for not benefiting sustainable palm oil certificates.

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Labours Rights in RSPO: Way Forward?



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LEMBAGA STUDI & ADVOKASI MASYARAKAT

Labours Rights in RSPO: Way Forward?

By : Sekar Banjaran Aji[1]

Around 2011 and 2012, Titus Money (32 years old) from the great tribe of Yerisiam Gua and Wateburuh tribe who worked as Public Relations supervising security in PT Nabire Baru, a subsidiary of Goodhope Holding Company, demanded unpaid wages for 4 months. When demanding the wage, the company was always stalling time to pay the wage in the next month. It then triggered Titus's emotion to demand the wage that is his rights and which had not been paid for about 4 months. Instead of receiving the wage, Titus experienced physical violence and persecution. He was beaten and attacked by 8 members of PAM Brimob from Biak with rattan, guns, causing injuries around his face and hearing impairment to date. Then, his hands were tied and he was brought in front of the staff housing of PT Nabire Baru at kilometre 16 of Wami Nabire. Apology is never conveyed directly and the wage has not been paid until today.

Now, the case of PT Nabire Baru has entered the Roundtable on Sustainable Palm Oil (RSPO) complaint but it is not for labour but because of its relation to high carbon value (HCV). Based on the community report (letter attached) and our findings in the field, the company PT Nabire Baru has violated the RSPO principles and criteria for sustainable palm oil production, and it has violated the regulations as well as customary laws of the Yerisiam Gua Tribe community, the owner of local customary rights.

PT Nabire Baru, which operates in the forest area of the administrative region of Yaur District government, Nabire District, Papua Province, is a subsidiary of Goodhope Asia Holdings Ltd[2] owned by Carson Cumberbatch PLC from Sri Lanka. Goodhope Asia Holdings Ltd has been a member of the RSPO since December 2014. The case now has reached the level of mediator appointment. The Conflict Resolution Unit (CRU), which is a unit under the auspices of Indonesia Business Council for Sustainable Development (IBCSD), is appointed as the mediator in the bilateral conflict between PT Nabire Baru with the Indigenous People's Organization of Yerisiam Gua.

The question that is arousing: why is Titus case not included in the RSPO complaint? Tito is alone and none of his friends dare to fight. There is also no independent labour union supporting Tito. Meanwhile, the RSPO Scheme is not an easy-to-understand scheme. It needs careful review and investigation until finally deciding to include a case in the complaint mechanism. Cases that have plenty of evidence are not resolved, so how does Tito's small case then have to fight with so many other cases coming in? If Tito submits a complaint, does the RSPO P&C fully defend Tito's rights as a labour? Of course, it will not have enough time and energy to deal with the incoming mechanism.

Reflecting on Titus case, there are several RSPO related provisions that should be clarified. First, the identification of social impacts should be carried out by the grower with the participation of affected parties, including women and migrant workers as appropriate to the situation. The involvement of independent experts should be sought where this is considered necessary to ensure that all impacts (both positive and negative) are identified. If there is an option to give a choice to the employer, of course the employer will choose not to use independent experts as it will increase their expenditure cost.[3]

In this endeavour, there are open and transparent methods for communication and consultation between the grower and/or palm oil mills, local communities and other affected or interested parties. It is necessary to submit a record of consultancy results to the stakeholders and the delivery process is documented to ensure understanding of all affected parties. Consideration should be given to involving third parties to facilitate smallholder schemes and communities, and others as appropriate, in these communications. Do not let any community group who is disinterested or does not understand be left alone.[4] An unequal position between the labour community and the growers must be equalized for the sake of conflict resolution.

Furthermore, there should be a record showing that such processes are carried out transparently as well as it is necessary to ensure a system for managing labours. So far there has been documentation of procedures for recruitment, selection, promotion and dismissal.[5] So far notes have been created and documented only one way by the company. This often causes labours to not understand their rights, they are only being given responsibilities. In Titus's case, for example, he was conscious to fight for his own rights just after four months being unpaid.

In terms of salaries and conditions for permanent workers and contract workers, they always meet legal or industry minimum standards and sufficient to provide a decent living wage. Regardless of the status of permanent, contract, or casual labour, there must be a *collective bargaining agreement* (CBA) and salary documentation and terms applicable in the national language and explained to workers in the language understood by them.[6] This is to anticipate if there is a problem like Titus arises it will be quickly resolved because the work agreement is understood by both parties.

Indonesia, for example, has not ratified ILO Convention No. 110 of 1958 on Plantations that governs the

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2) http://www.goodhopeholdings.com
3) Ref Criterion 6.1 RSPO

4) Ref Criterion 6.2.3 RSPO
5) Ref Criterion 6.4b.1 RSPO
6) Ref Criterion 6.5.1 RSPO