

Coalition of Indonesian Civil Society in Solidarity With Palm Oil Plantation Workers Position Paper

Labor Exploitation in the Indonesia Palm Oil Industry

Position Paper of the Coalition of Indonesian Civil Society for Solidarity with Palm Oil Plantation Workers

Exploitation of Labour in the Indonesian Palm Oil Industry

Indonesian palm oil plantations as workplaces should be established on the principles of:

1. Ensuring full legal protection for palm oil plantation workers, both the core rights of labours as well as economic, social, and political rights as Indonesian citizens;
2. Strictly enforcing all forms of labour rights ~~violations~~ in the workplace;
3. Conducting routine and credible monitoring on tripartite basis; and
4. Ensuring freedom of association and the right to organize for palm oil plantation workers without any exception.

This position paper from the Coalition of Indonesian Civil Society for Solidarity with Palm Oil Plantation Workers (hereafter called the *Palm Oil Labour Coalition*) is a joint call from various national organizations concerned with workers' rights: ELSAM, FBLP, KRuHA, Link-AR Borneo, OPPUK, PUSAKA, SERBUNDO, TUCC, TuK Indonesia, TURC and YLBHI.

This position paper presents various violations of workers' fundamental rights in palm oil plantations, particularly in large-scale plantations, that have been hidden from the state and public's attention. This position paper urges the government to provide comprehensive protection for palm oil plantation workers and take responsibility to resolve the issues of fundamental labour rights violations. The Palm Oil Labour Coalition also demands that the state and palm oil plantation companies respect and comply with all labour regulations on palm oil plantations.

Through this position paper, the Palm Oil Labour Coalition urges the Indonesian Government to:

1. Grant the legal acknowledgement of workers' rights to large-scale palm oil plantation workers ;
2. Guarantee the fulfilment of palm oil workers' fundamental rights;
3. Guarantee the freedom of association and the right to organize for palm oil plantation workers;
4. Prioritize the welfare of palm oil plantation workers above investors' interest;
5. Put into law specific legal protection for palm oil plantation workers;
6. Provide specific protection and eliminate discrimination against the most vulnerable groups in palm oil plantations including women and children.

I. Background

Indonesia is the largest palm oil producer in the world. In 2016, Indonesia's palm oil production reached 35 million tons[i] and the export value reached 18.1 billion USD.[1] The state's foreign exchange income from palm oil is even higher than incomes from the oil and gas sector.[2] Unilever, Wilmar, Procter & Gamble, Nestle, and PepsiCo are the main buyers of Indonesian palm oil. The future demand for palm oil is expected to continuously grow, promoted by the target to fulfil the need of B20 biodiesel program of the Energy and Mineral Resources Ministry (*Kementerian Energi dan Sumber Daya Mineral*)[3] and the goal to make Indonesia becoming the main supplier of cooking oil in Asia.[4] Additionally, the development of Special Economic Zones in North Sumatera, South Sumatera and East Kalimantan for palm oil[5] also indicates government support for palm oil industry expansion.

Government support and protection of the palm oil industry are not at all accompanied by important policies related to the labour protection of palm oil plantation workers. Regulations governing plantations, and discussions about the Draft Law on Palm Oil (*Rancangan Undang-Undang Perkelapasawitan*), Agrarian Reform, Indonesia Sustainable Palm Oil Certification System (ISPO)[6] and other regulations on palm oil, explicitly refuse any consideration on the important issues regarding labour protection and guarantee of plantation labour rights.

Indonesian Labour Law No. 13 of 2003 on Manpower (Labour Law) has proven to be insufficient to protect vulnerable palm oil plantation workers. On the contrary, the labour law is often used by companies to justify the exploitation practices of palm oil plantation workers. There are many evidences showing exploitation practices of workers in plantations: inhumane work targets, low wages, precarious employment relationships, forced labour, no monitoring or law enforcement of

---

1 GAPKI. (2 Februari 2017). Refleksi Industri Kelapa Sawit 2016 & Prospek 2017. http://gapki.id/refleksi-industri-kelapa-sawit-2016-prospek-2017/

2 Indonesia Industrial Ministry in 2015 placed coconut/palm oil processing on the first place within the list of 10 industrial products with higher export values group. Palm oil reached the highest percentage of industrial income at 19.45%, higher than steel sector, machines and automotive, electronics and textile sector. For more information see: http://www.kemenperin.go.id/statistik/peran.php?ekspor=1

3 Mentari DG. (11 Januari 2017). The B20 Program mandates the mixing of palm oil as 20 percent of biodiesel fuel. For more information go to the link: http://www.antaranews.com/berita/605950/program-b20-serap-27juta-kiloliter-biodiesel-sawit

4 GAPKI. (2 Februari 2017). Refleksi Industri Kelapa Sawit 2016 & Prospek 2017. http://gapki.id/refleksi-industri-kelapa-sawit-2016-prospek-2017/

5 For more information go to the link: http://kek.ekon.go.id/

6 For more information go to the link:Peraturan Menteri Pertanian Republik Indonesia Nomor 11/Permentan/OT.140/3/2015

labour violations, and labours/workers union busting. The exploitation of palm oil plantation workers is not much different from the conditions in the colonial era[ii] and this is contrary to the spirit of the 1945 Constitution as well as the national principles of Pancasila. After 72 years of independence, such exploitative practices have never received proper attention from the government. Although Indonesia has ratified all ILO core conventions,[7] but none of the plantation-specific conventions have been ratified by Indonesia[8]. In the national legislation, Indonesia still does not have specific regulatory legislation for the protection of plantation workers.

This position paper from the Palm Oil Labour Coalition expresses the civil society's high concern regarding workers' rights violations occurred in palm oil plantations in Sumatra, Kalimantan, Sulawesi and Papua[9]. This also shows how the State is absent in protecting and fulfilling palm oil plantation workers' rights. The government is hereby called upon to give serious attention to the matters conveyed, and to show a firm stance in its action.

II. Exploitative Working System in Palm Oil Plantations

Indonesia's palm oil plantations now cover 11.6 million hectares of land,[10] with estimated labour force of 16 million people.[11] Most of the work in the palm oil plantations are basically manual work: land clearing, spreading fertilizer, preparing seedlings, maintenance work, harvesting ripe fruit, collecting loose fruits, and transporting Fresh Fruit Bunch (FFB) to mills.

Due to the specific geographical conditions, workers who live within the concession are very much isolated from the outside world, thus it creates a condition that enables plantation companies to

7 Eight ILO Core Conventions: No. 29 of 1930; No. 87 of 1948; No. 98 of 1949; No. 100 of 1951; No. 105 of 1957; No. 111 of 1958; No. 138 of 1973; and No 182 of 1999.

8 ILO Convention No 110 Plantation; No 10 Minimum Age (Agriculture); No 11 Right of Association (Agriculture); No 12 Workmen's Compensation (Agriculture); No 25 Sickness Insurance (Agriculture); No 36 Old-Age Insurance (Agriculture); No 38 Invalidity Insurance (Agriculture); No 40 Survivors' Insurance (Agriculture); No 64 Contracts of Employment (Indigenous Workers); No 101 Holidays with Pay (Agriculture); No 107 Indigenous and Tribal Populations; Protocol 110 to the Plantations Conventions.

9 Pye, Oliver. (Maret 2016). Workers in The Palm Oil Industry Exploitation, Resistance and Transnational Solidarity. https://www.asienhaus.de/archiv/user_upload/Palm_Oil_Workers__Exploitation__Resistance_and_Transnational_Solidarity.pdf

10 Direktorat Jenderal Perkebunan. (Desember 2015). Statistik Perkebunan Indonesia 2014-2016 Kelapa Sawit. http://ditjenbun.pertanian.go.id/tinymcpuk/gambar/file/statistik/2016/SAWIT%202014-2016.pdf

11 Ansori, Munib. (3 Mei 2017). Indonesia Ajak Asean Lawan Kampanye Hitam Kelapa Sawit – Perdagangan Internasional. http://www.neraca.co.id/article/84449/perdagangan-internasional-indonesia-ajak-asean-lawan-kampanye-hitam-kelapa-sawit

control every aspect of workers' lives without any accountability. Being isolated from outside world, without having any legal protection from the state or reliable labour inspection, all of these make palm oil plantation workers vulnerable towards companies' arbitrary practices. In result of the physical and mental exploitation in the palm oil plantations, workers are structurally impoverished for generations (up to the fourth generation).[iii] In addition, according to the World Bank, large-scale palm oil plantations have contributed to the loss of community livelihoods and even increased poverty.[12]

1. Extremely High Workload, Inhumane Target

On the basis of economic calculations, palm oil plantation companies set very high and inhumane work targets, even setting the threat of fine sanctions if the target is not reached.

To meet the high target, workers are forced to get extra help from a so called *Kernets*[iv], whose fees are paid by workers themselves.

A research about the working condition in a subsidiary plantation of Indofood discovered that the daily target for a worker is as high as 3 tons of palm oil fruit per day[v]. With that target, it means that one harvester is supposed to collect 140 to 160 fruit bunches, each weights 15 to 20 kg in order to secure full wages. The weight of daily target is almost comparable to one empty of Toyota Alphard car of 1.9 ton. Aside from the very high target, the topography of the area is difficult, while workers are not sufficiently with health and safetyt tools equipped. All these conditions are clear evidence of the overburdened condition bear by the palm oil workers.

1.a *Child Labour as Consequence of Inhumane Workload*

As consequence of the inhumane workload, companies provide and allow opportunities for the practice of children employed in palm oil plantations.[vi] Company representatives even argued that child labour is part of the Indonesian culture.[13] Others even said that the practice of child labour in palm oil plantations is part of the educational mechanism and fun to understand family responsibilities.[14] Child labour in palm oil plantation violates the Labour Law No. 13 of

12 Deininger, Klaus & Byerlee, Derek. *Raising Global Interest In Farmland.* 2011 http://siteresources.worldbank.org/INTARD/Resources/ESW_Sept7_final_final.pdf

13 Jong, Hans Nicholas. "NGO alleges abuses at Indofood plantations." *The Jakarta Post*, 9 Juni 2016. http://www.thejakartapost.com/news/2016/06/09/ngo-alleges-abuses-indofood-plantations.html

14 Executive Director of PASPI (Palm oil Agribusiness Strategic Policy Institute), Dr. Ir. Tungkot Sipayung Tungkot in his book Myth Vs Fact (Mitos Vs Fakta Sawit) compared children who work on palm oil plantation as the same as rural children who follow their parents to paddy rice fields to farm.

2003 Articles 69-73, Ministry of Labour Decree No. 235 of 2003, and Law No. 20 of 1999 on the Ratification of ILO Convention No. 138 of 1973 on Minimum Age for Work.

Investigation in the plantation owned by Indofood's subsidiary, PT. PP London Sumatra, discovered children under 18 working a *Kernet*.[vii] In the interviews, a worker explained they were obliged to bring *Kernet*. If they do not bring a *Kernet*, they will be sent home and lose their payment for the day. The Amnesty International's report has also highlighted the interview with 5 children who work in Wilmar's and its supplier plantations. The children have started working with 8 years with the intention to help their parents fulfil the work target, earn premium and avoid fines. The United States Department of Labour since 2014 have categorized Indonesia's palm oil in the "List of Goods Produced by Child Labour or Forced Labour."[15] In April 2017, the European Union Parliament ratified a "Report on Palm Oil and Rainforest Deforestation" in Strasbourg, France, , which links the Indonesian palm oil industry with human rights violations.[16]

2. Cheap Wage Practices

There is much evidence to suggest that cheap wage practices still occur in palm oil plantations[viii] and violate the Labour Law No. 13 of 2003, or the Government Regulation on Wages No. 78 of 2015, whether in terms of marital status, the establishment of KHL (decent living standard) or the right to negotiate in the Wage Council.

Following are the findings of the Palm Oil Labour Coalition on cheap wage:

Area	Daily Wage Calculation based on District Minimum Wages (UMK)	Real Take-Home Daily Wages
Central Sulawesi[17]	IDR 60,000.- (Provincial MW/ USD 4.47	IDR 60,000.- /USD 4.47
Central Kalimantan[ix]	IDR 84,116.- /USD 6.27	IDR 59,400.-/ USD 4.43
East Kalimantan	IDR 92,200.- /USD 6.80	IDR 91,060.- /USD 6.70

15 United States Department of Labour. *List of Goods Produced by Child Labour or Forced Labour*, 1 Desember 2014. Http://www.dol.gov/ilab/reports/pdf/TVPRA_Report2014.pdf

16 European Parliament's Resolution on Palm Oil and Deforestation of Rainforests, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2017-0066+0+DOC+XML+V0//EN diakses 10 Mei 2017

17 TuK Indonesia. (30 Maret 2015). Potret Perkebunan Kelapa Sawit di Sulawesi Tengah. http://www.tuk.or.id/potret-perkebunan-kelapa-sawit-di-sulawesi-tengah/

North Sumatra[x]	IDR 80,480.- /USD 6.00	IDR 78,600.- /USD 5.80
Papua[18]	IDR 96,672.- (Provincial wages) /USD 7.21	IDR 61,295.- /USD 4.50

Overtime is not applied in palm oil plantations even though harvesters are forced to work longer hours, up to an average of 12 hours per day[xi], due to high harvest target and threat of fine sanction[19]. During holidays, plantation companies offer cash advances called *Kontanan*[20] (in exchange for work). But the rate is lower than the regular daily fee. During the harvest season, *kontanan* is compulsory. Both are in violation of the Labour Law No. 13 of 2003 because work done on holidays should be counted as overtime and overtime must not be forced.

The condition of work coercion under threat is nothing but a form of forced labour. Such practice is clearly a violation of the Labour Law No. 13 of 2003 and Law No. 19 of 1999 regarding the Ratification of ILO Convention No. 105 on the Elimination of Forced Labour.

3. Precarious Status of Work Relationships[xii]

The work status in palm oil plantations consists of permanent workers (also known as *Syarat Kerja Utama* or Main Working Requirement), workers with short-term contract status (*Perjanjian Kerja Waktu Tertentu*), casual/daily freelance workers (knows as *Buruh Harian Lepas*) and *Kernet*. Casual and *kernet* workers are especially called the invisible labours because they are never touched by legal protection. Although they work in the core production process, such as maintenance, which is one of the most important divisions in the production chain in palm oil plantations, their existence is denied by the company. Majority of the casual workers are women. The rise of workers with short-term contract, casual/freelance and *kernet* status implies their rights to social security, work equipment, permanent benefits as well rights of association because in plantations, only permanent workers are allowed to obtain such rights.

Women are the most disadvantaged by the precarious work status. Women work in maintenance for years without any opportunity to get promoted to permanent work status. Women face high health

18 Slip Gaji buruh PT Henrison Inti Persada, Sorong, Papua Barat, 2016.
19 Lampiran 1.
20 Working during holidays or Sundays is called *Kontanan* and the day's wage is twice the premium of a regular workday, paid in cash. Before workers start their *kontanan* work, they accept a down payment in cash of IDR 125,000 or USD $9.30 and at the end of the day their yield and any difference from the earlier payment will be calculated.

risks due to working with hazardous chemicals every day. Menstruation leave, maternity leave, regular health check-up and decent sanitary facilities as well lactation facilities are not provided by companies.[21] Also women are very vulnerable to harassment and physical abuse, due to isolated work area and lack of company's concern over the issue.[22]

4. Weak Labour Inspection System

The audits that were conducted by both national and international certification bodies are full of interest, not objective and ill-equipped with deep understanding of labour issues. Furthermore, there is no labour inspector who specifically oversees the plantation sector. According to the General Director of Labour Inspection and Work Health and Safety Development (*Plt. Dirjen Pembinaan Pengawasan Ketenagakerjaan dan Keselamatan dan Kesehatan Kerja – Dirjen P2K3*), the total number of labour inspectors in 2016 was only 1,923 personnel, which is very unbalanced with the number of 20,980,216 companies in Indonesia.[23] Reports from workers are never followed up while companies that violate the labour rights continue to exploit workers who have tremendously contributed to the nation's economy. Due to the weak inspection system of the Manpower Department down to the district level has led to individuals collaborating with investors that ultimately harm the workers' interest. To balance this, civil society conducts independent research and monitoring with a view to uncover the government and public's view about the real conditions in the palm oil plantations.

5. Busting of Independent Labour Unions

The busting of independent labour unions still happens often in palm oil plantations. This violates the Labour Law No 21 of 2000 on Freedom of Association and the Right to Organize as well as ILO Convention No 98 on the Freedom of Association. At one of the transnational palm oil plantations in South Tapanuli, an independent union was intimidated by the company in the form of an order from the assistant head of the garden to sign a letter of resignation and transfer. The intimidation of the company was actually supported by the Manpower Services Office (Disnaker)

21 Koalisi Responsibank Indonesia, *Keterkaitan Perbankan Dalam Perkebunan Sawit PT. Wira Mas Permai (Sulawesi Tengah)*, Jakarta, 2015.

22 *Ibid*

23 For more information go to the link: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_549805.pdf

of South Tapanuli who delayed issuing the registration letters and conducted a second verification three months after the registration application was submitted by the union.[24]

Companies should not interfere with the establishment of new unions. The Constitutional Court Decree No 115/PUU-VII/2009 on Labour Law No 13 of 2003 stipulates that in regard to the negotiation of a Collective Bargaining Agreement (CBA), at least 3 (three) unions in a company with a membership of 10% has rights to be involved the in CBA negotiation process.

III. Conclusion

Based on the description above, there are 4 (four) main conclusions:

1. Far from the government's promise to welfare for palm oil plantation workers, the government and plantation companies actually perpetuate exploitative practices in form of inhumane work targets, cheap wage regime, precarious work status and forced labour resulting in the structural poverty of palm oil plantation workers.
2. The government until now denied the existence of palm oil workers as the spearhead of the palm oil industry in Indonesia, particularly women and children as the most disadvantaged and marginalized group.
3. The government until this day has not provided legal protection and legal status for palm oil plantation workers. In all discussions about the palm oil industry, labour protection issues for palm oil plantation workers have never been mentioned.
4. The government failed to enforce the law in the palm oil plantation sector, they did not prepare a reliable labour monitoring mechanism, and did not seriously prosecute companies who violate labour rights.
5. Companies prevent palm oil plantation workers from exercising their right to organize and negotiate.

IV. Recommendation

With this position paper, the Palm Oil Labour Coalition suggests the following recommendations for the Indonesian Government through the Manpower Ministry, Agricultural Ministry, Commission IX of the House of Representatives, Commission IV of the House of Representatives,

24 Chronology union busting of SERBUNDO – documentation OPPUK 2017.

Presidential Staff Office, National Human Rights Commission (KOMNAS HAM) and National Commission on Violence Against Women (KOMNAS Perempuan):

1. Fully recognize the rights of palm oil plantation workers through the provision of special legislation for palm oil plantation workers.
2. Encourage the government and legislative to ratify the ILO Convention No 110 of 1958 concerning Plantations governing the involvement of migrant workers recruitment, work contracts, wages, holidays and paid annual leave, weekly rest, maternity protection, worker compensation, the right to organize and collective bargaining, freedom of association, labour inspection, housing and medical care.
3. Establish working groups comprising the Manpower Ministry, Agricultural Ministry, KOMNAS HAM, KOMNAS Perempuan, representatives of labour organizations, labour experts and representatives of labour unions to investigate the exploitation of palm oil plantation workers, intimidation and criminalization committed against independent unions and labour activists of palm oil plantations.
4. Through the working group, encourage improvement and initiate specific regulatory system related to setting up the target system, working status relationships, wage system, personal protective equipment, and protection of the freedom to organize and freedom of association.
5. Through the working group, monitor the implementation of specific legislation for palm oil plantation workers, including the performance of monitoring and enforcement components of the Manpower Ministry (Inspector, Investigator and Mediator), involving KOMNAS HAM, KOMNAS Perempuan as well as law enforcement apparatus, to examine, prosecute, and urge companies to take responsibility for fulfilling workers' fundamental rights.
6. Urge the Manpower Ministry and Agricultural Ministry to coordinate with the Commission IX and Commission IV of the House of Representatives which also involve civil society groups investigating, reviewing and formulating specific policies on women workers, children and other vulnerable groups in palm oil plantations.

---

[i] Amnesty International, "The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names", 2016

[ii] The workforce in East Sumatra was brought in from China though a broker as contracted labour. Aside from China, plantation companies also looked for labour from Java because of their diligent work ethic, knowledge of agriculture and willingness to work for very cheap wages. This practice increased the companies' profit margins. The plantations in East Sumatera turned out to only be profitable for the companies of that era as production and distribution processes were defined by the Colonial government as well as the royal family who gave the concessions.

[iii] RAN, OPPUK, ILRF, *The Human Cost of Palm Oil,* San Francisco. 2016

[iv] *Ibid. Kernet* workers who collect loose palm oil fruits are usually spouses, children or other people that are paid by harvesters has no direct work relation with company. Usually a *Kernet* worker helps a harvester collect loose fruits, transport fruit bunches to the collecting point, as well as cut and arrange fronds. The work status of *Kernet* workers is not recognized because they are recruited and paid by harvesters.

[v] *Ibid* An palm oil harvester has a very demanding work load of having to collect up to 3 tons of fruit per day followed by several tasks such as making V-shape cut on the stalk of fruit bunches, transport fruit bunches to the collection point, collect loose fruits, prune and arrange frond leaves in a line. The work quota is also followed by sanctions and fines that will reduce workers' wages if workers are not able to achieve their quota. The high work load, sanction and fines directly impact workers' wages.

[vi] *Ibid.*

[vii] *Ibid*

[viii] See report titled "*The Human Cost of Palm Oil*" and "*The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names*".

[ix] Amnesty International, *The Great Palm Oil Scandal. Labour Abuses Behind Big Brand Names*, 2016.

[x] RAN, OPPUK, ILRF, *The Human Cost of Palm Oil,* San Francisco, 2016

[xi] Amnesty International, *The Great Palm Oil Scandal. Labour Abuses Behind Big Brand Names*, 2016.

[xii] Precarious work is any form of unwanted work, including work with cheap wages, without any allowance (health, pension, bonus etc), non-voluntary overtime, and working in unsafe or unhealthy area and in informal area. Sharan Burrow, General Secretary of ITUC, stated that precarious work is a form of work that taking away safety even labour opportunity to create a future for their children. Vogt, Jeffrey. 2014. Precarious Work in The Asia Pacific Region. Hlm. 7, diakses 7 Desember 2016 pukul 1.41 WIB

Coalition of Indonesian Civil Society in Solidarity
With Palm Oil Plantation Workers

ADDRESS:
Jl. Siaga II No.31
Pejaten Barat, Pasar Minggu
Jakarta Selatan
INDONESIA – 12510

Tel: +62 21 7972662, 79192564, Fax: +62 21 79192519
E-mail : office@elsam.or.id, Web page: www.elsam.or.id