



**ADVANCING WORKERS' RIGHTS IN INDONESIA'S PALM OIL SECTOR PROJECT  
CALL FOR EXPRESSION OF INTEREST  
ACTION RESEARCH ON FREEDOM of ASSOCIATION AND COLLECTIVE BARGAINING IN  
INDONESIA'S PALM OIL SECTOR**

<b>Geographical Coverage</b>	National, North Sumatra, South Sumatra, and West Kalimantan
<b>Application Deadline</b>	15 January 2019
<b>Type of contract</b>	External Collaboration Contract
<b>Post Level</b>	National Consultant
<b>Languages required</b>	Proficiency in written and spoken English, and proficiency in Bahasa Indonesia
<b>Expected duration</b>	20 work days during the period of 25 January to 25 March 2020

The ILO Country Office for Indonesia and Timor-Leste (CO-Jakarta) is seeking expressions of interest from qualified individuals to conduct an action research on freedom of Association and collective bargaining in Indonesia's palm oil sector.

For further details about the study, please see the attached Term of Reference (ToR).

**Required Information for Submission an Expression of Interest**

Candidates intending to submit an expression of interest must supply the following information:

- 1) A description of how the candidate's skills, qualifications and experience are relevant to the required qualifications of this assignment, as described in the enclosed Terms of Reference.
- 2) A list of previous works or studies that are relevant to the context and subject matter of this assignment.
- 3) A statement confirming their availability to conduct this assignment and the daily professional fee expressed in Indonesian Rupiah.
- 4) A detailed proposed research design for the study along with a work plan, and proposed budget submitted in English.
- 5) A copy of the candidate's curriculum vitae (which must include information about the qualifications held by the candidate).
- 6) The names of two referees who can to be contacted.

The deadline to submit expressions of interest for the study is by 5.00 pm (Jakarta time) on Wednesday, 15 January 2020. Please send an e-mail with the subject header "**ACTION RESEARCH ON FREEDOM of ASSOCIATION AND COLLECTIVE BARGAINING IN INDONESIA'S PALM OIL SECTOR**" to the Project Manager, Mr Yunirwan Gah at [yunirwan@ilo.org](mailto:yunirwan@ilo.org). The ILO may accept or reject any proposal without any obligation of justification, bearing in mind the interest of the ILO.



**ADVANCING WORKERS' RIGHTS IN INDONESIA'S PALM OIL SECTOR PROJECT**  
**TERM OF REFERENCE**  
**NATIONAL CONSULTANT**  
**ACTION RESEARCH ON FREEDOM of ASSOCIATION AND COLLECTIVE BARGAINING IN**  
**INDONESIA'S PALM OIL SECTOR**

**A. Introduction**

The ILO embarked on a project on “Advancing Workers’ Rights in Indonesia’s Palm Oil Sector” in September 2019. The project’s objective is to ensure unions in the sectors/sub-sectors of the palm oil supply chain are better equipped to effectively represent and advocate for their members, promoting their access to fundamental workers’ rights, in particular freedom of association and collective bargaining, and contributing to sound industrial relations. The project will, therefore, help to improve workers’ access to labour rights – and, correspondingly, to better-quality jobs, contributing to improved compliance, through strengthened capacity of enterprises to implement core international labour standards and national labour laws, and to expanded rule of law at both national and local levels. It will do so by *inter alia* facilitating social dialogue at the national and provincial/local levels; strengthening the capacity of labour unions to effectively engage in dialogue with the employers and government and advocate for their members; supporting the strengthening and enforcement of national legislation on labour issues and collecting and disseminating knowledge on employment and labour issues in the palm oil supply chain. In addition to plantations, the project will be targeting crude palm oil (CPO) factories, oleo chemical factories, as well as selected food and beverage industry actors that use palm oil as one of the main ingredients.

One of the project’s activities is to conduct a study on freedom of association and collective bargaining rights and assist the project in devising strategies to effectively address the gaps of previous ILO works in palm oil sector in Indonesia as explained in annex 1.

The project is hiring a national consultant to lead and implement the study under the following Term of reference, with technical supervision from the ILO’s team.

**B. Objectives:**

The objectives of the study are:

1. To develop a knowledge product that would provide a nuanced picture on the situation concerning freedom of association and collective bargaining rights in the palm oil sector in Indonesia. This will include examining the current state of industrial relations and collective bargaining in the sector, the legal framework, economic and social developments that led to the current realities of employment relations in Indonesia’s rural economy, key actors (i.e. workers and employers’ organizations active in the sector), and prevailing practices with regard to collective bargaining agreements;
2. To identify strategic recommendations to promote freedom of association and effective collective bargaining in Indonesia’s palm oil sector.

**C. Outputs:**

The expected outputs of the study are:

- a) A final report of the study, in Bahasa Indonesia and Bahasa English, on freedom of association and collective bargaining in the sub-sectors of the palm oil supply chain.
- b) Project strategies to address identified challenges on freedom of association and collective bargaining challenges in the sector, in English and Bahasa Indonesia.



## **B. Deliverables:**

### **1. Desk Review, research methodology and work plan development (3 work days)**

The study will be a qualitative study. The primary data will largely be based on a series of in-depth focus group discussions at various levels with government officials, workers and employers' representatives; direct interviews with key informants, which will include workers representatives at various level from national to factories level, employers' associations that will include GAPKI and APINDO at various level from national to provincial level. A central element of the approach is methodological triangulation, combining both quantitative and qualitative techniques to crosscheck results from the different diagnostic tools. The secondary data will be based on previous ILO studies on FOA and collective bargaining in Indonesia, diagnostic study in 2015, statistical data, and other relevant researches in the palm oil sector in Indonesia.

The consultant will use the existing tested questioners used in the Decent Work Diagnostic in agri-food sector in 2015. S/he will adjust to the context of this study by taking into account local context in three targeted provinces i.e. North Sumatra, South Sumatra, and West Kalimantan of Indonesia.

### **2. Field data gathering (5 work days)**

- 1 FGD at national level and at least 3 FGDs at provincial level;
- Interview of key informants at national and sub national level;
- The national consultant will lead the process of data collection at the national, provincial, and sub-national level;
- Targeted area for the FGDs are in South Sumatra and West Kalimantan. Previous data taken by the previous ILO work in North Sumatra will be used as background materials, as well as primary and secondary data for the research. The consultant will interview the key informants in all three targeted provinces.

### **3. Data analysis and draft report in Bahasa (5 work days)**

- Data analysis and draft report in Bahasa should be prepared within five days after the completion of data gathering.
- The framework of the report should at least cover the following points and structure:
  - Executive Summary
  - Introduction:
    - Research aim, content and focus
    - Methodological approach and organisation of the study
    - Limitation and constraint
    - Organisation of the report
    - Annexes
  - Overview: Freedom of Association and Collective bargaining arrangement including its function in Indonesia, at minimum the analysis should cover the following points:
    - Current regulations
    - Role of FOA and collective bargaining for labour market performance
    - Role of Collective bargaining for employment and wage inequality
    - Role of collective bargaining for enhancing non-discrimination and gender participation;
    - Governance mechanism, dispute settlement, and mediation mechanism in the palm oil sector, this include: 1) analysis of social dialogue arrangements in the palm oil sector in Indonesia, 2) Nature of disputes and dispute resolution



mechanisms in particular, success stories where both sides managed to resolve dispute at bi-partite level.

- Role of FOA and collective bargaining in agriculture setting, in particular in the palm oil supply chain;
- Role of FOA and collective bargaining in palm oil supply chain.
- Role of institutions and supporting structures for collective bargaining and FOA
- Findings:
  - The current condition of Freedom Association and Collective bargaining in the palm oil sector:
    - Practices in the palm oil sector in Indonesia on freedom of association and collective bargaining;
    - Sectoral governance conditions for collective bargaining: dispute settlement, mechanism for dialogue, and mediation mechanism;
    - Challenges and opportunities, including gender issues in FOA and collective bargaining;
    - Identified good practices in Palm oil processing supply chain (industry and manufacturing setting).
- Conclusion and Recommendations
- Annexes

#### **4. Validation and Finalisation of Report (7 work days)**

- Project staff with the national consultant will present the draft report to the project's constituents. All inputs, comments, and feedback will be considered in the finalisation of the report and the development of strategic intervention and follow up.
- The final report will be translated into English.

#### **D. National consultant's Qualification**

The consultant/research organisation must have at a minimum the following qualifications:

- Demonstrated experience in working on development issues, in particular in promoting labour rights, experience in conducting research on relevant topics in the Indonesia's trade unions or palm oil context will be an advantage.
- Demonstrated experience in doing field research,
- Ability to analyse research findings and translate the findings into action,
- Experience working with trade union in the palm oil sectors will be a strong asset,
- Fluent in Bahasa Indonesia and have a good communication skill in English,
- Proven report writing and analytical skills,
- Proven ability to work within limited time constraints in the preparation of high-quality documents.
- Experience in conducting research in palm oil sector in Indonesia would a strong asset.



## **Annex 1. Project Background and context**

### **A. Palm oil industry in Indonesia: overview of challenges**

Indonesia is the largest economy in Southeast Asia, with the gross domestic product (GDP) per capita of US\$ 3,847 in 2017.<sup>1</sup> Though the country has seen a significant growth in the last two decades, more than 25.9 million people out of its population of 260 million live below the poverty line.<sup>2</sup> Rural poverty remains a serious challenge, affecting some 14.1 per cent of the population, and it particularly affects those who depend on agriculture for their livelihood. The agricultural sector contributes to nearly 14 per cent of Indonesia's GDP. While the country's economic transition, much like that of its neighbours, has involved a large labour migration from primary to tertiary sector activity, employment in agriculture has continued to comprise a significant share (31 per cent) of the total in 2017.<sup>3</sup>

Within agriculture, the palm oil sector plays a critical role, contributing 1.5-2.5 per cent of Indonesia's GDP. Although the country is also the world's largest producer of rubber and exports significant quantities of coffee and cocoa beans, palm oil dominates its agricultural trade, with a revenue of approximately US\$ 22.9 billion in 2017, supplying 61 per cent of the world's palm oil.<sup>4</sup> The sector constitutes a major source of export revenues and provides employment for millions of rural workers. Even though employment statistics for the sector specifically are not readily available and estimates vary, various sources indicate that it employs between 3.7 to 8 million workers. Many of these jobs are, however, characterized by serious decent work deficits, including poor safety and health, low wages, informality, etc. Oil palm plantations are concentrated in two regions - almost 70 per cent of them are in Sumatra and the rest are on the island of Kalimantan.

In recent years, the global market demand for palm oil and its factor products have risen due to consumption growth in such countries as India, Brazil, China, and the European Union (EU). Palm oil is present in about 50 per cent of products sold on the shelves of our supermarkets, including in processed foods, candles, soaps and cosmetics, glues and industrial lubricants etc., and will most likely continue to be the most widely used vegetable oil. The estimated global palm oil production in 2016 was 58.8 million metric tons, with Indonesia alone producing 36 million tons, followed by 21 million tons from Malaysia, 2.2 million tons from Thailand, 1.32 million tons from Colombia and 0.97 million tons from Nigeria. In fact, the World Bank estimates that by 2050, the demand for palm oil will double. The Indonesian palm oil sector is therefore likely to retain its significance in the national economy. It is also worth noting that while many countries import from Indonesia, including those importing to buffer their own domestic production (e.g. China), other countries (e.g. Singapore) are entering Indonesia to set up manufacturing sites to supplement the global supply.

Palm oil's near ubiquitous use in consumer products and increasing demand, coupled with issues regarding sustainability of production practices including large-scale deforestation, greenhouse gas emissions and damage to biodiversity, have raised environmental concerns. The sector is also said to have contributed to changing patterns of land use, displacement of communities and loss of livelihood from forests and traditional peasant farming practices.

While the scale of growth of the palm oil sector raises certain concerns of sustainability, both environmental and social, which need to be addressed, it nonetheless has the potential to play an important role in alleviating rural poverty and providing a means of economic growth for both the agricultural sector and the national economy. Addressing decent work challenges in this labour-intensive sector will therefore have an important impact on promoting sustainable livelihood opportunities across the palm oil value chain as well

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<sup>1</sup> *The World Bank in Indonesia*, <https://www.worldbank.org/en/country/indonesia/overview> [accessed January 10, 2019]

<sup>2</sup> *Ibid.*

<sup>3</sup> ILOSTAT: *Indonesia*

<sup>4</sup> S. Saleh et al.: "[Intensification by Smallholder Farmers Is Key To Achieving Indonesia's Palm Oil Targets](#)", in *World Resource Institute Blog*, 17 Apr. 2018.



as attaining the Sustainable Development Goals (SDG), in particular Goal 8 which aims to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. In addition to SDG 8, the proposed programme will contribute to achieving SDG 1 on ending poverty, SDG 2 on food security, and SDG 10 on reducing inequalities.

Although current labour practices in the sector may fall below the standards set by the International Labour Organization (ILO), some of the mechanisms which could transform the palm oil sector into an economic and social opportunity for Indonesia are already in place and can be used to help move millions out of poverty and into a more food-secure and sustainable economic bracket. For example, between the years 2000 and 2004, Indonesia ratified all of the ILO’s fundamental conventions, which are now technically in force. Moreover, several Acts were passed by the Parliament in the same period relating to labour issues including manpower (Act No. 13, 2003), trade unions (Act No. 21, 2000), industrial disputes and settlements (Act No. 2, 2004), and the national social security system (Act No. 40, 2004). Furthermore, the Indonesian Sustainable Palm Oil system (ISPO), a mandatory certification scheme covering all palm oil producers in the country, has also been put in place to address industry sustainability at the national level. However, government and private compliance schemes have so far mostly focused on addressing environmental concerns over deforestation and the knowledge and capacity to tackle labour issues remain limited. Thus, ISPO, the Roundtable on Sustainable Palm Oil (RSPO) and other certification systems have often been the subject of criticism for their inability to establish strong standards and effective monitoring or follow up mechanisms on labour.

The focus of the proposed project will be to identify and address these gaps in labour rights protection, in particular the right of freedom of association and collective bargaining of workers in the sector/sub-sectors of the palm oil supply chain in Indonesia. The project will focus on strengthening the capacity of unions, and federations and confederations of which they are part, to effectively engage in advocacy and social dialogue with a view to promoting better working conditions in the palm oil supply chain.

The proposed project will complement an ongoing ILO initiative, titled “Promoting decent work in Indonesia’s palm oil sector”, which has been implemented since April 2017 with support from the Ministry of Foreign Affairs of the Netherlands. The objective of the ongoing project is to improve workers’ access to rights and quality jobs, while supporting enterprises in implementing core international labour standards and national labour laws with a view to improving both compliance and competitiveness in their supply chains. The proposed project will build on this initiative by better equipping unions in the sectors/sub-sectors of the palm oil supply chain to effectively represent and advocate for their members, promoting their access to fundamental workers’ rights, in particular freedom of association and collective bargaining, and contributing to sound industrial relations.

## **B. Problem Analysis**

### *2015 diagnostic process and ongoing ILO work on the promotion of decent work in Indonesia’ palm oil sector*

With the support of the Government of Indonesia and its social partners, in 2015, the ILO conducted a diagnostic process on working conditions in Indonesia’s palm oil sector. The diagnostic process follows a methodology developed to identify opportunities and challenges for the promotion of decent work in the agro-food sector. It combines innovative qualitative methods of sociological research with quantitative methods and covers a wide range of technical issues, including engagement and recruitment of workers, wages, maternity protection, workmen’s compensation, housing and medical care to the fundamental principles and rights at work. Information is gathered through in-depth focus group discussions (FGDs) with government officials, representatives of workers’ and employers’ organizations, and plantations managers at the national, regional and local levels and direct interviews with plantation workers and small-scale producers. In Indonesia, the process included 13 FGDs held in Jakarta and selected locations in North-



Sumatra and Aceh. The discussions, with on average 10-20 participants per meeting, included a short questionnaire, completed by each participant. Separate questionnaires were administered to 874 plantation workers and 109 small agricultural producers, both organized and unorganized. The workers interviewed were employed by multinational plantation companies (42 per cent) and domestic private companies (41 per cent), as well as by state-owned plantations (9 per cent) and smallholder farms (8 per cent). Those interviewed included permanent workers (68 per cent) - with and without written contracts – and those who identified themselves as daily workers, casual workers and seasonal workers (31 per cent). The survey results were discussed by the constituents in a tripartite setting in August 2015, which culminated in the adoption of a plan of action on the promotion of decent work on oil palm plantations. The plan covered six areas, in line with the results of the diagnostic process: (i) employment status; (ii) wages; (iii) social dialogue; (iv) occupational safety and health; (v) child labour; (vi) labour inspection and included agreed actions which also form the basis of the current proposal. For each of these areas, agreed actions were identified which form the basis of the ILO's activities and technical support to the sector. The diagnostic study also formed the basis of ongoing ILO initiative, entitled "Promoting decent work in Indonesia's palm oil sector, which has been implemented since April 2017 with support from the Ministry of Foreign Affairs of the Netherlands. This project aims to improve workers' access to rights and quality jobs, while supporting enterprises in implementing core international labour standards and national labour laws with a view to improving compliance in their supply chains. The project does so by *inter alia* supporting sector-specific social dialogue, strengthening labour regulation and enforcement of national legislation, and improving occupational safety and health (OSH). The project is part of the global initiative on the promotion of decent work in the large agro-food (plantations) sector, which is a key priority under the ILO area of work on the rural economy. At the global level, the programme develops practical tools to help the national partners improve working conditions and compliance with labour standards, while country programmes combine efforts aimed at improving the capacity of national partners to identify and address key labour and employment issues in specific sector and providing technical advice and support to facilitate improvements. As part of this project in Indonesia, a legislative gap analysis – or a technical assessment of the extent to which the Indonesian labour laws, regulations and practices, as applied in the palm oil industry, are aligned with international labour standards on labour inspection, safety and health, and work on plantations – was carried out and included a set of recommendations for the government. A further in-depth study on OSH in the palm oil global supply chain was also conducted within the framework of an EU-funded ILO project on OSH in global supply chains. All these studies underscored the importance of social dialogue and the role that trade unions (should) play in driving sustainability and promoting decent work in the palm oil sector. They identified limited capacity of participation, fragmented advocacy and lobbying and lack of coordination and collaboration among trade union confederations and the affiliated federations as some of the key challenges that required attention. They also indicated that non-affiliated unions at the local level were weak and unable to influence policy through advocacy and representation for improvement in working conditions in plantations and across the palm oil supply chain.

Although at its initial stages, especially during the diagnostic process phase, ILO work in this sector was met with little enthusiasm on the part of the government and the employers, the project has gradually established close working relationships with relevant ministries, in particular the Ministries of Manpower and Agriculture. A strong partnership has also been developed with the Association of Palm Oil Employers (GAPKI), representing sectoral employers, and a number of national and multinational companies. Ensuring a buy-in from the government and the private sector is critical to efforts aimed at scaling up and ensuring national ownership and sustainability of project activities. The project has also established collaboration and aligned its activities with a number of actors, working in the same field. It has hitherto achieved some important results exemplified by a request received from the Government of Indonesia to expand project activities to other palm oil producing provinces, in particular Kalimantan, and in terms of the technical areas coverage and the keen interest and commitment of GAPKI and the unions to partner with the ILO in implementing this project. A number of major palm oil buyers /companies have also expressed strong



interest in collaborating with the ILO in this project, especially in the area of freedom of association and collective bargaining. The proposed project will therefore be critical to continuing this work.

## Union movement in Indonesia and challenges facing it

### Structure of union movement in Indonesia

The trade union movement in the country gained momentum after the fall of the Suharto regime in 1998<sup>5</sup>, with the Workers/Labour Union Act (Act No. 21, 2000) catalytic to the growth of the movement. The union movement builds from the grass roots level upwards in Indonesia, as in most other countries. At the lowest level are the unions of plantation and factory workers, who among themselves elect members of a committee which represents them in bipartite discussions with management. These unions can affiliate with sectoral federations at sub-regional, regional or national levels. Sectoral federations may then join confederations at the national level. At present there are 6 legally recognized confederations, 100 federations out of which approximately 10 have members in the palm oil supply chain and 6,808 trade unions at the enterprise level.

Five or more unions can come together to form a federation.<sup>6</sup> Federations have national offices, with branches at the regional or sub-regional level, depending on the number and location of their affiliated palm oil plantations and factory unions. In Indonesia, these may correspond to the province and district or group of districts. The federation may include unions from several agriculture or non-agriculture sectors, including sectors in the palm oil supply chain and supporting industries such as transportation and finance. Federation affiliates elect members of a Board, who in turn represent it in a national confederation and elect members of the confederation Board.

A confederation to legally exist requires a minimum membership of three federations.<sup>7</sup> 4 major union confederations in Indonesia are: Confederation of All Indonesian Trade Union (K-SPSI-Rekonsiliasi), Confederation of All Indonesian Trade Union (K-SPSI-Kongres Jakarta), Confederation of Indonesian Trade Unions (CITU), and Confederation of Indonesian Prosperity Trade Union (K-SBSI).<sup>8</sup>

These boards at the federation and confederation levels partake in broader issues of policy, lobbying and fund raising and are not directly involved in day-to-day issues at the factory level. They provide technical support to the members at provincial and district levels and resolve industrial disputes that cannot be handled at the lower levels or upon request from the members. The confederations also represent their members in the national tripartite institutions.

At the plantation and plant levels, unions focus on direct interactions with employees. Union representatives can be consulted for advice on work disputes, termination or interpretation of terms of a collective bargaining agreement (CBA) or work agreement. They also provide services such as advocacy around workers' rights and general communication with management. Most importantly, the members of the plant level union committee represent employees when it comes to negotiating a CBA and participating in a bipartite cooperation board discussion known as Lembaga Kerja Sama Bipartit (LKSB), which is a forum for communication and consultation between workers and employers for discussing industrial relations issues such as company regulations, sustainability and worker welfare.

Despite significant reforms in legal-policy regime, unionized labour still accounts for less than 3 per cent of the working population in Indonesia and 8.3 per cent of employees in the formal sector, with an estimated

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<sup>5</sup> E. Rokhani: "[Union conflict](#)" in *Inside Indonesia* (2006, Edition 86, Apr-Jun).

<sup>6</sup> Art. 6, Manpower Act (Act No. 13, 2003)

<sup>7</sup> Art. 7, Manpower Act (Act No. 13, 2003)

<sup>8</sup> ILO: [Workers' and Employers' Organizations in Indonesia and Timor-Leste](#)





3.4 million unionized workers.<sup>9</sup> This partly reflects the prevalence of informality; the continued dominance of small household businesses in the national economy; casualization of labour, especially in the agro-food sector; the nature of current legislation and the manner in which unions are organized. For example, the movement has so far left the informal sector largely untouched. The day-to-day issues left to be dealt with by the plantation and factory unions at the lowest levels, further allow the possibility of opinions of workers in the supply chain in the palm oil industry to be subsumed under a larger agenda that reflects the views of the majority. Political pressure and influence from employers and factory management also have their part to play in the dwindling participation of workers in mechanisms of representation.

The following section sets out the key problems faced by labour unions in Indonesia, some of which will be addressed by the proposed project.

### ***Confederation and federation level***

#### Insufficient training

National and particularly regional federations are responsible for training and capacity development of lower order units. In practice, they lack both financial and technical means, which limits their capacity to carry out this crucial function. Confederations and federations need to develop their own training structure and curricula to foster the development of their representatives on the ground. This in turn implies the need to mobilize increased funds for the purpose.

#### Competition between confederations / federations

Fragmentation among confederations and federations of trade unions limits their bargaining capacity at industry and national levels. Response from trade union officials in the 2015 ILO diagnostic study also confirmed that trade union officials were concerned that the unions often competed with each other and had different sets of priorities, when they could collaborate to protect workers' rights and achieve common goals.

In December 2018, the ILO through its on-going initiative on the promotion of decent work in Indonesia's palm oil sector mentioned above, supported the establishment of a Palm Oil Trade Union Network in order to strengthen the capacity of trade unions in advocating the workers common issues, to facilitate the communications including information sharing among the unions in palm oil industry, to synchronize efforts aimed at settling workers dispute and to strengthen the dialogue among the tripartite constituents and other relevant stakeholders.

While the formation of this Network is a significant step, targeted efforts are required to ensure coordination and engagement among unions in the palm oil supply chain and strengthen their capacity to effectively participate in social dialogue and advocate for their members, including through smooth functioning of the national network.

### ***Branch federation level***

#### Limited capacity

Multiplicity of federations, limited outreach to workers and significant informality in the sector bear negatively on the resources at the disposal of federations. Most federations have insufficient resources to

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<sup>9</sup> T. L Caraway: "Strength amid weakness: Legacies of labor in post-Suharto Indonesia", in T.L Caraway, M.L. Cook and S. Crowley (eds): *Working through the Past-labor and authoritarian legacies in perspective* (Cornell University Press, 2005), p.26; "[Labor unions now synonymous with 'troublemakers': Minister](#)", in *The Jakarta Post*, 25 Apr. 2017.



deal with systemic violations of labour rights such as casual labour, unfair recruitment practices and lack of collective bargaining. They instead concentrate on assisting workers or union leaders who are facing immediate problems, such as termination or harassment. To some extent, this constraint may be relieved by enhancing the capacity of union leaders at the palm oil plantation and factory level to tackle such problems.

#### Lack of pro-active affiliation efforts

According to a field work study during the implementation of the ongoing ILO project on the promotion of decent work in the palm oil sector, federations generally play a passive role both in facilitating the formation of new palm oil plantation and factory unions and in encouraging them to affiliate with a federation. There is also indication that plantation owners and factory management discourage the workers from affiliating with or establishing their independent union, which can limit the capacity of unions to increase their network and outreach for improved advocacy on working conditions, employment status or industrial relations issues.

Active outreach for affiliation by federations, especially to strategic plantations and factories, for instance, factories with a cooperative management, a workforce with high potential interest in joining a union, or a central location to potentially serve as a model for other factories in the vicinity, will increase their resources and strengthen their capacity to effectively represent and advocate the interests of their members.

### ***Plantations and factory level unions***

#### Leadership and organizational skills

Leaders of factory unions are elected by members, generally for a term of three years. They head a committee and manage the daily activities of the union. However, elected leaders receive little formal training on the skills and knowledge required for the tasks for which they are responsible.

#### Understanding the role of unions.

Information collected through the ILO decent work project trainings at the plantation and factory level suggests that worker understanding of the function of unions is mostly limited to their role in dealing with worker grievances. A better understanding of the larger role and responsibilities of factory unions, such as negotiating a CBA and contributing to company policies, would greatly enhance their performance and potential benefit to members.

#### Low female representation

Women form the majority of casual labourers in palm oil plantations<sup>10</sup>, where employment is often characterized by informal arrangements or short-term contracts and target-based wage systems.<sup>11</sup> They are typically responsible for spraying young trees with a potent cocktail of pesticides, insecticides, and herbicides. However, mostly they act as assistant, unpaid labour, with minimal occupational health and safety measures, to help their husbands employed in the plantations achieve the high daily targets for harvest, and are therefore particularly impacted by the target-based wage system.<sup>12</sup> Assistant labourers are usually brought in informally by other plantations workers (sometimes contract, often casual and therefore unregistered themselves) to help increase the pace of work. Often, workers are paid according to the amount

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<sup>10</sup> *Indonesia: Exploitation of women and violation of their rights in oil palm plantations*, World Rainforest Movement, 7 Mar. 2018, <https://wrm.org.uy/articles-from-the-wrm-bulletin/section1/indonesia-exploitation-of-women-and-violation-of-their-rights-in-oil-palm-plantations/> [accessed 15 Jan. 2019].

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.



of palm kernels they collect. Thus, the aid of their families (including children), or friends is sought in order to quicken the pace and increase the size of each collection, following which a larger 'profit' is available to be shared.<sup>13</sup> Addressing discrimination (e.g. in terms of employment contracts and wages), sexual harassment and health risks women face warrants particular attention.

Despite women accounting for nearly 39 per cent of Indonesia's total labour force<sup>14</sup>, there is evidence of their systematic exclusion from participation in labour unions.<sup>15</sup> An earlier ILO study demonstrated that while there were laws prescribing pro-women protectionist measures such as maternity benefits and leaves for menstruation, in practice, they had little impact.<sup>16</sup> There was fear of dismissal, demotion and losing incentive and attendance bonus if they took menstruation leaves and hesitation to get examined by doctors appointed by the management, who were usually male.<sup>17</sup> Employers also preferred to reduce costs related to maternity benefits by hiring single women or dismissing pregnant women.<sup>18</sup> Recent reports reveal that the situation has not changed significantly with regards to conditions of employment for women in plantations.<sup>19</sup>

Findings from the 2015 ILO diagnostic study also indicated that in relation to collective bargaining agreements, while it was possible for men to receive family allowances, women were not entitled for the same, putting single mothers in a position of significant disadvantage.

Union leaders and representatives at all levels in the palm oil supply chain, starting from the plantations and factories are almost exclusively male. Low female representation impedes a union's ability to connect with the large female workforce, especially with regard to these priority issues such as gender wage gap, casual employment, sexual harassment and lack of occupational health and safety measures, among others.

#### Communication with members

Factory unions communicate with members through the elected leaders, known as shop stewards, in each factory department. While this often functions well, shop stewards would benefit from training in areas such as time management, so that they are better able to balance their workload with the need to communicate with workers on the factory floor.

#### Knowledge of the law and legal procedures

Palm oil plantation and factory level union representatives have expressed difficulties in understanding legislation pertaining to union rights and obligations. They also have difficulty in determining the proper procedures to follow, for example in participating in LKSBs and negotiating CBAs.

Trade union members have acknowledged, that they lack knowledge and capacity to adequately perform their tasks and meet responsibilities. They are in need for capacity development in order to more effectively protect and promote workers' rights and interests.

#### Competition between multiple unions at a factory

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<sup>13</sup> H. Sinaga: "[Employment and Income of workers on Indonesian Oil Palm Plantations: Food Crisis at a Micro-level](#)", in *Future of Food: Journal on Food, Agriculture, and Society* (2013, Vol. 1, No. 2), pp. 70-74.,

<sup>14</sup> World Bank: [Labor force, female \(% of total labor force\)](#)

<sup>15</sup> S. Schaner et al.: "[Female labour force participation in Asia: Indonesia country study](#)", in ADB *Economics working paper series* (Feb. 2016, No. 474).

<sup>16</sup> ILO: [Report on a Survey of Women and Gender Issues in Trade Union Organisations in Indonesia](#), Report commissioned by the ILO Jakarta Area Office and the ILO Bureau for Workers' Activities (Indonesia, 2006).

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> *Why palm oil in products is bad news*, Amnesty International UK, 27 Aug 2017, <https://www.amnesty.org.uk/indonesia-palm-oil-wilmar-human-rights-plantation> [accessed 16 Jan. 2019]; L. Villadiego, "[Precarious employment, lower pay and exposure to chemicals: the gender divide in the palm oil industry](#)", in *Equal Times*, 3 Jul. 2017.



Laws in Indonesia allow ten workers to set up a trade union<sup>20</sup> and more than one union to participate in the collective bargaining process if no union represents more than 50 per cent of the workers.<sup>21</sup> This has inadvertently contributed to increase in number of unions at the plantation and factory levels and driven internal rivalries, contest for limited funding and fragmentation of the collective bargaining agenda.<sup>22</sup>

The number of members of palm oil plantations and factory unions varies widely. During discussions for the diagnostic study, some employers and their clients indicated that they found it difficult to coordinate their interaction with unions when multiple unions operated in a single plantation. While unions do not have to agree on issues, their bargaining strength obviously increases where they are able to find common ground, especially when engaged in LKSB discussions or collective bargaining.

#### Leadership transition

Factory union committees are typically elected every 3 years. While there are processes in place to support the new committee members and bring them up to speed on current issues, the transition is not always seamless. In addition, it is not uncommon for well-functioning factory union representatives to be promoted to a management position within the company or to be appointed to a union federation, leaving a knowledge gap behind them. These factors tend to lead to a high turnover of union representatives in the factory.

#### Improper functioning of the LKSB

A common theme emerging from discussions among civil society organizations and the trade unions network in palm oil has been that while the LKSB system has potential to benefit workers and unions, it often does not function well. Reasons include: (a) poor cooperation between factory management and unions; (b) lack of union capacity, and (c) union scepticism of the effectiveness of the LKSB system, including the perception that it may threaten or replace the role of the union in representing workers. LKSBs however are important for creating more space for union-management interaction and can potentially facilitate positive changes at the factory level. There is a need to assist workers in better understanding the purpose of the LKSB and how they can effectively partake in LKSB discussions between management and workers.

#### Plantations and factories without unions

Union membership in some factories may be minor or non-existent, either because workers are not well informed or are simply uninterested.

During the 2015 ILO diagnostic study, while the majority of the interviewed workers were members of trade unions (and sometimes other organizations such as cooperatives) that promoted workers' rights, those who had not joined a union cited lack of awareness, invitation or eligibility as most common reasons for not joining.

#### Lack of employer support to joining unions

Trade union law (Act No. 21, 2003) expressly prohibits preventing or forcing workers from or associating with trade unions by termination of employment, transfer or change in employment conditions, not paying or reducing wages, any form of intimidation or campaigning against establishing unions.<sup>23</sup> Trade union officials and their members interviewed during the 2015 ILO diagnostic process believed that workers were discouraged by companies to form or join unions and referred to cases in the sector where workers were intimidated, transferred or dismissed due to their trade union activities. They said that employer intimidation was especially common with smaller firms. Similarly, half of the agricultural producers

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<sup>20</sup> Art 5, Trade union/labour union Act (Act No. 21, 2000)

<sup>21</sup> Art. 119-120, Manpower Act (Act No. 13, 2003)

<sup>22</sup> ILO: [Report on a Survey of Women and Gender Issues in Trade Union Organisations in Indonesia](#), op. cit.

<sup>23</sup> Art. 28, Trade union/labour union Act (Act No. 21, 2000).



interviewed perceived small plantation workers as neither having the choice nor the freedom to form or join a union or any other organization.

Labour union leaders in Indonesia have also been reported to be allegedly penalized for their participation in unions.<sup>24</sup> Employer intimidation has also led to workers keeping their membership to the union secret for the fear of backlash.<sup>25</sup>

Union representatives also expressed concern about companies establishing their own trade unions, known as 'yellow unions' to undermine the impact of the existing unions or discourage workers from forming one. They believed that there were cases in which the management had an undesirable level of control over the unions while trade unions should be able to operate independently and without any interference. A recent study also informs that permanent workers in two palm oil plantations in Sumatra reported being automatically enrolled in one such 'yellow union', with fees deducted from their salary without their consent or proper representation.<sup>26</sup>

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<sup>24</sup> *Cases of labour rights violations and harassment of labour leaders in Indonesia*, Asia Monitor Resource Centre, <https://amrc.org.hk/sites/default/files/Cases%20of%20labour%20rights%20violations%20in%20Indonesia.pdf> [accessed 17 Jan. 2019].

<sup>25</sup> E. Koesemawiria: “[Unachievable targets](#)”, in *D+C Development and Cooperation*, 19 Sep. 2017.

<sup>26</sup> OPPUK, Rainforest Action Network, The International Labor Rights Forum: [The human cost of conflict palm oil: Pepsico's hidden link to worker exploitation in Indonesia](#), (2016).