



The Potential Role of Labor Unions in Advocating for Casual Daily Workers' Rights.

Executive summary

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A photograph of a man walking through a dense, lush green forest. He is carrying a long, thin pole or staff over his shoulder. The forest is filled with tall trees and dense foliage, creating a vibrant green environment. The man is wearing a dark t-shirt and shorts. The overall scene is peaceful and natural.

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Introduction

Riau is the largest palm oil producing province in Indonesia. Sawit Watch (2018) estimates that 70% of workers at palm oil plantations are casual daily workers. The Siak Plantation Office and the Pelalawan Employment Office estimate that 50-70% of workers on palm oil plantations are casual daily workers through various schemes. These workers face many vulnerabilities. Labor unions should be able to represent their members, and should be accessible for workers. Yet, for casual daily workers it seems difficult to become a member of a union due to their (lack of) contractual status. The question therefore is, how unions can be of help to casual daily workers to defend their rights.

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This research was commissioned by CNV Internationaal, SPLP companies and SPLP team (Proforest and Daemeter), with the aim to provide data and insights on the vulnerabilities of casual daily (migrant) workers, and the accessibility to obtain support and protection on palm oil plantations in Siak and Pelalawan regencies.

The study employed a qualitative approach, and included the methods of literature review, interviews, and focus group discussions (FGD). Informants were selected by using the snowball sampling technique among individual research participants and unions in Siak and Pelalawan. Palm oil workers with divergent contractual statuses were the main informants.

Besides, the Plantation Office, Manpower Office, DPA3AKB (Women's Empowerment, Child Protection, and Family Planning Office), and labor unions were interviewed. In total 54 respondents were included: thirty-one casual daily workers (17 female and 14 male), twelve contract workers, four regency and provincial office representatives, and seven labor union officials at both regency and company levels. The workers came from seven different companies. Only one of these companies is RSPO certified.



Findings

Casual Daily Workers Regulation

This research found that the status of casual daily workers is regulated in Government Regulation No. 35 of 2021, which was passed after the Job Creation Law. This regulation does not consider casual daily workers to be a separate job category, but categorizes it under the Specific (fixed) Time Employment Agreement (PKWT). This differs from the Manpower Act and Decree of the Minister of Manpower and Transmigration No. 100 of 2004 which classifies casual daily workers as distinct jobs. Nevertheless, Government Regulation No. 35 of 2021 still states that the maximum working hours of casual daily workers are 20 days a month and with no more than three months consecutively. This arrangement is similar to Kep. 100/MEN/VI/2004.

Though government regulation no. 35 of 2021 looks better at protecting rights of casual workers on paper, in practice it remains similar to Decree No. 100 of 2004 and casual workers do not benefit from it. The maximum contract for casual daily workers with PKWT applied, is still three months. This shows that the government continues to approve casual (daily) workers as a job status, which functions as a mechanism that allows employers to underpay their workers. This influences the fulfillment of the labor rights for casual workers that are not transparent and create loop holes for companies to exploit workers. Moreover, this condition is exacerbated by the lack of supervision of companies that do not report the number of casual daily workers that they employ.

Various Casual Daily Workers' Schemes are applicable

This research found that palm oil plantations in Siak and Pelalawan employ casual daily workers in various types of work on the plantations. Observations and interviews revealed that more women are employed as casual daily workers than men. This is related to the interpretation of the regulations outlined above, stating that informal workers cannot fulfill the role of core production workers. Many plantation companies only consider harvesters – a role often fulfilled by male workers – to be core production workers, and categorize other types of work, such as maintenance or fertilizer and pesticide spraying as non-production work. These tasks are often executed by female workers.



Some of the casual daily workers come from the surrounding area, but there are also many workers who originally come from other regions/provinces. There are two main recruitment mechanisms that casual daily workers usually go through; they are either recruited directly by the plantation, or they are recruited through a group leader (KR). These group leaders are often external intermediaries who connect workers with the company and live, unlike the workers, outside the plantation.

The way companies make use of informal workers schemes varies. Some categorize casual daily workers as seasonal workers, others categorize these workers merely as a daily wage system. However, our research discovered that the majority of companies utilize the casual daily workers scheme as an untransparent wage system in which wages are reliant on a combination of targets and working hours. There are also companies that implement the casual daily workers system as a mechanism for trainees or a trial period before progressing to permanent workers.

Cases were also found where casual daily workers became part of outsourcing practices in companies. This outsourcing is formal in nature when the work is handed over to another company, and this company subsequently employs casual daily workers. However, these outsourcing practices are often handled informally whereby an intermediary is employed as the group leader. In these cases, wages are often paid in cash, resulting in a lack of transparency regarding the wage system and wage deductions since pay slips are missing.



In some cases, workers also remain under the supervision of the group leader instead of the company which is the official employer. In these cases, workers must pay a 'fee' to the group leader. Our research found various cases where the group leader charged IDR 10,000 Rupiah per working day, which is around 30% of their daily wage. This is obviously significant amount for the workers who often already struggle to make ends meet.

Casual Daily Workers' Vulnerabilities

Casual daily workers are facing many vulnerabilities, leading to labor rights violations. The most frequently found violation was working without a contract. From the six companies whose workers were interviewed, casual workers from only one company had a contract since they had the PKWT-status. It is thereby striking that, some companies who did not have actual contracts sometimes still paid wages through company transfers. This way, industrial relations with plantation companies can still be identified even without legal contracts.

This research also discovered that some casual daily workers are paid below the regency minimum wage. On one plantation, there were even casual daily workers who were only paid IDR 700,000 per month (EUR 40), which was only 28% of the regional minimum. In other cases, casual daily workers did not receive wages for days that they were unable to continue their work. E.g.: when they could only work half a day due to weather conditions such as rain. Wage calculation systems combining time and output targets also put workers at the risk of having their wages cut if they do not meet the targets. Besides, casual daily workers who have no contract are not entitled to severance pay when they are let go.

If we look at social protection, this research discovered that many casual daily workers had relative access to social security, both health security and employment social security. We found only one company whose casual daily workers did not have access to any form of social security. However, it is important to note that it is in any case still difficult for casual daily workers to claim these social security services; we found several cases where casual daily workers had to bear their own medical costs related to work accidents.

On almost all plantations, casual daily workers did not receive adequate personal protective equipment (PPE). Under normal circumstances, (casual daily) workers should be provided by their employers with a set of PPE. However, in case of damage, casual daily workers have to buy their own PPE (and in many cases also their work tools). Some PPE are easily damaged or worn out and must be replaced every 3-6 months

The working and living conditions on oil palm plantations are generally sub-standard, particularly in relation to sanitation and availability of clean water. Many casual daily workers live in poverty, and working on a palm oil plantation is their only source of income. This makes them vulnerable to conditions of forced and child labor. This research found at least two indicators of forced labor:

First, the implementation of the group leader scheme. The group leader risks putting casual daily workers in debt bondage, since the group leader will deduct a percentage of casual daily workers' wages every day.

Second, the implementation of unrealistic targets. This gives rise to unpaid work, including child labor on plantations. In one company, interviewees openly stated that, in order to meet the targets, they invited gerendeng/helpers. This is a term used for other people to help them with meeting the targets. This gerendeng/helper is often a family member, e.g. the wife of the worker, or in some cases also their children. In rare cases the gerendeng get paid by the casual worker, but this is usually not the case.

Gender Based Vulnerabilities

Often helping as a gerendeng/helper, women are likely to become ghost laborers. As ghost laborers, they often do not receive wages and/or other rights and protections. This gender-based segregation related to the types of work on plantations, has a big impact on discrimination in obtaining employment status and equal worker rights. One of the most obvious cases is the difficulty of women becoming permanent employees in companies.

Gender-based segregation related to the types of work on plantations have a big impact on the possibilities for women to obtain a permanent employment status and equal rights at work. The patriarchal culture also results in women, in addition to their work at the plantations, also bearing most of the domestic/household responsibilities (double burden). Furthermore, women workers are more at risk of experiencing sexual violence and face higher exposure to dangerous chemical which can negatively impact their (reproductive) health.



The role of labor unions in addressing Casual Daily Workers vulnerabilities and labor rights

There are different roles to play for labor unions in addressing the particular vulnerabilities faced by casual daily workers, namely: 1) clarifying the status of casual daily workers employment relations with the company, 2) carrying out case advocacy related to casual daily workers normative rights, 3) negotiating the practical daily needs of workers in the workplace, 4) strengthening the bargaining power of casual daily workers in the workplace.

Even though labor unions could play a crucial role, access to labor unions, and thereby membership among casual workers remains low. This research discovered a severe lack of information and education among casual workers regarding the role and importance of unions. E.g. we found casual daily workers who were skeptical about the role of labor unions, due to a lack of information, or misinformation. Unions generally rely on word of mouth (informal conversations between workers) to raise awareness and education on worker rights and union activities rather than systematic socialisation and education activities. Companies do not always provide sufficient space for unions to carry out these activities and in some cases even create barriers for freedom of association by discouraging or not allowing workers to freely join a union.

This research also found that not all unions are open to providing membership to casual daily workers or advocating for their specific rights. From the seven palm oil plantations whose workers were interviewed, only three unions indicated that they actively represented casual daily workers by addressing their vulnerabilities and advocating for their rights. The majority of daily casual workers are women and labor union participation among women workers remains low. This is partly due to women's role as the primary household/family caretaker, which hinders their participation as union meetings are generally held in the evenings when they are busy with household chores.

7 Labor Unions have different perspectives on including Casual Daily Workers

This research discovered that there are at least three views among unions about including casual daily workers. First, some unions perceive casual daily workers as an entity outside the scope of the labor union. This especially applies to casual daily workers who do not have a contract and are managed by a group leader. This is the main reason why some unions exclude casual daily workers. This has implications for casual daily workers' participation in unions. These unions have never provided education to casual daily workers or included casual daily workers' interests in their union's agenda

The second view is that unions are open to include casual daily workers as members of the union, but do not prioritize casual daily workers' interests on the union agenda. In this case, the interest of including casual daily workers seem to be limited to simply raise their membership numbers or collect their membership contributions.

Lastly, there are also unions that see it as their responsibility to come up for the rights of every worker, They have opened up space for casual daily workers to become member and have included casual daily workers' interests in the union's agenda. E.g. by lobbying the company management to employ daily casual workers as permanent workers (PKWTT) or contract workers (PKWT), or to include the daily casual workers' children in the company's scholarship policy.



The complexity and opportunities of advocating for casual daily workers, labor rights

In addition to the challenges as previously described, there are more factors complicating the effectiveness of labor unions in addressing the vulnerabilities and labor rights of casual daily workers. Including:

1. Unbalanced power relations due to the existence of a group leader scheme, which impacts the bargaining power of casual daily workers.
2. Minimal support from the government, which is reflected in the lack of supervision of, and guidance to the companies. Even if there are cases of unethical hiring practices reported to a governmental service, there is no monitoring on the implementation of the advice outlined in the letters sent to companies.
3. Fragmentation within the unions (in terms of the prioritisation of issues to address) contributes to a decline in the number of members and weakens the union in terms of bargaining power with companies.
4. There is no transparency from the companies regarding the number of (casual) workers, which makes it difficult for unions to act. E.g., in one case a union could not find out whether they had the right to negotiate a CBA since actual data on the number of workers was lacking. Therefore they could not determine the percentage of members, which should be 10% to negotiate a CBA.
5. Slow regeneration within unions impact their leadership capacity. This is connected to limited structural education and training for union members.



Meanwhile, attention should also be paid to supporting factors for increasing the capabilities of labor unions to address the interests of casual daily workers, as identified in this research:

1. Unions are able to advocate for casual daily workers' rights through mediation and legal prosecution at the industrial relations court, collaborations with legal aids can support in this.
2. Independent unions whose capacity has been increased, and who are involved in the Regional Action Plan for Sustainable Palm Oil in Siak and Pelalawan employment sectors, have the potential to include casual daily workers as members of the union and address their interests, as well as the abolition of this status into the Specific Time Employment Agreement (PKWT) in the CBA.
3. The formation of gender committees and bipartite cooperation institutions in Siak and Pelalawan plantations help the union's work to advocate for casual daily workers labor rights.

Conclusion



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This research indicates that existing labor regulations allow for the implementation of the casual daily workers' scheme. This does not guarantee casual workers' labor rights, resulting in casual daily workers facing many vulnerabilities. Labor unions could play an important role in improving labor rights for casual daily workers' and social protection.

This research also shows the complexity of industrial relations, which not only involves (casual) workers and companies, but also intermediary agents. This contributes to the vulnerable position of casual workers and to the risk of being trapped in a debt bondage. Other vulnerabilities that casual daily workers face range from wages that are below the minimum wage, uncertainty regarding social security, minimal provision of PPE, to problems with unrealistic targets.

Moreover, this research also highlighted that child labor is still found on palm oil plantations, often in the form of ghost laborers who help their parents to achieve excessively high daily targets on palm oil plantations.

For female casual daily workers, the gender construction that prioritizes men as the main breadwinners increases the vulnerability of female casual daily workers to experiencing gender discrimination and even becoming victims of sexual violence. Patriarchal gender constructs and norms also hinder the active participation of female casual daily workers in the unions. Next to, but in cases also intersecting with the gender aspect, most unions have not opened membership access for casual daily workers since it is considered outside their scope to advocate for.

Several identified factors that restrict union effectiveness include unbalanced power relations related to the group leader scheme, minimal government support for union work, fragmentation within the union and between unions, a lack of transparency from companies regarding the number of workers that makes it difficult for the unions to know whether they have the right to negotiate a CBA, and slow regeneration within the union.

Meanwhile, factors supporting union effectiveness are collaboration with legal aids to change regulations and legal demands in the industrial relations court, union involvement in multi-stakeholder programs such as the Sustainable Palm Oil Regional Action Plan, and the formation of gender committees and bipartite cooperation institutions.

Recommendations

Several recommendations can be suggested from the results of this research:

Unions should be encouraged to advocate for casual daily workers' rights and to be open towards their membership. Initiatives such as the Siak Pelalawan Landscape Program (SPLP) can play a role in this by increasing the capacity of Labor Unions and stimulate them to be more progressive in looking at casual daily workers issues and work with them in how their concerns can be advocated for.

Palm oil companies should be more supportive in setting up gender committees. These committees can play an important role in stimulating the active participation of women within labor unions and to retrieve a better picture of women's vulnerabilities to be advocated for, also given the finding that women workers are often daily casual workers.

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Unions should receive more support in their advocacy towards the government to review the casual daily worker system, particularly on palm oil plantations. The government needs to further elaborate and provide more detailed regulations, particularly at the operational level, so that the various vulnerabilities suffered by casual daily workers can be overcome. These detailed regulations must include sanctions and monitoring mechanisms.

The Riau Provincial Government, through the implementation of the Sustainable Palm Oil Regional Action Plan in Riau Province, can encourage labor inspections (also in accordance with the ISPO mandate) to ensure that plantation companies eliminate the practice of having casual daily workers and instead implement PKWTT, a job status with a permanent contract. Or PKWT with a duration of minimum one year.

There is a great need for effective supervision, coupled with clear sanctions but also incentives for companies to fulfill industrial relations without applying the casual daily workers scheme. Replanting funds from the government for companies can be such an incentive. Additionally, the limited supervision at the provincial level can be bridged by making supervision of plantation companies more effective at the regency level. For instance by working in synergy with the regional action plan agenda, or periodic ISPO supervision carried out by the Office of Agriculture in the plantation sector.

About SPLP

SPLP is a private sector led initiative in the districts of Siak and Pelalawan in Riau province, Indonesia. SPLP believes that collaborative efforts between local governments and stakeholders can be more effective in achieving positive palm oil production for forests and people at the district level, rather than acting alone or only through a company supply chain.

Coalition members (Cargill, L'oreal, Musim Mas, Neste, Pepsico, Unilever) and supporters (Danone, Sinarmas) jointly form the SPLP Platform, which is facilitated by the Daemeter-Proforest Partnership: two leading organisations in the area of responsible sourcing and production of agricultural commodities with strong technical and practical expertise in developing landscape programmes.

Within the social dialogue working group, SPLP supports the establishment and improvement of Gender Committees of several palm oil companies in Siak and Pelalawan through training and technical assistance. In its implementation CNV Internationaal is taking the lead and cooperates with the District Governments, namely the Office of Transmigration and Manpower and the Office of Women's Empowerment, Child Protection, and Birth Control, as well as trade unions.



