



POLICY PAPER

GENDER AND HUMAN RIGHTS ISSUES
IN PALM OIL PLANTATION

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FOREWORD

The governance of sustainable palm oil plantations continues to be challenged to ensure the realization of gender equality and the fulfillment of human rights. Business standards and products from the palm oil industry through ISPO and RSPO are implemented not only to meet market needs but it is evident to protect and fulfill the human rights of everyone at all levels. Cases occurring in various forms of gender-based violence that often place women workers as victims clearly show this concern.

This policy paper confirms the assessment that discrimination is the main cause of women-based violence that is often experienced by women workers in oil palm plantations. Barely any protection and no way out. Meanwhile, the basic commitments of the ISPO standards and the RSPO Principles and Criteria should extend to such problems occurring in the field. But in reality, cases of gender-based violence still occur.

An analysis of the effectiveness level of oil palm plantation business standards needs to be carried out and include how the support of the resource-based policy is implemented. Cases of gender-based violence require affirmative action, fulfillment of women's human rights, as well as technically handling cases that protect women. Business standards that are general in nature need to be directed to be straightforward in detailing and providing technical guidelines where the company's operational policies can facilitate in increasing the protection of women workers. An example of a case that is considered minor is women workers being exposed to chemicals in the process of plant upkeep and fertilization of oil palm. The effects of being exposed to chemicals for a long time can have a negative impact on the woman's body and the child she gives birth to.

The commitment of palm oil companies to issues of gender and human rights will be strengthened by the policies enacted by the Regional and Central Governments. One of the innovative strategies that are presented as a recommendation in this Policy Paper is the development of the integration of Action Plans in the field of Gender Mainstreaming, Sustainable Palm Oil, and Sustainable Development Goals to support the effectiveness of business standards.

There are certainly many substantial materials in this policy paper that needs to be deepened and confirmed through field research. However, it is hoped that the current policy paper material can be a positive step to strengthen efforts to protect the human rights of women workers as human rights. Thank you to all those who are involved in the preparation of this policy paper.

Jakarta, 30 October 2021

Aditya Bayunanda
(acting) CEO WWF Indonesia

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EXECUTIVE SUMMARY

Women are the most vulnerable to exploitation in the oil palm plantation sector. They are at risk of being discriminated against, both in the system of working relations with oil palm plantations, as well as access to women's human rights, such as the right to health. The pattern of relationships between women workers and the company has never been good.

It is difficult for women workers or women living in oil palm concessions to obtain health rights, such as reproductive health. It is well understood that women's reproductive rights are essential rights that must be obtained by all women, without any discrimination.

Globally, the recognition of women's rights has been regulated in the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). CEDAW is the culmination of global efforts to protect and promote women's rights. At the national level, Indonesia has ratified CEDAW in 1984.

In addition, various instruments to protect women's rights have also been issued by the Indonesian government, both in the form of regulations and policies. Meanwhile, in the micro context, certification systems for sustainable palm oil plantations, such as the Indonesian Sustainable Palm Oil (ISPO) and the Roundtable on Sustainable Palm Oil (RSPO) also regulate the protection of women's rights in the oil palm plantation sector.

However, all of the existing instruments have not yet achieved optimal protection for women. Discriminatory practices and violence against women in the oil palm plantation sector still occur today.

This study found that massive discrimination and violence against women occurred because of the poor management system of oil palm plantations. Issuing licenses for oil palm plantations in areas that are difficult to access by the community is a major factor in the emergence of discrimination and violence against women. Such difficulty of access causes the monitoring system to not work well.

In fact, areas that are centers of oil palm plantations have a low Gender Development Index (GDI) and Gender Empowerment Index (GEI) score. Even though these regions already have policies on women's protection, such as regional action plans in achieving the Sustainable Development Goals and regional action plans in gender mainstreaming.

The monitoring system is impaired by investment practices carried out by companies that do not adopt regulations and policies to protect women. The certification system for sustainable palm oil plantations is also not optimal at the micro level to encourage improvements in the protection of women.

Therefore, improvements are needed in suppressing the practice of discrimination and violence against women in the oil palm plantation sector.

SOME OF THE RECOMMENDATIONS NEEDED INCLUDE:

- A. The Ministry of Agriculture needs to develop a zoning system in the management of oil palm plantation licensing by developing indicators of the vulnerability of the lives of workers and communities to oil palm plantation activities;
- B. Regional Governments to integrate RAD SDG, RAD PUG, and RAD PKSB in preparing work plans and budget plans for gender mainstreaming programs in the oil palm plantation sector;
- C. The Ministry of Finance to develop an incentive system from oil palm plantation funds for regional governments that have good performance in handling gender-based discrimination and violence in the oil palm plantation sector;
- D. Provincial Governments and District/City Governments whose development performance is supported by the oil palm plantation sector need to develop an ecologically based budget transfer (EFT) instrument by including gender indicators in their formulation and affirming gender mainstreaming in the oil palm plantation sector;
- E. The Financial Services Authority (OJK) to include gender indicators in the assessment of prospective debtors who are eligible to receive financing in the oil palm plantation sector;
- F. ISPO and RSPO certification institutions develop a guiding module for reproductive health surveillance systems for women workers;
- G. Regional Governments and ISPO and RSPO certification institutions to collaborate in exchanging data and information related to gender-based discrimination and violence in the oil palm plantation sector.

CHAPTER 1

INTRODUCTION

1.1 Background

Negative externality always exists in investment.¹ Especially, in the forest and land-based economic sector. Specifically in oil palm plantations, the form is not only environmental damage² but also in the form of exploitation of humans, namely local communities and workers.³ In this regard, women are the most exploited.⁴

The vulnerability of women's lives in oil palm plantations is not a new issue. This issue has surfaced in the last decade, especially in relation to human rights.⁵ In terms of employment, they are discriminated against by the employment relationship system in oil palm plantations. The pattern of relations between women workers and the company has never been favorable.⁶ To be precise, the relationship does not meet labor regulations at the national level and global consensus. Companies have their own system in accordance with their interests.

Not only that, women's basic rights that should be protected, such as the right to health are often not fulfilled.⁷ It is difficult for women workers or women living in oil palm concessions to obtain health rights, such as reproductive health. Even it is understood that women's reproductive rights are essential rights that must be obtained by all women, without any discrimination.

¹Ziolo M, Filipiak BZ, Bak I et al. 2019. Finance, Sustainability and Negative Externalities: An Overview of the European Context. *Sustainability*, 11, 4249. doi: 10.3390/su11154249.

²Vijay V, Pimm SL, Jenkins CN, et al. 2016. The impacts of oil palm on recent deforestation and biodiversity loss. *PloS one*, 11(7), p.e0159668; Gaveau DL, Sheil D, Salim MA, et al. 2016. Rapid conversions and avoided deforestation: examining four decades of industrial plantation expansion in Borneo. *Scientific reports*, 6, p.32017.

³Wahab AAB. 2019. Business and Human Right in ASEAN: Lessons from the Palm Oil Sector in Malaysia. *Journal of ASEAN Studies*, Vol. 7 No. 1. doi: 10.21512/jas.v7i1.5520; Pasaribu SI, Vanclay F. 2021. Children's Right in the Indonesian Oil Palm Industry: Improving Company Respect for the Right of Child. *Land*, 10, 500. doi: 10.3390/land10050500.

⁴Li TM. 2015. Social Impact of Oil Palm in Indonesia: Gendered Perspectives from West Kalimantan. Occasional Paper 124. Bogor, Indonesia. CIFOR.

⁵Pradipta L. 2017. Dealing with Discrimination: Women Labor and Oil Palm Plantation Expansion in Indonesia. *Journal of Indonesian Social Sciences and Humanities*, Vol. 7 Issue 1. P.19-28.

Long before the issue of women and human rights in oil palm plantations were echoed, the global consensus had stated that women's reproductive health rights are part of human rights, which must be protected. It was formulated at the Women's Conference in Beijing in 1995, stating: "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free and coercion, discrimination and violence." This was responded by the World Health Organization (WHO) by strengthening the existence of reproductive health as part of human rights that must be protected in international and national legal conventions.⁸

In a broader aspect, the issue of discrimination against women has been established as an international convention: The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979. This convention has been ratified by many countries, including Indonesia. CEDAW is the culmination of a global effort to protect and promote women's rights.⁹

The existence of various instruments to protect human rights against women does not necessarily end the case of discrimination against women. In oil palm plantations, this discrimination is massive and various cases were found. An investigation conducted by the Associated Press in 2020 uncovered various cases of violence against women workers, ranging from cases of rape, unpaid wages to heavy workloads for women workers who are at risk of death.¹⁰

The risk of violence can occur because of the existence of oil palm plantations in remote areas and far from public access. Thus, it is difficult for the government and law enforcement to monitor the practice of discrimination and violence against women. Cases of discrimination and violence have become an 'iceberg', not much is revealed to the public.

⁶NEPCon. 2017. Palm Oil Risk Management: Kalimantan – Indonesia. Research Report Version 1.2. Available from: https://preferredbynature.org/sites/default/files/library/2017-11/NEPCon-PALMOIL-Indonesia-Kalimantan-Risk-Assessment-EN-V2_o.pdf.

⁷Amnesty International. 2016. The Great Palm Oil Scandal: Labor Abuse behind Big Brand Names. Report. London, UK. Available from: <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA2151842016ENGLISH.pdf>.

⁸World Health Organization. 2015. State of inequality: Reproductive, maternal, newborn and child health. Geneva: World Health Organization.

⁹Assessing the Status of Women, A Guide to Reporting Under the Convention on the Elimination of All Forms of Discrimination Against Women, Update by the Division for the Advancement of Women Department of Economic and Social Affairs, United Nations 2000.

¹⁰The Associated Press. 2020. AP Investigation: Female Palm Oil Workers Face Abuse, No Pay. Available from: <https://apnews.com/article/female-palm-oil-workers-abuse-no-pay-ea0cd414af01d009fa678f050152728f>.

The poor accessibility of public facilities in oil palm plantations also has implications for the vulnerability of women to a decent living. Various problems occur, such as the lack of health facilities, lack of educational facilities, poor sources of clean water and sanitation, uninhabitable settlements (barracks), the risk of contamination with palm oil plantation waste, and poor road infrastructure.¹¹ All these conditions show that this area is not suitable for women and children to live in.

The above problems have not been much intervened by the government. Even though, in terms of regulations and policies, there are many provisions that aim for the protection of women in various aspects. However, its implementation in the oil palm plantation sector is very weak. For example, the Government already has a strategy for achieving the Sustainable Development Goals (SDGs), gender mainstreaming guidelines, and the National Action Plan for Sustainable Palm Oil, all of which have gender indicators. However, all of them are blunt when it comes to oil palm plantations.

Likewise, the sustainability principle initiated by the Roundtable on Sustainable Palm Oil (RSPO), includes the recognition of the rights and needs of women as workers. The RSPO Principles & Criteria (P&C) takes a more inclusive approach requiring its members to develop systems that prevent sexual harassment and other potential hazards that women are particularly vulnerable in the workplace. Again, at the implementation level, there are still many violations committed by palm oil companies that already have RSPO certification.¹²

Facing all these problems, a more comprehensive understanding of gender and human rights in the oil palm sector is needed. Solving this problem on a case-by-case basis is not the best solution. When one case ends, another case appears. Therefore, it is necessary to carry out strategic policies. The policy is not limited to being a 'case extinguisher', but rather to mitigating problems and formulating appropriate strategies. Therefore, intervention in the upstream aspect of this problem can be a solution that needs to be formulated.

Indonesia has ratified many international human rights instruments which have then been adopted into national law. The logical consequence when international instruments have been regulated in national law is that it must be implemented to the fullest. In the context of human rights, there are three state obligations, namely to respect, to protect, and to fulfill. The state is obliged to ensure that the human rights of its citizens are protected and fulfilled without exception, including in this case women workers on oil palm plantations.

¹¹Sheil D., Casson A., Meijaard E. et al. 2009. The Impact and Opportunities of Oil Palm in Southeast Asia: What do We Know and What do We Need to Know? Occasional Paper No. 51. Bogor, Indonesia. CIFOR.

¹²Basnett BS, Gnych S, Anandi CAM. 2016. Transforming the Roundtable on Sustainable Palm Oil for Greater Gender Equality and Women's Empowerment. Info Brief No. 166. Bogor, Indonesia. CIFOR.

The economic benefits of the palm oil industry sector should also be enjoyed by those who are in the most upstream, namely the women workers who have been the main pillars of oil palm plantations. However, in fact, they have been the ones who have been the most victimized in this palm oil production chain.

VARIOUS LAWS AND REGULATIONS TO FULFILL THE RIGHTS OF WOMEN WORKERS IN OIL PALM PLANTATIONS ARE AVAILABLE, INCLUDING:

- A. Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower under Article 5 and Article 6: Equal employment opportunities and treatment without discrimination, Article 81: Not obliged to work during menstruation, Article 82: Maternity leave, and Article 83: Breastfeeding children while working.
- B. Law of the Republic of Indonesia Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR): Equality of Rights between men and women.
- C. Law of the Republic of Indonesia Number 7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- D. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights under Article 49: The right of women to obtain work and protection in the implementation of their work.
- E. Law of the Republic of Indonesia Number 21 of 2000 concerning Trade Unions.
- F. Law of the Republic of Indonesia Number 36 of 2009 concerning Health under Article 128: facilities for breastfeeding mothers, Articles 164-166: Health care for workers.

In addition to the law mentioned above, gender equality has also been determined to be one of the SDGs that must be achieved by 2030. In addition to the fifth goal of Gender Equality, it is also closely related to the goals of (1) No Poverty; (2) to eradicate hunger; (3) Healthy and Prosperous Life; (4) Quality Education; objectives; and (6) Clean Water and Adequate Sanitation.

The SDGs framework above gained momentum with the issuance of Presidential Regulation of the Republic of Indonesia Number 44 of 2020 concerning the Indonesian Sustainable Oil Palm Plantation Certification System (ISPO) and Regulation of the Minister of Agriculture of the Republic of Indonesia Number 38 of 2020 concerning the Implementation of Indonesian Sustainable Oil Palm Plantation Certification. However, gender and human rights issues are not explicitly stated as one of the important indicators or criteria in ISPO certification. When it is not explicitly regulated regarding gender and human rights issues in the ISPO criteria, any oil palm plantation can commit violations and is not considered a form of discrimination. In fact, so far, gender discrimination and human rights have often occurred in the management of oil palm plantations.

1.2 Objectives

The objective of this study is to:

- A. Identify gender and human rights issues that occur in the oil palm plantation sector;
- B. Mapping and analyzing issues of discrimination against women in multiple aspects, such as employment, health, and the environment;
- C. Analyzing the actors involved in gender and human rights issues in the oil palm plantation sector;
- D. Formulate strategies and recommendations for improving gender and human rights mainstreaming in the oil palm plantation sector.

1.3 Method

A. Conceptual Framework

This study analyzes sustainable palm oil governance policies in the aspect of gender mainstreaming and human rights. As previously explained, discriminatory practices against women often occur in this sector. This study will look at the beginning, how gender and human rights issues occur in oil palm governance. Both internationally and nationally, the practice of discrimination and violence against women has become a common consensus, each party must comply with the consensus. This study will open with a model for handling violence against gender which has become a global and national consensus.

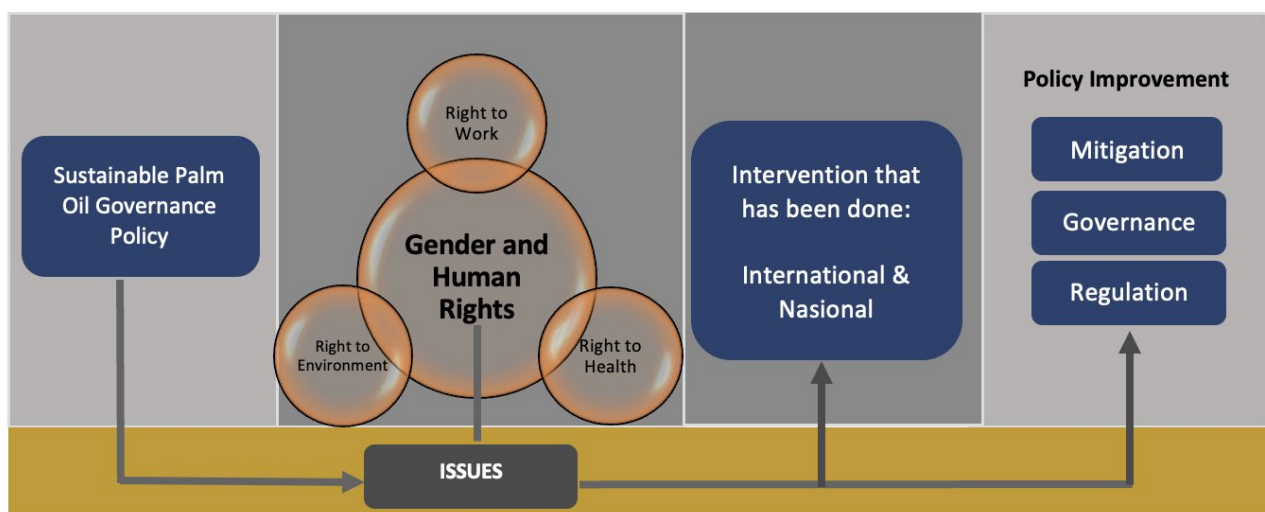


Figure 1. The Study's Conceptual Framework

In the next section, gender and human rights issues that occur in oil palm governance will be analyzed. There are three aspects of the issue that will be raised from this section, namely the right to work, the right to health, and the right to the environment. These three aspects are very crucial to be discussed because so many violations have occurred from these aspects.

Furthermore, several interventions that have been carried out in handling gender and human rights issues in the oil palm plantation sector are analyzed. These interventions are grouped into two, namely interventions at the international level and interventions at the national level. Interventions at the international level are based on the P&C of the RSPO related to gender and human rights. Meanwhile, at the national level, several government policies related to sustainable palm oil, gender, and human rights were analyzed. Finally, this study provides the formulation of strategies and recommendations in improving sustainable palm oil governance that is responsive to gender and human rights issues.

B. Data and Analysis

This study is a desk study. The data collected is secondary data obtained from various publications, such as journals, research reports, regulations, and others that are relevant to the theme of the study. In formulating the analysis, the researchers conducted focus group discussions (FGD) with various parties who understand gender and human rights issues in aspects of sustainable palm oil plantation governance. The analysis in this study was conducted qualitatively based on the data and information obtained in the study process.

CHAPTER 2

ADDRESSING GENDER-BASED DISCRIMINATION AND VIOLENCE IN THE OIL PALM SECTOR

Discrimination is the root cause of the occurrence of Gender-Based Violence (GBV). This is recognized in CEDAW that has been ratified by Indonesia through Law No. 7 of 1984. Discrimination refers to the distinction, exclusion, or restriction made based on sex. Discriminatory practices have the effect or purpose of reducing or eliminating the recognition, respect, and enjoyment of human rights and fundamental freedoms in the economic, social, political, cultural fields, regardless of their marital status.¹³ Discrimination and GBV are still and continue to take place in the oil palm plantation sector. Eliminating discrimination and GBV has become a national and global agenda. These efforts are carried out together by strengthening the protection of women's human rights, increasing women's access to justice, and gender mainstreaming to achieve gender equality.

Gender mainstreaming is a strategy developed to integrate gender equality in planning, budgeting, implementation, monitoring, and evaluation of development policies and programs. Gender mainstreaming is useful to accelerate the pace of development.¹⁴ Providing access to women in various aspects of development is empirically proven to improve development performance. Thus, eradicating all forms of discrimination against women is not only aimed at protecting human rights but must be the main program of national development.

Women in the oil palm plantations include women workers and/or wives of workers, wives and daughters of oil palm farmers, women around the plantations (not workers, not farmers),¹⁵ wives of oil palm plantation employees. Sawit Watch has found from several investigations and studies that women and children are the most vulnerable groups.¹⁶

¹³Article 1 CEDAW.

¹⁴Agarwal B, Humphries J, Robeyns I (editors). 2004. Capabilities, Freedom, and Equality: Amartya Sen's Work from A Gender Perspective. Oxford University Press. Agarwal B, Humphries J, Robeyns I (editors). 2004. Capabilities, Freedom, and Equality: Amartya Sen's Work from A Gender Perspective. Oxford University Press.

¹⁵Sawit Watch, "Buruh Perempuan di Perkebunan Sawit: Rantai Produksi yang Dikorbankan", discussion material on 21 Oktober 2021.

¹⁶Ibid.

Reproductive health and health conditions, unsanitary settlements, or living quarters are some of the basic problems faced by women workers in oil palm plantations. Access to health services is limited. The Public Health Center (Puskesmas) is located in the District and the Regional Public Hospital is in the Regency which is very far from the plantation location.

2.1. Gender Equality and Human Rights

Indonesia has various laws and regulations that guarantee the respect and protection of women's human rights as human rights, as follows:

(a) The 1945 Constitution of the Republic of Indonesia (1945 Constitution)

The 1945 Constitution guarantees the protection of human rights, men and women. The preamble to the 1945 Constitution affirms the state's commitment to protecting the entire Indonesian nation, in the fourth paragraph which reads as follows: "...protect the entire Indonesian nation and the entire homeland of Indonesia." This applies to all Indonesian people without exception.

The guarantee of protection is contained in Article 27 paragraph (2) of the 1945 Constitution which states the right of every citizen to get a decent job and is reinforced by Article 28D Paragraph (2) which states the right to work and receive fair and proper compensation and treatment in an employment relationship. It is also emphasized in Article 28A that everyone has the right to defend his/her life and existence. Children and women are also protected from discrimination as mandated by Article 28B paragraph (2) and Article 28I paragraph (2). In addition, health is a human right that has been guaranteed in the 1945 Constitution, as regulated in Article 28H (1) "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and have the right to obtain health services."

The guarantee in the 1945 Constitution must be realized in the field and strengthened administratively and in legislation. Legislation that seeks to respect and protect women's human rights can be understood in this context.

(b) Convention on the Elimination of all Forms Discrimination Against Women 1979 ratified through Law No. 7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The legal umbrella for the protection of women is based on Article 1 of CEDAW, which defines discrimination as "any distinction, exclusion or restriction made based on sex, which has the effect or purpose of reducing or eliminating the recognition, enjoyment, and exercise of human rights and fundamental freedoms in the field of political, economic, social, cultural, civil or otherwise by women, regardless of their marital status, based on equality between men and women." The implementation of state obligation is regulated in Article 2 of CEDAW which mandates the state's obligation to make policies and eliminate discriminatory practices against women.

Palm oil industry companies have a role in eliminating discrimination against women, including GBV. Thus, the company's standards must ensure that GBV does not occur, such as affirming its workers not to commit domestic violence/domestic violence, sexual violence, or other violence against women. The company must also build a system that makes it easier for victims to make reports and provide an internal investigation mechanism to open a space that makes it easier for wives or daughters as well as women workers to make reports, or provide space for information to the public about the behavior of their workers who commit violence against women. Employment agreements can be effective and require employees not to commit violence against women. The work agreement is part of an effort that can be made in building conducive conditions in realizing guarantees for the enforcement and promotion of gender equality starting from domestic or domestic relations.



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In relation to women working in the palm oil plantation, CEDAW guarantees women's human rights to protection of occupational health and safety, as well as protection of the function of continuing offspring. State parties have an obligation to protect women in terms of health, namely by making regulations that:

- 1) provide special protection to women during pregnancy in types of work that are proven to be dangerous for them;¹⁷
- 2) to eliminate discrimination against women in the field of health care and to ensure that health services are obtained, including services related to family planning, on the basis of equality between men and women.¹⁸

Moreover, Indonesia as a state party is obligated to guarantee women adequate services related to pregnancy, childbirth and the postnatal period, by providing free services where necessary, as well as providing adequate nutritious food during pregnancy and breastfeeding.¹⁹

Not only the basic rights of women mentioned above, the state through the Government is obliged to pay attention to the special problems faced by rural women and the important role of rural women in the economic survival of the family. The state shall also take the necessary steps to eliminate discrimination against rural women, on the basis of the equality of men, in particular, shall guarantee women the right to enjoy decent living conditions, specifically with regard to housing, sanitation, electricity and clean water supply, transport and communication.²⁰

¹⁷Article 11 paragraph (2) letter d CEDAW.

¹⁸Article 12 paragraph (1) CEDAW.

¹⁹Article 12 paragraph (2) CEDAW.

²⁰Article 14 CEDAW.

(c) Law Number 80 of 1957 concerning the Ratification of ILO Convention Number 100 of 1951 concerning Equal Remuneration for male and female workers for the same work

Apart from the ILO Convention Number 100 of 1951, there are several important conventions related to the protection of women's rights that have not been ratified, namely

- 1) ILO Convention 183 on Maternity Protection emphasizes the protection of pregnant women workers and their unborn babies from unsafe (dangerous) and unhealthy working conditions. Even though the Government has not ratified it, Recommendation 191 of 2000 instructs countries to assess the risks that pregnant women face.
- 2) The 2019 ILO Convention on the Elimination of Sexual Violence and Harassment in the World of Work, protects against all forms of violence and harassment in the workplace and provides for specific measures to address gender-based violence and harassment.

(d) Law No. 39 of 1999 on Human Rights (Human Rights Law)

Article 3 of the Human Rights Law guarantees the right of everyone to the protection of human rights without discrimination. Vulnerable groups in society are entitled to more treatment and protection with respect to their specificity,²¹ including those with disabilities, elderly people, pregnant women, and children who are entitled to special facilities and treatment.²² In relation to gender equality, Article 38 paragraph (3) guarantees that everyone, men and women who do the same, comparable, equal or similar work, is entitled to the same wages and terms of the work agreement. Article 45 of the Human Rights Law specifically emphasizes the rights of women as human rights. Then it was emphasized that women are entitled to special protection in the implementation of their work or profession against things that can threaten their safety and or health with regard to women's reproductive functions²³ as well as special rights inherent in women because their reproductive functions are guaranteed and protected by law.²⁴

²¹Article 5 paragraph (3) Human Rights Law.

²²Explanation of Article 5 paragraph (3) Human Rights Law.

²³Article 49 paragraph (2) Human Rights Law.

²⁴Article 49 paragraph (3) Human Rights Law.

(e) Law No. 11 of 2005 on the Ratification of the International Covenant on Economic, Social and Cultural Right (ICESCR)

Article 3 of the ICESCR emphasizes that State parties guarantee the equal rights of men and women in enjoying economic, social and cultural rights. In the context of the work environment, Article 7 confirms that State parties recognize the right of all individuals to just and favorable conditions of work, which ensure, *inter alia*, fair pay and equal pay for other equal work without any distinction, in particular women being guaranteed working conditions not inferior to those enjoyed by men, with equal pay for equal work, the right to the enjoyment of just and favorable conditions of work,²⁵ and safe and healthy working conditions.²⁶ In addition, Article 12 also provides that State parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

(f) Law No. 13 of 2003 on Manpower (Manpower Law) in conjunction with Law No. 11 of 2020 on Job Creation (Job Creation Law)

The Manpower Law as amended by the Job Creation Law has regulated the rights of women in the work environment, which include:

Maternity rest and miscarriage: The provisions of Article 82 paragraph (1) provide the right to rest for 1.5 months before giving birth and after giving birth according to the calculation of the obstetrician/midwife. Article 82 paragraph (2) stipulates that female workers/laborer who experiences a miscarriage are entitled to 1.5 months rest or according to a certificate from an obstetrician or midwife. In this case, the employer is obliged to pay in full the wages of workers who do not come to work because they are exercising the right to rest.²⁷ If the employer does not give the female worker the right to rest before and after giving birth, then according to Article 185 paragraph (1) and paragraph (2), the employer is subject to criminal sanctions.

Prohibition of employing pregnant women in dangerous conditions: Article 76 paragraph (2) prohibits employers from employing pregnant workers who, according to a doctor's statement, are dangerous for the health and safety of the womb and themselves if they work from 23.00 to 07.00. Employers will be subject to criminal sanctions when violating such provision.

²⁵ Article 7 (a)(i) ICESCR

²⁶ Article 7 (b) ICESCR.

²⁷ Article 93 paragraph (2) letter g Manpower Law.

Menstrual rest: Article 81 paragraph (1) in conjunction with Article 84 in conjunction with Article 93 paragraph (2) letter (b) protects female workers/laborers who during their menstrual period feel pain and notify the employer that they are not obliged to work on the first and second day of menstruation by receiving full wages and the employer is obliged to pay it. Further, Article 186 paragraphs (1) and (2) punishes employers who do not pay the wages of female workers/laborers who are on their menstrual period and are subject to criminal sanctions.

Protection of Women Workers from GBV (harassment and discrimination): Article 86 paragraph (1) letters (b) and (c) states that every worker/laborer gets protection on morals and decency and treatment in accordance with human dignity and values as well as religious values.

Prohibition of termination of employment due to pregnancy, childbirth, miscarriage or breastfeeding: Article 153 paragraph (1) letter (e) prohibits employers from laying off female workers for reasons of pregnancy, childbirth, miscarriage or breastfeeding. Layoffs carried out for this reason are null and void by law and the employer is obliged to re-employ the worker.²⁸

Opportunities for women to breastfeed their children: Article 83 stipulates that female workers/laborer whose children are still breastfeeding must be given appropriate opportunities if it must be done during working hours, including paying attention to the availability of places that are in accordance with the conditions and capabilities of the company.

(g) Law No. 36 of 2009 on Health (Health Law) in conjunction with the Government Regulation No. 33 of 2012 on Exclusive Breastfeeding

In accordance with the Health Law, Health is defined as a healthy state, both physically, mentally, spiritually and socially that enables everyone to live socially and economically productive lives. While Reproductive Health is "a state of complete physical, mental and social health, not merely free from disease or disability related to the reproductive system, function, and process in men and women." Reproductive health includes before pregnancy, during pregnancy, childbirth, and after childbirth; pregnancy arrangements, contraceptives, and sexual health; and reproductive health. Article 72 of the Health Law provides that everyone has the right to:

1) live a healthy, safe, and free reproductive life and sexual life from coercion and/or violence with a legal partner.

²⁸ Article 153 paragraph (1) letter e and paragraph (2) Manpower Law.

- 2) determine their reproductive life and be free from discrimination, coercion, and/or violence that respects noble values that do not degrade human dignity in accordance with religious norms.
- 3) determine for yourself when and how often you want to reproduce medically healthy and not against religious norms.
- 4) obtain correct and accountable information, education, and counseling regarding reproductive health.

The government in this case has the obligation to ensure the availability of safe, quality, and affordable information and reproductive health service facilities for the community, including family planning.

(h) Indonesian Sustainable Palm Oil Certification

Presidential Regulation of the Republic of Indonesia No. 44 of 2020 regulates the Indonesian Sustainable Oil Palm Plantation Certification System which is then followed by the Minister of Agriculture of the Republic of Indonesia Regulation No. 38 of 2020 on the Implementation of Indonesian Sustainable Oil Palm Plantation Certification (ISPO). ISPO does not explicitly regulate aspects related to the protection of women's rights.

There are several principles set out in ISPO to protect workers in oil palm plantations. Article 3 paragraph (2) letter (d) of the Regulation of the Minister of Agriculture Number 38 of 2020 states that ISPO certification to plantation companies is carried out by applying the principle of labor responsibility. The criteria for the principle include:

- a. Occupational safety and health (K3);
- b. Administrative requirements related to work relations;
- c. Improving the welfare and capabilities of workers;
- d. The use of child labor and discrimination in employment;
- e. Facilitation of the formation of trade unions; and
- f. Facilitation of the formation of workers' and employees' cooperatives.

Further, there is the principle of social responsibility and community economic empowerment as stated in Article 3 paragraph (2), which includes:

- Social responsibility;
- Empowerment of indigenous peoples/native inhabitants; and
- Local business development.

However, the provisions mentioned above are very vague and do not accommodate the actual conditions of women workers in oil palm plantations. Based on this, it is important to explicitly include gender equality and the protection of women's rights into one of the ISPO criteria.

2.2. Gender Discrimination and Violence Settlement in Indonesia

CEDAW recognizes that the inequality of power relations between men and women is the root problem of violence against women. Through Law No. 7 of 1984, Indonesia is required to carry out its mandate to eliminate discrimination and deal with victims. Discrimination arises because of prejudices and habits based on the stereotypical roles of men and women.²⁹

Several laws were issued to implement CEDAW and handling victims, such as:

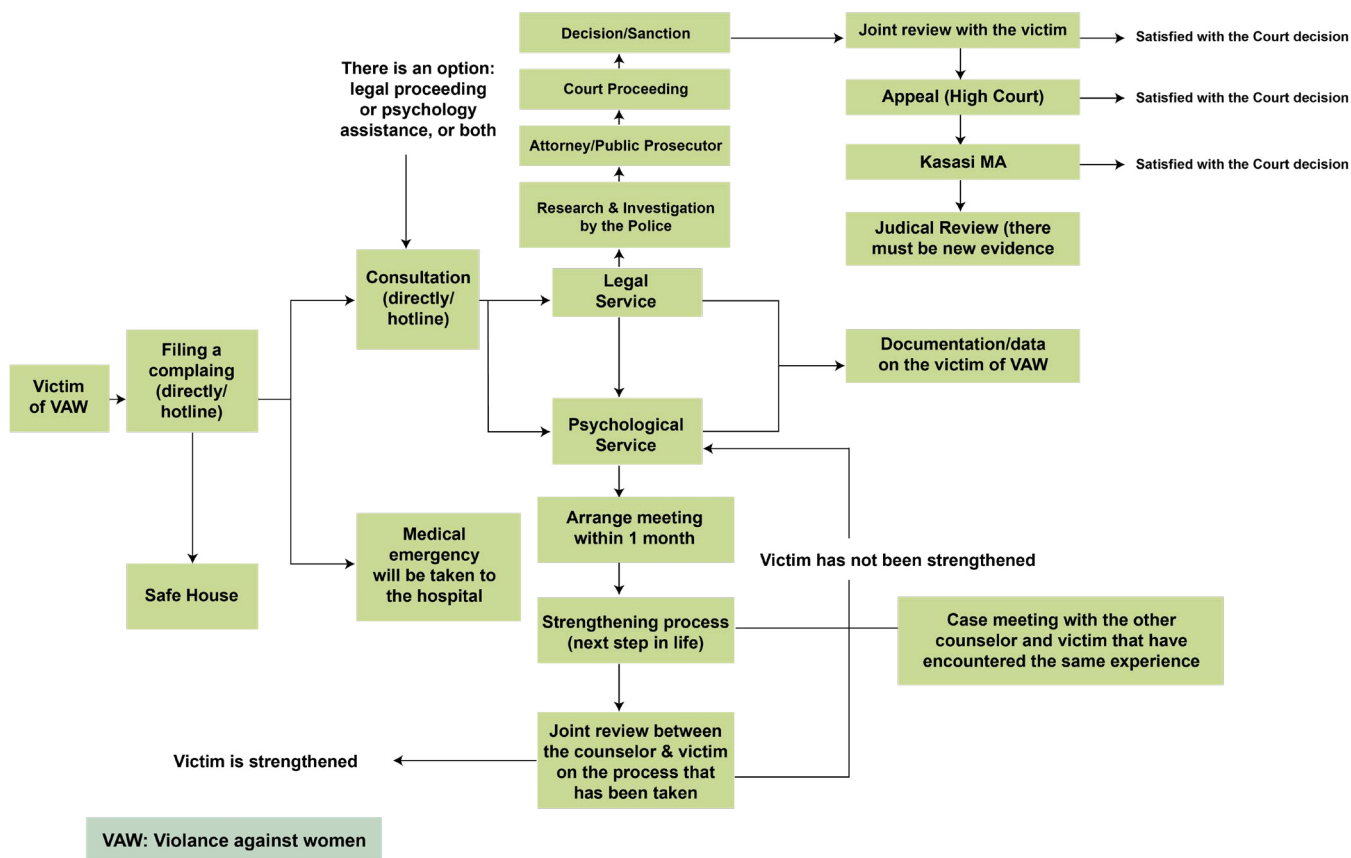
- 1) Law No. 23 of 2004 on the Elimination of Domestic Violence which is a legal reform in protecting vulnerable groups, namely women and children in the domestic area;
- 2) Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking (CHT) that protects victims of human trafficking, especially women and children with procedural laws that specifically prevent victims from criminalization and victims' rights by establishing a CHT Task Force;
- 3) Law No. 24 of 2013 on the amendment to Law No. 23 of 2006 on Population Administration to protect women's rights from discrimination including, women who marry foreign nationals do not automatically follow the citizenship of their husbands, marriage certificate arrangements that protect women from marriage practices are not recorded.

²⁹Article 5 CEDAW, it is important to understand the affirmation of the principle of equality by realizing that the differences between men and women are the result of long-standing discriminatory cultural constructions and have an impact on the undervaluation of women's reproductive roles.

In the current law enforcement, law enforcement institutions issue internal rules in seeking to handle GBV cases against women. The police have a special unit for handling cases involving women and children through the Women and Children Service Unit based on the Police Regulation No. 10 of 2007 on the Organization of Work Procedures for the Women and Children Service Unit, as well as the existence of a Sub-directorate of Youth, Children and Women at the Regional Police as stated in Police Regulation No. 14 of 2018 on Organizational Structure and Work Procedures of the Regional Police.

The following is an example of how women and children victims of violence are handled:

SCENARIO OF HANDLING WOMEN AND CHILDREN AS VICTIMS OF VIOLENCE



Women and children are mostly victims and have the least access to justice, so they need special services provided by both the government and NGOs, as well as in the oil palm plantation sector.

2.3 Gender Development and Empowerment in Oil Palm Plantation Central Areas

Discrimination and violence against women in oil palm plantations are undeniable. Various studies have found such a situation. A study conducted by Julia and White (2012) in the Dayak community, Sanggau Regency, West Kalimantan found the vulnerability of women to the development of oil palm plantations, such as the loss of women's position as landowners and the occurrence of discrimination against women workers.³⁰

The same situation was also found in Papua, where a study conducted by Down to Earth (2014) stated that the development of oil palm plantations in Papua has resulted in poor access for women, such as the loss of women's access to land and forest resources, increasing the cost of living for women, and the number of violence against women perpetrated by husbands who work in oil palm plantations.³¹

A study conducted by Tania Li in West Kalimantan (2015) also found discriminatory practices against women in oil palm plantations. This study found that many women workers were exploited in working relationships with palm oil companies. They only became casual workers with low wages and without employment and health insurance. On the other hand, the workload faced by women has a very high risk.³²

Cases of discrimination and violence against women in oil palm plantations that have been highlighted and captured the public's attention are the investigation coverage conducted by the Associated Press (2020). The independent investigation was able to uncover various cases of violence against women workers, ranging from cases of rape, unpaid wages to heavy workloads for women workers who are at risk of death. Interestingly, this incident happened to the largest palm oil company in the world, which claimed to be committed to the protection of women.³³

³⁰Julia and White B. 2012. Gendered Experience of Dispossession: Oil Palm Expansion in A Dayak Hibun Community in West Kalimantan. *Journal of Peasant Studies* 39(3-4):995-1016.

³¹Down to Earth. 2014. Women and oil palm in an investment region. DTE 99-100.

³²Li TM. 2015. Social Impact of Oil Palm in Indonesia: Gendered Perspectives from West Kalimantan. Occasional Paper 124. Bogor, Indonesia. CIFOR.

³³The Associated Press. 2020. AP Investigation: Female Palm Oil Workers Face Abuse, No Pay. Available from: <https://apnews.com/article/female-palm-oil-workers-abuse-no-pay-ea0cd414af01d009fa678f050152728f>



All these facts show how vulnerable the problem of discrimination and violence against women is in the oil palm plantation sector. This situation is not just an incident, but the practice of discrimination and GBV is massive in areas that have oil palm plantations. This fact has been proven by the results of data interpretation between regions that have oil palm plantations and the Gender Development Index (GDI)³⁴ and the Gender Empowerment Index (GEI).³⁵ The results of both data found that the wider the area of oil palm plantations in a regency/city, the lower the GDI and GEI of that area. This shows that regional development activities driven by the oil palm plantation sector actually foster discriminatory practices and GBV. Gender mainstreaming is not going well in such area.

For example, in East Kutai Regency, this regency has the fourth largest area of oil palm cover in Indonesia, with an area of 488,927 hectares, but the district's GDI is the second lowest with an index value of 76.3. Likewise, Ketapang Regency, this regency has the third largest palm oil cover area in Indonesia with an area of 520,133 hectares, but GEI is the lowest in Indonesia, at the thirteenth position, with an index value of 49.9.

³⁴GDI is used to measure achievement on the same dimensions and variables as the Human Development Index (HDI), but the GDI reveals the inequality of achievement between men and women. The indicators are (1) Life Expectancy, (2) Expected Length of Schooling, (3) Average Length of Schooling, and (4) Estimated Income. See: <https://www.bps.go.id/subject/40/gender.html#subjekViewTab2>.

³⁵GEI shows whether women can play an active role in economic and political life. The indicators are (1) the proportion of women's representation in parliament, (2) the proportion of women who become managers, administrative staff, professional workers and technicians, and (3) the wages of women non-agricultural workers. See: <https://www.bps.go.id/subject/40/gender.html#subjekViewTab2>.

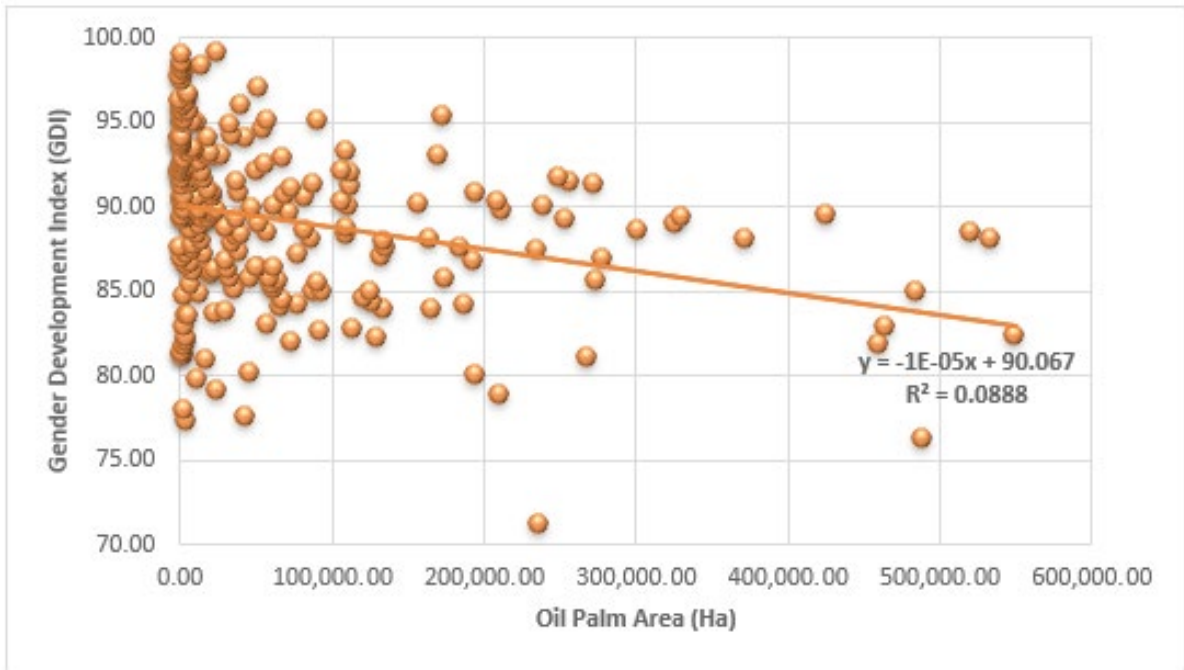


Figure 2.1. Gender Development Index (GDI) in the Regency/City that has a Palm Oil Plantation in Indonesia

(Source: BPS, 2020 and Auriga, 2019)

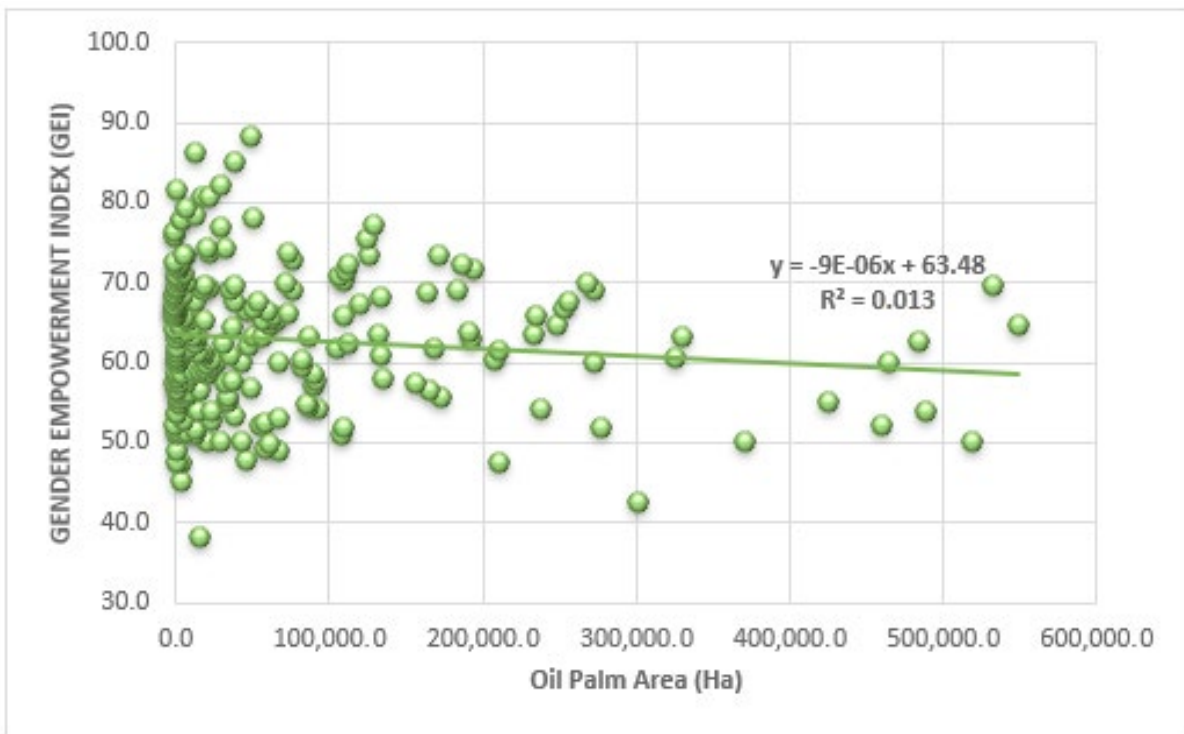


Figure 2.2. Gender Empowerment Index (GEI) in the Regency/City that has a Palm Oil Plantation in Indonesia

(Source: BPS, 2020 and Auriga, 2019)

The oil palm plantation sector, which is predicted to be a national and regional strategic sector, is actually very unresponsive to gender and human rights issues. Not only that, the level of poverty, inequality and the Human Development Index (HDI), which is an indicator of government performance and development, is also problematic in oil palm plantations. So, the question is: who is the palm oil economy for?

2.4 Gender and Human Rights Interventions in Sustainable Palm Oil Governance

Stakeholders in the oil palm plantation sector have realized that there are many gender and human rights issues that occur in the oil palm plantation area. In fact, this issue has contributed to the market's negative view of the palm oil community. Consumers who are sensitive to this issue reject the circulation of palm oil and actively participate in voicing the elimination of discrimination and violence against women in the palm oil business chain.

Business actors in the oil palm plantation sector responded to this so that their product market would not be eroded by the stigma of gender and human rights. Some companies develop protocols for protecting women in oil palm plantation areas and include them in the company's sustainability report section.

This issue has also received a response from the sustainable palm oil certification system. Roundtable on Sustainable Palm Oil (RSPO) as a globally recognized standard has explicitly regulated the protection of women's rights as workers in its principles and criteria. Principle 6 is concerning Respect Workers' Rights and Condition.³⁶ Criterion 6.1 states that any form of discrimination is prohibited, and criteria 6.1.1 emphasizes the requirement of a policy that implements non-discriminatory practices against any aspect, including discrimination against gender.

³⁶ See: <https://rspo.org/principles-and-criteria-review>.

Other than that, criterion 6.1.4 provides protection for women, namely pregnancy tests are not carried out in a discriminatory manner and are only allowed if legally mandated, and employment for pregnant women is adjusted to their conditions. Further, criterion 6.1.5 is included regarding the existence of a Gender Committee that specifically deals with gender issues in oil palm plantation companies. In this context, RSPO is taking a more inclusive approach that requires its members to develop systems that prevent sexual harassment and other potential danger that women are particularly vulnerable to in the workplace.



Figure 2.3. Criterion 6.1 of RSPO

It must be admitted that the handling of gender and human rights issues in the RSPO is more advanced than other certification systems, including Indonesian Sustainable Palm Oil (ISPO).

ISPO principles and criteria do regulate the prohibition of discriminatory and violent practices in the production activities in oil palm plantations. However, it is not specifically addressed to women, and it is more general towards all genders. Intervention through a sustainable palm oil certification mechanism can be effective in suppressing discriminatory practices and violence against women. Currently, the capacity of the certification system to supervise and monitor these practices is still not optimal. Evidently, there are still many violations that occur, even though the company already has RSPO certification.

The issue of discrimination, GBV and human rights is a complex matter. This does not only occur as a result of the working relationship between women workers and the company but also involves cultural, social and economic aspects. The certification system cannot cover this aspect. Thus, the handling of discrimination, GBV and human rights must also use various approaches. In these conditions, the role of the government and society is important to intervene and deal with the issue of discrimination and violence.

CHAPTER 3

ISSUES OF PUBLIC SERVICES ACCESSIBILITY AND DISCRIMINATORY PRACTICES AGAINST WOMEN IN THE OIL PALM SECTOR

3.1 Low Public Services Accessibility as a Main Factor of Vulnerability of Women's Lives in Oil Palm Plantations

Discrimination against women occurs because there are issues with access to health, education, the environment and employment.³⁷ Women in oil palm plantations are placed in difficult conditions to access all these facilities. This especially occurs in oil palm plantation areas that are far from the center of the regency/city capital.³⁸

This remote access has implications for the lack of public access available at the location of oil palm plantations. In addition, the supervision and monitoring carried out by the person in charge of the oil palm plantation sector, in this case the Plantation Office (Dinas Perkebunan), is not optimal in reaching the area.³⁹ As a result, women as a group that is vulnerable to discriminatory practices and violence are at risk of being exploited from these conditions.⁴⁰

³⁷Organization for Economic Co-operation and Development (OECD). 2011. Report on the Gender Initiative: Gender Equality in Education, Employment and Entrepreneurship. OECD Report. Paris, France. Dapat diakses pada: <https://www.oecd.org/social/48111145.pdf>; Mihrete Ag, Bayu EK. 2021. Challenge and Opportunities of Gender Mainstreaming Strategy Implementation in Public Sector: The Case of Women and Children Affairs Office, Bahir Dar City Administration, Amhara Region, Ethiopia. Sexuality, Gender and Policy. First Published on 20 August 2021.

³⁸Sheil D., Casson A., Meijaard E. et al. 2009. The Impact and Opportunities of Oil Palm in Southeast Asia: What do We Know and What do We Need to Know? Occasional Paper No. 51. Bogor, Indonesia. CIFOR.

³⁹Dharmawan AH, Yulian BE, Nasdian FT et al. 2021. Peta Permasalahan Sawit Indonesia di Aras Mikro dan Keberterimaan Pasar Uni Eropa. Policy Brief No. 2. FEMA IPB. Dapat diakses pada: <https://skpm.ipb.ac.id/storage/publication/September2021/7IMiXmbwBaOlqfMgFoTx.pdf>; Komisi Pemberantasan Korupsi (KPK). 2016. Kajian Sistem Pengelolaan Komoditas Kelapa Sawit di Indonesia. Laporan Kajian. Direktorat Penelitian dan Pengembangan, Kedeputian Pencegahan, KPK.

⁴⁰Li TM. 2015. Social Impact of Oil Palm in Indonesia: Gendered Perspectives from West Kalimantan. Occasional Paper 124. Bogor, Indonesia. CIFOR.

The emergence of various cases of discrimination and violence against women in oil palm plantations is not just an ordinary incident. This is the implication of a weak governance system, especially in regulating proper zoning for the development of oil palm plantations. Oil palm plantation permits that are granted in locations that are difficult to reach and far from the center of public infrastructure have a risk of discrimination and violence to occur. Moreover, weak monitoring and supervision system will result in a higher risk. Therefore, interventions to improve the palm oil governance system are key in suppressing discrimination and violence against women.

A. Access to Health Services Facility

Women have different health conditions than men, especially in terms of reproductive health.⁴¹ They have certain periods of experiencing disturbances in their reproductive aspects, such as during menstruation, pregnancy, and postpartum. When that occurs, the women's physical and mental health will experience problems.⁴² Therefore, the protection of women's reproductive health rights is important, not only for women workers but also for women who live in oil palm plantation areas.

The high maternal mortality rate occurs due to bleeding. This is caused by various factors, such as remote access to health facilities, lack of antenatal care, hypertension, anemia, and poverty.⁴³ There is a risk of such indicators happening to women living and working in the oil palm plantation sector.

⁴¹Fathalla MF & Fathalla MMF.2017. Sexual and reproductive health: Overview. In: Quah SR & Cockerham WC (eds). The international encyclopedia of public health, 2nd edition. Vol. 6, p.481-490. Oxford: Academic Press.

⁴²Crays Al. 2020. Menstrual Equity and Justice in the United States. Sexuality, Gender and Policy. First Published 19 October 2020; Glasier A, Gulmezoglu AM, Schmid GP et al. 2006. Sexual and reproductive health: A matter of life and death. The Lancet Sexual and Productive Health Series.

⁴³Prasetyo B, et.al. 2018. Maternal Mortality Audit based on District Maternal Health Performance in East Java Province, Indonesia. Bali Medical (Bali Med J), Volume 7, Number 1: 61-67; Saputra W, Nurriszka R. 2014. Strategi Menurunkan Angka Kematian Ibu dan Angka Kematian Anak di Indonesia. Depok: Prakarsa; Nurriszka RH, Wahyono TYM. 2018. Disparitas Kematian Maternal di Indonesia: Studi Ekologi dengan Analisis Spasial. Media Kesehatan Masyarakat Indonesia (MKMI), Vol. 12 No. 2.

Apart from malnutrition, high-risk pregnancies can also cause stunting in children. It is known that the golden period of the child's growth and development is in the first 1,000 days of life, namely from the time in the womb until the age of 2 years. When during this period there occurs health problems and lack of quality nutrition, the child will be at risk of stunting.⁴⁴

The stunting issue has become a special concern for the Government of Indonesia, because the stunting rate for children under five is still high, which is 27.6%.⁴⁵ Especially in areas that have the characteristics of oil palm plantations, stunting problem also occurs. There are still many regencies/cities whose development is supported by the oil palm plantation sector that has a high stunting rate (see Figure 3.1).

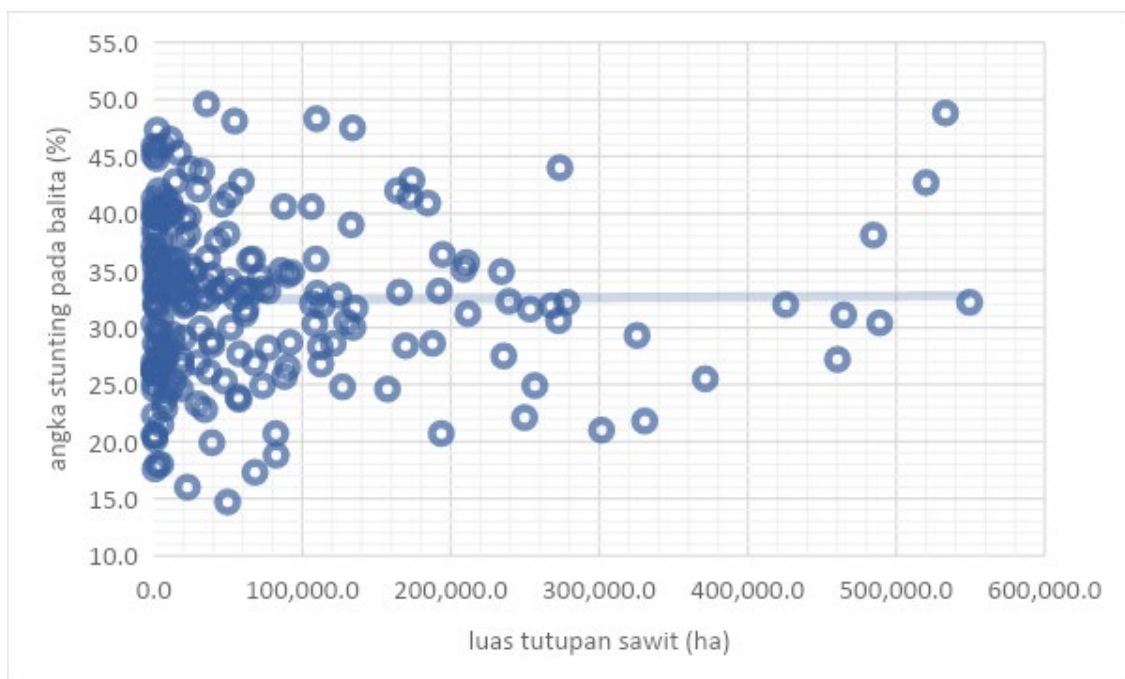


Figure 3.1. Relationship between Number of Stunting and Oil Palm Area in Regency/City in Indonesia, 2020

⁴⁴NurriZka RH, Wenny DM, Agustina. 2020. Comparison Study about Determinant of Children Under Five Years Malnutrition between Indigenous and Non-indigenous Communities in Indonesia. *Malaysian Journal of Public Health*. Vol. 20 (1): 22-29.

⁴⁵Izwardy D. 2020. Studi Kasus Gizi Balita Terintegrasi Susenas. Dipresentasikan pada Rekerkesnas. Available from: <https://persi.or.id/wp-content/uploads/2020/11/event8-02.pdf>.

Stunting intervention should start from pregnant women. Therefore, interventions for female workers during pregnancy must be carried out by palm oil companies, so that health problems do not occur during pregnancy.⁴⁶ In addition, palm oil companies also need to pay attention to the nutritional aspects of pregnant women by providing incentives for nutritional intake and monitoring the progress of pregnancy status periodically.

B. Access to a Decent Work

The oil palm plantation sector is a labor-intensive sector. Every chain of the production process, from seedling, cultivation, harvesting, processing into CPO to administrative and managerial work requires a lot of manpower. The space for women to access jobs in the oil palm plantation sector is quite open. However, there is still discrimination that distinguishes certain types of work for female workers and male workers. In fact, the pattern has already been established and leads to women's specific work, such as fertilization and plant care.⁴⁷

Discrimination against women workers also occurs in the employment relationship system. Most women workers in oil palm plantations are casual daily workers who do not have a clear status. They are only paid based on the results of their work and without any job security. In fact, under certain conditions women are forced to work to help their husbands so that the husband's work targets can be achieved, it is voluntary.⁴⁸ In general, we can see the minimal contribution of women in the field of professional work in areas where the economy is supported by oil palm plantations (see Figure 3.2.).

⁴⁶UNICEF. 2016. Palm Oil and Children in Indonesia: Exploring the Sector's Impact in Children's Right. UNICEF Report. Jakarta, Indonesia. Available from: <https://www.unicef.org/indonesia/media/4391/file>.

⁴⁷Li TM. 2015. Social Impact of Oil Palm in Indonesia: Gendered Perspectives from West Kalimantan. Occasional Paper 124. Bogor, Indonesia. CIFOR.

⁴⁸Julia and White B. 2012. Gendered Experience of Dispossession: Oil Palm Expansion in A Dayak Hibun Community in West Kalimantan. *Journal of Peasant Studies* 39(3-4):995-1016.

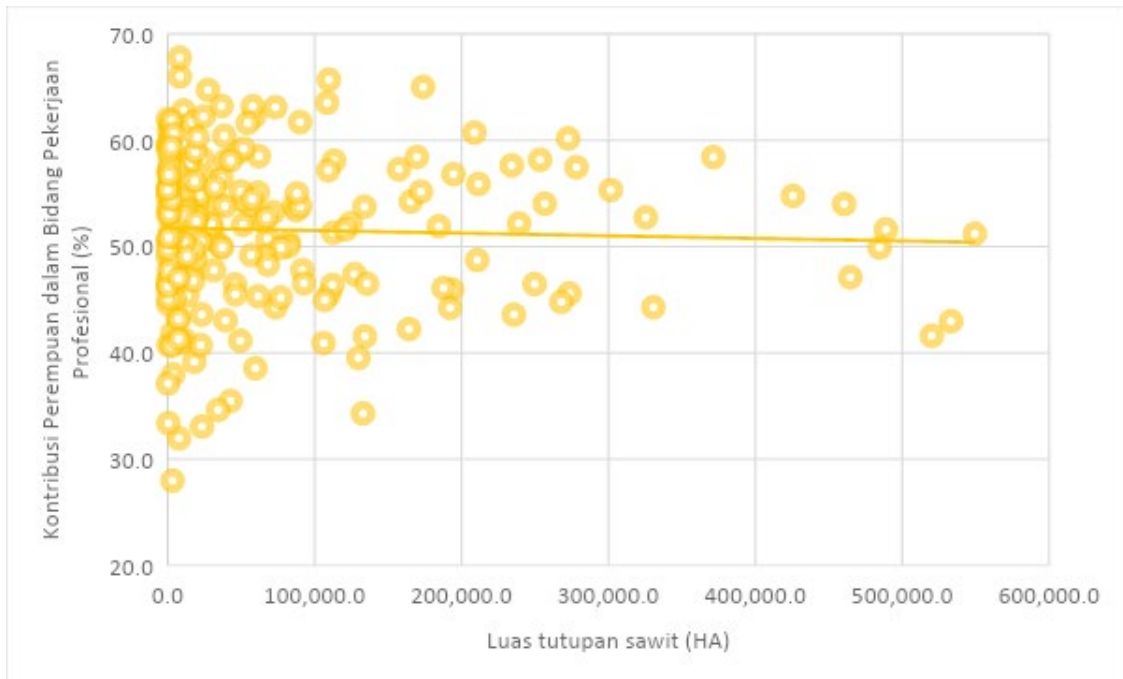


Figure 3.2. Relationship between Women Contribution in the Professional Work Field and Palm Oil Area based on Regency/City in Indonesia, 2020
(Source: BPS, 2020 and Auriga, 2019)

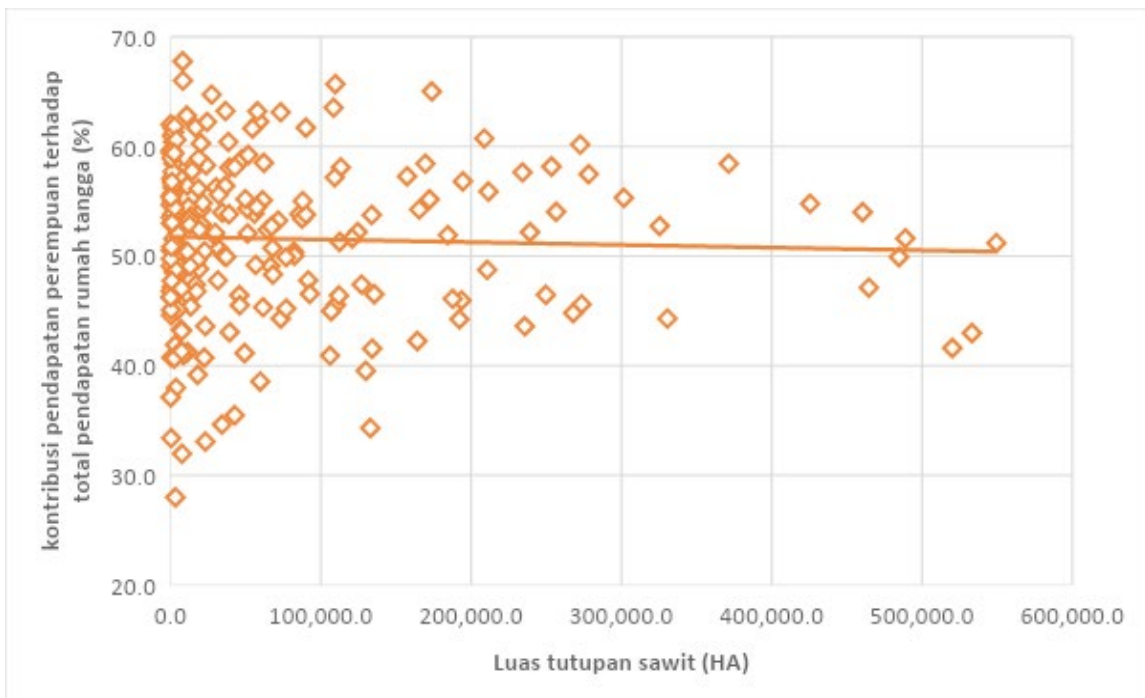


Figure 3.3. Relationship between the Contribution of Women's Income in the Total of the Household's Income and the Oil Palm Area based on the Regency/City in Indonesia, 2020
(Source: BPS, 2020 and Auriga, 2019)

Discrimination against women workers has an impact on women's ability to contribute to household income. In Figure 3.3. It can be seen that the condition of women's income is lower when they are in areas that are centers of oil palm plantations in Indonesia. This means that the more the regional economy is supported by the oil palm plantation sector, the smaller the contribution of women's income to the total household income. This relationship shows that discrimination against women in terms of work occurs massively in areas that are centers of oil palm plantations.

C. Access to Clean Water and Proper Sanitation

Women who work and live-in oil palm plantation areas also experience problems with poor access to clean water and proper sanitation. Many found that the housing conditions provided by the company did not have a source of clean water and proper sanitation. Poor facilities have an impact on the quality of health, especially for women.

Under certain conditions, clean water sources that are used for drinking, cooking, washing, bathing and others are often contaminated with plantation waste, such as pesticides. Thus, the water is not safe and suitable for use. Sanitation problems are also often a problem in workers' settlements. A lot of sanitation is not proper, so it has a bad impact on the quality of the environment around the settlements. Women are the most vulnerable to the risk of poor sources of clean water and sanitation. Because when reproductive health problems occur, such as menstruation, pregnancy, and postpartum, women need a source of clean water that is proper and good sanitation.

3.2. Discrimination Practice towards Women Workers

a. **Low employment and health insurance.** Women workers in oil palm plantations have the status of Precarious employment (non-permanent with substandard working conditions and often exploitative in all its forms by weakening workers' rights, wages and working conditions)⁴⁹ in the form of Casual Daily Workers, Outsourcing, driver assistant, wholesale workers without job security, wage security, and not being accommodated by health and social security.⁵⁰ In the casual daily worker system, there is no guarantee of protection for women workers.

⁴⁹See: http://www.industrial-union.org/sites/default/files/uploads/documents/Triangular_Trap/agency_work_bahasa_1.pdf.

⁵⁰Sawit Watch, "Buruh Perempuan di Perkebunan Sawit: Rantai Produksi yang Dikorbankan", discussion material WWF on 21 Oktober 2021.

- b. **The workload of women workers in the aspects of health and reproductive health.** Women workers generally conduct the spraying (related to fertilizers and pesticides), cleaning the grass in the trenches and around the oil palm plantations, cleaning the palm disks, cleaning the roads in the plantation, and making spacing in oil palm plantations, but do not get a decent wage.⁵¹ The heavy workload is not appropriate for female workers because there are health aspects that need to be considered, especially women's reproductive health. In addition, this type of work is very vulnerable to the exposure of hazardous chemicals, the impact of which is not felt immediately at that time.
- c. **Wage system that is not in accordance with regulations.** Women workers are only paid daily or weekly with very low salaries. This situation is run by palm oil companies using a subcontractor system. In addition, various study sources state that the majority of women workers are not facilitated by the five programs of the Employees Social Security System (BPJS Ketenagakerjaan).⁵² An uncertain wage system is caused by wages based on units of work, wages will be reduced if women workers cannot achieve the target (outcome).
- d. **Dual Responsibility.** The dual responsibility of women (housewives and laborers) is at risk of decreasing the quality of life. In addition to working as laborers on plantations, they also have to do domestic work and take care of children. As a result, women workers do not have time for themselves and will physically be very tired.
- e. **The lack of training and education related to occupational safety and health (K3) for women workers.** The majority of women workers are employed in sectors that endanger health and life. For example, women workers are given the responsibility to carry out fertilization and spraying, even though they are not equipped with adequate facilities such as personal protective equipment (gloves, chemical aprons, boots, long sleeves) so they are vulnerable to exposure to hazardous chemicals.

⁵¹Ibid.

⁵²Richaldo Hariandja, 'Kondisi Buruh Sawit Memprihatinkan', 26 May 2021 (<https://www.mongabay.co.id/2021/05/26/kondisi-buruh-sawit-memprihatinkan/>).

- f. **The lack of women workers' voice in labor unions.** Many oil palm plantations do not have a labor union, so women workers do not have the space to express their opinions, suggestions or complaints about the difficulty they are experiencing. Whereas women run long working hours, heavy workloads and double burdens. These factors add to the lack of women workers' voices in fighting for their rights through labor unions. Sometimes the power relationship factor is not only weak with the company/plantation, but the power relationship with the husband who is the foreman also contributes to making it difficult for women workers to oppose the unfair plantation policy.
- g. **Gender-based violence.** Women workers in oil palm plantations experience many threats of gender-based violence including domestic violence, sexual violence and women trafficking. Women trafficking includes the use of female workers as sexual objects by male oil palm plantation workers and victims of slavery (a very bad working situation without being paid or being paid an inhuman salary).

THE CRUEL FATE OF WOMEN WORKERS IN OIL PALM PLANTATIONS

Associate Press investigation reported cases of sexual violence and health conditions experienced by women workers on oil palm plantations in Sumatra.

One of the cases revealed was a case of rape committed by a leader/boss against a 16-year-old female worker. Her arms were tied and her mouth was gagged to prevent her from screaming. The girl was raped by her boss in the middle of an oil palm plantation. The atrocity only ended when the perpetrator injured her with an ax and threatened to slash the victim's neck if she reported it.

Vulnerable women workers are to become victims of sexual crimes, ranging from verbal abuse to rape. Victims usually keep their mouths shut. Even if they speak out, companies tend to remain silent or seek a "peaceful solution" by paying compensation. In the case of rape, the victim is also forced to marry the perpetrator by the family to avoid shame, especially if the victim is pregnant. "Almost every plantation has problems with workers," said Hotler Parsaoran, an activist from NGO Sawit Watch, which carried out the field investigation. "But the conditions faced by women workers are much worse than men."

Women workers also often have the heaviest workload in the plantation. They are mostly employed as pesticide sprayers, or as transport workers. Various health problems such as poisoning or hernia had to be ignored because there was no health insurance from the company.

Ironically, the practice of sexual violence also occurs in plantations that have a sustainable palm oil certificate from the RSPO/Roundtable on Sustainable Palm Oil.

In another plantation, a woman complained of fever, cough and nosebleeds. Her condition worsened due to years of working spraying pesticides without a safety suit. Daily wage not more than Rp. 30,000 made her unable to pay for the doctor's treatment. A series of health problems due to working in oil palm plantations in the form of dizziness for a long time, nosebleeds, difficulty breathing or blurred vision. A number of workers are even reported to have experienced vision loss or miscarriages.

This incident happened to one of the oil palm plantation companies named LS, which eventually resigned from its membership of the RSPO. In some cases, women workers admitted that they were forced to hide in the forest if they received a visit from the auditors.

US customs and distributor records examined by the AP reveal that troubled oil palm plantations supply the international cosmetics industry worth \$530 billion a year. The oil palm plantations have RSPO certification so they are able to access the international cosmetics industry.

Large companies such as L'Oréal, Unilever, Procter & Gamble, Avon, and Johnson & Johnson are noted for using produce from plantations where women claim to have been sexually abused, AP said. All companies claim to apply high standards in finding suppliers, including through the RSPO scheme which is supposed to guarantee sustainable palm oil production.

rzn/hp (Associated Press)

Source: <https://www.dw.com/id/investigasi-ap-temukan-budaya-kekerasan-seksual-di-industri-sawit/a-55663891>

The above-mentioned practices of gender-based discrimination and violence are in contravention of the provisions of CEDAW and national and international human rights law, as follows:

1. Article 11 paragraph (1) of CEDAW, which stipulates that “States parties are obliged to make appropriate regulations to eliminate discrimination against women in the field of work in order to ensure equal rights on the basis of equality between men and women, in particular:
 - (a) The right to work as a human right;
 - (b) The right to equal employment opportunities, including the application of the same selection criteria in recruitment;
 - (c) The right to freely choose a profession and occupation, the right to be promoted, job security and all work benefits and facilities, the right to obtain vocational training and retraining including periods of service as apprenticeship, further vocational training and further retraining;
 - (d) The right to receive equal pay, including benefits, both for equal treatment in respect of work of equal value, as well as equal treatment in the assessment of the quality of work;
 - (e) The right to social security, in particular in the case of pensions, unemployment, sickness, disability, old age and other inability to work, the right to a paid leave;
 - (f) The right to protection of occupational health and safety, including efforts to protect the function of continuing offspring.
2. Article 6 of CEDAW states “States parties are obliged to make appropriate regulations, including legislation, to combat all forms of women trafficking and exploitation of prostitution.”
3. The Law on the Eradication of the Crime of Trafficking in Persons through Law No. 21 of 2007.
4. Article 86 paragraph (1) letters b and c of the Manpower Law state that every worker/ laborer gets protection over morals and decency and treatment in accordance with human dignity and values as well as religious values.
5. Article 76 paragraph (3) letter b of the Manpower Law in conjunction with Article 5 of the Minister of Manpower and Transmigration Decree No. 224 of 2003 on the obligations of employers who employ female workers/laborers between 23.00 and 07.00 hours to maintain security and morality, and the Minister of Manpower and Transmigration Decree No. SE.03/MEN/IV/2011 on the Guidelines for the Prevention of Sexual Harassment in the Workplace, and KPPPA Ministerial Regulation No. 1 of 2020 concerning the provision of shelters for women workers in the workplace.

3.3. Sustainable palm oil plantation governance has not integrated Gender Mainstreaming in a concrete way

In the policy aspect, the Government already has several instruments in gender mainstreaming. In addition to being contained in various regulations at the national level, as described in Chapter 2.1, the Government has developed a national strategy for gender mainstreaming. There is the Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in the National Development and the Minister of Home Affairs Regulation No. 15 of 2008 as amended by the Minister of Home Affairs Regulation No. 67 of 2011 on General Guidelines for the Implementation of Gender Mainstreaming in the Regions (Permendagri No. 15/2008). Permendagri No. 15/2008 stipulates that Regional Governments are obliged to formulate policies, programs, and development activities with a gender perspective as outlined in the Regional Medium-Term Development Plan (RPJMD), Strategic Plans for Regional Work Units (SKPD) and SKPD Work Plans. Furthermore, Provincial Gender Mainstreaming Working Groups are to be formed in all Provincial SKPDs and have the task of, among other things, preparing Regional Action Plans for Gender Mainstreaming (RAD PUG) in the province. This provision also applies to regencies/cities. The implementation of the plan is monitored and its achievements are evaluated every year.

Further, Presidential Regulation No. 59 of 2017 on the Implementation of SDGs Achievements has affirmed Goal 5 “Gender Equality” in the national targets of the 2015-2019 National Medium Term Development Plan (RPJMN). The issue of gender equality continues to be raised in the 2020-2024 RPJMN⁵³ which integrates strategies for gender mainstreaming and women's empowerment in national development. This Presidential Regulation also mandates the preparation of SDG Regional Action Plan (RAD SDG) in supporting the achievement of SDG in accordance with regional development targets.

In the oil palm plantation sector, there is a National Action Plan for Sustainable Oil Palm Plantation 2019-2024 (RAN PKSB) as stated in Presidential Regulation No. 6 of 2019. The purpose of the RAN PKSB is to realize sustainable palm oil governance. Gender issues are certainly one of the important issues in the management of sustainable palm oil plantations. One of the instructions in the RAN PKSB is to the Minister of Manpower to conduct a review of labor regulations and dissemination related to the supervision of the implementation of the K3 system and social security for workers in the oil palm plantation business. Local governments that have oil palm plantation areas are instructed to prepare RAD for Sustainable Oil Palm Plantation (RAD PKSB).

⁵³Presidential Regulation No. 18 of 2020 on the National Medium Term Development Plan 2020-2024.

The ISPO certification system which is encouraged in the RAN PKSB has included the issue of gender equality in the principles and criteria, although it is not explicitly regulated as is the case in the RSPO. Certification criteria and indicators are often not clear and concrete, there is a prohibition clause on harassment/violence but the details and conditions are not explained. However, both ISPO and RSPO state clearly that there is a prohibition on gender-based discrimination, then the standards that companies must have regarding childbirth for women workers.⁵⁴

Referring to the various instruments above, it can be seen that gender mainstreaming in the oil palm plantation sector has become a major concern. But in fact, cases of discrimination and GBV still occur in the oil palm plantation sector. This means that the implementation of the various policies above is still not optimal and effective.

There are sectoral issues that need to be resolved in terms of gender mainstreaming in the oil palm plantation sector. All policy instruments are not integrated and complementary, but seem to go separate ways. The intervention was carried out partially by each institution that was given the authority. Many programs at the national and regional levels overlap and do not focus on issues at the site level. Especially in the oil palm plantation sector, the problem is increasingly complex, because the supervisory function does not work well, due to access constraints, especially in oil palm plantation areas that are far from the central government. Law enforcement instruments are also ineffective because from the aspect of supervision they are also ineffective.

In fact, if all these policy instruments are integrated into a system of planning, implementation, and supervision, thus, the capacity of the programs carried out by the government and certification institutions will be effective. Unfortunately, this integration did not occur and cases of gender-based discrimination and violence in the oil palm plantation sector are increasingly widespread.

⁵⁴Based on the study conducted by LPEM FEB UI (2021). Available from: https://auriga.or.id/resource/reference/2021-03-25_presentasi%20basg_sertifikasi%20sawit%20berkelanjutan.pdf.

CHAPTER 4

STRATEGY AND RECOMMENDATIONS

4.1. Strategy for Realizing Gender Equality in the Oil Palm Sector

The resolution of gender-based discrimination and violence must be carried out comprehensively. It does not only involve companies and institutions for sustainable palm oil certification but also requires strengthening the role of the government, especially local governments.

Based on the findings of this study, regulatory and policy instruments issued by companies, certification institutions and the government in overcoming the practice of gender-based discrimination and violence in the oil palm plantation sector, are already available. However, this instrument does not work effectively due to the weak function of supervision and law enforcement. Thus, innovative and effective strategies are needed to strengthen gender mainstreaming in the oil palm plantation sector.

A. Regulations on the zoning system in the oil palm plantations licensing mechanism

The main weakness in the monitoring system for violations committed by oil palm plantation companies, especially related to gender-based discrimination and violence, is that many oil palm plantation companies operate in areas that are difficult to reach, such as small islands, border areas, and areas far from the regency/city's capital and with road infrastructure that is difficult to access. This area is vulnerable to being occupied by women, especially if the company does not provide adequate housing and public service facilities for women.

The application of the zoning system in the licensing mechanism for oil palm plantations is a solution in improving the supervisory function in palm oil governance in Indonesia. Plantation business licenses are not only issued based on the environmental carrying and land or spatial planning but must include indicators of regional vulnerability to the quality of life of workers, especially women workers. Zones that have a high level of vulnerability, such as small islands, border areas, areas that are difficult to access by transportation modes, and areas that are far from public service centers must be zones that cannot be granted an oil palm plantation license. The existence of this policy can strengthen the oversight function by the government and suppress the practice of gender-based discrimination and violence.

B. Strengthening the Regional Government in handling Discrimination and GBV by integrating the RAD SDG, RAD PUG and RAD PKSB in the Regional Government's working program

There are quite a number of policy instruments in dealing with gender-based discrimination and violence at the local government level. Local governments have RAD SDG, RAD PUG and RAD PKSB, which in their action plans include aspects of gender mainstreaming. However, these three action plans are not integrated into the work program of the regional government.

Especially in areas where development performance is supported by oil palm plantations, this integration is a solution in strengthening sustainable oil palm plantation governance, especially in terms of gender mainstreaming. RAD PKSB must be integrated with RAD SDGs and RAD PUG. This integration should be implemented into a regional government work plan to address gender-based discrimination and violence in the oil palm plantation sector. Thus, the capacity of the Regional Government in dealing with this crucial issue is strengthened.

C. Strengthening incentive schemes for gender mainstreaming practices in the oil palm plantation sector by Regional Governments through the oil palm fund (CPO Fund) and Ecological Fiscal Transfer (EFT) mechanisms by adding gender indicators

Strengthening the role of Regional Governments must be supported by strengthening budget capacity. Supervision will be effective if the system is running well. This monitoring system must be supported by institutional capacity and funding capacity. So far, the supervisory function has not worked well due to budget constraints.

Therefore, in order to strengthen the supervisory function of gender-based discrimination and violence in the oil palm plantation sector, it is necessary to develop an incentive scheme for local governments that are actively monitoring. This incentive can be provided by the Central Government through the oil palm plantation fund (CPO Fund) mechanism. This fund is very relevant to use because the regulatory mandate is contained in Law no. 39 of 2014 concerning Plantations, namely to improve the governance of sustainable oil palm plantations.

In addition, other fiscal instruments, such as Ecological Fiscal Transfers (EFT) can be developed vertically starting from the Central Government, Provincial Governments and District/City Governments to handle sustainable palm oil plantation governance. EFT can adopt gender indicators in its formulation. Especially for regions where the basis of development performance is supported by oil palm plantations, this EFT plus gender will strengthen the capacity of regional government work programs in handling gender mainstreaming programs in the oil palm plantation sector.

D. Encouraging financial institutions to set standards for lending by including gender indicators as one of the assessment instruments for prospective debtors in the oil palm plantation sector

Financial institutions play an important role in the development of the oil palm plantation sector. Investments made by palm oil companies are supported by financing from financial institutions, especially banking institutions. In order for palm oil companies to comply with gender mainstreaming, financial institutions can encourage it through a loan disbursement mechanism.

Currently, several financial institutions already have an assessment standard for prospective debtors with sustainability indicators. In several aspects, this financial policy is able to contribute to improving the governance of sustainable palm oil plantations. This assessment standard can be developed by including gender indicators. Prospective debtors who deserve to be financed are those who have gender equality standards in their business governance. This is also in accordance with the concept of business and human rights which is encouraged by the Government in the oil palm plantation sector. If this can be done, then the practice of gender-based discrimination and violence in the oil palm plantation sector can be minimized.

E. Strengthening the reproductive health surveillance system for women workers in the oil palm plantation sector which is integrated with the ISPO and RSPO systems

ISPO and RSPO have principles and criteria for monitoring health aspects for workers that must be carried out regularly. However, the implementation of these principles and criteria needs development. Especially for women workers, it is necessary to carry out a surveillance system on reproductive health factors. Medically, reproductive health has a big influence on women's activity patterns and quality of life. According to the human rights consensus, reproductive health is the most essential right that must be obtained by women.

The Ministry of Health has developed a reproductive health surveillance system for women workers. This surveillance system needs to be developed for women workers in the oil palm plantation sector, because they are the most vulnerable to reproductive health factors. ISPO and RSPO need to adopt this reproductive health surveillance system in the implementing guidelines for the principles and criteria related to monitoring the health of workers.

F. A mechanism for exchanging data and information related to gender-based discrimination and violence between certification institutions (ISPO and RSPO) and regional governments

ISPO and RSPO have systems for handling cases of gender-based discrimination and violence. Several cases related to discrimination and violence against women have been reported to the ISPO and RSPO secretariats and some have been followed up. However, it is necessary to increase the capacity and optimize the ISPO and RSPO institutions in resolving violations of women's human rights.

On another aspect, the Regional Government has the authority to supervise in relation to cases of gender-based discrimination and violence. Resolution through government channels will be more effective because the government has a higher authority to deal with this problem. Preferably, there is an integration of handling these cases between the certification institution and the regional government. Therefore, it is necessary to have a mechanism for exchanging data and information on the status of handling cases of gender-based discrimination and violence.

4.2. Recommendations

Based on the above strategy, to improve the handling of gender-based discrimination and violence in the oil palm plantation sector, the following policies need to be implemented:

- A. The Ministry of Agriculture needs to develop a zoning system in the management of oil palm plantation licensing by developing indicators of the vulnerability of the lives of workers and communities to oil palm plantation activities;
- B. Regional Governments to integrate RAD SDG, RAD PUG and RAD PKSB in preparing work plans and budget plans for gender mainstreaming programs in the oil palm plantation sector;
- C. The Ministry of Finance to develop an incentive system from oil palm plantation funds for regional governments that have good performance in handling gender-based discrimination and violence in the oil palm plantation sector;
- D. Provincial Governments and District/City Governments whose development performance is supported by the oil palm plantation sector need to develop an ecologically based budget transfer (EFT) instrument by including gender indicators in their formulation and affirming gender mainstreaming in the oil palm plantation sector;
- E. The Financial Services Authority (OJK) to include gender indicators in the assessment of prospective debtors who are eligible to receive financing in the oil palm plantation sector;
- F. ISPO and RSPO certification institutions develop a guiding module for reproductive health surveillance systems for women workers;
- G. Regional Governments and ISPO and RSPO certification institutions to collaborate in exchanging data and information related to gender-based discrimination and violence in the oil palm plantation sector.

Attachment A

Attachment B

Factors Affecting the Gender Development Index (GDI) in Oil Palm Plantation Areas by District/City in Indonesia, 2020

Coefficients^a

| Model | Unstandardized Coefficients | | Standardized Coefficients | t | Sig. | 95,0% Confidence Interval for B | | |
|-------|--|------------|---------------------------|-------|--------|---------------------------------|-------------|--------|
| | B | Std. Error | Beta | | | Lower Bound | Upper Bound | |
| 1 | (Constant) | 67.602 | 4.959 | | | | | |
| | SUMBANGAN PENDAPATAN PEREMPUAN DALAM RT (%) | .068 | .023 | .093 | 2.915 | .004 | .022 | .114 |
| | PEREMPUAN SEBAGAI PEKERJA PROFESIONAL (%) | .055 | .022 | .081 | 2.535 | .012 | .012 | .098 |
| | STUNTING (%) | .037 | .023 | .055 | 1.639 | .103 | -.008 | .082 |
| | PENGELUARAN PEREMPUAN PER KAPITA (Rp) | .000 | .000 | -.126 | -1.174 | .242 | -.001 | .000 |
| | IPM PEREMPUAN RATA-RATA LAMA SEKOLAH PEREMPUAN (Tahun) | 1.271 | .138 | 1.379 | 9.180 | .000 | .998 | 1.544 |
| | ANGKA HARAPAN HIDUP PEREMPUAN (Tahun) | -1.996 | .265 | -.482 | -7.520 | .000 | -2.519 | -1.473 |
| | MORBIDITAS (%) | -.710 | .082 | -.385 | -8.700 | .000 | -.871 | -.549 |
| | MORBIDITAS (%) | .047 | .041 | .037 | 1.148 | .252 | -.034 | .128 |
| | LUAS TUTUPAN SAWIT (Ha) | -3.192E-6 | .000 | -.073 | -2.240 | .026 | .000 | .000 |

a. Dependent Variable: INDEKS PEMBANGUNAN GENDER (IPG)

Attachment C

Factors Affecting the Gender Empowerment Index (GEI) in Oil Palm Plantation Areas by District/City in Indonesia, 2020

Coefficients^a

| Model | | Unstandardized Coefficients | | Standardized Coefficients | t | Sig. | 95,0% Confidence Interval for B | |
|-------|--|-----------------------------|------------|---------------------------|--------|------|---------------------------------|-------------|
| | | B | Std. Error | Beta | | | Lower Bound | Upper Bound |
| 1 | (Constant) | 29.500 | 18.567 | | 1.589 | .114 | -7.101 | 66.100 |
| | SUMBANGAN PENDAPATAN PEREMPUAN DALAM RT (%) | .511 | .087 | .396 | 5.847 | .000 | .339 | .684 |
| | PEREMPUAN SEBAGAI PEKERJA PROFESIONAL (%) | -.220 | .082 | -.182 | -2.686 | .008 | -.381 | -.058 |
| | STUNTING (%) | .023 | .086 | .019 | .269 | .788 | -.146 | .192 |
| | PENGELUARAN PEREMPUAN PER KAPITA (Rp) | .001 | .001 | .299 | 1.308 | .192 | -.001 | .003 |
| | IPM PEREMPUAN RATA-RATA LAMA SEKOLAH PEREMPUAN (Tahun) | 1.137 | .994 | .156 | 1.144 | .254 | -.822 | 3.096 |
| | ANGKA HARAPAN HIDUP PEREMPUAN (Tahun) | .687 | .306 | .211 | 2.248 | .026 | .084 | 1.290 |
| | MORBIDITAS (%) | .142 | .153 | .063 | .925 | .356 | -.160 | .444 |
| | LUAS TUTUPAN SAWIT (Ha) | -3.975E-6 | .000 | -.051 | -.745 | .457 | .000 | .000 |

a. Dependent Variable: INDEKS PEMBERDAYAAN GENDER (IDG)