



ASSESSING FORCED LABOR RISKS IN THE PALM OIL SECTOR IN INDONESIA AND MALAYSIA

A research report by the Fair Labor Association
for The Consumer Goods Forum

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EXECUTIVE SUMMARY

Environmental concerns related to palm oil production emerged in the early 2000s, but it is only recently that conversations about the palm oil sector have included social, labor, and human rights issues. As awareness grows about poor working conditions and forced labor in the palm oil sector, governments around the globe, particularly in Europe, have taken notice and are exploring bans on the use of palm oil.

The increased attention to forced labor and working conditions in palm oil supply chain presents an important opportunity to increase transparency and disclosure. The Consumer Goods Forum (CGF) has selected palm oil production as a focus area for implementation of its three Priority Industry Principles on forced labor and commissioned the Fair Labor Association (FLA) to conduct desk-based research to assess the forced labor situation in the palm oil sector in Indonesia and Malaysia, two countries, which combined, account for the majority of the palm oil used worldwide.

This report presents the aggregate research findings, including analysis and recommendations, and expands understanding of forced labor issues in the palm oil sector. Furthermore, the report will inform CGF and its work. The literature review, stakeholder surveys and supply chain actors' interviews conducted for this research project have identified indicators of forced labor, revealed likely causes, and shed light on systemic gaps and challenges.

Research found that Indonesia and Malaysia each show several indicators of forced labor as elaborated under the ILO Conventions C029 and C105. Indicators of forced labor such as coercive practices including threats, violence and lack of clarity of employment terms and

conditions, dependency on the employer (vulnerability), lack of protection by state/police, debt bondage, high recruitment fees, and involuntary overtime at the palm oil estates and in the supply chain were widely cited in both countries. The highest risk of forced labor was determined amongst harvest and maintenance workers, notably those who apply pesticides and fertilizers.

FLA's analysis suggests that there are differences in the nature and root causes of forced labor in Indonesia and Malaysia, which the report considers in depth. In Indonesia, most workers come from other parts of the country to the palm oil producing regions of Kalimantan and Sumatra, regions with the most palm oil production. Here, forced labor can be linked to unrealistic production targets pushing families (including children) to work alongside hired workers; it can also be linked to low wages, remote locations of plantations, limited mobility of workers; and lack of contractual agreements. In Indonesia, casual workers – workers who work on a daily basis, or on a certain activity for limited time period, without having regular or systemic hours of work or an expectation of continuing work and work contracts – are most vulnerable among the workforce. Stakeholder interviews indicate that female workers are primarily employed for casual work.

In Malaysia, forced labor is linked mainly to the use of foreign migrant workers from other countries, including Bangladesh, Nepal, India, Indonesia and Myanmar. Instances were reported of recruitment agencies and informal brokers with irresponsible recruitment practices, including deceptive communication about terms and conditions of work, document (passport) retention, unsafe transit passages, poor living conditions and workers' facilities,

and lack of enforcement of legal procedures. In Malaysia, foreign migrant workers are most vulnerable.

Stakeholder interviews highlight the multi-faceted causes of labor and human rights non-compliances in the supply chain. These include lack of regulation, non-enforcement of existing laws, misuse of power, power imbalances in favor of the employers, and lack of judicial discourse. Stakeholders reported that a lack of penalties for violations of laws or ethical standards leave employers and recruiters without impetus to take corrective actions. At the same time, poor economic conditions, a lack of educational opportunities, and limited means of alternate income generation drive workers to accept sub-optimal working conditions.

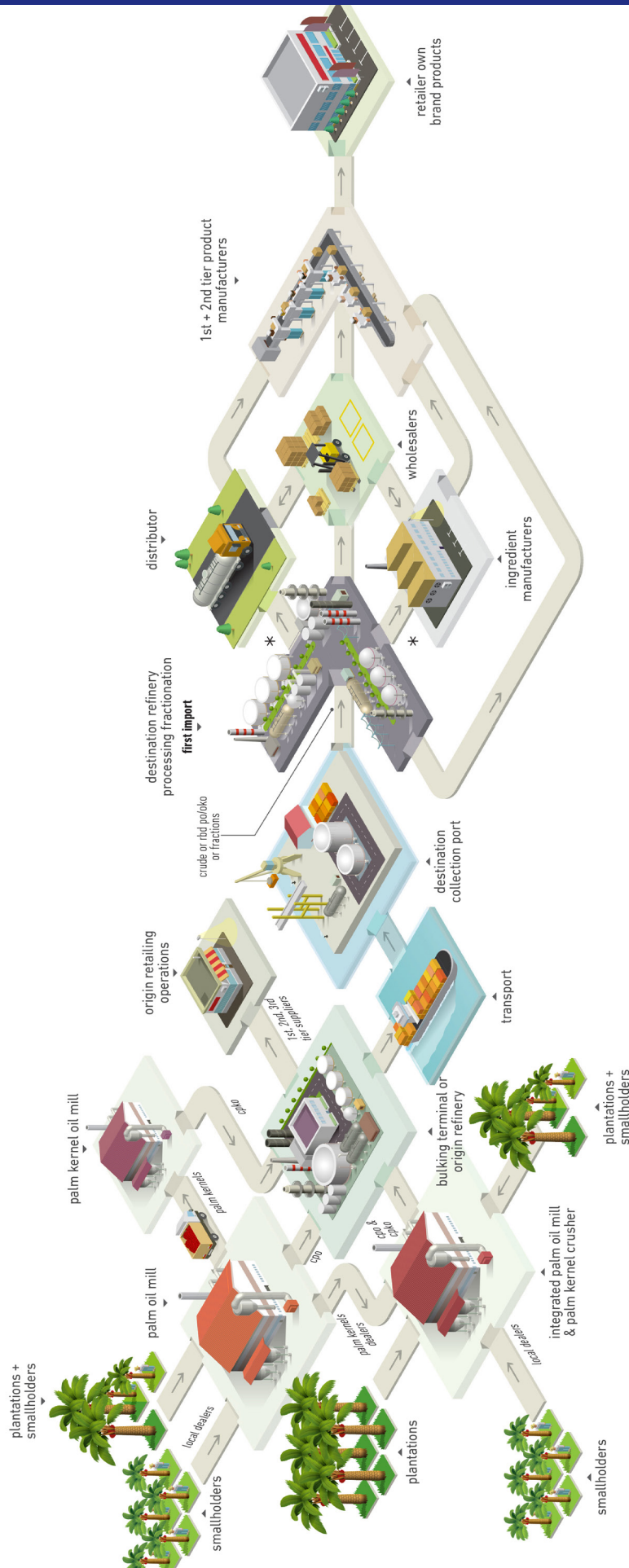
The use of recruitment and employment agencies to engage and manage workers can create circumstances under which irresponsible practices go unnoticed by employers, and workers often have little recourse. Employers often retain workers' documentation, and deduct recruitment fees from wages. Workers are rarely represented by unions or similar organizations and therefore cannot benefit from collective bargaining. The systems that exist to protect workers' interests, such as judicial and non-judicial grievance mechanisms, are weak or non-existent, and oversight mechanisms, such as company audits and certification visits, do not function in a way that identifies issues or addresses the underlying causes. At best, current audits focus on assessing conditions at the worksite, but the research suggests that many forced labor issues occur during the recruitment process and at the time of

repatriation.

This report highlights the critical role CGF can play in mitigating forced labor risks in the production of palm oil by leveraging its industry leadership to spur the collective action of its members. There is strong interest for CGF to build on the foundation of its Priority Industry Principles and guide and motivate member companies and palm oil companies to embed policies and procedures that identify and address forced labor. Key areas of opportunity include:

- Advocacy to the Indonesian and Malaysian governments, companies and palm oil companies;
- Fostering multi-stakeholder sectoral dialogue, and regional collaboration and capacity building of members;
- Research on migration corridors, practices of recruitment agencies and labor brokers, worker demographics, and knowledge sharing among CGF members, supply chain actors, and others;
- Improvement of existing assessment methodologies;
- Improvement of existing certification schemes, grievance mechanisms, and forced labor standards; and
- Ensuring commitment to address forced labor from CGF members and their suppliers.

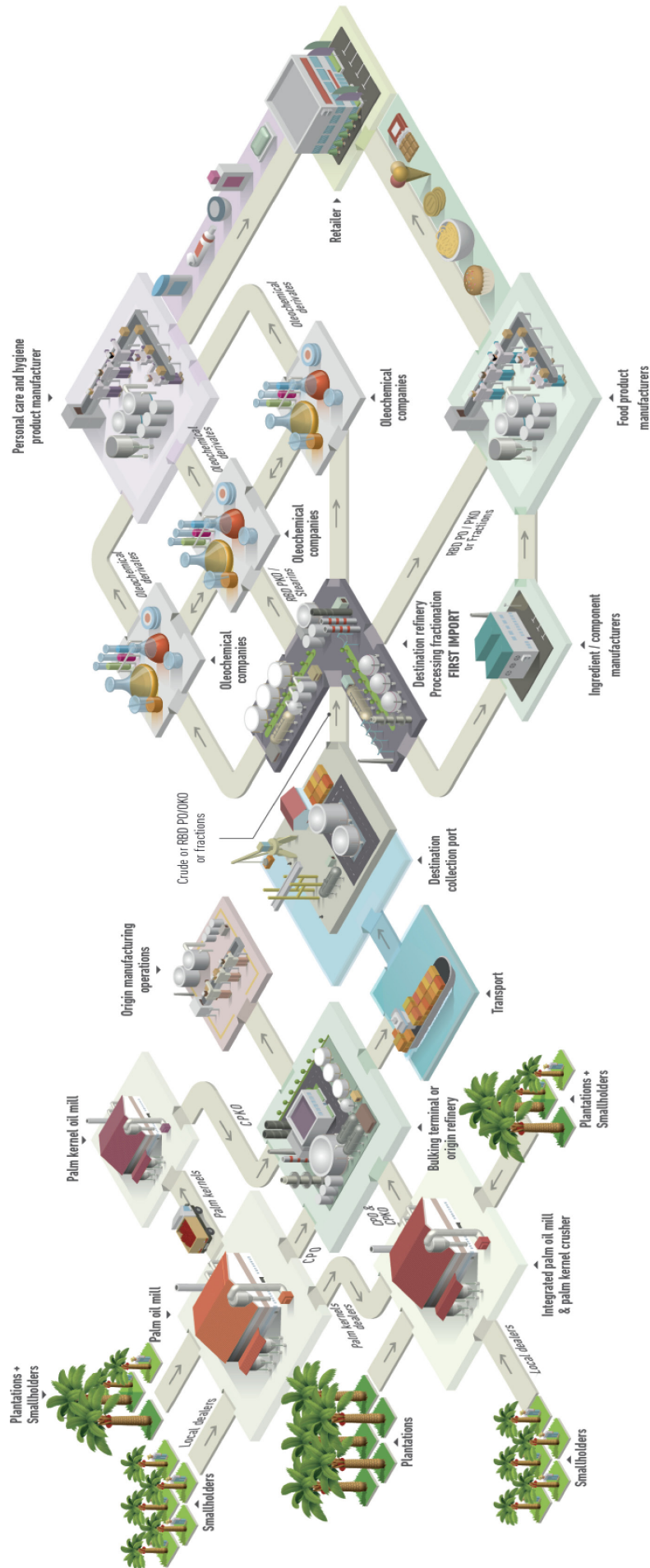
Palm Oil Retailer Supply Chain*



Fully integrated palm oil supply chains are uncommon. Bulk oil is commonly traded between origin mill and destination refinery / processing.

*Please note that this is a very simplified version of the palm oil retailer supply chain and is representative of the food supply chain. Additional steps for personal care and hygiene products include further processing by oleochemical companies before distribution, wholesale or ingredient manufacturing.

Palm Oil Supply Chain Additional Steps



Fully integrated palm oil supply chains are uncommon. Bulk oil is commonly traded between origin mill and destination refinery / processing.

INTRODUCTION

Palm oil and palm kernel oil are found worldwide in many consumer and industrial products, including food and beverages, personal care and beauty products, bioenergy and fuel, animal feed, pharmaceuticals, industrial activities, and the food service industry. The largest national importers of palm oil in 2016 were India (32%), the European Union (21%), China (16%) and Pakistan (10%). The United States, at four percent, is the seventh leading consumer of palm oil. Indonesia and Malaysia are the most important palm oil producing countries, with a combined production of 87% of worldwide palm oil production¹.

In January 2016, [The Consumer Goods Forum](#) (CGF) adopted a resolution to “strive to eradicate forced labor through collective action.” CGF identified and adopted three Priority Industry Principles on Forced Labor² (Box 1) to assist its member companies in prioritizing actions within their supply chains and operations to address the drivers of forced labor. CGF selected palm oil as one of two focus areas for its members to implement and pilot the principles³.

The Palm Oil Social Task Force, a sub-group of the CGF Palm Oil Working Group, leads the development of the work stream on forced labor risks in palm oil. The Task Force commissioned the Fair Labor Association (FLA) in 2017 to examine the forced labor risks in the palm oil sector in Indonesia and Malaysia.

It is widely understood that the palm oil supply chain is complicated, involving suppliers, processors (kernel crushers, mills, and refineries), aggregators, intermediaries, plantations and thousands of smallholder farmers, making it long and opaque. To better understand palm oil production and systemic labor issues, CGF charged the FLA research team to address two objectives as part of CGF’s approach to operationalize its forced labor Priority Industry Principles (Figure 1).

BOX 1: CGF Priority Industry Principles on Forced Labor

Preamble

Forced labour is a term that covers a number of different situations and there are various contributory factors and behaviours that may interact to create situations of forced labour. The CGF has identified three of the most problematic, yet often common employment practices across the world that can lead to cases of forced labour. To counter these three practices, we have produced the Priority Industry Principles, which could help lead to the necessary changes to eliminate forced labour. Our members will work to uphold these practices in their own operations and will use their collective voice to promote the adoption of these priority principles industry-wide.

- 1) **Every worker should have freedom of movement.** The ability of workers to move freely should not be restricted by the employer through physical restriction, abuse, threats and practices such as retention of passports and valuable possessions.
- 2) **No worker should pay for a job.** Fees and costs associated with recruitment and employment should be paid by the employer.
- 3) **No worker should be indebted or coerced to work.** Workers should work freely, be aware of the terms and conditions of their work, and paid regularly as agreed.

¹ <http://www.palmoilanalytics.com/files/epos-final-59.pdf>, Top 10 palm oil producers and consumers by country, 2016.

² For more information: <https://www.theconsumergoodsforum.com/initiatives/social-sustainability/>

³ As part of the implementation of the CGF resolution on forced labor, CGF members have committed to uphold the Principles in their own operations and use their collective voice to promote their adoption industry-wide, with an initial focus in two supply chains of particular relevance to the industry: seafood and palm oil in Southeast Asia.

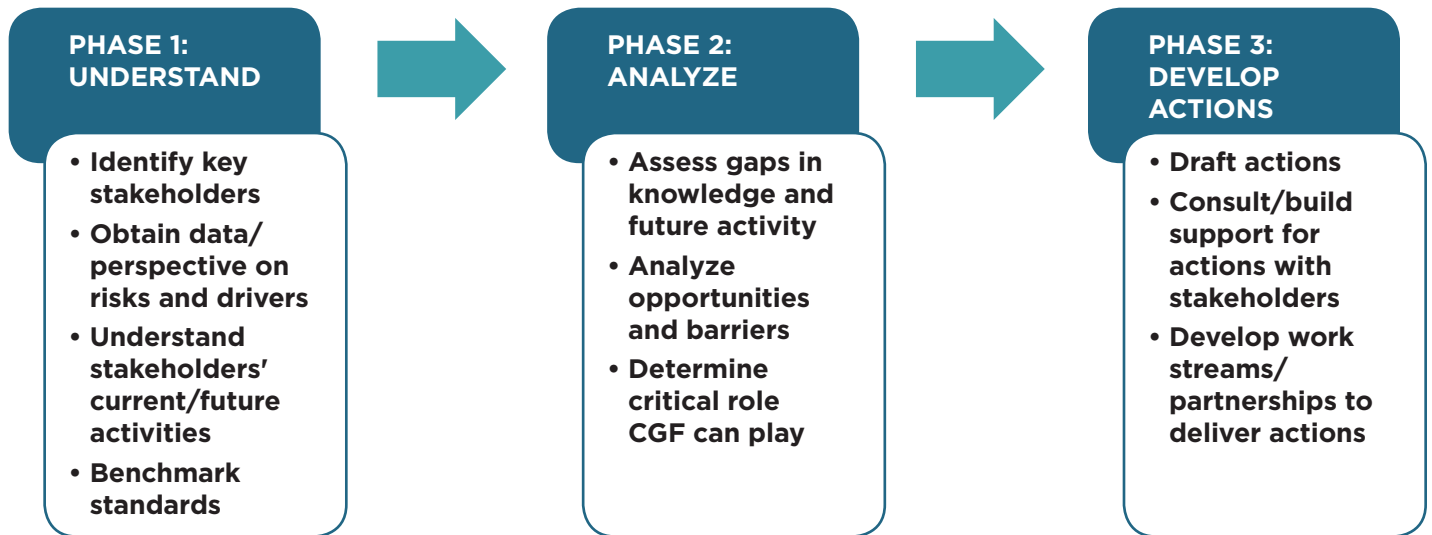


FIGURE 1: CGF'S PHASED APPROACH TOWARDS OPERATIONALIZING THE PRIORITY INDUSTRY PRINCIPLES ON FORCED LABOR

- **Objective 1:** To conduct a stakeholder mapping and to understand from stakeholders the following: the extent of forced labor risks within palm oil supply chains and how they vary according to geographical location, primary drivers and root causes of forced labor, and activities undertaken by stakeholders to address forced labor.
- **Objective 2:** To analyze the opportunities and gaps and determine the role CGF can play in supporting or adding to these activities, particularly through supply chain partners.

The scope of the FLA research project included

a comprehensive literature review covering human rights issues and palm oil production, and information gathering about labor recruitment and employment practices in the palm oil sector from stakeholders. Online surveys and individual telephone interviews were conducted among three stakeholder groups: international and local civil society and non-governmental organizations, CGF-member companies (including retailers and manufacturers), and supply chain actors (including suppliers processing, producing and trading palm oil). See Annex 6 for details on the FLA's research methodology.



FINDINGS

The findings derived from the research are presented here, divided into 10 topic areas. Each topic collates information gathered across the literature review (September-October 2017), the online surveys and the interviews (February - September 2018).

1. Heightened Attention on Labor and Human Rights Violations in the Palm Oil Sector

Sustainability issues involving palm oil have come to public attention through issue advocates and news coverage over the past 15 years. The result is greater consumer awareness about adverse impacts of large-scale, poorly managed palm oil production on the environment and on local populations⁴. In 2004, industry representatives came together to address issues such as

deforestation, use of peatlands, violation of land rights, and indiscriminate use of pesticides and chemicals in a systematic manner by forming the Roundtable for Sustainable Palm Oil (RSPO)⁵. As part of the RSPO Certification System, independent auditors have been conducting certification visits at all tiers of the palm supply chain since 2008. Over the past decade, several companies have begun efforts to stop deforestation and the development of peatland.

The environmental impacts of palm oil production have garnered much of the interest among those concerned about sustainability; labor and human rights issues have been muted by comparison. Still, RSPO accredited auditors have been criticized for lacking labor rights assessment expertise and for their reports mainly focusing on assessing environmental benchmarks⁶. At the time of this study, a complaint was filed with the OECD by the Indonesian community rights group Transformation for Justice (Tuk Indonesia) against the RSPO, alleging breach of the OECD



4 <https://www.palmoilandfood.eu/en/faq-what-palm-oil>

5 <https://rspo.org/about>. In 2001, WWF started exploring an idea of a roundtable on sustainable palm oil that resulted in an informal cooperation between Migros, Unilever, Aarhus United UK Limited and Malaysia Palm Oil Association. In 2003 at the inaugural meeting 47 organizations signed the Statement of Intent. In 2004, the RSPO was formally established and in 2005, the RSPO Principles and Criteria (P&C) were formally established for an initial pilot implementation by 14 companies.

6 <https://eia-international.org/wp-content/uploads/EIA-Who-Watches-the-Watchmen-FINAL.pdf>

Guidelines because of improperly handling the complaints of local inhabitants of Kerunang and Entapang villages in West Kalimantan whose land rights had been impacted by a palm oil company⁷.

It is only recently that palm oil buyers and producers have become sensitized to the working conditions and issues related to the livelihoods of workers in the palm oil supply chain⁸. New research and advocacy campaigns have highlighted labor issues in the palm oil sector, including forced labor, human trafficking, mental coercion, unrealistically high production quotas, abuse of vulnerable workers, low wages, deceptive behavior by employers, penalties, lack of contracts, child labor, health and safety risks and lack of freedom of association⁹.

In January 2018, the European Parliament adopted a long-term comprehensive energy plan that, inter alia, foresees a ban on the use of palm oil in biofuels by 2021. While the proposal must be approved by other EU bodies and member states to come into force, it has raised warning flags in Indonesia and Malaysia¹⁰. A recent article¹¹ explains that palm oil-producing nations are worried about the 650,000 palm oil smallholders in Malaysia and their livelihoods, as 15.2% of Malaysia's palm oil exports go to the EU. A similar situation is expected for Indonesia, where smallholder farmers account for 40% of palm oil production.

7 https://www.oecdwatch.org/cases/Case_491, 23 January 2018

8 <http://www.foodingredientsfirst.com/news/palm-oil-buyers-and-producers-take-collective-action-to-improve-labor-conditions.html>, 16 November 2017

9 "The Human Cost of Conflict Palm Oil Revisited. How PepsiCo, Banks and the Roundtable on Sustainable Palm Oil Perpetuate Indofood's Worker Exploitation", Oppuk, Rainforest Action Network and ILRF, November 2017. https://laborrights.org/sites/default/files/publications/Human_Cost_Revisited_0.pdf

10 <https://www.reuters.com/article/malaysia-palmoil-eu/european-move-to-ban-palm-oil-from-biofuels-is-crop-apartheid-malaysia-idUSL3N1PD-1NJ>

11 <http://www.straitstimes.com/asia/se-asia/european-ban-on-palm-oil-in-biofuels-upsets-jakarta-kl>

The conditions under which palm oil is produced is likely to be a topic of further scrutiny among legislators and regulatory bodies of importing countries, that already have taken steps toward transparency and regulation of supply chains (Box 2).

BOX 2: Emerging Legal Frameworks in Supply Chain

Greater public disclosure of the human rights conditions embedded in global supply chains is rapidly becoming the norm for multinational companies managing complex sourcing relationships around the world. While for some companies increased supply chain transparency may be the logical result of a maturing sustainability program, external pressures from civil society, governments and customers, including emerging regulations that carry significant legal and financial risks, are also clearly driving this shift in industry norm for everybody.

Worldwide, countries -- including the UK, France, Germany, the Netherlands, and the USA -- are enacting legislative and regulatory frameworks requiring multinational companies to trace their supply chains and be transparent about the effect of their business practices on human rights. These frameworks do not differentiate between "tiers" of responsibility for companies but consider that a company's responsibility extends throughout its supply chain. Under these laws, failure to exercise adequate due diligence across the supply chain could lead to financial penalties and operational challenges, such as goods being excluded from entry or seized at the border.

Civil society organizations are increasingly focusing on companies' traceability and transparency efforts, recognizing those with stronger public transparency commitments, and pushing for those with less robust commitments to catch up. Expectations have shifted for multinational companies wishing to be recognized as social responsibility leaders, and the question is no longer whether a company should trace and disclose information about its supply chain, but how much information a company will disclose and against which standards its disclosures will be measured.

Full article available here

http://www.fairlabor.org/sites/default/files/images/supply_chain_traceability_and_transparency_june_2017.pdf

2. Forced Labor – Global Prevalence, Definition and Indicators

The International Labour Organization (ILO) and Walk Free Foundation in a 2017 publication estimated that 25 million people globally are subject to conditions of forced labor¹². One-quarter of forced laborers are believed to be children. At least half of forced laborers are considered to be affected by debt bondage imposed by the private sector¹³.

Forced labor manifests itself differently by work setting, country, and supply chain. The FLA monitors forced labor in agricultural commodities and has identified that forced labor indicators may differ based on the following:

- 1) type of labor (family, hired, migrant, local, casual, seasonal);

¹² In addition to 25 million in forced labor conditions, 15 million are in forced marriage.

¹³ http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf

- 2) labor recruitment practices (direct, through intermediaries or hired by family);
- 3) type of workplace (small farms, plantation or factories);
- 4) employment relations (between the employer and workers and determination of who the legal employer is);
- 5) workplace practices; and
- 6) political climate (in some cases).

A single indicator may not conclusively point toward forced labor; instead it may be more meaningful to examine a combination of indicators. For example, when taken together, several recruitment and workplace practices (such as loan advancements, extraction of recruitment fees, withholding of personal documents, lack of contractual agreement, involuntary excessive working hours, irregular payment of wages, inability of workers to egress from facilities, etc.) may collectively point toward forced labor, while a single indicator might not.

BOX 3: ILO Definition and Indicators of Forced Labor

Forced labor can be understood as work that is performed involuntarily and under the threat of penalty. It refers to situations in which persons are coerced to work through violence, intimidation, or by subtle means such as manipulated debt, retention of identity papers, or threats of exposure to immigration authorities.

ILO defines the following main 11 forced labor indicators:

- Abuse of vulnerability
- Deception (about nature of work or compensation or other work-related conditions)
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats (of violence and punishment)
- Retention of identity documents
- Withholding of wages
- Debt bondage

- Abusive working and living conditions
- Excessive overtime

In addition, depending on context, some additional forced labor indicators are:

- Recruitment fees
- Abduction or confinement during the recruitment process
- Sale of the worker
- Removal of rights or privileges (for example promotion)
- Blackmail
- Denunciation to authorities
- Limited freedom of communication
- Penalties
- Induced or inflated indebtedness (e.g. when an employer provides housing, food etc. at inflated prices)

ILO specifies 11 indicators of forced labor¹⁴ (Box 3) and has defined operational indicators of trafficking of human beings¹⁵. ILO guidelines, “Hard to see, harder to count,” provide an overview of quantitative surveys and tools to measure prevalence of forced labor¹⁶. Various

organizations have further categorized these indicators to clarify and operationalize them¹⁷.

14 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

15 http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf

16 http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182096.pdf

17 For e.g. Human Resources Without Borders (RHFS) has classified these indicators in four series, (1) Free and informed consent, (2) Constraint, (3) Isolation, (4) Freedom of Movement. Risk of forced labor occurs when at least one of the ILO indicators is found in each category. For more information visit <http://rhsf.emerit.net/un/> or <http://www.rhsans-frontieres.org/guide-travail-force/home>

3. Forced Labor Indicators in the Palm Oil Sector in Indonesia and Malaysia

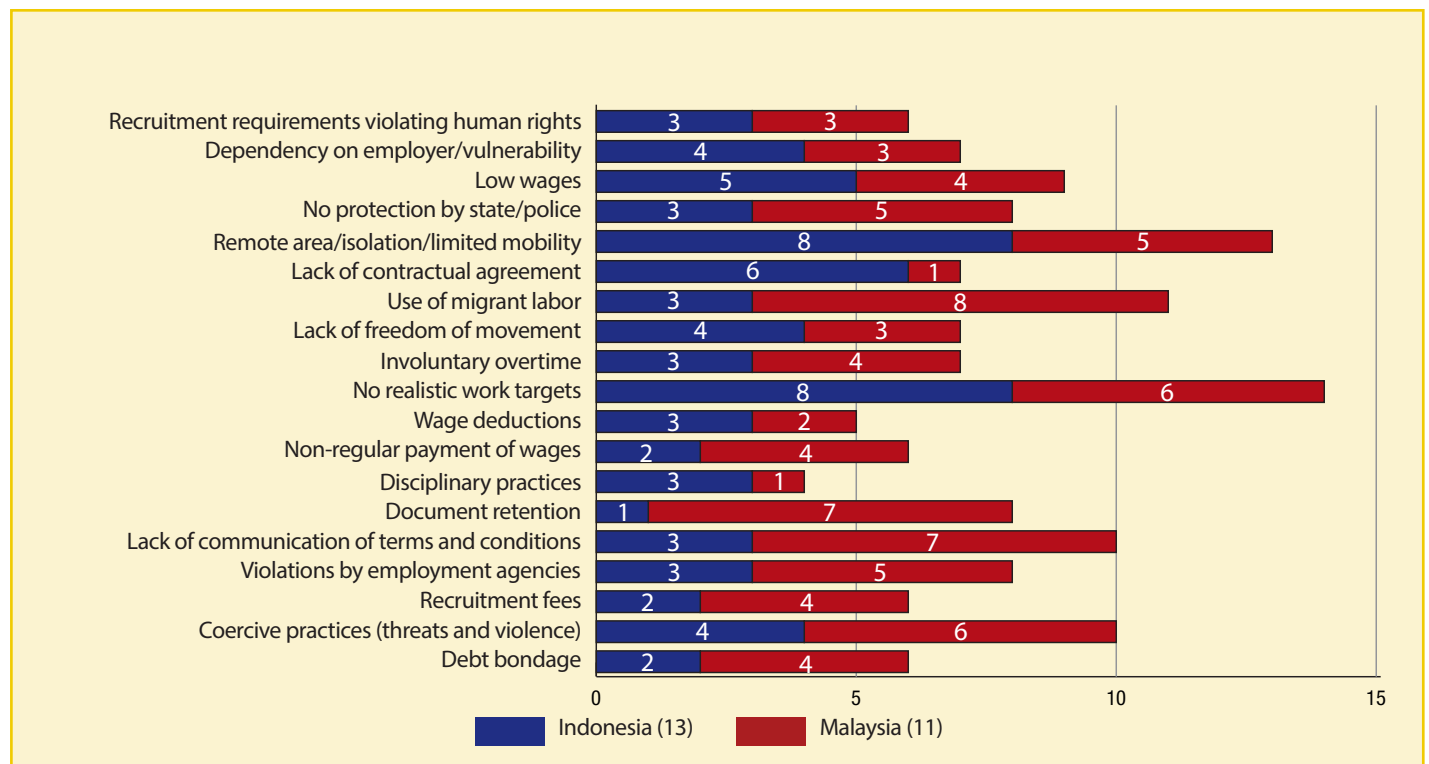


FIGURE 2: PUBLISHED LITERATURE ON PALM OIL REVEALS FORCED LABOR INDICATORS IN INDONESIA AND MALAYSIA

The literature review revealed leading indicators of forced labor in Indonesia (Box 4) and Malaysia (Box 5). Coercive practices, such as threats and violence, and a lack of clarity of employment terms and conditions were noted in the literature and common in both countries.

High productivity targets and workers’ inability to meet those targets is a problem in Indonesia (62%) and Malaysia (55%), according to the literature. Payments based on piece rate and unrealistic production targets make it difficult for workers to earn a decent wage. Therefore, workers involve their family members or other helpers as unpaid assistants to meet production quotas and reach the minimum wage.

High productivity targets and workers’ inability

BOX 4: Indonesia—Top forced labor indicators (literature review)

1. Unrealistic production targets and piece rate system required to meet the minimum wage.
2. Lack of freedom of movement, especially because of the remoteness of the work locations (plantations).
3. Lack of contractual agreements with workers mostly employed as casual workers.
4. Low wages.
5. Coercive practices, such as threats and violence that result in wage deduction or termination of contracts.
6. Dependency on the employer, including for getting or keeping work, making the workers vulnerable to abuse (also often mentioned as coercive practices).

Forced labor in Indonesia is attributed to factors including the remote locations of its plantations, the limited mobility of workers, and a lack of contractual agreements. It is common in Indonesia for internal migrants to pay powerful local middlemen in the village (the “calo”) who recruit workers for agencies or companies. The middlemen charge a fee to both workers and recruitment agencies¹⁸.

In Malaysia, forced labor indicators are related to the use of foreign migrant workers, a lack

BOX 5: Malaysia—Top forced labor indicators (literature review)

1. Use of foreign migrant workers as they are in the most vulnerable situation.
2. Document retention, especially of passports and identity papers.
3. Deceptive practices by employment agencies in the form of false promises and wrong information communicated to new recruits about employment terms and wages.
4. Unrealistic production targets required to meet the minimum wage.
5. Coercive practices, such as threats and violence that result in wage deduction or termination of contracts.

of communication of terms and conditions (deception of work), and document retention. The highest risk of forced labor appears to be for workers involved in harvesting, farm maintenance work, and the application of pesticides and fertilizers.

¹⁸ Reported by Human Resources Without Borders (RHFS) and Tenaga during report review, based on their experience in the region.

Stakeholders’ Views on Indicators in Indonesia

Building upon the literature review, a survey of stakeholders probed the differences in the indicators of forced labor. Unrealistic production targets were the most commonly-stated problem stemming from palm oil worksites, according to stakeholder interviews. Interviews revealed that workers who do not meet production quotas face wage deductions and that, similar to the findings of the literature review, workers often bring other unpaid workers, such as children, to meet high production targets.

The lack of a short-term or permanent contract appears to be common practice in the Indonesian palm oil sector, despite the fact that workers are employed over long periods of time. The Indonesian industry, stakeholders said, employs a large number of informal workers on a daily basis (casual workers) and does not provide benefits or job security. According to stakeholders, the land from local inhabitants was converted into oil palm plantations which has left them dependent on work at the plantations and vulnerable to potential labor violations. The



FIGURE 3: THE FREQUENCY OF FORCED LABOR INDICATORS IN INDONESIA MENTIONED IN STAKEHOLDER INTERVIEWS (N=23).

lack of an identity card (ID) is another barrier to permanent employment. When a worker does not have an ID card, their employer cannot register them for social insurance, which is mandatory for permanent workers.

Communication of employment terms, conditions, and rights are often insufficient in the palm oil sector in Indonesia. Many casual workers have no information about their rights and conditions of employment. It is common practice, according to a local CSO, for companies to use labor brokers to recruit workers, and these middlemen often do not comply with legal requirements in spite of being from the local community. Several reported cases revealed no written contracts articulating the terms of employment for workers.

Stakeholders in Indonesia said low wages are a forced labor indicator. Low wages are linked to the production quota system, which requires workers to collect a large number of fresh fruit

bunches to be able to receive a minimum wage (often below a living wage). Involuntary overtime and unreasonable working hours are mentioned frequently. Involuntary overtime is practiced on palm estates as well as in processing mills. Mills may operate 24 hours a day with two to three shifts. A labor shortage can create a situation where existing workers are compelled to work overtime. Two stakeholders mentioned that workers may be willing to work overtime to be able to earn more and repay debts incurred during recruitment. Nevertheless, consent may not be free and workers are pressured to work overtime without appropriate compensation.

Lack of age verification is also a concern leading to child labor. Stakeholders believe that there is insufficient monitoring of age which is important given certain factors – middlemen recruiters, piece rate systems and high production targets – that seem to encourage the involvement of underage family members or other helpers.

The following other forced labor indicators were mentioned by stakeholders : (a) lack of regulations, enforcement or legal procedures; (b) child labor; (c) coercive practices (threats and violence); (d) sub-optimal worker accommodations and quality of facilities; and (e) lack of freedom of movement for workers

residing in the worker accommodations. One stakeholder commented that it is important to include degrading living conditions as an indicator of forced labor, and that auditors are not paying attention to the living conditions of workers. Insufficient access to potable water was mentioned by three stakeholders.

Stakeholders’ Views on Indicators in Malaysia

Stakeholder interviews, in concurrence with the literature, identified employer document retention as common practice in Malaysia. It is a concern when workers are not allowed free access to their identity papers. It is particularly worrisome for foreign workers who are dependent on their employer for their passport and work permit.

Communication of employment terms, conditions and rights is handled mostly by recruitment and employment agencies, according to interviews. Frequently, workers are promised better wages and working conditions

than turn out to be the case in reality. This deception about the nature of work, combined with having no possibility to resign (because management retains their passports), makes the workers vulnerable. Payment of recruitment fees by workers is no longer allowed, but still occurs¹⁹, according to stakeholder interviews. Fees incurred include those paid to a recruitment agency (in both the country of origin and the destination), but also transportation costs, medical examinations, registration in Malaysia’s

¹⁹ <http://www.rhsansfrontieres.org/en/press/our-press-opinion/329-article-malaysia-forced-labour>

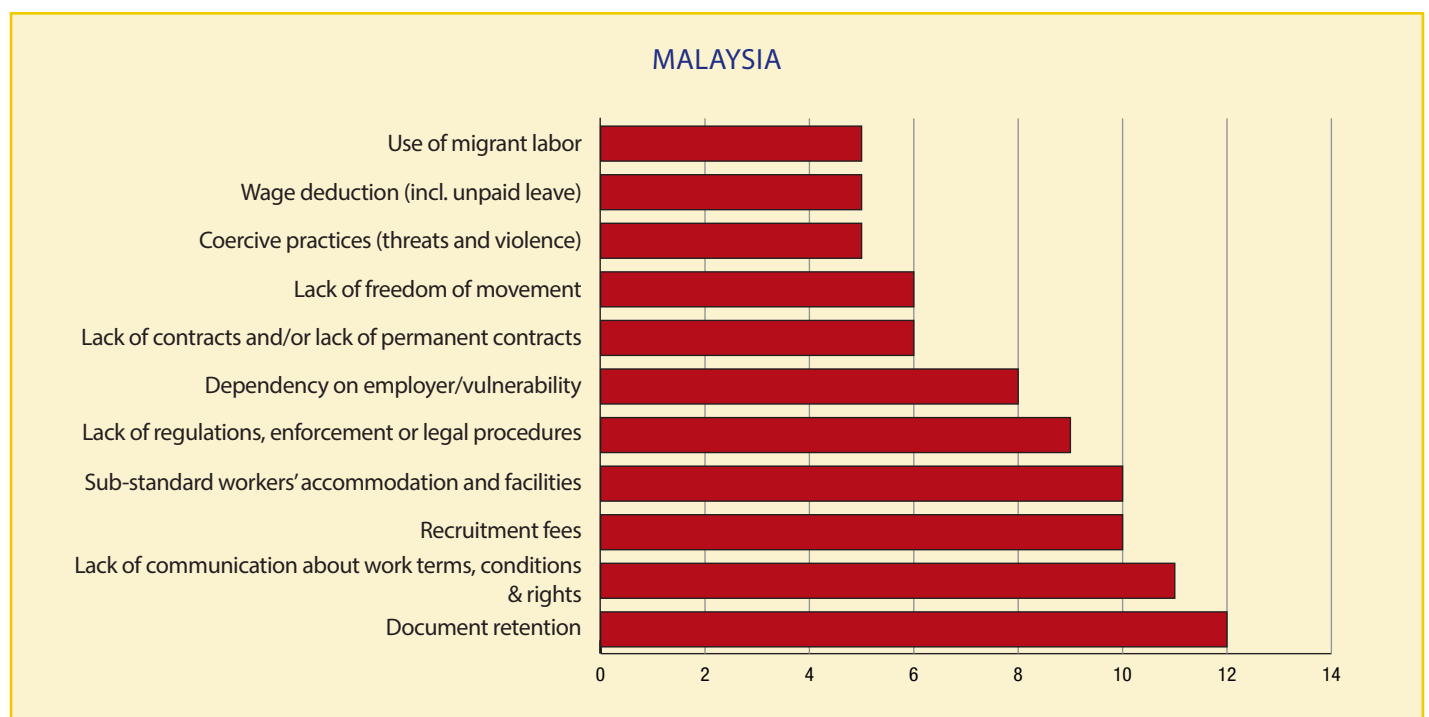


FIGURE 4: FORCED LABOR INDICATORS IN MALAYSIA MOST FREQUENTLY MENTIONED BY STAKEHOLDERS (N=23)

biometric system, visas and work permits. The cost of fees varies based on country of origin, route to Malaysia, and recruitment agency; stakeholders also explained that it is difficult to get a good understanding of the recruitment practices because processes are often “hidden” by the disjointed system.

Worker accommodation and facilities, including health care and education for family members, were mentioned by stakeholders to be poorly managed and even degrading. Because most plantations are in remote areas, workers are highly dependent on the facilities at the worksite, including shops and financial services.

Stakeholders said a lack of regulations, lack of enforcement of those that exist, and limited legal procedures contribute to an environment in which forced labor can exist and remain undetected. Regular monitoring by labor inspectors at the upstream production and worksites does not occur or occurs insufficiently. Remote worksites make monitoring difficult. Stakeholders reported that due to immigration regulations and withholding of passports,

workers cannot change employers or change employment. If workers leave their employer, they become illegal and are at risk of being harassed and arrested by the police. Additionally, there are limited functional international instruments²⁰ on fair recruitment practices or international labor inspection systems that can monitor ethical recruitment, or repatriation activities.

Other forced labor indicators mentioned by stakeholders include: (a) lack of contractual agreements and/or permanent contracts; (b) lack of freedom of movement for workers residing in workers’ accommodations; (c) coercive practices (such as threats and violence); (d) wage deductions (including unpaid holidays); (e) debt bondage; and (f) work in remote areas, isolation and limited mobility of workers.

²⁰ E.g. See International Organization of Migration (IOM)’s Integrated Recruitment Integrity System (IRIS) <https://iris.iom.int/>

Palm Oil Companies’ Views on Forced Labor Indicators

For the purposes of this project, companies or buying companies are defined as interviewed CGF members who are composed of retailers and manufacturers. Palm oil companies are defined as enterprises or corporations, who are involved in the processing, and/or production of palm oil and may also own oil palm plantations and processing units. This also includes refiners, mills and smallholder farmers. They do not include any intermediaries who are only involved in the trading of palm oil.

Palm oil company survey respondents were asked which forced labor indicators²¹ they

consider important. All five respondents selected debt bondage or coercion to work²², and involuntary/excessive overtime. Four respondents selected irregular payment of wages, lack of contractual agreement, and dependency on employer/vulnerability as

²¹ A list of 16 options was provided and allowed for the opportunity to add more.

²² One respondent explained that in several areas and processes where there is lack of workers, migrant workers (AKAD) are used to temporarily supply the workforce. These migrant-workers are vulnerable to forced labor in the forms of debt-bondage and with limited labor protection. The largest risk in the supply chain is with harvesting which is the backbone of production. Debt-bondage is a big challenge; it requires workers to work for to pay their debt or part of their debt-installment to employers/recruiting agents.

forced labor indicators. Three respondents chose no freedom of movement, document retention, wage deductions, and inability of workers to access facilities.

Other indicators, not selected as suggesting forced labor by a majority of palm oil company

respondents include dependency of workers on employers for basic needs and facilities, excessive production targets, payment of recruitment fees, disciplinary measures, use of migrant workers, remote working areas/isolation, and lack of annual leave and/or sick leave.

4. Forced Labor Indicators — Comparison with CGF's Three Priority Industry Principles

The Consumer Goods Forum promotes three Priority Industry Principles (PIPs) on Forced Labor²³.

- 1) **Every worker should have freedom of movement.** The ability of workers to move freely should not be restricted by the employer through physical restriction, abuse, threats and practices such as retention of passports and valuable possessions.
- 2) **No worker should pay for a job.** Fees and costs associated with recruitment and employment should be paid by the employer.
- 3) **No worker should be indebted or coerced to work.** Workers should work freely, be aware of the terms and conditions of their work and paid regularly as agreed.

Six CGF industry member companies participated in the research. Four of the six companies indicated that they use the CGF Principles; two did not respond to the question. Companies reported awareness of other forced labor standards, as well, including the UN Declaration on Human Rights²⁴, ILO Standards²⁵, the UN Global Compact²⁶ and the UN Sustainable Objective 8.7²⁷

23 <https://www.theconsumergoodsforum.com/initiatives/social-sustainability/key-projects/priority-industry-principles/>

24 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ForcedLabourConvention.aspx>

25 <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang-en/index.htm>

26 <https://www.unglobalcompact.org/take-action/action-platforms/decent-work-supply-chains>

27 <http://indicators.report/indicators/i-57/>



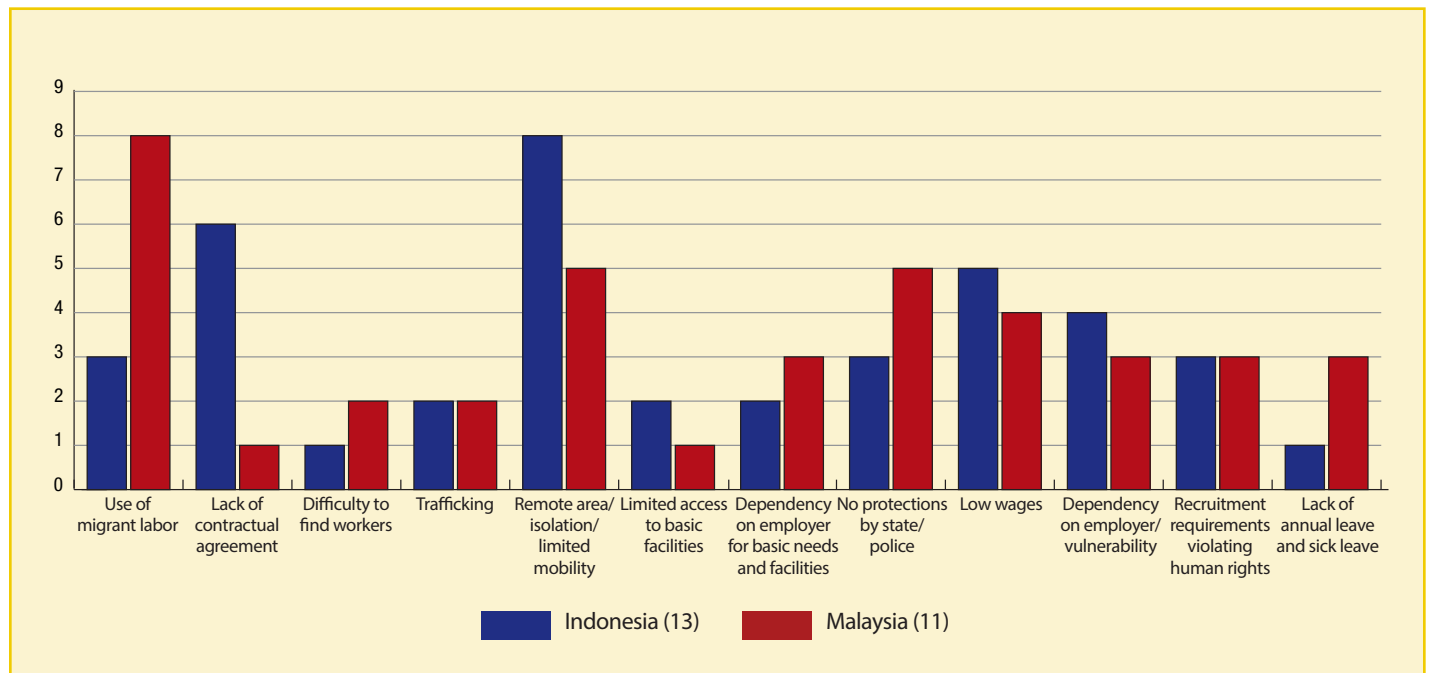


FIGURE 5: FORCED LABOR INDICATORS MENTIONED IN THE REVIEWED LITERATURE AND STAKEHOLDER SURVEYS THAT CAN BE ELABORATED UNDER THE CGF'S THREE PRIORITY INDUSTRY PRINCIPLES

TABLE 1: FORCED LABOR INDICATORS THAT ARE RELEVANT FOR THE PALM OIL SECTOR IN INDONESIA AND MALAYSIA.	
Forced Labor Indicators from the Literature Review and Stakeholder Feedback (Note ILO's Guidance on Strong and Medium Indicators) ²⁸	
Use of migrant labor	
Lack of contractual agreement	
Trafficking	
Prison labor	
Remote locations and limited mobility of workers	
Limited access to basic facilities (water, toilet, medical)	
Dependency on employer for basic amenities and services	
No protection by state or police	
Low wages/in-kind payments	
Lack of social security benefits, annual leave and sick leave	
Unreasonable production targets	
Involuntary overtime/excessive working hours	
Spouse and (adult) children of hired workers allowed or required to work to meet production targets	
Wage deductions (including unpaid holidays)	
Lack of EHS protection	
Unjust disciplinary practices	
Poor worker accommodations	
Company stores (with inflated prices)	
Forced to work long hours due to labor shortage in the region	
Deception about working conditions during recruitment	
Unsafe transportation of workers	

28 https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105884.pdf

Coercive security measures
Verbal abuse and threats and violence
Other internal management system related gaps companies and suppliers should be aware of:
Lack of forced labor policy and indicators
Lack of communication about forced labor policy to upstream suppliers
Lack of monitoring and social impact assessments on forced labor indicators
Lack of monitoring of the legal status of recruitment agencies
Lack of awareness amongst workers on their legal rights
Lack of grievance mechanisms
Lack of screening and verification of workers (age) before recruitment
Other macro-indicators that impact forced labor in a country/region:
Presence of child labor and its relation to forced labor
Lack of representative worker unions and freedom of association
Lack of protection for pregnant women and maternity rights
Lack of regulations, enforcement or legal procedures
Harrasment of advocates for human rights and environment
Land rights violations/conflicts
Food insecurity/lack of access to potable water
Lack of educational opportunities, day care, and child protection
Lack of alternative/diversified livelihoods

5. Groups at Greatest Risks of Forced Labor

The research identified specific populations vulnerable to forced labor in the palm oil sector. In Indonesia, casual workers and internal migrants are the groups in the workforce most predisposed to forced labor risk. In Malaysia, foreign migrant workers have the highest degree of vulnerability to forced work. Within these groups, female workers and children have high degrees of vulnerability, according to the research.

WOMEN

Female workers are engaged mainly in casual work and are highly vulnerable to abuse and are subject to the worst conditions among all palm oil workers, according to stakeholder interviews. The literature reports that female workers are mostly engaged in the application of fertilizers and pesticides, tasks associated with considerable health risks.

Four stakeholders stated that because of work with local partners they were aware of reports of women forced to grant sexual favors to get a job or to keep it. No information on this was found in the literature, but often women do not wish to share instances of sexual harassment with researchers.

CHILDREN

Children who work in the palm oil sector do so mostly to help parents meet their daily production quota, according to published studies. Stakeholders said that parents ask their children or other family members to help because production targets are high and difficult to achieve.

Work by children was more frequently mentioned as a research finding in Indonesia, where it is related to low wages, high

production targets, piece rate systems, limited alternate livelihood opportunities and a lack of educational opportunities. Because a parent is not able to meet production targets or earn sufficient wages for a decent living standard, it is widely understood that they work overtime and let their children and/or other family members work alongside them to meet targets or to undertake additional harvesting to get premiums.

In Malaysia, the research suggests there are fewer instances of child labor. One reason for this may be that migrant workers do not travel

with family members, or they are not permitted to enter the country with family members. However, some migrants stay illegally in Malaysia for long periods of time, settle, and have families. The children of these workers may be vulnerable to forced labor because as undocumented individuals, they cannot access government services such as public education. Without citizenship and the opportunities it affords, the best option appears to be working illegally on smallholders' farms or on plantations.

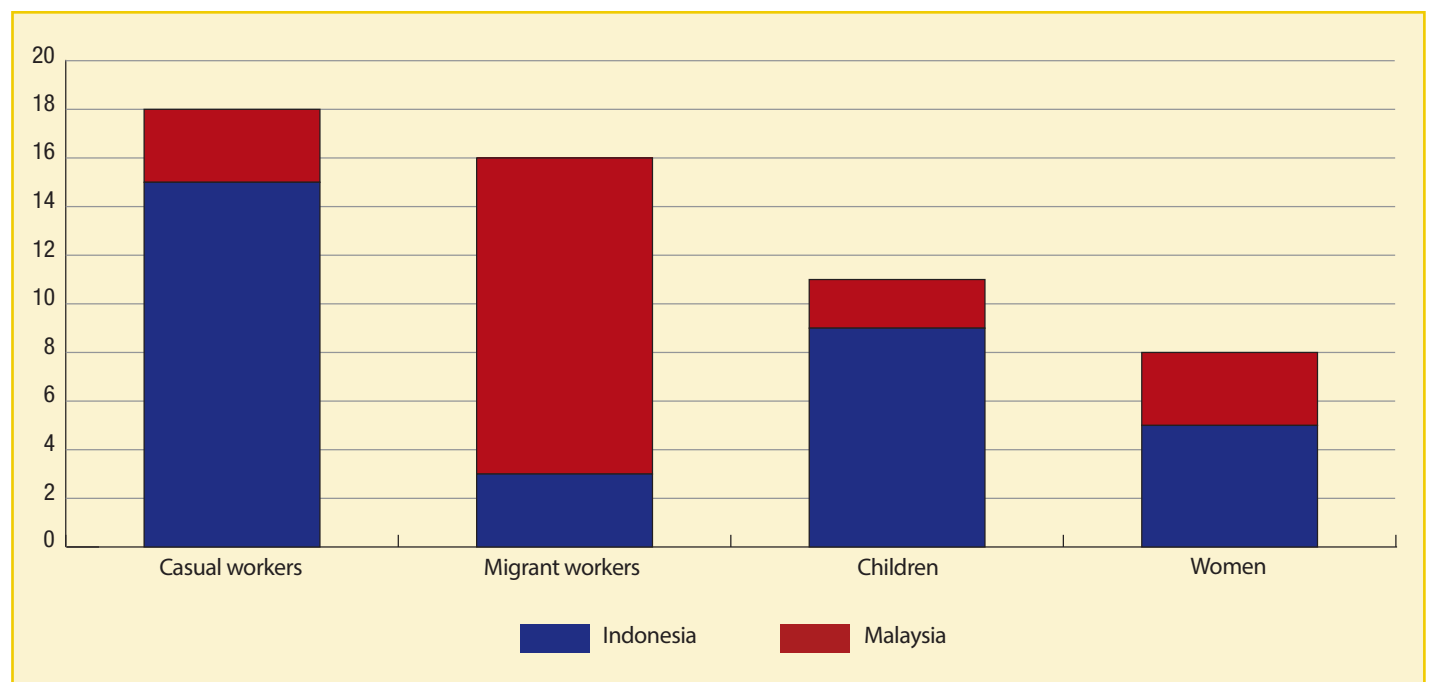


FIGURE 6: THE FREQUENCY OF REFERENCES TO VULNERABLE GROUPS BY STAKEHOLDERS

BOX 6: Other most frequently-reported labor rights violations

While the research focus was forced labor indicators, other labor rights violations arise frequently in Indonesia and Malaysia. (In the order of frequency):

1. Health and safety issues
2. Presence of child labor
3. Lack of freedom of association and collective bargaining
4. Harassment of human rights and environmental advocates
5. Food insecurity
6. Land rights violations and conflicts
7. Lack of educational opportunities
8. Lack of alternative and diversified livelihoods

6. Underlying Causes of Forced Labor

Stakeholders' Views on Causes of Forced Labor in Indonesia

Stakeholder interviews revealed some of the underlying causes of forced labor in Indonesia. More than half of survey respondents (14 of 23), identified weak government institutions and enforcement systems²⁹ as a cause of poor working conditions and forced labor in the Indonesian palm oil sector. Respondents reported a lack of regular labor monitoring at the plantations and limited enforcement of workers' rights laws. Respondents said that they see an environment in which companies, suppliers, and plantation management feel that they can "get away" with non-compliance because there is no prosecution of violations – even those that are clearly documented.

Local workers accept difficult or unfair conditions because limited opportunities for

work and the resulting poverty are the norm, according to respondents. Stakeholders said palm oil companies have consolidated small land holdings and converted the land to plantations thereby reducing opportunities to grow food or generate income for individuals who were once land owners. Few options for work exist in remote areas, and limited educational opportunities leave the majority of inhabitants vulnerable to middlemen and labor contractors. Besides workers from the local area, it was explained that foreign workers also come to work on the plantations, taking advantage of the porous borders between Indonesia, the Phillipines, Sabah and Sarawak,

²⁹ Some respondents provided several specific causes which can all be considered as 'weak governmental role or system'. The total number of these causes is 20, reported by 14 respondents.

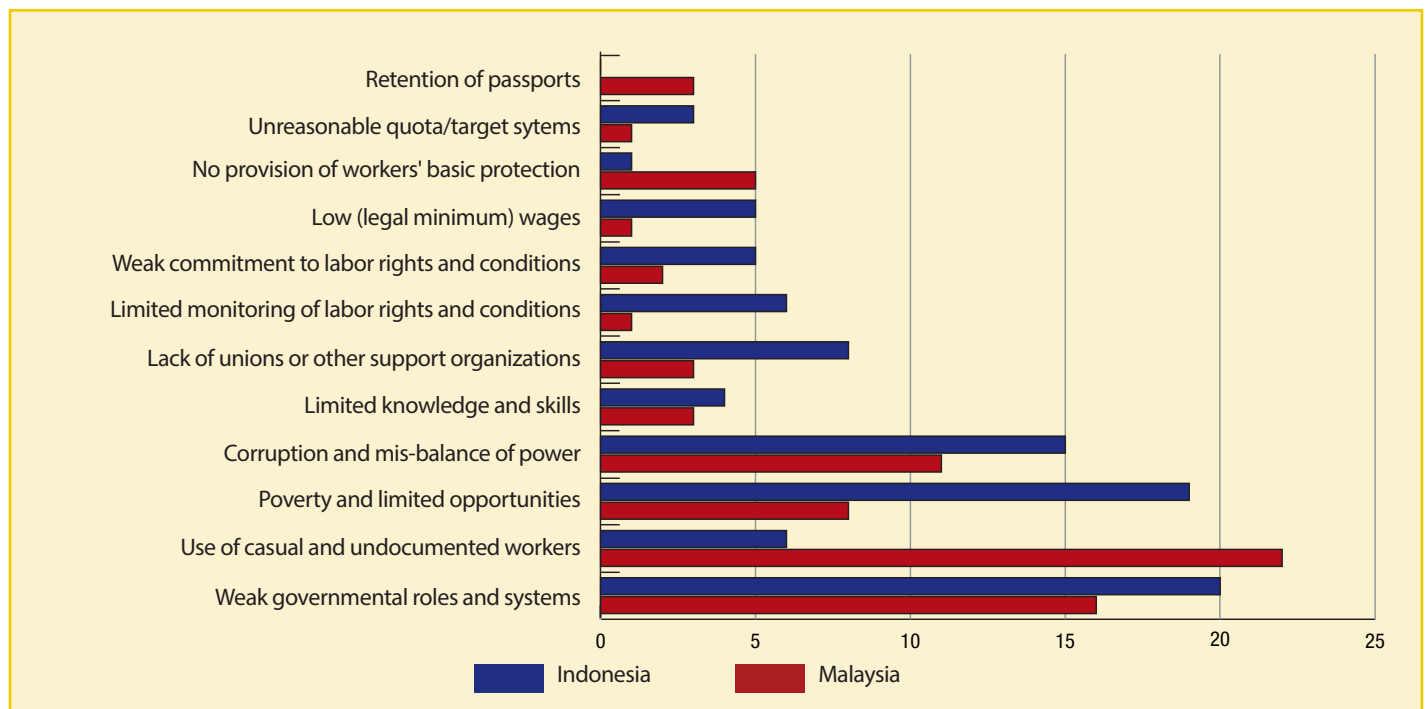


FIGURE 7: STAKEHOLDER VIEWS ON THE UNDERLYING CAUSES OF FORCED LABOR IN INDONESIA AND MALAYSIA

flooding the labor pool, keeping wages low and working conditions poor.

A lack of a functioning governance system leads to misuse of power and asymmetry in the of balance of power, stakeholders reported. The local population and workers are scared of authorities, and interviews revealed that security personnel often favor the private sector over workers. Workers are less likely to stand up for their rights because they feel intimidated or are harassed by local authorities or company management.

Seven stakeholders mentioned limited skills and low education levels among the local workforce as a driver of forced labor in Indonesia. Without worker protections such as collective bargaining, a lack of education, respondents said, results in low awareness or understanding of workers' rights.

Stakeholders' Views on Causes of Forced Labor in Malaysia

Stakeholder responses revealed underlying causes of forced labor in Malaysia, as well. Stakeholders reported that continued use of migrant and undocumented workers is widespread in the Malaysian palm oil sector. A common phrase for this, "commodification of labor," reflects that middlemen and recruiters treat workers as a commodity.

Ten respondents said that weak government institutions and related enforcement systems are a reason for forced labor situations in Malaysia. For example, while the practices of allowing a company to retain a worker's passport and to pass on the costs of migration fees to workers through wage deductions are no longer permitted under new regulations, it is uncertain whether these changes will be effectively implemented and monitored.

A lack of strong unions and related pro-labor groups in Indonesia leaves few workers organized or part of an independent union, according to the interviews. Respondents said that the few unions available do not have sufficient capacity, experience, or the wherewithal to raise awareness on labor rights or promote and arrange collective bargaining. Also, interviews revealed reports of intimidation and harassment of labor rights defenders, including active labor union members.

The use of informal, casual and undocumented workers in the palm oil sector in Indonesia is common, stakeholders said. Respondents reported that companies hire contractors to recruit and manage workers, thereby creating circumstances for irresponsible practices to go unnoticed.

Some recruitment and employment agencies do not follow responsible recruitment practices, according to interviews, resulting in the misuse of power and an asymmetry of balance of power. Recruitment processes with high costs for migrant workers and misleading claims about the nature of work are indicators of misuse of power by recruitment agents and contractors.

Limited opportunities for work and income generation and the resulting poverty drive migrant workers from countries like Nepal, Bangladesh, Myanmar, Indonesia and India to Malaysia to work on the oil palm plantations, according to stakeholders. Workers incur debt to pay recruitment fees and other expenses under the impression that they will easily earn enough in wages for repayment. Migrant workers are promised good wages and working conditions, stakeholders said, only to

find themselves deceived and unable to make repayment. Further, immigration regulations make it illegal for workers to change employers. Work permits must be renewed yearly and can only be renewed by the first employer leaving migrant workers bonded to their employer. Individuals face either forced labor or the risk involved with escaping the worksite and being arrested as an illegal immigrant.

There is no provision of workers' basic protections in Malaysia, according to stakeholders. Workers are not protected from abuse and harassment by recruitment agents, face restrictions of movement by employers, and have no system

to safely store identity papers so as to have access to them.

Retention of passports can be considered a cause of forced labor, but according to interviews it is also a consequence of the labor environment. Stakeholders said that plantation owners 'feel' the need to retain foreign workers' passports to prevent them from abandoning the worksite. Employers do not want to "lose" their investment in migrant workers because of the number of requirements that exist for companies to arrange and renew the permits for foreign workers.

CGF Member Companies' and Palm Oil Companies' Views on Causes of Forced Labor

Four of the six surveyed CGF member companies provided views on the underlying causes of forced labor. Companies' representatives' perceptions were in line with the findings in the literature review and stakeholder survey, and include:

- Recruitment fees and poor recruitment practices
- Use of migrant workers; migrant workers do not understand their rights
- Lack of written contracts in a language that the workers understand
- Payment is performance-based and does not reach legal minimum requirements
- Freedom of association is limited
- No enforcement of local laws/legislation
- Retention of identity documents
- Discrimination and demand for cheap labor
- Poverty and unemployment
- Regional conflict and displacement
- Lack of policies and procedures; poorly regulated labor market.

All companies' respondents said they were aware of the risks of forced labor. Companies' respondents indicated the belief that their suppliers (palm oil companies) are willing to cooperate in mitigating forced labor risks. The challenges to addressing and mitigating forced labor, they said, are the fragmentation of supply chains and a lack of supply chain transparency. Companies' representatives expressed that there is a lack of sector-wide action and that individual companies acting alone do not have sufficient influence to drive change. There is broad agreement among palm oil companies, as well, that the main challenges to addressing forced labor are fragmented supply chains and a lack of a sector-wide action.

CGF member companies' respondents largely agreed that governments need to be more deeply involved in addressing forced labor, particularly its root causes, in spite of their acknowledgement of weak governance.

Most palm oil companies who responded to the survey said that they do not perceive lack of internal resources or lack of commitment at the palm oil company and plantation levels as impediments. Nevertheless, they recognize

the need to build internal capacity and understanding of forced labor issues. It is to be noted that this perception may not be valid for the majority of small palm oil companies and smallholder farmers.

7. Recruitment and Employment Practices

Increasingly, buying companies are aware of the imperative to improve recruitment practices to make them more ethical. Some companies have joined the Leadership Group for Responsible Recruitment of the Institute for Human Rights and Business (IHRB)³⁰. Ethical recruitment practices were discussed at the November 2017 United Nations Forum on Business and Human Rights with a focus on the need for systemic change, including adoption of a business model in which companies (employers) bear all recruitment-related costs³¹. The ILO General Principles and Operational Guidelines on Fair Recruitment³²; the IOM's IRIS certification scheme³³ for Recruitment Agencies; and the Alliance 8.7³⁴, the global partnership for eradicating forced labor, modern slavery, human trafficking and child labor around the world are other notable platforms through which the companies and governments engage to address the issue.

Among CGF members there is general agreement that responsible recruitment is key to tackling forced labor³⁵.

In Indonesia, the majority of workers in palm oil production are locals or originate from other regions of Indonesia. The major forced labor risks are high levels of casual labor and high production targets.

Two reports suggest the need to understand how Indonesia's colonial history impacts the current labor situation. Under the Dutch colonial rule, a transmigration program was implemented that

led to the migration of millions from densely populated areas to Indonesian islands. Most of these trans-migrants originated from Java and Bali and received compensation from the Dutch government to move to Sumatra and Kalimantan to work on plantations³⁶. A study conducted in 2016 found that the majority of workers interviewed in Sumatra (85%) descended from migrants who came from Java during the colonial period. These third and fourth generation Javanese descendants mostly have low levels of education and few employment options other than oil palm plantations³⁷.

A majority of plantations' maintenance workers are employed seasonally and are paid on a piece rate basis, only receiving compensation for the days they work. Tasks such as pesticide spraying, spreading of fertilizer, weeding, and harvesting are performed both by daily workers and workers with a permanent contract. Most workers employed in palm tree seedling

30 <https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment>

31 Parallel session on "Reimbursement of worker recruitment fees as remedy", organized by the Leadership Group for Responsible Recruitment, the Institute for Human Rights and Business (IHRB), and Verité, 28 November 2017.

32 https://www.ilo.org/global/topics/fair-recruitment/WCMS_536755/lang-en/index.htm

33 <https://iris.iom.int/>

34 <https://www.alliance87.org/>

35 Two of the three Priority Industry Principles refer to this: no worker should pay of a job and no worker should be indebted of coerced to work. <https://www.theconsumergoodsforum.com/initiatives/social-sustainability/key-projects/priority-industry-principles/>

36 "The great palm oil scandal: Labor abuses behind big brand names," Amnesty International, 2016.

37 "The Human Cost of Conflict Palm Oil, worker exploitation in Indonesia", Rainforest Action Network, 2016



nurseries were reported to be casual, working without a contract, while palm mill workers have permanent contracts and are paid monthly. Palm fruit harvesters tend to have contracts for one or two-years and are paid based on meeting production targets³⁸.

According to a local organization, many companies use subcontractors and middlemen for informal recruitment of new workers. These middlemen are often from the local community. In general, there are no written contracts between middlemen and workers. While the company expects middlemen to provide personal protective equipment, in practice they do not, and similarly do not provide workers with other services.

In Malaysia, 80% of workers in the palm oil sector are foreign migrants and are mostly hired through recruitment agencies. The literature and stakeholder interviews revealed that the system is riddled with deceptive recruitment practices, high recruitment fees, passport retention, and poor payment of wages. The recruitment fees charged to workers are so high that they tend to indebt workers³⁹. Migrant workers originate from Indonesia, Nepal, Bangladesh, India, and Myanmar and are involved in field operations like harvesting (collecting fruit bunches), pruning, and spraying. The supervisory and

administrative duties at plantations fall mostly to Malaysian workers with permanent contracts.

Malaysian recruitment agencies collaborate with like agencies in the labor-supplying countries to identify and migrate the required number of workers. The Malaysian Ministry of Home Affairs needs to approve the recruitment of foreign workers, with the requirements and procedures differing according to the country of origin of the migrants. For example, the recruitment of workers from Indonesia and Nepal is relatively easy.

Bangladeshi authorities, however, regulate their labor supply and provide a list of available Bangladeshi workers.

Labor brokers play an important role in the recruitment and human resources management of migrant workers, including arrangement of payments, accommodation, transportation, and obtaining work permits and visas. The broker usually has a contract with the company for which the workers are being recruited. The contract includes terms of payment, number of workers, and length of time for the assignment. Several layers of subcontractors may be involved in the recruitment process⁴⁰. Sometimes the use of labor contractors and recruitment agents results in workers who are not skilled, prepared for, or motivated to work on plantations.

Recruitment of migrant workers can be a highly profitable business, as the agents receive payments from both the employer and the migrants searching for work. Recruitment agents may levy additional service charges⁴¹ to the migrants for making arrangements and for the registration of immigration documents⁴².

38 "Palming off Responsibility, Labour rights violations in the Indonesian palm oil sector", CNV & SOMO 2017

39 "The law of the jungle: Corporate responsibility of the Finnish palm oil purchases," Finnwatch, 2014

40 "Exploitative labor practices in the global palm oil industry," Humanity United, 2012.

Many migrant workers borrow from relatives, friends, or the agent, to cover these costs. Often, wages are lower than promised and the migrant workers find themselves in a bonded situation⁴³.

A 2016 study of migrant workers in Malaysia conducted by Finnwatch, a human rights organization, yielded concrete data on the recruitment fees paid by foreign workers. Workers originating from various countries paid different fees to their recruiters (Box 7). They found that fee repayment was managed by the employer via wage deduction, which meant that for some workers it could take a year to repay the fees due to their low wages⁴⁴.

The Finnwatch researchers learned from workers that the information provided during the recruitment process did not accurately describe the realities of the work environment and that in practice the work was more physically demanding than portrayed. In general, written contracts are provided to foreign workers, but these are either in Bahasa, Malaysian or in English, and most workers were not able to understand the language of their contract or payment arrangements.

The Malaysian organization Tenaganita reported in 2014 about migrants suffering from intimidation and mistreatment by the agencies that recruited the workers. Tenaganita reported that several high-level executives of recruitment agencies (also called outsourcing companies) are political leaders, suggesting a possible reason for the lack of action by the Malaysian government to curb recruitment agency practices. Further, the report found a large number of undocumented migrants in Malaysia because migrant workers who either left their employer or did not get their permits renewed⁴⁵ remained in the country. It was estimated that

BOX 7: Variations in the recruitment fees paid to recruiters (Finnwatch, 2016)

- Indonesia - € 342
- Bangladesh - € 2188
- India - € 121-1206
- Nepal - € 588–1010
- Myanmar - € 395

half of the 4.6 million migrants in Malaysia were undocumented. In 2011, a government program attempted to legalize workers, but did not succeed in the registration and legalization of all migrant workers. Today, there remains a high number of undocumented workers who live in fear of being found by Malaysian authorities and

40 "Exploitative labor practices in the global palm oil industry," Humanity United, 2012.

41 A number of costs are involved in the entire recruitment process, including commission for the agent or even sub-agents, transportation costs, expenses for the medical exams, for arranging a passport and the work permit. There appears to be a large variation in costs with differences among the agents as well as between the different countries of origin.

42 "Exploitative labor practices in the global palm oil industry," Humanity United, 2012.

43 "The law of the jungle: Corporate responsibility of the Finnish palm oil purchases," Finnwatch, 2014 and "Working conditions at the IOI Group's oil palm plantation estates in Malaysia: A follow-up study," Finnwatch, 2016.

44 As per the 2017 figures the monthly minimum wages for workers in Malaysia was about US\$ 242. Order 3 of the Minimum Wages Order 2016 stipulates that the minimum wage for daily rated workers working 6 days a week is RM 38.46 per day (or RM 1,000 a month for monthly rated workers) in Peninsular Malaysia and RM 35.38 per day (or RM 920 for monthly rated workers) in Sabah and Sarawak. All workers— field or general workers and harvesters—shall be paid a minimum RM 38.46 per day (or RM 1,000 a month for monthly rated workers) in Peninsular Malaysia and RM 35.38 per day (or RM 920 a month for monthly rated workers) in Sabah for the normal 8 hours work or a spread over period of 10 hours. Under the Malaysia Employment Act 1955, "spread over period of ten hours" means a period of ten consecutive hours to be reckoned from the time the employee commences work for the day, inclusive of any period or periods of leisure, rest or break within such period of ten consecutive hours. To put it simply, it means 8 hours of work with 2 hours of break.

45 As part of the recruitment process, the worker needs to pass a medical examination in the home country prior to recruitment as well as in Malaysia within the first month after arrival. In case of illness, the contract with the worker is terminated and he/she needs to return to his/her home country at his/her own expense. Before the renewal of the permit, medical examination is again needed and in case of medical findings the permit will not be renewed.

sent to immigration retention centers or jail⁴⁶.

Four out of the five palm oil companies surveyed for this study indicated that they work with agencies to recruit workers. The suppliers provide workers with employment contracts in the dominant language or the national language of the country of origin of workers. However, that practice is not possible for all workers due to the diversity of their origins. All palm oil companies reported collecting information about the conditions at their worksites, including

wages, health and safety procedures, worker training, access to services, child labor issues, forced labor issues, freedom of association, and discrimination. It is unclear if the palm oil companies collect information on migration corridors, worker demographics and the recruitment practices of the labor brokers and recruitment agencies.

⁴⁶ <http://www.rhsansfrontieres.org/en/press/our-press-opinion/329-article-malaysia-forced-labour>, 2014.

8. Regulatory Frameworks in Indonesia and Malaysia Relevant for Forced Labor Issues in the Palm Oil Industry

Key components of the research include an exploration of the international normative framework on forced labor and a complete review of the corresponding national regulatory frameworks in Indonesia and Malaysia. The analyses allow for the identification of gaps in national frameworks as they relate to forced labor indicators and the labor recruitment process. See Annex 3 for an overview of the ILO Conventions ratified by Indonesia and Malaysia.

Indonesia has not ratified ILO Convention C110, Plantations Convention, which is considered key to regulating working conditions in the palm oil industry (see Table 2 for more details). Indonesia has signed ILO C29, the Forced Labour Convention, and incorporated it in its national legislation.

- Forced labor is defined in Indonesian law

BOX 8: Forced Labor International Normative Frameworks

- ILO C029 – Forced Labor Convention
- ILO P029 – Protocol of 2014 to the Forced Labor Convention
- ILO C105 – Abolition of Forced Labor Convention
- ILO R203 – Forced Labor (Supplementary Measures) Recommendation, 2014
- League of Nations Slavery Convention, 1926
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

TABLE 2: OVERVIEW OF CONVENTIONS ADDRESSING FORCED LABOR AND RATIFICATION BY INDONESIA

IMPORTANT CONVENTIONS SIGNED BY INDONESIA	IMPORTANT CONVENTIONS NOT SIGNED BY INDONESIA
ILO C100 - Equal Remuneration Convention	ILO C095 - Protection of Wages Convention
ILO C087 Freedom of Association and Protection of the Right to Organise Convention	ILO P029 - Protocol of 2014 to the Forced Labor Convention
ILO C029 - Forced Labour Convention (covering forced or compulsory labour)	ILO C110 - Plantations Convention
ILO C098 - Right to Organise and Collective Bargaining Convention	ILO C 129 - Labor Inspection (Agriculture) Convention
ILO C111 - Discrimination Convention	ILO C105 - Abolition of Forced Labor Convention (Denounced in 1990)
UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICMW)	

- The minimum age of employment is 15 years old and Indonesian law prohibits anyone from employing and involving children (any person under the age of 18) in the worst forms of child labor.
- In the Manpower Law No. 13 of 2003 (Art. 77) are included provisions on working hours, as well as on overtime (Art. 78), rest and leave (Arts. 79-84), and menstrual leave (Art. 81). Articles 88 and 89 define living wages as wages that enable workers to properly meet the livelihood needs of their families, including needs relating to food, clothing, housing, education, healthcare, recreation and pension benefits.
- There is a limit on working hours of 40 hours a week, with a maximum overtime of three hours per day or 14 hours per week. The national law also indicates that payment for overtime work should be at a premium of one-and-a-half to three times the hourly wage.
- The minimum wage differs by province and city and is set by the Governor of each Indonesian province, who can also set minimum wages for particular economic sectors. Employers are not allowed to pay

wages below the minimum wage according to Article 90 of the Manpower Act, while Article 78 of the same requires employers to pay workers for working beyond regular working hours (overtime), while limiting the amount of acceptable overtime and setting certain conditions on overtime.

- Under Indonesian law, workers can be employed either on a permanent or a fixed-term employment contract. Employers can also hire workers as daily laborers for work which is changeable and for which wages are based on attendance, as long as the workers do not work more than 21 days a month. Individuals who work under these daily agreements are commonly referred to as casual day labor⁴⁷.

While Malaysia is a signatory to a number of ILO Conventions (see Annex 3), it has not yet ratified those with potential implication for migratory and forced labor, including C110, Plantations Convention, as shown in Table 3. This convention provides guidance on migrant worker recruitment, employment contracts,

⁴⁷ "The great palm oil scandal: Labor abuses behind big brand names," Amnesty International, 2016.

TABLE 3: OVERVIEW OF CONVENTIONS ADDRESSING FORCED LABOR AND RATIFICATION BY MALAYSIA

IMPORTANT CONVENTIONS SIGNED BY MALAYSIA	IMPORTANT CONVENTIONS NOT SIGNED BY MALAYSIA
ILO C100 - Equal Remuneration Convention	ILO C111 - Discrimination Convention
ILO C098 - Right to Organise and Collective Bargaining Convention	ILO C087 - Freedom of Association and Protection of the Right to Organise Convention
ILO C029 - Forced Labour Convention (covering forced or compulsory labour)	UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICMW) ⁴⁸
ILO C095 - Protection of Wages Convention	ILO C110 - Plantations Convention ⁴⁹
ILO C014 - Weekly Rest (Industry) Convention (only for the province of Sarawak)	ILO C105 - Abolition of Forced Labor Convention (Denounced in 1990)
	ILO C 129 - Labor Inspection (Agriculture) Convention

wages and types of wage rates, weekly rest, holidays, maternity rights, collective bargaining, freedom of association, labor inspection, housing and medical care for plantation workers and their families.

The regulatory framework in Malaysia includes standards both at the national and regional level.

- In Peninsula Malaysia and Labuan, the Employment Act of 1955 defines minimum standards of employment and regulates core aspects of employment such as working hours, wages, holidays and retrenchment benefits.
- The Labour Ordinance (Sabah Cap. 67) and the Labour Ordinance (Sarawak Cap. 76) provide separate regulations for Sabah and Sarawak.
- Regulations on child labor are stipulated in the Children and Young Persons (Employment) (Amendment) Act 2010, including conditions for employment in light work, prohibition of night work and underground work for children and young persons, and working hours.
- An Employment Agencies Act was enacted in 1981 by the Malaysian Government to help

Malaysian employers find migrant workers from overseas. The Act was amended in 2017 and is expected to be replaced by the Private Employment Agencies Act. This latter Act, once it comes into force, will include regulation of recruitment for foreign workers and will phase out the system of *labor outsourcing agencies*⁵⁰. Based on the Employment Agencies Act the labor contract is arranged between the recruitment agency and the worker. This Act clarifies to some extent which party is responsible for the workers.

48 [The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families \(ICMW\)](#) was adopted by the [United Nations General Assembly](#) (Resolution 2016) on 18 December 1990. It is an international treaty aimed at international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally.

49 http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312255

50 "Review of labour migration policy in Malaysia", ILO Regional Office for Asia and the Pacific, 2016. Malaysia has over 400 labor outsourcing agencies as of 2013. The ILO report states "Even for 'direct recruitment' of migrant workers, outsourcing firms were often heavily involved, acting as the employer's representative to source workers in countries of origin and handling the administrative requirement. The scope of regulatory responsibilities [created by the Policy Amendment issued by the Cabinet Committee on Foreign Workers in 2005] proved beyond the capacity of the Government to manage effectively, leading to major problems with misconduct by outsourcing companies. Pervasive abuse related to the fee amounts charged convinced the Government to suspend the quota of job orders and distribution of new work permits in 2010. Further regulatory actions followed in 2011, halting the issuance of licenses and work permits to outsourcing companies. A critical problem of this system has been that it clouds the legal relationship between the migrant workers and their employers."

- The Immigration Act 1959/63 states that a foreigner is illegal in the country when he/she cannot produce a passport, travel document or entry permit, or when these documents do not have a valid endorsement. Penalty for illegal stay in Malaysia can be a fine or imprisonment. According to an ILO report, the Immigration Act 1959 was amended in August 2002 with the purpose of controlling the flow of irregular migrants, as Malaysia was experiencing a rapid increase in the number of undocumented migrants working within the country: “The amended Act criminalizes migrants who do not comply with Malaysian immigration policies relating to entry, stay and work, making them subject to arrest if caught by authorities or the People’s Volunteer Corps (RELA)⁵¹.”
- A Policy on Recruitment of Foreign Workers was formulated by the Malaysian Government in 1991. According to this policy, wages and benefits, and terms and conditions of employment of migrants should be similar to those provided to local workers under national labor legislation. It is stated that all migrant workers must have a written contract. The costs associated with recruitment and repatriation of workers after completion of their contract, should be borne by the employer. In 1995 a Passport Act was introduced to prohibit withholding of passports by employers.
- In 2007 Malaysia introduced the i-Kad, an identification card issued by the Immigration Department with the holder’s photo and biometric information. The i-Kad aims to ensure that migrant workers have identification documents on them at all times. In case their passport is withheld by their employer, workers still have other documents and can avoid deportation. The issuance of the i-Kad seems to be an acknowledgement by the government that employers continue to hold the workers’ passports although this is forbidden by the 1995 Passport Act.
- During the 2007 Summit, the member nations of ASEAN (Association of Southeast Asian Nations) adopted the Declaration on the Protection and Promotion of the Rights of Migrant Workers⁵². The Declaration states that governments must “promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers.” Both Malaysia and Indonesia have signed this declaration.
- Over the past years, the Malaysian government has entered into bilateral agreements with countries of origin of migrant workers in an attempt to have a more fair and efficient recruitment process. These agreements included regulations for private recruitment agencies, including fixed fees charged. An ILO review of the government-to-government recruitment process established under the MOU between Malaysia and Bangladesh found that it has reduced recruitment costs paid by workers in the plantation sector by 8-10 times⁵³.
- The Eleventh Malaysia Plan for the period 2016-2020 has designated the Ministry of Human Resources (MOHR) as the key agency for dealing with migrant workers, with full responsibility for regulating the recruitment of migrant workers. The intention is to have a comprehensive immigration and employment policy for foreign workers that will “enable policies and decisions that treat

51 “Review of labour migration policy in Malaysia”, ILO Regional Office for Asia and the Pacific, 2016

52 <http://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>

53 “Review of labour migration policy in Malaysia”, ILO Regional Office for Asia and the Pacific, 2016. Bilateral agreements have been signed with Nepal, Thailand, India, Sri Lanka, China, Bangladesh, Pakistan, Vietnam and Indonesia.

migrant workers as workers and human beings with rights and not as a potential security threat⁵⁴.” It is not clear when the policies will be fully implemented. Until now, the Home Ministry has played a key role in determining migrant worker policy.

- The government strategy to improve the management of migrant workers in the country by reducing the dependence on low-skilled migrant workers, and by streamlining the recruitment process for migrant workers, is contained in the 11th Malaysia Plan (2016 -2020). The Malaysian government plans to formulate “a comprehensive immigration and employment policy for foreign workers [...], taking into account the requirements of industry and the welfare of foreign workers.” According to the coordinator of the Migrant Workers Desk, run by the Parti

Sosialis Malaysia (PSM)⁵⁵, a socialist political party in Malaysia, it is about time to have a comprehensive policy to support the making of important decisions that are in the best interest of migrant workers⁵⁶.

- In 2012, Malaysia enacted a minimum wage law for migrant workers (with the exception of domestic workers) setting a basic monthly wage of 1000 Ringgit (MYR) (US\$255.56) in Peninsular Malaysia and MYR 900 (US\$230) for Sabah, Sarawak and Labuan⁵⁷.

54 <https://www.malaysiakini.com/letters/366523>

55 <https://partisosialis.org/en>

56 <https://www.malaysiakini.com/letters/366523>

57 <http://www.nytimes.com/2012/05/02/business/global/malaysia-en-acts-minimum-wage.html>



Analysis of the Regulatory Environment in Indonesia and Malaysia

Indonesia and Malaysia each have elements of regulatory frameworks that act to provide registered migrant workers equal treatment as nationals⁵⁸. In reality, however, labor laws are not enforced to protect migrant workers adequately⁵⁹. Several forced labor indicators are linked to regulations and the role of the government. Literature on forced labor documents violations of international conventions and national laws regarding employment, wages, contracts, working conditions, recruitment and child labor, and lack of implementation and control of existing frameworks in Indonesia and Malaysia.

While the national labor laws in Indonesia are considered adequate with respect to worker protection, the literature and stakeholder interviews cite the lack of implementation of existing laws. Current laws provide employers with the flexibility to outsource labor recruitment, making it possible to hire workers through third parties. In this system, the relationship, including contracting and benefits, is between the recruiter and the worker. Workers note that such arrangements, where responsibility for working conditions does not rest with the employer, lead to the payment of lower wages⁶⁰.

Regarding wages, the minimum wages applicable in North Sumatra and Central Kalimantan, where many of the oil palm plantations are located, are quite low. These wages, according to research, are insufficient to meet a family's basic needs, particularly considering the high prices for food and other household products in the remote locations of the plantations⁶¹. Legal minimum wages in Indonesia are based on the cost of living for an individual worker; expenditures associated with maintaining a family and children are not considered⁶². The lack of wages capable of

supporting families is often cited as one of the reasons for child labor at oil palm plantations.

Another study points to uncertainty about the legal status of international human rights instruments in Indonesia. The report from CNV and SOMO (2017) explains that "due to ambiguity over which legal system Indonesia uses, it is unclear whether the country is currently bound by the international human rights law to which it is a party (as in a monist system), or whether such international human rights law would first need to be transformed into national law (as in a dualist system)⁶³." It is not clear if the international human rights treaties and conventions ratified by Indonesia are applicable within the Indonesian legal context. Analysts have mentioned that this uncertainty has given rise in part to the insufficient implementation and protection of human rights in Indonesia.

In Malaysia, oil palm plantations principally hire foreign migrants, mostly from Nepal⁶⁴, India, Bangladesh, Myanmar, and Indonesia⁶⁵. Analysis of the research suggests that existing laws do not protect foreign workers and their families. Malaysia's Immigration Policy states that a foreign worker can only receive permission to work a maximum of

58 Such as wages, work hours, holidays, terminations, non-discrimination, freedom of association, access to complaint mechanisms and other protections.

59 "Review of labour migration policy in Malaysia", ILO Regional Office for Asia and the Pacific, 2016.

60 UNICEF's unpublished report.

61 "The great palm oil scandal: Labor abuses behind big brand names," Amnesty International, 2016.

62 "Palm oil and children in Indonesia, Exploring the sector's impact on children's rights", UNICEF, 2016.

63 "Palming off Responsibility, Labour rights violations in the Indonesian palm oil sector", CNV & SOMO, 2017.

64 <http://kathmandupost.ekantipur.com/news/2017-12-24/msian-employers-to-pay-foreign-workers-levy-from-next-year.html>

65 "Working conditions at the IOI Group's oil palm estates in Malaysia: A follow-up study," Finnwatch, 2016.

10 years. Additional restrictions on foreign workers include minimum and maximum age limits (18 and 45 years old respectively) and the prohibition to marry while employed in Malaysia⁶⁶.

There are implications to the practice of an outsourcing or recruitment agency contracting with foreign workers, rather than the company or plantation owner (the employer). First, the practice relieves companies from providing benefits to subcontracted workers. Second, recruitment agents assign their workers to employers for short periods of time. While the practice provides employers with a flexible workforce that can be easily adjusted depending on workloads, it also leads to the casualization of labor. These arrangements mean that employers do not control the terms and conditions of the workers' contract, and for workers this system results in high dependency on the recruitment and employment agency, vulnerability to fluctuations in labor demand, and a high level of insecurity because of casual work arrangements⁶⁷.

According to the Passport Act (1995), passports may not be withheld by employers and recruitment fees are the responsibility of the employer. However, the literature and stakeholder surveys indicate that it is common practice for companies to retain workers' passports and for workers to pay recruitment fees. In the past year a few companies have started to allow workers to hold their own passports or place them in a safe place at the plantations where they can have access to them⁶⁸.

The practices of retaining passports and other important documentation⁶⁹ and deducting visa fees from the pay of foreign workers are considered as indicators of forced labor and debt bondage. Following concerns raised by

international organizations⁷⁰, the Malaysian Government declared in 2017 that it would prohibit the deduction of visa costs and work permits from wages. Starting in 2018, employers are required to pay the visa fee, also called a levy, on behalf of migrant workers who come to work for them⁷¹. The strongest resistance to this policy change came from the employer federations that represent the manufacturing sectors (electronics, apparel, etc.), which employ the largest number of workers. Resistance emerged from the palm oil sector, as well, although it may have been tempered by a worker shortage. As a result, companies in the palm oil sector seem to have accepted responsibility to pay the visa fee.

Interviews indicate that even though employers have agreed to pay the visa fee, the majority of the expenditures incurred by foreign workers to get a job abroad, is not the levy but the costs incurred at the recruitment stage. These payments, often made possible through loans from family, friends or lending agencies, put the workers in a high state of indebtedness even before they get a job. Once they become employed, the low income earned by the workers makes it difficult for them to repay their debts, contributing to the high risk of bonded labor. In addition, given the poor financial status of these workers and their vulnerability, they may be subject to coercion, abuse, and deception

66 "Working conditions at the IOI Group's oil palm estates in Malaysia: A follow-up study", Finnwatch, 2016.

67 "Review of labour migration policy in Malaysia", ILO Regional Office for Asia and the Pacific, 2016.

68 <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/10/Sustainability-Brief-Providing-a-Safe-Place-for-Workers%E2%80%99-Passports.pdf>

69 Or other valuable possessions such as jewelry, ATM cards, land deeds, diplomas etc.

70 US State Department 2016, Finnwatch 2014, Guardian 2017, Verité 2014.

71 <http://kathmandupost.ekantipur.com/news/2017-12-24/msian-employers-to-pay-foreign-workers-levy-from-next-year.html>

by the recruiter about the nature of work, compensation and other benefits. The presence of these practices are classic ILO indicators for forced labor⁷².

Although several laws are in place to protect migrant workers, the Labor Department in Malaysia will only consider a complaint by a migrant worker with a passport and a valid work permit. In most cases the employer holds the passport, and it is the responsibility of the employer to apply for and renew the work permit annually, three months before the expiration date⁷³. Workers are not permitted to arrange this for themselves. Furthermore, when there is a dispute, the employer can cancel the work permit, thus turning the worker into an undocumented migrant worker so that the worker is no longer allowed to stay in the country or to seek help from the Malaysian Government. This dependency on the employer and lack of legal options make workers vulnerable to mistreatment and increases the risk of bonded labor.

The Malaysian legislation that governs migrant workers is the Immigration Act 1959/63 (Act 155). As such, immigration concerns are apt to take precedence over other laws concerning migrant workers, including those providing some level of protection to (migrant) workers such as the Employment Act. According to the Immigration Act, without valid passport and work permit foreigners are illegal and no protection from the state or access to redress can be expected. Migrant workers have limited possibilities to change jobs; their legal status to

work and to stay in Malaysia is directly tied to their employer. This severely limits the ability of migrant workers to leave the job for which they were recruited without losing permission to stay and work. According to the ILO, this restriction increases the vulnerability of the workers to being abused or trapped in bonded labor⁷⁴. In this case, the existing regulation has a negative impact on the migrant workers.

The legal framework in Malaysia has serious implications for the families of migrant workers. Workers are not permitted to marry within the country or to bring their wives and children. However, in practice, migrant workers do bring their families, especially in the states bordering Indonesia (Sabah and Sarawak), or start families while in Malaysia. The status of migrants and their legal limitations have the added consequence that children of foreign migrants are born “stateless”⁷⁵ and cannot access government services, including health care and education. The result is child labor on Malaysian oil palm plantations.

72 ILO has identified eleven overarching indicators for identifying forced labor. These are abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, excessive overtime. As these indicators are overarching, the specific risk factors/indicators for identifying forced labor cases should be explored and specified for each context (both in the communities of the workers' countries of origin and in the host communities where workers are employed).

73 <http://www.imi.gov.my/index.php/en/foreign-worker.html>

74 “Review of labour migration policy in Malaysia”, ILO Regional Office for Asia and the Pacific, 2016.

75 “Vulnerable and exploited: 7 things we learnt about migrant labor in palm oil,” The Guardian, 2016.



9. Perception on Certification Schemes

The most important and well-known worldwide certification program for palm oil is the Roundtable for Sustainable Palm Oil (RSPO). Other certification programs include the Indonesian Sustainable Palm Oil (ISPO) and the Malaysian Sustainable Palm Oil (MSPO) certification standards.

It is widely accepted among the stakeholders interviewed that certification leads to increased awareness among palm oil suppliers about standards, risks, and violations. Stakeholders mentioned, as well, the benefit of smallholders becoming more knowledgeable about sustainable production and more open to improved productivity, higher quality assurance, and providing acceptable working conditions as certification can lead to premiums.

CGF member company respondents said certification leads them to accept and recognize findings and commit to ensuring compliance. Further, it facilitates monitoring of issues via annual audits. Certification provides an assurance of minimum standards, including health and safety, but also creates a demand for certified palm oil products that generates pressure on palm oil companies to improve practices.

Survey respondents also shared areas of improvement for certification programs.

Problems associated with auditing –weaknesses in auditing criteria, lack of focus on labor standards, lack of detection of major labor issues, and weak enforcement of certification schemes – were identified. Some respondents sensed that auditors do not understand the underlying reasons for worker exploitation and expressed frustration that certification protocols neither identify nor address root causes of forced labor. In addition, respondents said, certification does not sufficiently address the needs of workers or include representation of workers in governance structures and may unintentionally shift labor problems to non-certified plantations or other sectors.

All six CGF member companies participating in the research project source palm oil that is RSPO-certified. Four of the six companies source “mass balance” and “segregated” palm oil while fewer use the “Book & Claim” and the “Identity preserved” models⁷⁶.

⁷⁶ RSPO has four supply chain models: **Identity Preserved:** Sustainable palm oil from a single identifiable certified source is kept separate from ordinary palm oil throughout the supply chain. **Segregated:** Sustainable palm oil from different certified sources is kept separate from ordinary palm oil throughout the supply chain. **Mass Balance:** Sustainable palm oil from certified sources is mixed with ordinary palm oil throughout the supply chain. **RSPO Credits/Book and Claim:** The supply chain is not monitored for the presence of sustainable palm oil. Manufacturers and Retailers can buy Credits from RSPO-certified growers, crushers and independent smallholders. For more information see: <http://www.rspo.org/certification/supply-chains>



The representatives of the six companies reported use of certification for many reasons, including that it (a) provides confidence to consumers and customers that the palm oil used in the products has been sustainably sourced; (b) assures consumers that the company has a strategy to promote and strengthen the growth and usage of sustainable palm oil and avoid human rights violations, destruction of tropical forest habitats and peat lands; and (c) serves as a way to know the supply chain and to source fully traceable palm oil from certified sources. Although some companies do not seek certification because they believe their internal programs are well developed, they accept certification as an adherence to their own principles and requirements. Meanwhile, other companies are working toward sourcing 100% RSPO certified palm oil (segregated).

The CGF members provided the following responses on the benefits of certification and plantation monitoring:

- Certification plays an important role in information sharing, awareness raising and capacity building. It helps to change practices in the affected areas, to eradicate malpractices and drive change;
- Certification is helpful in the verification of the production process to ensure sustainable palm oil production, as well as provide a certain level of transparency and traceability;
- Standardization as part of certification helps to ensure that oil palm plantations follow a consistent assessment or audit;
- Certification is useful for consumers, customers, and the international community to know that companies are upholding commitments on responsible sourcing;
- The demand for certification provides a strong signal to governments, producers, etc. that they need to “follow the rules”;
- RSPO suppliers have systems in place, are better organized and know more about the risks and issues than non-certified suppliers;
- Certification provides the opportunity to partner with suppliers and peers to support the implementation of socially and environmentally responsible practices and policies in areas or supply chains where they were not previously utilized.

While certification was considered to provide a minimum level of assurance, it was seen to be limited in providing full assurance. Company respondents see several areas of improvement for certification programs.

- Identification of issues and implementation of Codes and Principles -- particularly relating to social elements, including forced labor -- is weak. One of the underlying causes could be the low level of skills that the certification auditors possess. Within the RSPO, there is a gap on the social side, and issues of forced labor are not detected.
- The way upstream certification auditing is set up does not provide auditors time and resources to investigate the social issues in-depth or start to look at the root causes. There is little visibility beyond tier 1, although there are a lot of issues and risks several tiers up in the supply chain.
- Certification is not a good business model for smallholders, as it is difficult for them to get certification due to financial implications. Companies recommended including more attention to smallholders.
- The premiums that are currently being paid as part of the certification program are not impactful. It would be more effective to have the costs for responsible production and sourcing included in the cost price.

- Current certification standards do not meet the latest sustainable sourcing requirements raised by NGOs. Monitoring and audits fail to uncover issues or do not report accurately on practices or policies of supply chain actors. In some cases, this provides false assurance of addressing social and environmental issues and indirectly contributes to actions by bad actors.
- Companies are aware that certificates are in no way a guarantee that things are well managed.

None of the six CGF industry members indicated that certification satisfied their needs entirely nor provided them with complete confidence that the palm oil they source is responsibly produced. Respondents acknowledge the limitations of certification and noted that the process is a lot of paperwork without much of a return. Respondents said that when done correctly, certification can be an excellent tool to promote best practices, both social and environmental. The risks of poorly executed certification, they said, undermine the concepts of certification and verification and create a cycle of exploitation that becomes increasingly difficult to remediate and change. According to companies' respondents, however, certification is considered necessary and a useful process to continue to drive accountability and transparency. There is willingness and interest to support and push the refinement and continuous improvement of these systems, including clear expectations on forced labor, in order to provide more accurate and thorough verification of compliance and remediation.

All surveyed palm oil companies (5) sell certified palm oil or palm kernel oil. Four out of five reported that certification provides them with satisfaction that their palm oil is responsibly sourced. Some palm oil companies highlighted

that certification provides the companies some level of assurance about the sustainability practices of the mills, meets standards that are at least at, or above, legal requirements, have robust audit procedures and hence that the certified partners are potentially low risk. According to the palm oil companies, they view certification as one of the several tools and interventions that could drive impact.

The palm oil companies surveyed offered suggestions on benefits⁷⁷ and areas for improvement⁷⁸ for certification.

Palm oil companies reported the following benefits of certification:

- Certification and audits are helpful in providing insight and creating awareness about risks and violations.
- Certification is helpful to improve practices and ensure compliance.
- Certification helps protect labor rights and ensure health and safety standards.
- Certification is a useful tool for their buyers.

Palm oil companies reported some areas for improvement for certifications:

- Certification schemes are expensive to implement.
- Problems with audits and auditors as labor issues are not (sufficiently) detected and neither are the underlying causes.
- Weak auditing criteria, lack of focus on labor standards and difficulty meeting existing certification standards.
- More administrative work for plantation managers to maintain certified status.

⁷⁷ A list of 15 options was provided including the opportunity to add more.

⁷⁸ A list of 9 options was provided including the opportunity to add more.

10. Companies' Internal Management Systems

Six CGF member companies completed a detailed survey about their palm oil sourcing and internal labor rights management systems. Companies' responses were assessed using as a framework the *FLA Principles of Fair Labor and Responsible Sourcing*⁷⁹, which corresponds closely with the United Nations Guiding Principles on Business and Human Rights⁸⁰ and with the OECD-FAO Guidance for Responsible Agricultural Supply Chains⁸¹.

1. LABOR STANDARDS: Company Affiliate establishes and commits to clear standards.

All six companies reported having a Code of Conduct (CoC) or Supplier Code with social standards including the prohibition of the use of forced labor. Several set forth a broader overall sustainability policy, guide, or responsible sourcing policy. Two companies said that they are updating their CoC to align with the CGF principles on forced labor, including the requirement that workers should not pay recruitment fees. While the companies' CoC include forced labor clauses, they do not include the various indicators elaborated in Section 4 of this report.

2. COMPANY STAFF AND IMPLEMENTING PARTNER TRAINING: Company Affiliate identifies and ensures that the specific personnel responsible for implementing labor standards (at head office and in the regions) are trained and are aware of the workplace standards criteria.

No information was collected.

3. SUPPLIER TRAINING: Company Affiliate obtains commitment, drives supplier awareness of labor standards, and tracks effectiveness of supplier workforce training.

Some of the six companies participating in the research are actively engaging with their suppliers (palm oil companies) to encourage concrete actions to improve business practices and to meet social standards. Five companies reported having conversations with their suppliers about the risks of forced labor in their supply chains. Companies' representatives noted willingness among their suppliers to mitigate forced labor risks. One company respondent indicated the business practice of suspending and ultimately ceasing business relations with suppliers that are unwilling to cooperate or to meet standards.

Overall the companies indicated that they work with suppliers (palm oil companies) who are willing to engage and be supportive of continuous improvement. For example, one company representative explained that its suppliers are committed to have grievance mechanisms in place to prevent and mitigate the risk of forced labor. Another company representative explained that relationship building is important. It has established a dedicated team which is in close contact with its suppliers and provides advice and support on improvements. The philosophy is that close contact brings real improvements. Their experience to date, however, is that the

79 http://www.fairlabor.org/sites/default/files/agriculture_principles_of_fair_labor_and_responsible_sourcing_october_2015_0.pdf FLA [affiliated companies](#) are expected to apply a set of ten principles at all levels of their supply chain which will help to guide companies in developing headquarter-level social compliance programs as well as to govern farm-level due diligence.

80 http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

81 <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>



palm oil companies do not yet feel a sense of urgency to work toward drastic improvements. Another company respondent said that through collective action, and in partnership with suppliers (palm oil companies), they support projects that include assessments, workshops, and trainings.

4. FUNCTIONING GRIEVANCE MECHANISMS: Company Affiliate ensures workers, farmers, and their family members (where applicable) have access to functioning grievance mechanisms, which include multiple reporting channels of which at least one is confidential.

Two companies' respondents reported that they require their suppliers (palm oil companies) to have a grievance mechanism, and it is verified during audits. Three companies' representatives explained that they maintain an international helpline or alert line to which all types of complaints and issues can be reported. Another company representative said that information about the helpline is included in its Supplier Code of Conduct, and in several countries a local telephone number is available to increase

accessibility. Another respondent noted that in practice its helpline is not used by suppliers or workers, but that most issues are reported by consumers. Companies' respondents talked about the RSPO's complaint and grievance mechanism, which has been used by several NGOs to register complaints (the complaints are handled by the RSPO task force). Respondents said they would prefer if the RSPO grievance mechanism were more accessible and more transparent in the handling of complaints.

5. MONITORING: Company Affiliate conducts workplace standards compliance monitoring.

Most companies rely on certification for monitoring and five companies indicated that they collect and receive information from their immediate suppliers (palm oil companies) about working conditions at oil palm plantations (which could be further upstream). Two companies' representatives described their systems and procedures to collect information from their suppliers regarding traceability, certification, sourcing policies, verification processes and procedures for dealing with non-compliance and grievances. Another company indicated that it requires suppliers (palm oil companies) to complete a pre-audit questionnaire designed to identify potential red flags and it is evaluated and used as an input for supplier audits. Topics discussed with suppliers were wages, employment contracts, grievance mechanisms and other labor issues. Only one of the surveyed companies is undertaking assessments (including human rights impact assessment) using its own staff and third parties at the plantation level. Three representatives reported their companies have recently started or are planning to look into the labor recruitment process.

6. COLLECTION AND MANAGEMENT OF COMPLIANCE INFORMATION: Company Affiliate collects, manages, and analyzes labor standards compliance information.

Even though companies rely on the certification reports, given that they are weak on investigating and identifying social issues at the plantations or labor recruitment process, they could invest more time and effort in plantation-level monitoring.

This may not be required to be conducted annually, but a good baseline assessment will provide a starting point for companies to start building a program. While monitoring can take several forms, Worker Demographic Profiling, Recruitment Practices and Working Conditions Analysis can be useful to understand the target beneficiaries and labor recruitment process, as compared to a compliance audit.

There are several differences between the respondent companies regarding the level of interaction and procedures for pre-sourcing and ongoing assessments. More information on the collection and management of compliance information is needed.

Regarding traceability, the majority of the respondent companies are able to trace the palm oil to the mills, but none of them have good insight regarding smallholders or the sources of fresh fruit bunches. One company, however, seems to have made good progress with this in Malaysia. Companies believe it is important for their suppliers to be transparent and try to motivate this through awareness building and dialogue (reported by 4 companies), by building long term business relationships (3 companies), by including transparency as a term in their contracts (2 companies) and by paying premiums (1 company). With regard to the companies themselves being publicly transparent about palm oil suppliers, some new developments were taking place at the time of this research. While this research project was being carried out, some CGF members for the first time published their palm oil suppliers and mills list, which is an important step forward⁸².

7. TIMELY AND PREVENTATIVE REMEDIATION: Company Affiliate works with suppliers to remediate in a timely way and preventative manner.

Five of the six companies have taken action over the past five years to address alleged infringements of human and labor rights in the palm oil sector in Indonesia or Malaysia, according to respondents. The companies' representatives said they work with palm oil companies and NGOs on awareness, risks assessments, and developing concrete improvements.

8. RESPONSIBLE PROCUREMENT PRACTICES: Company Affiliate aligns procurement practices with commitment to labor standards.

No information was collected.

9. CONSULTATION WITH GOVERNMENT, LOCAL AUTHORITIES, AND CIVIL SOCIETY: Company Affiliate identifies, researches, and engages with relevant local and international non-governmental organizations, trade unions, and other civil society institutions.

Four companies reported that they do have contact with CSOs in response to a question about working with other organizations. Two company respondents provided the names of well-known international NGOs with whom they work.

The survey instrument did not specifically ask for engagement with governments and local authorities.

10. VERIFICATION REQUIREMENTS: Company Affiliate meets FLA verification and program requirements.

Cannot assess based on the information collected.

⁸² In the first quarter of 2018, four CGF members, including Unilever, Nestle, PepsiCo and Mondelez published their global palm oil suppliers list.

OPPORTUNITIES FOR ACTION

Stakeholders' Suggested Solutions

(Refer to footnotes throughout this section for specific comments by respondents)

Local palm oil companies, mills and international buyers have increased their efforts to mitigate labor and human rights risks involved in palm oil production. Some CGF members and palm oil companies reported taking steps to go beyond reliance on certification systems⁸³ and are actively building internal programs to improve working conditions in their supply chains. The engagement of local actors and CSOs is increasing due diligence and as these actors are conducting human rights impact assessments in their supply chains.

Survey respondents revealed a willingness among CGF members to collaborate⁸⁴ with international organizations, CSOs, peers and their suppliers (palm oil companies). They acknowledged the challenges of working in isolation and that most CSOs currently working

on the ground have assumed the role of service providers as opposed to workers' rights advocates. There is a lack of on-the-ground collaboration or coordination between industry representatives and CSOs. The CGF members recognized the need to work collectively toward concrete and scalable improvements for workers and affected families⁸⁵.

83 Such as the RSPO: Roundtable on Sustainable Palm Oil; ISCC: International Sustainability and Carbon Certification Scheme; RA/SAN: Rainforest Alliance/Sustainable Agriculture Network; ISPO: Indonesian Sustainable Palm Oil; MSPO: Malaysian Sustainable Palm Oil.

84 The suggestions for collaboration included a survey on the labor situation on Malaysian oil palm plantations in collaboration with the ILO; joint monitoring activities with worker organizations and labor unions in plantations in both countries; and co-identification and recognition of forced labor indicators for Indonesia.

85 The suggestion was to convene an industry roundtable to specifically address labor issues including recruitment processes, agent fees, migrant worker permits, etc.

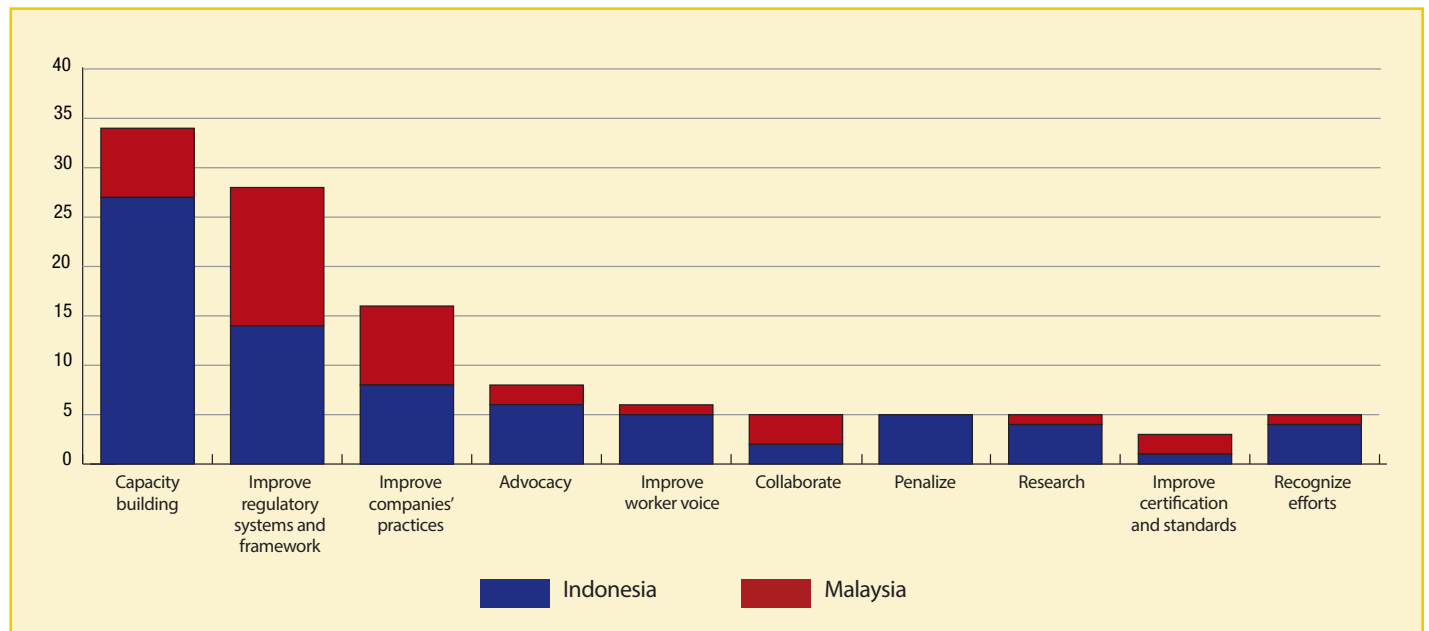


FIGURE 8: STAKEHOLDERS WERE ASKED AN OPEN-ENDED QUESTION ON POSSIBLE SOLUTIONS, AND THEIR INPUTS WERE COMBINED UNDER KEY THEMATIC AREAS

CGF members reported a desire for a collective transfer of ownership responsibility of labor compliance programs to palm oil companies (their suppliers) and local actors⁸⁶. The palm oil companies, according to interviews, are ideally positioned to exert leverage to improve recruitment practices and working conditions. The preferred role of CGF members and buying companies^{87 88}, would be to facilitate the process, help their suppliers (palm oil companies) to identify a common set of standards and progress indicators⁸⁹, and verify demonstrated progress⁹⁰. Similar views were expressed by other stakeholders.

86 Thus far the efforts have been largely driven by multinational companies, without direct control over the plantations and smallholder farmers, mainly for the management of reputational risks.

87 For example, specific recommendation for buyers, especially those farthest downstream in the supply chain such as brands, to financially support the industry transformation toward better practices.

88 The role of buying companies is seen as piloting good practices, providing guidance, and making practical recommendations.

89 Brands/CGF should clearly state the principles and take action if members fail to comply.

90 Stakeholders suggested that companies that participate in RSPO/ ISPO should demonstrate progress in the fulfillment of employment rights, particularly on the issue of wages and recognition for women workers.

Stakeholders based in Indonesia mentioned the following solutions.

1. Capacity building is considered key for Indonesia (Figure 9).

Eight organizations mentioned the need to strengthen trade unions and to promote collective bargaining agreements between workers and employers as a way to address forced labor in Indonesia. Other stakeholders who need capacity building are auditors and certification bodies^{91 92}, civil society organizations, palm oil companies, mills, and workers^{93 94}. CGF members and their suppliers (palm oil companies) can prioritize this in their immediate operations.

91 Further awareness training for ISPO auditors on forced labor issues.

92 Certification bodies should be monitored and ensured to produce only fair, just, and reliable assessments in order to provide certification.

93 Support educational activities that develop the knowledge of labor rights and particularly living wage entitlements amongst palm oil workers. These activities should be conducted in collaboration with worker organizations.

94 Training of trainers for employees on their rights as employees in RSPO certified units.

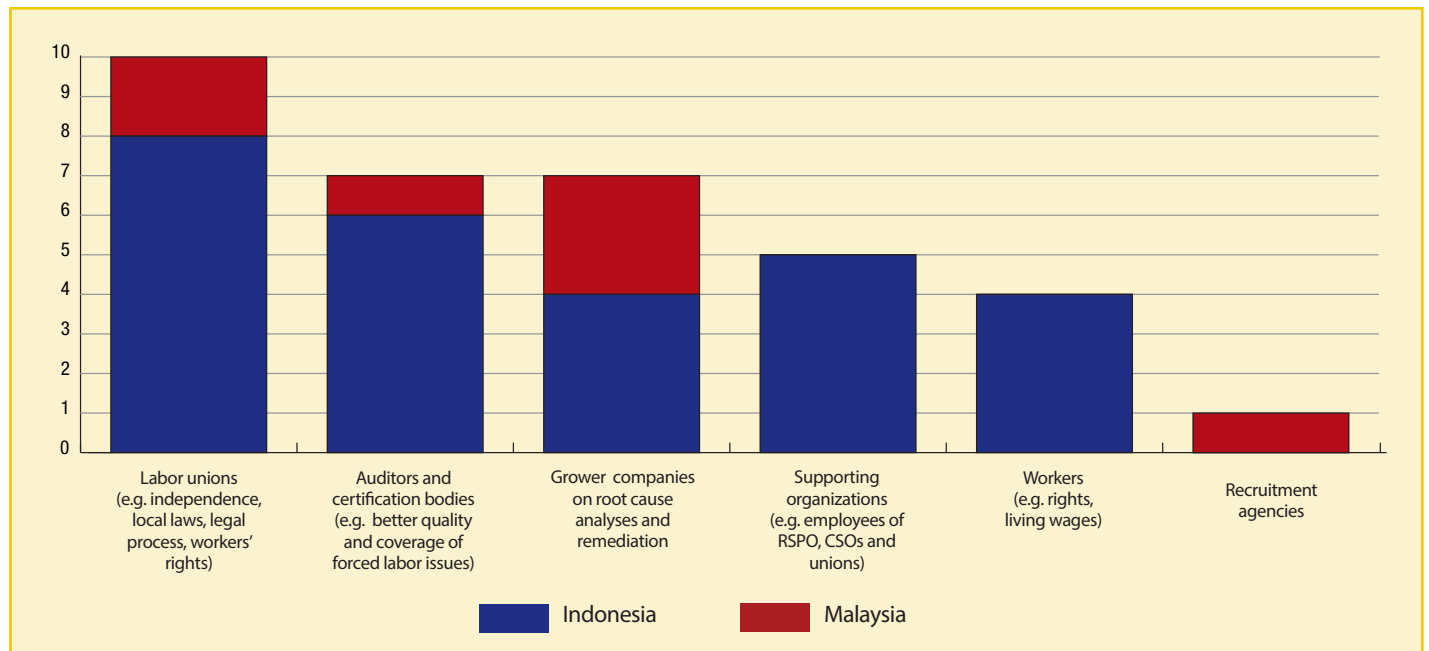


FIGURE 9: STAKEHOLDERS WERE ASKED AN OPEN-ENDED QUESTION ON ACTORS MOST IN NEED OF CAPACITY BUILDING

Stakeholders communicated the importance of workers having more knowledge about and awareness of labor rights and wage entitlements. CGF members and palm oil companies can achieve this through a cascading effect through their supply chain partners. Some stakeholders mentioned the importance of training on gender issues^{95 96}.

2. Improvement in laws⁹⁷, regulations, enforcement and legal frameworks, and enforcement of existing laws and regulations.

Focus should be on ensuring better arrangements for workers and providing better regulation and enforcement for the high number of casual and informal workers. Attention to plantation workers is needed, as the current

regulations appear to be more applicable to workers in industrial sectors, where the labor situation is quite different from agriculture, and palm oil more specifically. Better alignment of the national regulations with international standards was also mentioned as well as having a National Action Plan that should pay specific attention to sustainable palm oil.

3. Improvement in palm oil companies' practices

was considered important in Indonesia, with most attention aimed at decreasing the dependency on casual workers/day-laborers and offering workers permanent contracts. Stakeholders brought up the importance of arranging better terms and conditions for workers, including realistic production targets and no targets linked to earning a minimum wage, freedom to choose to work overtime and having a system that doesn't put workers in the position to feel the need to use children or spouses having to work without pay in order to meet the high targets.

95 There is a need to ensure that both women and men have equal access to training and extension services.
 96 Ensure that both male and female auditors are cognizant of gender issues.
 97 The existing Section 2A of the Employment Act (Act No. 265) should be amended to ensure that the Minister of Human Resources implements this Contract of Service employment relationship on plantations (i.e. all work of a permanent nature in the plantations must be in the form of a Contract of Service between the principal employer and the employees).

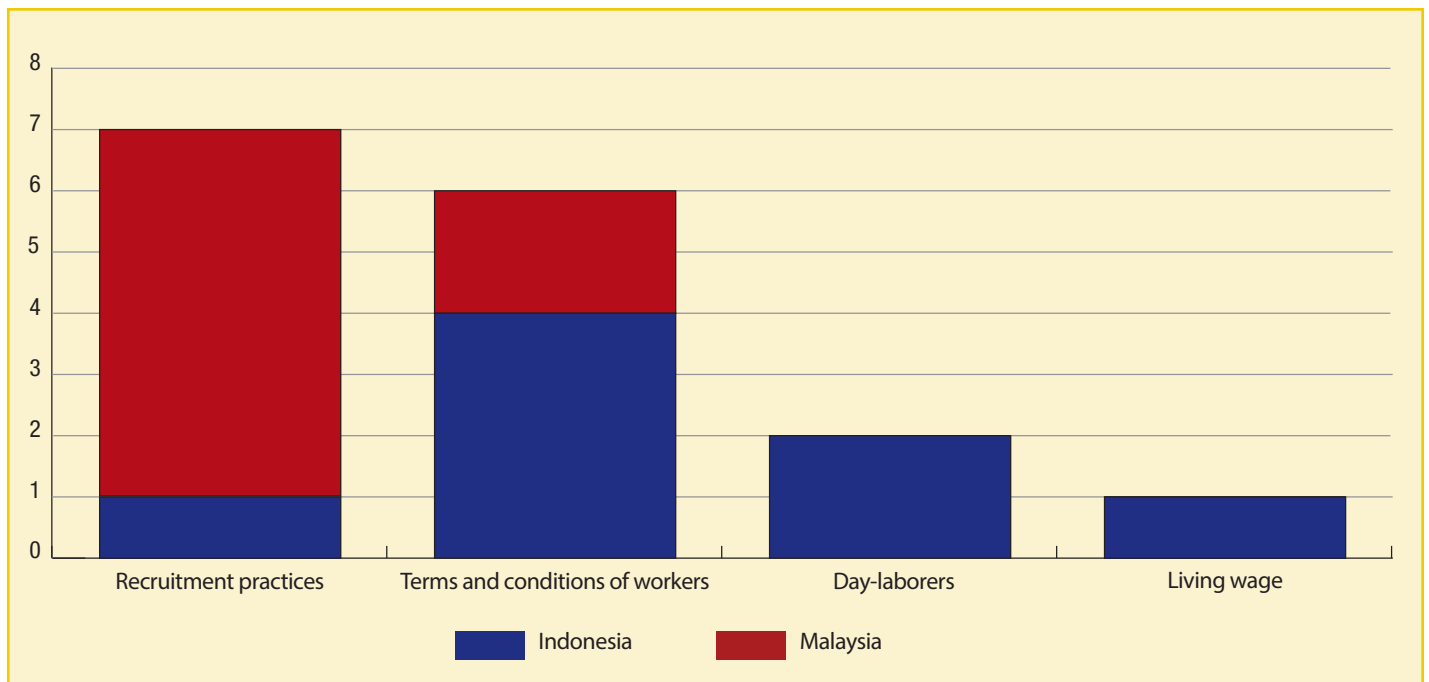


FIGURE 10: IMPROVING PALM OIL COMPANIES' PRACTICES

The top solutions identified by stakeholders in Malaysia were similar to those proposed for Indonesia, although the order of priority differed.

1. Improvement of laws, regulations, enforcement and legal framework and enforcement of current laws. It was recommended that the Malaysian government should:

- Review and amend existing laws and regulations to stop forced labor;
- Enforce existing laws properly;
- Regulate and monitor recruitment agencies and protect workers participating in recruitment corridors;
- Provide adequate resources to labor inspectors to conduct farm level assessments of working conditions on the farms;
- Facilitate, and make the process easier, for birth registration and documentation of children of workers;
- Create policies that fully recognize migrant workers under the national law; and
- Expedite legalization of undocumented migrant workers.

2. Improvement of palm oil companies' practices was the solution mentioned most often. Stakeholders suggested that suppliers (palm oil companies) could improve recruitment and employment practices in the following ways:

- Employers cover the recruitment fees.
- Workers are issued a proper contract by the employer, which includes clear terms and conditions.
- Workers are made aware of their rights and of the terms and conditions of their employment, to which they voluntarily agree.

- Require reasonable work hours and prohibit forced overtime or have defined production quotas.
- Workers are paid according to national law, including benefits.
- Passport (or other important documentation) retention practices are eliminated.
- Living conditions (worker accommodation) are improved as per the international guidelines⁹⁸.
- Undocumented workers should be legally registered at no cost.
- Pay legal wages as well as the mandated benefits and overtime premiums at legal rates.
- Strengthen standardization of practices.

3. Capacity building of various actors in the palm oil supply chain, including growers, mills, palm oil companies and buying companies. This could be facilitated by several actors, such as industry associations, multi-stakeholder groups, universities, and multi-lateral organizations:

- Strengthen capacity to conduct root cause analyses and remediation.
- Decrease reliance on certification or legal compliance audits. Instead, have more robust field visits with the purpose of getting a better understanding of labor conditions and identifying how they can be improved.
- Strengthen, activate and support labor unions, and have them represented among industry groups like RSPO.
- Capacity building of various internal and external auditors⁹⁹ and certification

⁹⁸ <https://www.ohchr.org/en/issues/housing/pages/internationalstandards.aspx>

⁹⁹ It was suggested to undertake better social and environmental impact assessment (SEIA), which is required by law and RSPO standards, both for mills and plantations. However, SEIA practice has many weaknesses, such as poor site visits and participation, and no implementation of the resulting mitigation plan.

bodies¹⁰⁰ ¹⁰¹, for them to be able to recognize and understand forced labor indicators.

- Capacity building of recruitment agencies on components of ethical recruitment and what risks to look for.

Where possible, supply chain actors can join forces on capacity-building activities and work with internationally recognized multi-lateral agencies and civil society organizations who have experience in developing and implementing action-based training programs.

Respondents mentioned additional items that will improve the forced labor situation in the two countries:

- Advocacy efforts by palm oil buyers, including putting pressure on, and providing incentives for suppliers (palm oil companies) to commit, improve and demonstrate progress, and promote transparency and good practices to eliminate forced labor;
- Hearing workers' voices¹⁰², for example through improved access to worksites and plantations, as well as through effective grievance mechanisms¹⁰³;
- Improved assessments and in-depth research on labor situations and wages. This will provide better understanding of root causes. A number of stakeholders mentioned the need to calculate and pay living wages to workers;
- Multi-stakeholder collaborations for strengthening labor rights monitoring and addressing challenges related to the recruitment process of migrant workers, including recruitment fees and worker permits.

The respondent palm oil companies (suppliers)

highlighted the following actions that can help address some of the forced labor issues:

- Pre-competitive collaboration¹⁰⁴ on sustainability issues and collective actions by the industry is key. Pre-competitive collaboration on sustainability means that various companies and palm oil companies share information on labor and human rights issues in the palm oil sector, develop collective action plans for the larger good of the industry, while ensuring that the anti-trust clauses are not violated and discussion on pricing is avoided. Stakeholders such as governments and CSOs must be part of the dialogue and understand the limitations of buying companies and palm oil companies.
- Synergy between government and private sector to alleviate poverty is needed with equitable development in all sectors, especially in education.
- Continuous engagement between the buying companies, palm oil companies, mills and plantations is needed to increase awareness via capacity building programs; trainings/workshops; tracing, engaging and supporting supply chain partners and assisting in addressing issues in a time-bound manner.

100 Strengthening labor rights monitoring in leading palm oil certifications such as RSPO and ISCC. Improving the current certifications programs and standards with more clear indicators and focus on forced labor.

101 Undertake periodic review of the Malaysian Sustainable Palm Oil (MSPO) Standards every 5 years (current practice).

102 Workers should be integrated as real stakeholders in the system, like in audits, in monitoring, etc. Their voices need to be heard and there should be mechanisms that allow for a two-way dialogue with the management. Empower workers to have a voice and defend their rights.

103 Transition grievance mechanism to local ownership, like with the Bangladesh Accord.

104 Pre-competitive strategies are approaches that businesses take to address systemic problems with the delivery of goods and services. It is a business strategy that is often applied when competition for limited resources impacts business more than the competition for customers—if there are no resources to produce a product, there will not be any consumers to compete for.

- Participation of buying companies and palm oil companies in relevant (multi-stakeholder) initiatives to develop guidelines, methodologies, risk assessments, monitoring tools, and verification protocol to identify and mitigate forced labor cases. Furthermore, develop protocols to address forced labor in the context of suppliers' grievances.
- CGF facilitates a study on labor migration corridors and implements recommendations.
- Palm oil companies ensure oversight of the value chain including the recruitment chain either by themselves or working in collaboration with local civil society organizations. Where possible, a direct hiring model is best so as to have oversight

and complete management of the process. Where this is not possible, partnerships and engagements with key stakeholders can help exert influence and pressure to adhere to ethical policies.

- Buying companies and palm oil companies must run their businesses responsibly following the norms and guidance on forced labor to ensure workers are protected and not discriminated against. Oversight of workers' recruitment processes by the recruitment agent should be a must and should be part of transparency and good corporate governance.

BOX 9: Palm oil companies' suggested actions for Indonesia

- Government action on eradicating poverty and upgrading access to education.
- Robust policy on no forced labor for buyers and growers; enhanced awareness with tighter due diligence processes.
- CGF uses its influence for no forced labor among its members or palm oil companies, and provides guidance on forced labor and its impact.
- CGF members could contribute more (especially in terms of resources) to capacity-building efforts of large grower companies for the medium to small plantations. Too much of this effort is being borne currently by palm oil companies without sufficient support from FMCG companies.

BOX 10: Palm oil companies' suggested actions for Malaysia

- CGF members to engage with the Malaysian government on migrant labor processes.
- No limits on work tenures for migrant workers (solves the need to recruit new workers at a regular frequency).
- Social NGOs (in sourcing country/country of origin of migrant workers) take active role in determining approved agents for recruitment processes.
- International labor and human rights organizations get involved in recruitment practices at country/ governmental level.

Potential Partners with High Level of Influence

View from stakeholders

Stakeholders were asked to indicate actors in the palm oil sector with the biggest level of influence¹⁰⁵ related to worker recruitment and improving working conditions. The aim was to identify stakeholders with whom CGF should prioritize future engagement. Respondents considered the following groups as most influential for Indonesia (Table 4) and Malaysia (Table 5).



¹⁰⁵ For the actors with no influence a score of '0' was given, for the actors with most influence a '5'.

TABLE 4: ACTORS WITH HIGH LEVEL OF INFLUENCE ON WORKING CONDITIONS IN INDONESIA (ACCORDING TO STAKEHOLDERS)

INDONESIA'S INFLUENCERS (from highest to lowest level of influence according to stakeholders)	CONSIDERED LEVEL OF INFLUENCE (0-5)
Businesses operating large plantations	4.7
National Government setting regulatory requirements	4.0
International traders and processors of palm oil/palm kernel oil	3.6
International companies sourcing palm oil or palm kernel oil from Indonesia	3.3
Local or regional authorities (including local police) responsible for implementing the law, conducting inspections, providing safety, checking identity papers and work permits	3.3
Civil society organizations working on the issues of workers and communities	3.2
National labor unions representing workers (no unions linked to the company or government)	3.2
Small scale producers operating small oil palm plantations	3.1
Labor contractors and recruitment agencies responsible for attracting and/or contracting labor force	3.0
Industry Associations both international and based in Indonesia	2.7
Workers on plantations and farms	2.7
Certification bodies/due diligence agencies conducting audits and/or standard compliance verification	2.6
International labor unions and confederations of unions	1.9

**One organization noted that RSPO is an important influencer in Indonesia (score 4.0).

**TABLE 5: ACTORS WITH HIGH LEVEL OF INFLUENCE ON WORKING CONDITIONS IN MALAYSIA
(ACCORDING TO STAKEHOLDERS)**

MALAYSIA'S INFLUENCERS (from highest to lowest level of influence according to stakeholders)	CONSIDERED LEVEL OF INFLUENCE (0-5)
Businesses operating large plantations	4.1
National Government setting regulatory requirements	3.9
International companies sourcing palm oil or palm kernel oil from Malaysia	3.4
Certification bodies/due diligence agencies conducting audits and/or standard compliance verification	3.1
International traders and processors of palm oil/palm kernel oil	3.0
National labor unions representing workers (no unions linked to the company or government)	2.9
Industry Associations both international and based in Malaysia	2.5
Local or regional authorities (including local police) responsible for implementing the law, doing inspections, providing safety, checking identity papers and work permits	2.5
Small scale producers operating small oil palm plantations	2.4
Civil society organizations working on the issues of workers and communities	2.1
Workers on plantations and farms	2.1
Labor contractors and recruitment agencies responsible for attracting and/or contracting labor force	1.8
International labor unions and confederations of unions	1.4

Nine groups of actors with a high level of influence (of '3' or higher) were identified in Indonesia, while for Malaysia five groups received a '3' or higher. For Malaysia, certification bodies/due diligence agencies that conduct audits and standard compliance verification were also considered influential on working conditions. For both countries, labor unions were not considered as influential, and workers on plantations and farms were among the least influential with respect to having a say in improving recruitment practices and working conditions.

For Indonesia and Malaysia, in addition to the large and small-scale palm oil companies (suppliers), labor recruitment agencies and labor contractors were considered important in reaching out to migrant workers for potential employment opportunities and conducting a preliminary discussion with workers on the nature of work and compensation.

In Indonesia, the respondents reported that

the local government and regional authorities were also actively involved in this process, and in some cases the local workers' unions and workers also took up this role.

Stakeholders reported that in addition to the palm oil companies (suppliers), national and local labor unions and workers' organizations in both countries were important influencers when it came to providing an employment contract to workers. Respondents highlighted that labor unions should be granted free access to plantations to organize the workforce and that unions could influence the labor recruitment process, setting reasonable production quotas and assisting in determining living wages for workers. In Indonesia, respondents reported that a larger number of stakeholders exercise influence on workers' contracts, including organized labor recruitment agencies, independent labor contractors, local government, international companies, traders and processors.

The role of CSOs was considered important with regard to monetary advances provided to workers for travel or to confirm employment (without risk of debt bondage) in both countries, and for ensuring access to basic services (such as medical, child care, schools, legal advice etc.) to workers in Indonesia.

For both countries, survey respondents viewed certification bodies as having limited influence on improving recruitment practices and poor working conditions. This is an important finding, as for a long period of time, certification was viewed as an assurance system for decent work. Two of the interviewed organizations do not share this view and believe that the certification system can improve working conditions.

Respondents were further probed to identify key influencers, specifically in the life cycle of a worker’s labor recruitment process, where the various stages of the recruitment process were laid out for them¹⁰⁶. Businesses operating large plantations and small-scale palm-oil producers

were reported to have the most influence in all the steps of a labor recruitment process (Figures 11 and 12).

106 Possible Steps in the Labor Recruitment Process (defined by the FLA): (1) Reaching out to possible (migrant) workers about employment possibilities in oil palm plantations; (2) Preliminary discussion with workers on the nature of work and terms and conditions (such as activities, hours of work, compensation, living conditions etc.); (3) Providing an employment contract in a language understandable to the worker; (4) Providing a permanent employment contract to casual or contract workers doing work that can be considered permanent; (5) Safe and free transportation (transit) of workers from home-base location to the work locations; (6) Free of cost preparation of paperwork for workers (such as travel documents, insurance, identity and age verification documents etc.) required for employment; (7) Any monetary advancement provided to the workers for travel or as confirmation of employment (without risk of debt bondage); (8) Introduction of the workers to the plantation management; (9) Negotiation of the working conditions and compensation with plantation management; (10) Setting and monitoring realistic work targets (with acceptable working hours and provision of fair compensation); (11) Arrangements for housing/accommodation of the workers (free of cost, sufficient quality and without restrictions of movement); (12) Resolution of worker grievances or complaints that may arise while working on the plantations; (13) Access to services (such as medical, child care in the case of families, schools for the children of workers, legal advice etc.); (14) Actual compensation (cash and in-kind benefits) paid to the workers and the wage disbursement schedule; (15) Free repatriation of the workers at the end of their contracts.

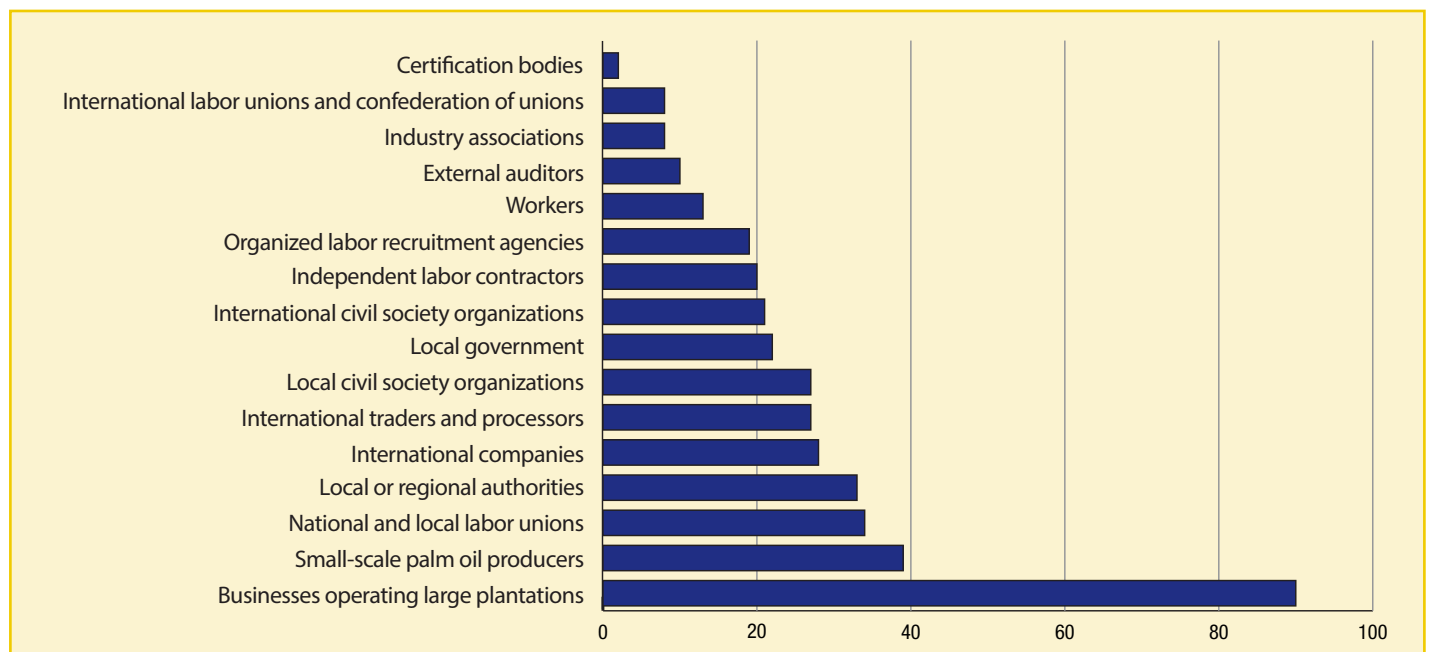


FIGURE 11: INDONESIA - BIGGEST INFLUENCERS ON RECRUITMENT PRACTICES AND WORKING CONDITIONS - ALL ACTIVITIES

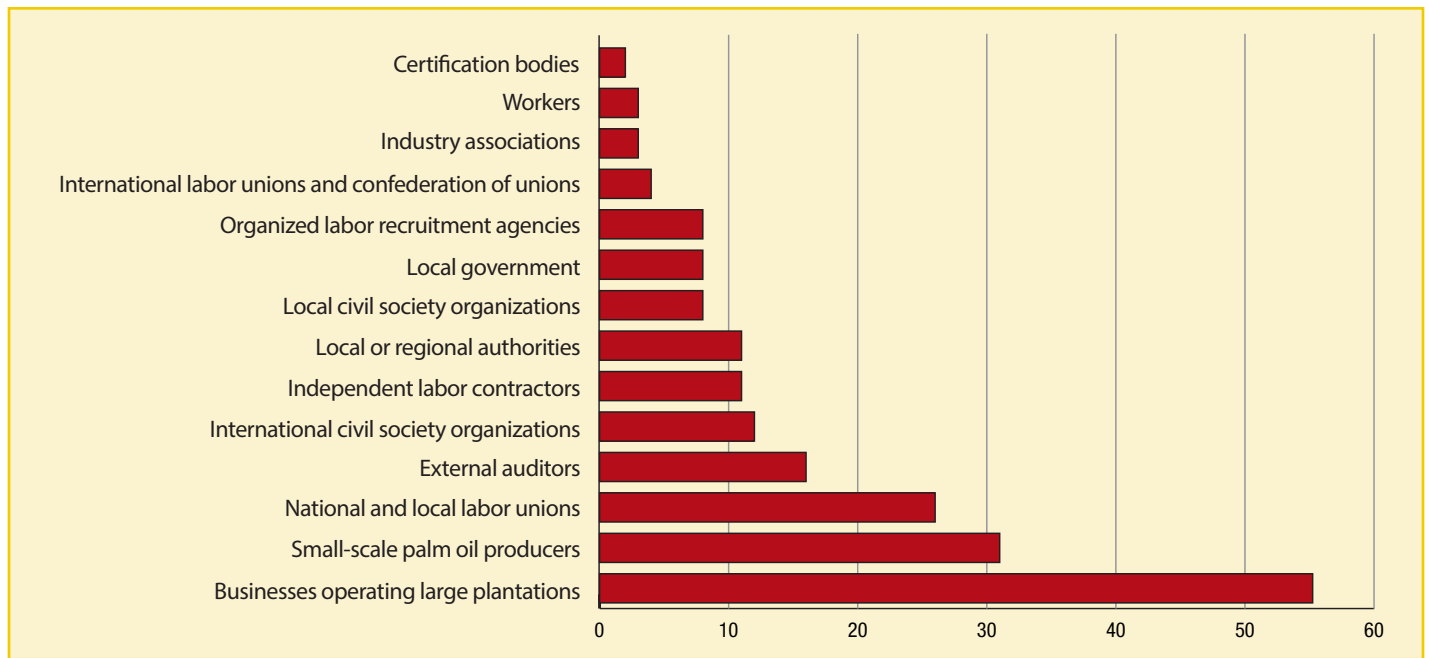


FIGURE 12: MALAYSIA – BIGGEST INFLUENCERS ON RECRUITMENT PRACTICES AND WORKING CONDITIONS - ALL ACTIVITIES

Four of the six multinational company respondents reported that their organizations had begun efforts to address the labor recruitment process. Most of these efforts

were in the planning or policy development phase at the time of the interviews. Companies reported plans to conduct in-field assessments in 2018.



CONCLUSIONS

Addressing forced labor in the palm oil sector, particularly in Indonesia and Malaysia, is a critical endeavor in order to protect and improve the lives of millions of workers. Labor issues in palm oil production are increasingly the focus of advocates for sustainability, government leaders around the world, and individual consumers. The Consumer Goods Forum has the opportunity to play a leadership role in meeting the challenges ahead. The following recommendations, based on the research CGF commissioned, reflect the input of key stakeholders and the analysis of the Fair Labor Association.

Lead lobbying efforts among the industry and key constituencies on forced labor issues.

Advocate for improvements on forced labor, recruitment practices, issuance of identity cards, work permits, and contracts for workers, among CGF members, palm oil companies and growers, and the Indonesian and Malaysian governments.

Facilitate multi-stakeholder and sectoral dialogue and regional collaborations with local governments.

FLA recommends CGF build the capacity of its membership to work with their supply chain partners to address issues in the recruitment process and at the worksite level. Develop a cascading model so the awareness can penetrate the rest of the upstream supply chain.

Conduct deep-dive research that informs members and the industry overall¹⁰⁷.

Stakeholders mentioned research topics such as: (a) labor recruitment processes and migration corridors; (b) Indonesia on production targets (quotas); (c) worker demographic profiling,

TABLE 6: A NUMBER OF ROLES FOR CGF WERE IDENTIFIED THROUGH RESEARCH	
MOST SUITED ROLES FOR CGF	TIMES MENTIONED
Advocacy and lobbying (including raising awareness)	20
Research and knowledge sharing	11
Improving the existing assessments - social impact assessments and audits	11
Multi-stakeholder, sectoral, or regional collaboration and dialogue	10
Improving existing schemes, mechanisms, standards	8
Ensuring commitment and responsibilities	7
Training and capacity building	7
Taking actions in case of non-compliance	7
Reporting compliance status (monitoring)	5
Agree and develop time-bound targets	2
Measuring Impacts	2
Mobilizing resources and funding	2

including assessing workers' life cycles¹⁰⁸; and (d) wage payments and the link to procurement price.

Facilitate knowledge sharing for its members and for the larger social good.

Companies and stakeholders agreed that there is a role for CGF to publicly communicate to bring attention to topics that have industry- and region-wide scope.

¹⁰⁷ Several stakeholders participating in the study recommended that the results of the study be shared with the respondents and made public.

¹⁰⁸ Agents also supply workers to other sectors and commodities; it is hence beneficial to look at the movement of labor across commodities. They may also end up in supply chain of the same or other CGF members.

Improve the existing social impact assessment and assessment methodologies.

Address gaps and adopt solutions suggested by stakeholders through the CGF's Sustainable Supply Chain Initiative: identify experts to assist in defining robust and common forced labor assessment frameworks and develop tools to incorporate workers' voices. Use what is learned to improve existing schemes, certifications, and standards.

Work towards improvement of certification and auditing systems.

CGF should advocate for robust reforms in certification standards to better align with the Free and Fair Principles¹⁰⁹. Improve auditing systems through higher quality audits and independent audits and include procedures that will mitigate forced labor situations on the ground. CGF can play a role in setting up or supporting community-based grievance mechanisms.

Drive members to be 'braver' and ensure CGF members take tangible actions to demonstrate their responsibilities and commitments.

Coordinate the efforts of industry members to enhance transparency, ensure that members source sustainably, and develop time-bound targets¹¹⁰. Engage members more fully in resolution of forced labor issues and impact measurement. Instill a sense of urgency with an eye on implementation. A public time-bound action plan with clear time-sensitive targets would be helpful for that¹¹¹.

Recommendations for companies and palm oil companies, include (a) mapping exercises; (b) defining terms and conditions of ethical recruitment for plantations and recruitment agencies; (c) strengthening contracts and trainings for palm oil companies and plantations; (d) improving grievance handling mechanisms based on the UNGP's eight effectiveness criteria¹¹²; (e) enhancing communication of

clear employment terms and conditions and rights to workers; and (f) bettering verification of recruitment processes and quota systems at the plantations.

Respondents expressed their appreciation of the steps taken by CGF to address forced labor. The commitment of CGF to address forced labor is considered important, and the actions taken by the FLA, including the scoping exercise, have been welcomed. Many respondents feel that CGF is taking responsibility and using its leverage and influence to work on the important topic of forced labor. Through the three Priority Industry Principles and the research with the Fair Labor Association, CGF has raised expectations of the various stakeholders who expect CGF to play an influencing role in addressing forced labor in the palm oil sector.

¹⁰⁹ https://www.humanityunited.org/wp-content/uploads/2015/03/PalmOilPrinciples_031215.pdf

¹¹⁰ For example, being explicit about what 'no fee' means, and what its scope is. Is it only the visa fee or could it also include the expenses related to transit, medical examination, or other expenses incurred as part of the recruitment process?

¹¹¹ Some respondents expressed doubts that the CGF will sufficiently embrace the principles and take up a proactive and progressive approach for identifying, facilitating and striving for concrete and specific solutions, including improved traceability and transparency. CGF was said to be able to make a difference if it were to align with the most progressive companies and ensure that it does not lower the bar to accommodate members that lag behind.

¹¹² **Legitimate:** having a clear, transparent and sufficiently independent governance structure to ensure that no party to a particular grievance process can interfere with the fair conduct of that process; **Accessible:** being publicized to those who may wish to access it and providing adequate assistance for aggrieved parties who may face barriers to access, including language, literacy, awareness, finance, distance, or fear of reprisal; **Predictable:** providing a clear and known procedure with a time frame for each stage and clarity on the types of process and outcome it can (and cannot) offer, as well as a means of monitoring the implementation of any outcome; **Equitable:** ensuring that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair and equitable terms; **Rights-compatible:** ensuring that its outcomes and remedies are in accordance with internationally recognized human rights standards; **Transparent:** providing sufficient transparency of process and outcome to meet the public interest concerns at stake and presuming transparency wherever possible; non-State mechanisms in particular should be transparent about the receipt of complaints and the key elements of their outcomes; **Based on dialogue and engagement:** focusing on processes of direct and/or mediated dialogue to seek agreed solutions, and leaving adjudication to independent third-party mechanisms, whether judicial or non-judicial.

ANNEX 1: In-depth Literature Review

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7. "Vulnerable and exploited: 7 things we learnt about migrant labor in palm oil," The Guardian, 2016.
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9. Untitled Assessment of palm oil industry in Indonesia and Malaysia by UNICEF, 2017 (unpublished).
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11. "Cutting deforestation out of the palm oil supply chain - Company Scorecards", Greenpeace, 2016.
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14. "Palm oil, environmental destruction, stolen land", Sudwind, 2016.
15. "Free and fair labor in palm oil production - Principles and implementation guidance", Humanity United, et al, 2015.
16. "-----" _Hotspot Research - Malaysia - Palm Oil, "-----", 2017. (The funder of the research confidentially shared the report).
17. "Strengthening Protection Against Trafficking in Persons in Federal and Corporate Supply Chains", Verité, 2017.

ANNEX 2: Stakeholder Mapping

STAKEHOLDER MAPPING — PALM OIL IN INDONESIA AND MALAYSIA					
NAME OF THE ORGANIZATION	TYPE OF ORGANIZATION	COUNTRY	SHORT DESCRIPTION OF THEIR WORK IN PALM OIL SECTOR	ACTIVE IN INDONESIA	ACTIVE IN MALAYSIA
RESPONDENTS TO THE STAKEHOLDER SURVEY					
UNICEF International and country offices	UN Agency	Switzerland, Indonesia and Malaysia	UNICEF engaged with the palm oil sector and reviewed the conditions of children there to strategically build on good practices as models for the entire industry. As part of the roll-out of the Children's Rights and Business Principles (CRBP), in 2016 UNICEF Indonesia launched a program that brings together palm oil producers, international brands, industry initiatives and government partners to strengthen existing regulations and develop models of good practice that can be replicated throughout the sector. UNICEF is engaging with companies (international brands and local producers), governments and industry initiatives in order to improve the understanding, commitment and action to implement better business practices that respect and support the rights of workers, families and children – based on the Children's Rights and Business Principles. https://www.unicef.org/csr/palm-oil.html https://www.unicef.org/about/annualreport/files/Malaysia_2016_COAR.pdf	X	X
Humanity United	CSO	USA	Humanity United is a foundation dedicated to bringing new approaches to global problems that have long been considered intractable. We build, lead, and support efforts to change the systems that contribute to problems like human trafficking, mass atrocities, and violent conflict. HU supported the development of the principles and guidance for free and fair labor in palm oil production (March 2015). The Principles and Guidance focus on the hired labor workforce on palm oil plantations and mills, where the risk of worker exploitation is greatest. HU is not focusing on palm anymore. No projects running. https://humanityunited.org/	X	
Tenaganita	CSO	Malaysia	A Malaysian human rights organization founded in 1991 working on issues relating to migrants, refugees, human trafficking. Doing social audits in oil palm plantations, research and advocacy. Tenaganita looks at the conditions of work, wages, health and safety and highlight issues of concern with the management and consumer groups. www.tenaganita.net		X
Oxfam UK and Oxfam Novib	CSO	UK and Netherlands	Oxfam has been working in Indonesia to contribute towards finding lasting solutions to poverty and suffering in the country since 1957. Our present portfolio of work focuses on working to achieve Gender Justice, Economic Justice and Rights in Crisis. Oxfam calls on companies such as member of RSPO to demonstrate progress in the fulfillment of employment rights, particularly on the issue of decent work and recognition for women workers. Activities: participate to RSPO's roundtable meeting every year, meeting and dialogue with palm oil companies Actively support the involvement of worker representatives as a valid and imperative stakeholder category in the RSPO. Activities: training for workers, workshop, facilitate meeting with companies, published a module for workers and principle and guidance for workers. https://www.oxfam.org/en/research/fair-company-community-partnerships-palm-oil-development	X	

Finnwatch	CSO	Finland	<p>Finnwatch is an NGO focused on global corporate responsibility and seeks to promote ecologically, socially and economically responsible business by influencing companies, economic regulation and public discourse. Finnwatch has been focusing on doing research into working conditions in Peninsular Malaysia (using IOI Group as an example case) as well as assessing effectiveness of leading palm oil certifications in relation to labor rights monitoring. The research exposed serious shortcomings in the working conditions at the oil palm estates in Malaysia and led to close dialogue with the palm oil industry. In collaboration with international NGOs, they developed guidelines for free and fair labor in palm oil production. In response to our recommendations, several companies have acted to strengthen labor rights protections in their supply chains. https://www.finnwatch.org/en/what-we-do https://www.finnwatch.org/images/pdf/palmoil.pdf</p>		X
Proforest	CSO	UK	<p>Proforest works with palm oil producers, processors, buyers and investors to help them produce and source palm oil responsibly. We provide training and capacity building to build a more sustainable palm oil sector. Proforest helps people to manage and source natural resources sustainably. We are a not-for-profit group that works with governments, producers and other private sector partners, as well as civil society organizations and NGOs throughout agricultural and forest product supply chains. http://www.proforest.net/en/areas-of-work/palm-oil http://www.proforest.net/en/publications</p>	X	X
Verité	CSO	USA, South Asia	<p>Verité's Program on Ethical Labor Practices in Palm Oil Production seeks to help companies and other stakeholders respond to issues pertaining to labor conditions in the palm oil supply chain through a series of key steps, beginning with understanding and analysis, and ending with direct action to resolve problems. Started in 2008 with palm oil. Research in Philippines on overseas workers, partly go to Indonesia for work in palm oil. In 2011 specifically on labor issues in palm oil. Verité became a RSPO member in 2013. Trying to strengthen the systems to focus also on social and labor certifications. Conducted trainings for certifying bodies, trainings and awareness raising for growers in Indonesia. https://www.verite.org/project/our-work-in-palm-oil/</p>	X	X
IDH	CSO	Netherlands	<p>IDH is a public-private partnership facility that supports development of sustainable commodity supply chains. IDH is funded by the Dutch, Swiss and Danish governments. The Palm Oil program of IDH supports the production of traceable and sustainable palm oil at scale. They do this through partnerships with local and international companies and governments in Indonesia and Malaysia, and by working on the demand side in Europe. They have supported initiatives in Palm Oil, namely, Community Oil Palm Outgrowers Liberia, Dutch Alliance Sustainable Palm Oil, European Sustainable Palm Oil (ESPO), and Traceability Working Group. Our focus remains on avoiding deforestation and greenhouse gas emissions due to expansion of palm oil, while also improving the productivity and sustainability practices of smallholders. Main focus on Indonesia. https://www.idhsustainabletrade.com/news/future-sustainability-within-palm-oil-industry/</p>	X	X

Rainforest Action Network (RAN)	Certification Body	UK	<p>RAN's Conflict Palm Oil campaign has been targeting some of the biggest, most well-known snack food brands across the globe since 2007. RAN works at the intersection of preserving rainforests, protecting the climate and upholding human rights through the lens of corporate accountability. We approach this work through a three-pronged theory of change:</p> <ul style="list-style-type: none"> • Target the companies and industries that act as the greatest drivers of deforestation and climate change; • Partner with and support frontline communities who feel the greatest impact from — and who hold the best strategies to overcome — these challenges; • Identify and move the legislative and regulatory levers of change that will create the greatest positive impact. <p>Our goal is to achieve systemic shifts in the international industries that are primarily responsible for driving tropical deforestation, climate change and the human rights abuses that far too frequently accompany those practices. https://www.ran.org/palm_oil</p>	X	
SOMO	Research Institute	Netherlands	<p>The Centre for Research on Multinational Corporations (SOMO) is a critical, independent, not-for-profit knowledge center on multinationals. Since 1973 we have investigated multinational corporations and the impact of their activities on people and the environment. We provide custom-made services (research, consulting and training) to non-profit organizations and the public sector. SOMO did research in Indonesia and has published the report 'Palming Off Responsibility'. It focuses on labor rights violations and child labor in the palm oil sector and was commissioned by CNV international. https://www.somo.nl/roundtable-sustainable-palm-oil-rspo-companies-violating-labour-rights-human-rights-indonesia/</p>	X	
CNV	Trade Union	Netherlands	<p>Commissioned SOMO research on forced labor in Indonesian palm oil sector. They have conducted case studies in Indonesia revealing serious labor rights violations in palm oil sector. CNV International works to promote decent work conditions internationally. Part of its objective is to promote sustainability in supply chains by strengthening the position of employees in standing up for their rights. One of the focus supply chains is that of Indonesian palm oil. CNV International is collaborating with an Indonesian federation of trade unions called Hukatan, or the Federation of Trade Unions of Forestry, Logging, and Plantations (Federasi Serikat Buruh Kehutanan, Perakayuan dan Perkebunan). https://www.cnvinternationaal.nl/en/our-work/civic-engagement-alliance</p>	X	
International Labor Rights Forum	CSO	USA	<p>ILRF is a human rights NGO that advances dignity and justice for workers in the global economy. In partnership with Indonesian NGOs, ILRF has conducted field research into labor conditions on palm plantations in Northern Sumatra and Kalimantan and co-published reports outlining the findings. ILRF has co-hosted workshops to train Indonesian civil society on how to document common labor abuses in the palm sector, communicate with the media, and seek redress from the companies involved. In partnership with Malaysian NGOs, ILRF meets with a range of stakeholders to promote the adoption of policies to address risks of forced labor among migrant workers. ILRFs work is focused on both improving palm oil workers' conditions of work and ability to have a voice in designing/implementing mitigation and remediation initiatives. https://www.laborrights.org/industries/palm-oil</p>	X	X

Wild Asia	CSO	Malaysia	Wild Asia has built up the experience of palm oil producers in Malaysia, Indonesia, Papua New Guinea, Solomon Islands, Thailand, Cameroon and Ghana. In 7 years, Wild Asia completed 92 assignments and trained over 2,019 professionals and NGOs. A summary of the major assignments includes: Corporate Due Diligence or "Supply Chain" Risk Assessments, Technical Management Support (plantations to small farmers), Biodiversity and Social Assessments, Training in RSPO, People & Environment. In Indonesia they have done assessments, due diligence, research for palm oil concessions. In Malaysia Wild Asia is doing assessments, providing training, supporting RSPO certification. They focus on information gathering and providing recommendations. They have no intervention projects on the ground. http://oilpalm.wildasia.org/	X	X
National Union of Plantation Workers (NUPW)	Trade Union	Malaysia	National Union of Plantation Workers (NUPW) is a trade union organization registered under Trade Union Act 1959 (Act 262). The role of NUPW is confined to Industrial Relations i.e. Collective Bargaining and Collective Agreements, Grievance Redressal Procedures, issues concerning Decent Work promoted by ILO and the economic and social well-being of the plantation workers in compliance with Legislation, Collective Agreements with employer and employer Trade Union, ILO Conventions Ratified by the Government and Recommendations adopted by the Government. The activities of NUPW are confined to Peninsular Malaysia only in compliance with Statutory Provisions of Trade Union Act. The NUPW began in 1946 after World War 2 as Regional Trade Union Organizations in Peninsular Malaysia.		X
Yayasan Tropenbos Indonesia / Tropenbos International (TBI)	CSO	Indonesia	Tropenbos Indonesia is the affiliation of Tropenbos International in Indonesia. It officially became a local foundation (yayasan) on 31 December 2016. At present the working site of Tropenbos Indonesia under the Green Livelihoods Alliance (GLA) program is located in Gunung Tarak landscape, West Kalimantan involving three well known areas: Gunung Palung National Park, Gunung Tarak National Park, and Sungai Putri Peatland Protection Forest. They have published an article on the land use in three regions of Indonesia (Sumatra, Kalimantan, and Papua), in Malaysia, and in Papua New Guinea in industrial scale oil palm plantations. http://www.tropenbos.org/publications/oil+palm+and+land+use+change+in+indonesia,+malaysia+and+papua+new+guinea	X	
Aid Environment	CSO	Netherlands	Research and consultancy on social and environmental issues in the palm oil and forestry sectors. Specific expertise in the fields of community land use, plantation development, HCV and HCS, FPIC, social conflict mediation, certification standards setting, landscape approach, and identification of companies contravening No Deforestation, No Peat, No Exploitation (NDPE) policies. Engaging with, informing and training of private sector, NGOs, and governments and financiers on sustainable palm oil practices. Aidenvironment is designing a smallholder-friendly SEIA (Social and Environmental Impact Assessment) as a member of RSPO (Roundtable for Sustainable Palm Oil). www.chainreactionresearch.com ; www.aidenvironment.org	X	X

Forest Peoples Programme	CSO	UK	<p>International human rights group based in UK with consultative status at UN (ECOSOC) and activities in 22 countries that supports the rights of forest peoples to self-determination and collective rights.</p> <p>Indonesia: 13 years of intensive work on palm. Malaysia: Longer but less intensive work since 1990. In 2012, Forest Peoples Programme carried out a series of field studies in RSPO member/certified companies across Southeast Asia and Africa to provide detailed field information on how and whether the right to Free Prior and Informed Consent is being applied adequately by companies, to expose any malpractice of palm oil companies and to argue for a strengthening of national laws and policies and of the RSPO procedures and standards.</p> <p>http://www.forestpeoples.org/topics/responsible-finance/private-sector/palm-oil-rspo</p>	X	X
Roundtable on Sustainable Palm Oil (RSPO)	Certification Body	Various Locations	<p>RSPO is a not-for-profit association that unites stakeholders from seven sectors of the palm oil industry - oil palm producers, palm oil processors or traders, consumer goods manufacturers, retailers, banks and investors, environmental or nature conservation NGOs and social or developmental NGOs - to develop and implement global standards for sustainable palm oil. The RSPO has developed a set of environmental and social criteria which companies must comply with in order to produce Certified Sustainable Palm Oil (CSPO). The RSPO has more than 3,000 members worldwide who represent all links along the palm oil supply chain.</p> <p>Formation of the RSPO Labour Task Force in March 2017. The RSPO's Principles & Criteria are undergoing a review and this includes a review on the current labor standards to ensure protection.</p> <p>www.rspo.org</p>	X	X
Malaysian Palm Oil Certification Council (MPOCC) / Malaysian Sustainable Palm Oil (MSPO)	Certification Body	Various Locations	<p>Independent non-profit organization to develop and operate the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme. Incorporated on December 2014 under Companies Act 1965. Tasked to develop and operate the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme. Governed by 13-Member Board of Trustee with representation from Oil palm industry associations, Academic and R&D institutes, Smallholders organizations, Government, NGOs and Civil society. Operating the MSPO Certification Scheme with standards on labor-related performance.</p> <p>https://www.mpocc.org.my/</p>		X
Indonesia-UNDP / SPOI (Sustainable Palm Oil Initiative)	UNDP	Indonesia	<p>UNDP supports the operationalization and optimization of ISPO (Indonesia Sustainable Palm Oil standard), as it covers all producers in Indonesia to ensure compliance with the Indonesian legal system.</p> <p>To coordinate and to mobilize critical resources, the UNDP and the Ministry of Agriculture joined forces in 2014. The partnership, known as the Sustainable Palm Oil Initiative (SPOI), aims to catalyze and scale-up fundamental change by defining and supporting long-term sustainable solutions. This will be done through a government-led multi-stakeholder National Action Plan (NAP) that better aligns national, provincial and district policies with the needs of the private sector, communities, farmers and the environment. Additionally, the initiative aims to improve the capacity and legality of oil palm smallholders through the strengthening of the national Indonesia Sustainable Palm Oil (ISPO) standard, a sustainable palm oil certification system mandated by the government.</p> <p>http://www.id.undp.org/content/indonesia/en/home/ourwork/environmentandenergy/sustainable-palm-oil-initiative--spo-pilot-project.html</p>	X	

Malaysian Palm Oil Board (MPOB)	Government	Malaysia	Government body responsible for the promotion and development of the palm oil sector in Malaysia. MPOB is the premier government agency entrusted to serve the country's oil palm industry. Its main role is to promote and develop national objectives, policies and priorities for the wellbeing of the Malaysian oil palm industry. It was incorporated by an Act of Parliament (Act 582) and established on 1 May 2000, taking over, through a merger, the functions of the Palm Oil Research Institute of Malaysia (PORIM) and the Palm Oil Registration and Licensing Authority (PORLA). www.mpob.gov.my		X
ELSAM	CSO	Indonesia	The Institute for Policy Research and Advocacy, a human rights organization, based in Jakarta, established since August 1993. To actively participate in the efforts to develop, promote and protect civil and political rights and other human rights, as mandated by the 1945 Constitution and Universal Declaration of Human Rights (UDHR), has become ELSAM's driving objective. Advocacy agenda of palm oil plantation cases becomes important since Indonesia is the global leader of palm oil plantations that negatively impacts both the environment and human rights. http://elsam.or.id/en/	X	
Resources Humaines Sans Frontieres (Human Resources without Borders)	CSO	France	RHSF is a non-governmental, non-profit organization set up in 2006 by a team of HRM and Corporate Social Responsibility (CSR) professionals (Managers, HRD) and academic experts. Projects to address child labor, forced labor and abusive working conditions, including in the palm oil sector in Malaysia. http://www.rhsansfrontieres.org/en/		X
Nina Hendarwati	Consultant		Social Specialist Consultant		
OTHER STAKEHOLDERS IDENTIFIED					
Amnesty International and country offices	CSO	Switzerland, UK, Indonesia and Malaysia	Has done research on labor rights in the palm oil sector. https://www.amnesty.org/en/latest/news/2016/11/palm-oil-global-brands-profitting-from-child-and-forced-labour/	X	X
International Labour Organization	International Organization	Malaysia and Indonesia	Pilot project on child labor in palm oil plantation http://www.ilo.org/jakarta/areasofwork/WCMS_126206/lang-en/index.htm	X	X
Coalition to Abolish Modern Day Slavery in Asia	CSO	Malaysia	No project in Palm Oil Sector		
Mondiaal FNV	Trade Union	Netherlands	Mondiaal FNV supports the improvement of labor rights and conditions on oil palm plantations in Indonesia and for this purpose finances activities of OPPUK, a labor organization from Medan, Sumatra. https://www.fnv.nl/over-fnv/internationaal/mondiaal-fnv/duurzaam-ondernemen/palmolie_industrie/	X	
Migration Policy Institute	CSO	USA	No project in Palm Oil Sector		
BSR Asia	CSO	Hong Kong	No project in Palm Oil Sector		

Earth Innovation Institute	CSO	San Francisco, USA	One of the work related to palm oil industry is smallholder oil palm farmers mapping and monitoring initiative - all smallholder oil palm farmers have their lands mapped and registered in an online monitoring system. The purpose of the visit was to learn more about the smallholder mapping and monitoring initiative: a massive initiative to ensure that all smallholder oil palm farmers have their lands mapped and registered in an online monitoring system. The work will ensure that companies and consumers will know where palm oil is produced and that is free from deforestation. http://earthinnovation.org	X	
Ceres	CSO	USA	Ceres convened a diverse group of over 18 nonprofit organizations and investor groups to develop common reporting guidance for companies to improve transparency and help all stakeholders understand the gaps in palm oil implementation. https://www.ceres.org/		
Business and Human Rights Resources Center	CSO	USA and UK	Several companies react on the following projects, namely, Equatorial Palm Oil, Oil Palm Uganda, Palawan Palm & Vegetable Oil Mills, and Thaibuathong Oil Palm Company. https://business-humanrights.org/en/search-results?langcode=en&keywords=palm+oil&pagenum=0		
Land Empowerment Animals People (LEAP)	CSO	Malaysia	No specific project in Palm Oil Sector https://www.leapspiral.org/		
WWF Indonesia (or global/UK) WWF Malaysia	CSO	Malaysia	WWF is working on a number of fronts regarding the palm oil sector. WWF is member of RSPO and the Palm Oil Innovation Group (POIG). WWF encourages all players in the palm oil value chain to build upon the asks of the RSPO and to join or support the work of POIG. http://wwf.panda.org/what_we_do/footprint/agriculture/palm_oil/solutions/		X
OPPUK	CSO	Indonesia	OPPUK, the labor organization from Medan, Sumatra stands up for the interests of the workers in the oil palm plantations. OPPUK was one of the driving forces behind the Manifesto Free and Fair Labor in Palm Oil Production. http://oppuk.or.id/id_ID/	X	
The Forest Trust	CSO	Switzerland	TFT is a global non-profit organization that helps companies and communities deliver Responsible Products. We act on the ground in forests, farms and factories to help create products that respect the environment and improve people's lives. TFT has developed an innovative approach to transform the palm oil industry and we believe that certification alone is not the answer. Since 2010 TFT has worked with palm oil growers, mills and processors in more than 20 countries. Our members include Wilmar, Golden Agri-Resources, Cargill and Musim Mas, representing around 80% of global trade. http://www.tft-earth.org/what-we-do/product-groups/	X	X
WRI (World Resources Institute)	CSO	USA	WRI has published a method enabling rapid identification of already-deforested land that could be suitable for sustainable oil palm cultivation in 2012. WRI Indonesia works with leaders in government, business and civil society to protect Indonesia's environment while maintaining its economic potential. We aim to help reform the country's massive forestry and agriculture sectors. http://www.wri.org/	X	

Coalition to Abolish Modern Day Slavery in Asia	CSO	Malaysia	No specific project in Palm Oil Sector http://www.camsa-coalition.org/en/		
Palm Oil Innovation Group (POIG)	Multi-stakeholder Organization	Malaysia	The Palm Oil Innovation Group (POIG) aims to support The RSPO through building on RSPO standards and commitments and by both demonstrating Innovation to implement RSPO existing standards as well as with additional critical issues. POIG focuses on three thematic areas of environmental responsibility, partnerships with communities, and corporate and product integrity. POIG focuses on creating innovations in the palm oil industry and the promotion of these innovations. http://poig.org/	X	X
Sabah Plantation Industry Employees Union	Trade Union	Malaysia	Workers union mostly linked to Sime Darby Plantation workers. TUC affiliate		X
BOS Foundation (Borneo Orangutan Survival)	CSO	Indonesia	No specific project in Palm Oil Sector		
BORA (Borneo Rhino Alliance)	Sector Organization	Malaysia	The role of BORA is to care for the rhinos held in facilities in Sabah and to seek and capture any last rhinos that might exist, doomed in the wild. No project in Palm Oil Sector		X
FFI (Myanmar)		Myanmar	FFI launched the first workshop on the development of a sustainable plantation sector in Myanmar to seek the opportunity to develop its palm oil sector sustainably by planning for agricultural conversion in areas that are already severely degraded and leaving forested habitat untouched. http://www.fauna-flora.org/news/myanmars-palm-oil-industry-heads-for-a-sustainable-path/		
AIM Progress	Sector Organization	Belgium	AIM-PROGRESS recommends that members share Sustainable Palm Oil Sourcing Guidelines within their organizations to ensure awareness and accelerate implementation where relevant. http://www.aim-progress.com/page.php?id=110		
IPOA Indonesian Palm Oil Association (GAPKI IPOA)	Sector Organization	Various Locations	Indonesian Palm Oil Association (GAPKI IPOA) https://gapki.id	X	
UTZ	Certification Body	Netherlands	UTZ and RSPO have a shared vision of making sustainable farming the norm and therefore partnered in 2007 in the domain of traceability. Since 2012, UTZ offered the traceability platform RSPO eTrace to the RSPO and its members to follow certified volumes of palm (kernel) oil through the Identity Preserved, Segregated and Mass Balance supply chains. https://utz.org/what-we-offer/traceability-system/traceability-service/palm-oil/		

Indonesia Business Council for Sustainable Development (IBCSD)		Indonesia	IBCSD provides a platform for businesses to share and promote best practice in tackling risks and taking advantage of opportunities related to sustainable development. It will also act as a key partner to government and civil society providing business input and solutions for Indonesian policies on sustainability issues. The key aims of the IBCSD are to provide business leadership as a catalyst for change towards sustainable development and to support the business license to operate, innovate and grow in a world increasingly shaped by sustainable development issues.	X	
Malaysian Palm Oil Council (MPOC)	Sector Organization	Malaysia	Business council promoting and representing the interests of the Malaysian palm oil industry www.mpoc.org.my		X
Malaysian Palm Oil Association (MPOA)	Sector Organization	Malaysia	Act as the single united voice of the Malaysian oil palm and other plantation tree crop industry. Represent oil palm and other plantation crop interests to government, various statutory bodies, stakeholders and external parties. Promote the future growth and profitability of the industry and support members by providing specific support services. Provide representation for the industry at both the domestic and international levels. www.mpoa.org.my		X
European Palm Oil Alliance (EPOA)	Sector Organization	Netherlands	The European Palm Oil Alliance (EPOA) has been committed to create a science based and balanced view on the nutritional and sustainability aspects of palm oil. EPOA communicates the full palm oil story and facilitates the European debate on palm oil. EPOA members work together towards a shared goal and engage in a range of information sharing and advocacy activities and events to drive common interest. EPOA cooperates with partners including trade associations of food manufacturers, advocacy groups, national alliances and informal networks. https://www.palmoilandfood.eu/en/european-palm-oil-alliance		
Ministry of Human Resource Development	Government	Indonesia and Malaysia	Responsible for labor law policy and enforcement, including inspections	X	X
Ministry of Plantation Industries and Commodities	Government	Putrajaya, Malaysia	Overseeing the palm oil Industry. Launched a committee to investigate labor abuses in 2011 www.kppk.gov.my/mpic		X
Solidaridad	CSO	Netherlands and Indonesia	Solidaridad is an international network organization with partners all over the world. Production challenges such as poor farming practices and land mismanagement in the palm oil sector need focused solutions. We seek to provide country and context-specific solutions for smallholders, mills, and companies by bringing stakeholders together and supporting the implementation of sustainable practices. Working with palm oil traders, corporations, and retailers is critical in fostering sustainability within the palm oil industry because they can set the tone for practices throughout the supply chain. Solidaridad supports palm oil workers and producers to bring their agriculture under sustainable management. https://www.solidaridadnetwork.org/palm-oil	X	
Greenpeace	CSO	Various Locations	Greenpeace focuses on conservation of tropical rainforest and peatland in Indonesia https://www.greenpeace.org.uk/what-we-do/forests/indonesia/	X	

Dutch Banking Sector Agreement / Rabobank	MSI	Netherlands	Palm oil is one of the sectors mentioned in the Dutch Banking Sector Agreement for which they will do a value chain mapping. Besides palm oil, cocoa and gold are mentioned. This agreement was developed and signed by the Dutch Banking Association, Dutch Governments, NGOs and trade unions. 14 banks have signed up as adhering parties. http://www.internationalrbc.org/banking/agreement?sc_lang=en		
WALHI	CSO	Indonesia	WALHI is Indonesia's largest environmental organization and, like GLOBAL 2000, part of the Friends of the Earth network. Land and environmental conflicts relating to oil palm plantations have been one of the biggest issues dealt with by WALHI for many years. https://walhi.or.id/	X	
Sawit Watch	CSO	Indonesia	Sawit Watch was set up in 1998 and since then, we have built a network of over 138 individual members and local contacts working with dozens of local communities in Sumatra, Kalimantan, Sulawesi and Papua as well as West Papua Province. Our mandate is based on the call to support local communities who have lost their forests and livelihoods because of large-scale oil palm expansion and for those in forestlands who continue to resist this development. http://www.forestpeoples.org/en/partner/sawit-watch	X	
Indonesian Palm Oil Platform (InPOP)	Sector Organization	Indonesia	Additional industry responses include the Indonesian Palm Oil Platform (InPOP), established in 2014 to identify solutions to the sustainability challenges in the supply chain through multi-stakeholder dialogue. The Indonesian Palm Oil Pledge (IPOP), which is dedicated to zero-deforestation, is another important initiative, supported by six leading corporations in the industry.	X	
Council of Palm Oil Producer Countries (CPOP)	Sector Organization	Indonesia and Malaysia	Since 2015, the Governments of Indonesia and Malaysia have been discussing the establishment of the Council of Palm Oil Producer Countries (CPOP). This intergovernmental organization would be established in reaction to the perceived encroachment of IPOP's zero-deforestation pledge on national interests.	X	X
Indonesian National Commission for Human Rights (Komnas HAM)	Research Institute	Indonesia	An independent institution that functions to conduct research, monitoring, and human rights mediation.	X	
Tropical Forest Alliance 2020 (TFA)	CSO	Switzerland	This initiative was founded in 2012 at Rio+20 after the Consumer Goods Forum (CGF) committed to zero net deforestation by 2020 for palm oil, soy, beef, and paper and pulp supply chains. The CGF partnered with the US government to create the public-private alliance with the mission of mobilizing all actors to collaborate in reducing commodity-driven tropical deforestation. Since June 2015, the TFA Secretariat has been hosted at the World Economic Forum in Geneva, with financial support from the governments of Norway and the United Kingdom.		
Dutch Alliance for Sustainable Palm Oil (DASPO)	Sector Organization	Netherlands	The Dutch Alliance for Sustainable Palm Oil (DASPO) is a joint venture of Dutch branch organizations in the palm oil chain. The members of the DASPO are committed to making the palm oil chain more sustainable. Sustainable palm oil is defined as palm oil that is certified according to the Principles and Criteria of the Round Table for Sustainable Palm Oil (RSPO) (or equivalent) and is traded according to trading systems approved by the RSPO (or equivalent). The DASPO is the follow-up to the Task Force Sustainable Palm Oil from 2010.		

SPOTT	Charity Organization	UK	SPOTT supports the finance sector and supply chain stakeholders to meet their own commitments, manage risks, and engage with companies to incentivize sustainable commodity production through responsible investment and sourcing.		
SERBUNDO (recommended by Oxfam Indonesia)	CSO	Indonesia	SERBUNDO, an alliance of unions and community organizations whose members and supporters have been impacted by the country's powerful palm industry. SERBUNDO is an Indonesian Plantation Trade Union, where they are independent trade unions that focus on oil palm plantations. Currently they have collaboration with OPPIK to support labor rights on oil palm plantation, especially members of RSPO. SERBUNDO already had 3 Collective Bargaining Agreement (CBAs) in Wilmar Group companies. SERBUNDO office is located in Medan North Sumatra and has branches in East Kalimantan, Jambi in Sumatera.	X	
Hakutan - federation of unions in Indonesia	Trade Union		Indonesian federation of trade unions called Hakutan, or the Federation of Trade Unions of Forestry, Logging, and Plantations (Federasi Serikat Buruh Kehutanan, Perakayan dan Perkebunan). Hakutan is member of the International Trade Union Confederation	X	
PUSAKA	CSO	Indonesia	A non-profit organization established in 2002 by local activists who have extensive experience in advocacy activities for indigenous peoples' rights and popular education.	X	
Inkrispena	CSO	Indonesia	SOMO and Inkrispena did research together in Indonesia	X	
CIFOR	CSO	Various Locations	The Center for International Forestry Research (CIFOR) is a non-profit, scientific institution that conducts research on the most pressing challenges of forest and landscape management around the world. Using a global, multidisciplinary approach, we aim to improve human well-being, protect the environment, and increase equity. To do so, we conduct innovative research, develop partners' capacity, and actively engage in dialogue with all stakeholders to inform policies and practices that affect forests and people. https://www.cifor.org/about-cifor/	X	
Rainforest Foundation Norway (RFN)	CSO	Norway	RFN supports indigenous peoples and traditional populations of the world's rainforests in their efforts to protect their environment and fulfill their rights by assisting them in: (1) Securing and controlling the natural resources necessary for their long-term well-being and managing these resources in ways which do not harm their environment, violate their culture or compromise their future; and (2) Developing the means to protect their individual and collective rights and to obtain, shape, and control basic services from the state. https://www.regnskog.no/en/about-rainforest-foundation-norway		
The Samdhana Institute	CSO	Indonesia	The Samdhana Institute works to: (1) Enhance and enrich understanding of innovative approaches to sustainable resource management and broaden options for local communities. (2) Support efforts to increase understanding, development and implementation of appropriate methods for conflict management and mediation, with a focus on conflict over access to and management of natural resources. (3) Facilitate individual, inter-group and community learning and skills sharing. (4) Provide small grants for community members, groups, their partners and support organizations to implement key activities related to these purposes. http://www.samdhana.org/index.php/programs-and-projects/?get=regio&cod=Indonesia	X	

The Borneo Initiative	Foundation	Netherlands and Indonesia	The Borneo Initiative is an international initiative for the promotion of sustainable forest management among forest concessions in Indonesia. In partnership with the Indonesian Association of Forest Concessionaires (APHI), it offers a platform for cooperation between various partner organisations dedicated to strengthening sustainable forest management. Forest concessions are supported with grant funding, expertise and market links - The Borneo Initiative organizes annual trade encounters to bring together the certified Indonesian forest industries and overseas buyers https://theborneoinitiative.org/	X	
Mighty Earth	Campaign Organization	USA	Mighty Earth is a global campaign organization that works to protect tropical forests, oceans, and the climate. We aspire to be the most effective environmental organization in the world. http://www.mightyearth.org/about-us/		
International Union of Foodworkers (IUF)	International Trade Union	Global	The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) is an international federation of trade unions representing workers employed in agriculture and plantations; the preparation and manufacture of food and beverages; hotels, restaurants and catering services; all stages of tobacco processing. The IUF is composed of 418 affiliated trade unions in 128 countries representing over 10 million workers. http://www.iuf.org/w/?q=node/6551	X	
National Commission on Human Rights (KomnashAM)	Commission on Human Rights	Indonesia	National Human Rights Commission is an independent institution equal level with other state institutions and conducts assessment, research, education, monitoring and mediation of human rights. It is mentioned in Article 1 of Law No. 39 of 1999 on Human Rights. https://www.komnasham.go.id/index.php/about/1/tentang-komnas-ham.html	X	
Human Rights Commission of Malaysia (SUHAKAM)	Commission on Human Rights	Malaysia	The Human Rights Commission of Malaysia (SUHAKAM) was established by Parliament under the Human Rights Commission of Malaysia Act 1999, Act 597. http://www.suhakam.org.my/about-suhakam/		X
HCVNI	Assessment Agency	Indonesia	The High Conservation Value Network Indonesia (HCVNI) was established in April 2011 as a response to the increasing concerns in Indonesia regarding the absence of an entity to improve and to share the knowledge and skills that could eventually improve the quality of HCV assessments. http://hcv-ni.org/pages/about-us/	X	
YIARI	CSO	Indonesia	Yayasan IAR Indonesia (YIARI) is an Indonesian non-profit organisation that runs an orangutan rescue and rehabilitation centre in Ketapang, West Kalimantan. The main long-term goal of YIARI is to establish and/or maintain self-sustaining orangutan populations in the wild, by re-establishing an extinct population, or supplementing a wild population that is under carrying capacity or not currently large enough to be viable in the long term. This is relevant for the palm oil when forests are cleared to make way for oil palm plantations, hereby disrupting the local wild life. http://yayasaniarindonesia.blogspot.com/	X	

SPKS	Trade Union	Indonesia	In Indonesia, the Oil Palm Smallholders Union (SPKS) acts as the voice of lower-level palm oil farmers. It is concerned with improving the management of the industry through the empowerment of farmers and policy support by providing education, training and advocacy. It also voices farmers' concerns on pricing and a more supportive regulatory framework to increase their welfare. https://www.forestpeoples.org/en/partner/serikat-petani-kelapa-sawit-spks-oil-palm-farmers-union	X	
FOKSBI	Public Private Partnership Platform	Indonesia	Forum Kelapa Sawit Berkelanjutan Indonesia www.foksbi.or.id	X	
KSBSI	Trade Union	Indonesia	The Indonesian Workers Welfare Union (K-SBSI) is a national trade union centre in Indonesia. It was founded in 1992 and claims a membership of 2.1 million. http://www.ksbsi.org/index.php/page/link/86/Profil	X	
ITUC	Trade Union	Brussels	International Trade Union Federation's (ITUC) primary mission is the promotion and defence of workers' rights and interests, through international cooperation between trade unions, global campaigning and advocacy within the major global institutions. Its main areas of activity include the following: trade union and human rights; economy, society and the workplace; equality and non-discrimination; and international solidarity. https://www.ituc-csi.org/		



ANNEX 3: Overview of ILO Conventions Ratified by Indonesia and Malaysia

OVERVIEW OF ILO CONVENTIONS RATIFICATION	INDONESIA	MALAYSIA
Forced Labor		
C029 - Convention concerning Forced or Compulsory Labour	✓	✓
C105 - Abolition of Forced Labour Convention, 1957	✓	Denounced
Wages and Working Conditions		
International Covenant on Economic, Social and Cultural Rights	x	x
C100 - Equal Remuneration Convention, 1951	✓	✓
C095 - Protection of Wages Convention, 1949	x	✓
C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992	x	x
C014 - Weekly Rest (Industry) Convention, 1921	x	✓ (Sarawak)
C155 - Occupational Safety and Health Convention, 1981	x	x
C161 - Occupational Health Services Convention, 1985	x	x
C187 - Promotional Framework for Occupational Safety and Health Convention, 2006	✓	✓
C184 - Safety and Health in Agriculture Convention 2001	x	x
C118 - Equality of Treatment (Social Security) Convention, 1962	x	x
C157 - Maintenance of Social Security Rights Convention, 1982	x	x
C110 - Plantations Convention, 1958	x	x
C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948	✓	x
C098 - Right to Organise and Collective Bargaining Convention, 1949	✓	✓
C141 - Rural Workers' Organisations Convention, 1975	x	x
C111 - Discrimination (Employment and Occupation) Convention, 1958	✓	x
C122 - Employment Policy Convention	x	x
Migrant Labor		
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	✓	x
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	✓	x
Convention 143- Migrant workers (supplementary provision), Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	x	x
Convention 97 - Migration for employment convention	x	✓ Sabah (except Annex 1-3)
Gender and Family Rights		
C183 - Maternity Protection Convention, 2000	x	x
C156 - Workers with Family Responsibilities Convention, 1981	x	x
Convention on the Elimination of All Forms of Discrimination against Women	✓	✓
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime	✓	x
Child and Young Workers Protection		
C138 - Minimum Age Convention, 1973	✓	✓
C182 - Worst Forms of Child Labour Convention, 1999	✓	✓
C077 - Medical Examination of Young Persons (Industry) Convention, 1946	x	x
Convention on the Rights of the Child	✓	✓
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts	✓	✓

ANNEX 4: Palm Oil Supply Chain and Task and Risk Mapping

The Palm Oil Supply Chain and Task and Risk Mapping section is based on literature review¹¹³. Several previously published reports highlight the various tiers of the palm supply chains in Malaysia and Indonesia, and review of those materials provides a comprehensive understanding. Several production stages and activities take place before palm oil or palm kernel oil can be used as an ingredient in retail consumer products. The palm oil supply chain can be split into the following main stages (see Palm Oil Supply Chain graphics on pages 4-5):

1. UPSTREAM PRODUCTION includes:

- a) **growing** of seedlings, which usually takes place in a nursery. The young oil palm is then transported to the main plantation or farm for planting and cultivation. Plantation cultivation include weeding, cleaning, application of chemicals and plant nutrients, etc. The plants are regularly irrigated and pruned. The adult palm oil trees yield fresh fruit bunches that are harvested. Harvesting involves cutting of bunches from the trees and allowing them to fall to the ground by gravity. The plantations where these activities take place can be private estates, smallholder estates (less than 50 hectares of land) or government estates. Growing is a labor-intensive activity and the majority of the workers in the palm industry are involved in the growing phase. At the palm estates each worker is expected to take care of the growing activities of about 10 hectares of planted land. Once the fruits are harvested, they are taken to the mills for oil extraction.
- b) the **extraction** of the oil takes place at the crushing mills, where fresh fruits are pressed to extract the crude palm oil (CPO) from the fruit's mesocarp. Through this process the palm kernels are separated, and these are crushed to extract crude palm kernel oil (CPKO). This oil extraction process involves, in summary, the reception of fresh fruit bunches from the plantation, sterilizing and threshing of the bunches to free the palm fruit, mashing the fruit, and pressing out the crude palm oil. The crude oil is further treated to purify and dry it for storage and export¹¹⁴. Crushing mills are usually located in the vicinity of plantations and the fruits are transported there in small and large trucks or push carts. In some countries or regions (in Africa) the fruits may be conveyed to the processing site in baskets carried by persons on their heads.

2. The MIDSTREAM PROCESSING involves:

- a) the **refining** of crude palm oil (CPO) and crude palm kernel oil (CPKO). The refining can be done through physical or chemical processing. To produce refined palm oil, crude palm oil and crude palm kernel oil under go three refining stages, namely degumming¹¹⁵, bleaching¹¹⁶ and deodorization¹¹⁷.
- b) After refining, oil is **stored, traded and transported**. The palm oil needs to be handled, stored and transported according to the Recommended International Code of Practice for storage and transport of

¹¹³ Humanity United has provided useful information on the general palm oil supply chain in their 2012 report. The information provided in this section is largely based on that report, "Exploitative labor practices in the global palm oil industry", Humanity United, 2012.

¹¹⁴ www.fao.org/DOCeEP/005/Y4355E/y4355e04.htm

¹¹⁵ In degumming, the gum and fatty acids in CPO and CPKO are separated alongside other impurities such as trace minerals, copper, and iron by the application of phosphoric acid.

¹¹⁶ In bleaching, the oil is mixed with bleaching earth (bentonite calcium) in a vacuum to remove impurities and color pigments in the palm oil.

¹¹⁷ In deodorizing, the odor and taste of the oil are removed when oil is steamed at high temperatures of between 240-260 degrees Celsius and finally cooled at room temperature.

edible fats and oils in bulk (CAC/RCP 36 – 1987, Rev. 1-1999)¹¹⁸. Refining and trading are strongly related, and these processes are mostly done by the same company.

3. **DOWNSTREAM COMMERCE involves** the business practices of large commercial businesses, including manufacture of consumer goods and food-service operations. This stage includes the manufacturing and retail of products that contain palm oil and derivatives like stearin, olefin and oleo chemicals.

SMALLHOLDER GROWERS

In Indonesia and Malaysia, a large part of the palm production is undertaken by smallholder farmers. Governments of both countries support production by the smallholder estate model in order for lower-income households to have access to work and income. In Malaysia, in particular, there are several government schemes to promote the widespread production of oil palm.

Smallholder estates can be separated into two groups: **(1) dependent smallholders;** and **(2) independent smallholders.**

Dependent smallholders are plantations owned by individual farmers who have an agreement – through a written contract or oral agreement – with a private corporate estate to solely sell their palm fruit to this corporation. The prices for the transactions are mostly pre-determined and do not conform with market prices.

Independent smallholders are not bound by agreements and can sell their palm fruit on the open market. A disadvantage of this system is that independent smallholders are impacted by fluctuations in the prices for fresh fruit bunches. As the bunches need to be sold immediately after harvesting to avoid degradation of the quality of the palm fruit, smallholders are dependent on the willingness of buyers and processors to take the fruit and not in a good position to negotiate a better price¹¹⁹.

In Indonesia a different system was developed in the 1970s, supported and promoted by the government, called “plasma system”. In a 2016 report it is described that within this plasma system, a company develops a large plantation with the infrastructure needed for processing, including an oil mill. Part of the land is provided to smallholders or settlers for them to produce palm oil in plots of about 1-2 hectares. The smallholders cultivate and grow the palm fruits and supply fruit bunches to the oil mill. The company determines the prices paid to smallholders and part of the payment is retained to pay back the investment costs for preparing the land. The NGO Sudwind reports that the intention of the system was to enhance economic development in rural areas, and that in some cases this has worked out well. However, it appears that in the majority of cases, smallholders were not treated fairly and have chosen no longer to collaborate in such systems, as they have lost their confidence in the companies and the government¹²⁰.

¹¹⁸ www.fao.org/docrep/004/y2774e/y2774e07.htm

¹¹⁹ "Exploitative labor practices in the global palm oil industry", Humanity United, 2012.

¹²⁰ "Palm oil, environmental destruction, stolen land", Sudwind, 2016

Several of the largest palm oil companies in Indonesia and Malaysia have integrated businesses including several stages/tiers of the industry, such as the growing, refining and trading of palm oil. Some even produce consumer goods using palm oil.

Large scale palm oil production involves several risks and impacts on the environment, workers and affected populations. The growing and harvesting of palm fruit on plantations involves low-skilled jobs, while work in milling and refining requires a higher skill level; therefore, these jobs are better paid and are considered to involve lower risk of exploitation than work on plantations¹²¹. In this report we focus on the upstream part of the supply chain; a more detailed overview is provided below about the tasks and risks involved in the growing stage (See Table A)¹²².

121 Target Hotspot Research Palm Oil - Malaysia - Confidential, 2017

122 Based on literature review including (Annex 1).

TABLE A: TASK AND RISK MAPPING — PALM OIL PRODUCTION*			
PROCESSING STAGE / ACTORS / UNITS	PHASE OF PRODUCTION	TASKS AND RELATED INFORMATION	SOCIAL AND FORCED LABOR RISKS
Growing (year-round)		<ol style="list-style-type: none"> 1. Growing and harvesting takes place all year round. The yield fluctuates between low periods (about 5 months per year) and high periods (7 months). Additionally, there are fluctuations as oil palms are sensitive to weather and agronomic practices. 2. The growing and harvesting of palm fruit on plantations are low-skilled jobs. 3. Most plantations are located in rural and remote areas, far away from labor markets, which makes it challenging to secure reliable workers to work on the plantations. 	<ol style="list-style-type: none"> 1. Income of workers involved in growing is unstable and fluctuates depending on the yield during the year. 2. In both Indonesia and Malaysia, palm oil growers recruit unskilled workers from distant markets to work and live on their estates. Several unethical practices are related to the recruitment and retention of workers. These include deception about nature of work, high recruitment fees leading to debt, retention of passports, limited freedom of movement, intimidation and exploitation. 3. Health and safety issues include lack of personal protective equipment, access to sanitation and hand washing facilities, drinking water and medical care. 4. Production targets are set for workers involved in growing and harvesting operations. In order to be able to make a minimum wage the workers need to work long working hours which in some cases is involuntary, child labor, insufficient rest time and workers not taking their personal safety seriously. 5. Women are exposed to worse conditions and uncertainty of work as female plantation maintenance workers are usually employed on a seasonal basis, while male harvesters and mill workers are employed more permanently.
Seedling hatcheries / nurseries	Raising seedlings	<ol style="list-style-type: none"> 1. Breeding 2. Raising seedling oil palms in nurseries 3. Irrigation 	<ol style="list-style-type: none"> 1. Possible risks of child labor when nursery care takers use their family members to look after the seedlings.
Plantations	Planting	<ol style="list-style-type: none"> 1. Clearing and land preparation 2. Removing old trees and wild plants and weeding 3. Irrigation 4. Planting seedlings 	<ol style="list-style-type: none"> 1. Smallholder owners often borrow money with a high rate of interest per year from a commercial grower to pay for seedlings, fertilizers, and other supplies. Start-up costs are high and farmers often have difficulty paying back the loan and high interest as their income is low. Through this system, smallholders frequently become indebted to the oil palm company and have difficulty paying back the loan. These loans are often combined with the requirement for the farmers to sell their fruit to the company for prices lower than the market price as long as the debt is fully paid off. This causes a situation wherein farmers are dependent on the company and in a bonded situation.

	Cultivating	<ol style="list-style-type: none"> 1. Pruning 2. Application of fertilizers through spraying 3. Managing pests and diseases, mostly by spraying crops with chemical pesticides (including paraquat) 	<ol style="list-style-type: none"> 1. Workers in maintenance are not paid for the day if it rains at a certain time of the morning (the rain washes away or dilutes the chemicals). 2. Workers applying paraquat and other pesticides are not provided with proper personal protective equipment, and those that are, often do not use them (sufficiently) because of the heat and because it can slow their work pace, leading to lower production and not meeting the target. 3. Spraying is mostly done by casual maintenance workers most of whom are women. Application of chemical fertilizers and pesticides can be damaging to the workers' health. 4. Maternity protections are limited and pregnant workers tend to hide their condition as long as possible. During this period, pesticide sprayers continue to handle highly toxic chemicals on a daily basis which could have serious implications for the unborn babies.
	Harvesting	<ol style="list-style-type: none"> 1. Long sickles are used to cut the fresh fruit bunches (FFB) from mature oil palm 2. Collection of the fallen FFB from the ground 3. Collection of loose fruitlets from the ground (breaking free from the FFB when it hits the ground) 4. Carrying the FFB to the wheelbarrows 5. Loading the FFB into the trucks for transportation 	<ol style="list-style-type: none"> 1. Harvesting takes place year-round and workers need to meet the high quota to receive a minimum wage. To meet the requirements or to get a performance based compensation, workers are forced to work involuntary overtime or to bring family members to help, including children. 2. Children working on the plantations carry heavy sacks of loose fruits. Some transport wheelbarrows full of heavy palm fruit bunches over uneven terrain and narrow bridges. They run the risk of injuries from repetitive movements, carrying heavy loads and from working in an environment where they are exposed to chemicals. 3. Employers can penalize workers for failing to meet targets, doing certain tasks or for mistakes in their work such as for picking unripe fruit. 4. Ergonomic problems related to work and the intense work pace at plantations. Workers are required to lift heavy loads (the FFB), use long sickles to cut the FFB (with risks of injuries) and bend to collect the loose fruitlets from the ground. One report mentioned that targets are set at 1,300 kg of fresh fruit bunches per day.
	Transport	<ol style="list-style-type: none"> 1. Transportation to collection points 2. Transport of FFB from the collection points to the palm oil mills (In general an oil mill can be reached within five hours from the plantations. Typically FFB are delivered to the mill by workers responsible for growing. 	<ol style="list-style-type: none"> 1. Risks of forced overtime and carrying heavy loads.
Extracting			
Mills	Milling	<p>The palm fruit is loaded onto a conveyor belt and undergo a series of automated steps:</p> <ol style="list-style-type: none"> 1. The fruits are sterilized by steam in large and pressurized containers. Sterilization kills any bacteria. 2. Once sterilized, individual fruits are removed from bunches in large threshing drums. Empty fruit bunches are removed as a by-product of this process. 3. Individual fruits are moved to press digesters, whereby steam and physical stirring is used to break down the fleshy mesocarp and to loosen this mass from the palm nut. 4. This creates a mash that is physically extracted using a screw press. Pressing separates the fruit oil from the fruit solids, which are called the press cake and are redistributed to specialist facilities for crushing. 	<ol style="list-style-type: none"> 1. To work in the mills higher level of skills are required as compared to the work on plantations, therefore these jobs are better paid and considered to have less risk of exploitation than the work on plantations. 2. As the fresh fruit needs to be processed quickly after harvesting (within 48 hours), the growers need to work collaboratively and closely with mills. This short period for processing creates situations wherein mill workers are required to work overtime. The mills operate 24 hours a day and with a shortage in the labor force, there is pressure to work overtime. 3. Health and safety risks or other risks could exist.

	Crushing	<p>1. Crushing is an automated process performed at separate and specialized facilities. The press cake recovered from the milling process is administered with a special tool, where the palm nut is recovered and separated from the fibrous cake, which is used as fuel for the crushing process.</p> <p>2. Once separated, the palm nut is cracked and the palm kernel is recovered and separated from its shell by a winnowing system. The remaining shell is discarded.</p>	<p>1. Risk of forced overtime, similar to the milling stage.</p> <p>2. Health and safety risks or other risks could exist.</p>
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*Based on the literature review, including:

"Exploitative labor practices in the global palm oil industry", Humanity United, 2012

"The law of the jungle: Corporate responsibility of the Finnish palm oil purchases", Finnwatch, 2014

"The great palm oil scandal: Labor abuses behind big brand names", Amnesty International, 2016

"Palming off Responsibility, Labor rights violations in the Indonesian palm oil sector", CNV & SOMO, 2017

"Assessment of palm oil industry in Indonesia and Malaysia", UNICEF, 2017 (unpublished)

"The Human Cost of Conflict Palm Oil, worker exploitation in Indonesia", Rainforest Action Network, 2016



ANNEX 5: Resource Documents

1. ILO Indicators of Forced Labor http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf
2. ILO Hard to see, harder to count—Survey Guidelines to Estimate Forced Labour of Adults and Children http://ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182096.pdf
3. ILO Standards on Forced Labor—A New Protocol and Recommendations at a Glance http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_508317.pdf
4. ILO Strengthening Employers' Activities against Forced Labor http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_097734.pdf
5. ILO Combating Forced Labor—A Handbook for Employers and Business http://www.ilo.org/global/topics/forced-labour/publications/WCMS_101171/lang--en/index.htm
6. ETI Human Rights Due Diligence Framework. Can be requested from <https://www.ethicaltrade.org/resources/human-rights-due-diligence-framework>
7. OECD FAO Guidance on Responsible Agricultural Supply Chains <http://mneguidelines.oecd.org/oecd-fao-guidance.pdf>
8. United States Department of Labor (USDA) Guidelines <https://www.gpo.gov/fdsys/pkg/FR-2011-04-12/html/2011-8587.htm>
9. United States Department of Labor Sweat and Toil Application <https://www.dol.gov/dol/apps/ilab.htm>
10. International Trade Union Confederation Guide http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_142664.pdf
11. United States Department of Labor Comply Chain Tool <https://www.dol.gov/dol/apps/ilab-comply-chain.htm>
12. Fair Labor Association Guidance on Supply Chain Mapping <http://www.fairlabor.org/blog/entry/guidance-supply-chain-mapping-transparency-and-traceability>
13. Fair Labor Association Paper on Emerging Supply Chain Mapping and Traceability Regulations http://www.fairlabor.org/sites/default/files/images/supply_chain_traceability_and_transparency_june_2017.pdf
14. Interfaith Center on Corporate Responsibility (ICCR) Best Practice Guidance on Ethical Recruitment of Migrant Workers http://www.iccr.org/sites/default/files/iccrsbestpracticeguidanceethicalrecruitment05.09.17_final.pdf
15. Modern Slavery Registry (company statements): <http://www.modernslaveryregistry.org/>
16. Alliance 8.7 (initiative to combat modern slavery): <http://www.alliance87.org/>

ANNEX 6: Research Methodology and Limitations

The Fair Labor Association's research approach hinges on stakeholders for both issue identification and development of recommendations in a way that fosters partnership to bring about positive impact throughout the supply chain¹²³. Therefore, engaging with stakeholders to elicit their feedback and suggestions has been at the core of this research.

FLA undertook the following steps from September 2017 to September 2018 to collect and analyze primary and secondary data.

STEP I:

Literature Review: The FLA team conducted a review of 17 studies and articles related to the palm oil sector (Annex 1) during September and October 2017. Eleven of these reports focused on working conditions, two on environmental issues; and two on ways to improve sustainability and business and human rights. Of the 17 reports, 13 included specific information on Indonesia and 11 on Malaysia. As data collection progressed, additional news articles and reports were identified. In total, 70 literature sources were reviewed and analyzed.

Regulatory Environment Review: International standards, normative frameworks and national legislative frameworks on forced labor for Indonesia and Malaysia were reviewed. The desk-based review identified international labor conventions and frameworks on forced labor that have been ratified by the two countries. An assessment of the application of the legal frameworks, based on written reports and input from experts, was conducted. It revealed gaps in labor policy and on-the-ground implementation of those standards.

Task and Risk Mapping: The FLA developed a task and risk map of the steps involved in the production of palm oil, including an analysis of the labor abuse risks associated with different activities in the production process. Specific attention was paid to working conditions that would point toward risks of forced labor.

STEP II:

Tools Development and Stakeholder Surveys: The FLA team, in consultation with the CGF Palm Oil Social Taskforce, designed during November and December 2017 three surveys on forced labor in the palm oil supply chain. For the purposes of this project, companies or buying companies are defined as interviewed CGF members who are composed of retailers and manufacturers. Palm oil companies are defined as enterprises, corporations, who are involved in the processing, and/or production of palm oil and may also own oil palm plantations and processing units. This also includes refiners, mills and small holder farmers. They do not include any intermediaries who are only involved in the trading of palm oil.

¹²³ FLA has worked in the agriculture sector since 2004 in over 15 countries in a variety of commodities. We have studied labor abuses and developed and implemented a tiered approach to assessing and addressing the root causes of labor abuses.

The stakeholder survey was administered to 23 civil society organizations, government officials, industry associations, service providers, certification agencies, etc. based in Europe, the United States, Indonesia, and Malaysia. A company survey was administered to staff at six companies headquartered in Europe or the United States that maintain local offices in Indonesia or Malaysia and who buy, consume, and/or retail palm oil-based products. A third survey was administered to five palm oil companies involved in trade, processing and production of palm oil. The palm oil companies operate globally and have local operations in Indonesia and Malaysia.

STEP III:

Stakeholder Mapping and Interviews (January-February 2018): Based on the literature review, complemented with outreach to organizations active in the palm oil sector, an initial list of 70 stakeholders active in the palm oil sector was developed (Annex 2). Included in the list of stakeholders were local and international civil society organizations, UN Agencies, government bodies, and industry associations. FLA reached out to 50 of those 70 organizations and invited them to participate in the research. These 50 stakeholders were considered important as they could provide information on forced labor and human rights. Information was collected on their programs on unethical recruitment of local and migrant workers and practices contributing to forced labor conditions. Emphasis was placed on gathering possible solutions to these issues. About half of the approached organizations (23) agreed to participate in the research, of which 15 provided written feedback and eight opted for online interviews¹²⁴. An additional 28 relevant organizations and individuals were identified (totaling 98 stakeholders). The scope of the research did not allow for collecting information on and reaching out to those additional stakeholders.

Supply Chain Mapping: The FLA collected information on the supply chain during February and March 2018 through desk-based research and via a survey request to six companies sourcing palm oil. Six companies submitted information in the form of written input followed by one-on-one interviews. These companies are large palm oil users and produce consumer goods such as food, personal care items etc.

Five palm oil companies responded to a short survey during August and September 2018. The palm oil companies are leaders in the sector, engaged mostly in the processing and export of palm oil from Indonesia and Malaysia (and other countries). They operate as multinationals and have extensive supply chains with owned plantations and/or processing units, in addition to procurement from several smaller suppliers or mills. Contact with industry members and palm oil companies was arranged with the support of CGF and its members.

STEP IV:

Data Analysis, Recommendations and Reporting: The FLA collated and analyzed both primary and secondary data gathered to identify knowledge gaps in the labor supply chain where ethical challenges might occur.

¹²⁴ Stakeholders who provided input to the survey are: Aid Environment, CNV, ELSAM, Finwatch, Forest Peoples Programme, Hendarwati, Humanity United, IDH, International Labor Rights Forum, MPOB, MPOCC, National Union of Plantation Workers, Oxfam UK/Oxfam Novib, Proforest, Rainforest Action Network, RHFS, RSPO, SOMO, Tenaganita, Tropenbos International, UNDP/ POI, UNICEF, Verité, Wild Asia. See Annex 2 for more information about these and other stakeholders.

Recommendations were developed on building capacity, proposed collaborations, advocacy, and on-the-ground projects that CGF can develop. Recommendations outline roles for key stakeholders identified. Data from the surveys was analyzed using quantitative and qualitative tools.

LIMITATIONS OF THE STUDY

The study has four main limitations. First, the study is desk-based research and did not involve an on-the-ground assessment of working conditions. The research does not include primary data from workers or victims of forced labor; secondary data on working conditions and workers' views was extracted from literature and stakeholder interviews.

Second, the aggregate results from the companies and palm oil companies are based on self-reported data. Data validation by cross-referencing with field level data was not within the scope of the study. To secure responses, the palm oil company survey was abbreviated.

Third, the research did not include feedback from smallholder non-certified growers. Many small palm oil companies and actors across the supply chain have critical perspectives, and further engagement with them is recommended.

Finally, there are information gaps in the current literature. Among the gaps:

- (1) Lack of overview of labor recruitment processes from the home locations of migrant workers to palm estates.
- (2) Lack of analysis of the internal human and labor rights management systems that the company, palm oil companies, and plantations have. While some overview of companies' programs is publicly available in their respective annual reports, no independent third party review of their program is available.
- (3) No insight into the methodology adopted by the plantations to determine production targets for workers.
- (4) Lack of information on how buying companies and palm oil companies adjust and revise their internal responsible sourcing and responsible production practices.



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ABOUT THE FAIR LABOR ASSOCIATION

The Fair Labor Association is dedicated to improving the lives of workers around the world. Since 1999, FLA has convened socially-responsible companies, colleges and universities, and civil society organizations, to create solutions to abusive labor practices by offering tools and resources to companies, delivering training to workers and management, conducting due diligence through independent assessments, and advocating for greater accountability and transparency from companies, factories, farms, and others involved in global supply chains. To learn more, visit www.fairlabor.org.

ABOUT THE CONSUMER GOODS FORUM

The Consumer Goods Forum (“CGF”) is a global, parity-based industry network that is driven by its members to encourage the global adoption of practices and standards that serves the consumer goods industry worldwide. It brings together the CEOs and senior management of some 400 retailers, manufacturers, service providers, and other stakeholders across 70 countries, and it reflects the diversity of the industry in geography, size, product category and format. Its member companies have combined sales of EUR 3.5 trillion and directly employ nearly 10 million people, with a further 90 million related jobs estimated along the value chain. It is governed by its Board of Directors, which comprises more than 50 manufacturer and retailer CEOs. For more information, please visit: www.theconsumergoodsforum.com.