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COVID-19 AND MIGRANT AGRICULTURE WORKERS IN THE PALM OIL SECTOR IN MALAYSIA

Recommendations for Protecting Workers



MIGRANT WORKERS FORM THE BACKBONE OF THE MALAYSIAN PALM OIL SECTOR

There are an estimated 272 million international migrants globally, two-third (164 million) being migrant workers¹. While, a vast majority (68 percent) of migrant workers seek employment in high-income countries, a significant proportion (28 percent) work in middle-income countries such as Malaysia.²

In Malaysia, migrant workers constitute up to 30 percent of the labor force.³ Current estimates on migrant workers vary, ranging as low as 3 million to 5.5 million, comprising of both documented migrant workers (about 2.2 million as of 2016) and undocumented migrant workers (1-3.5 million).⁴ Documented migrant workers are those with a valid passport and working permit, and undocumented (or “irregular”) are referred to as those without it.

In the palm sector specifically, about 80 percent (352,330) of the total 451,507 workers in 2015 were documented migrant workers. Of those 80-90 percent were Indonesian citizens working mainly as fresh fruit bunch (FFB) harvesters and collectors.⁵ These numbers do not include workers who are employed in the palm mills and refineries. While the hiring of undocumented migrant workers is not uncommon in the palm plantation sector, no official estimate can best indicate their number. In East Malaysia (State of Sabah) alone, the 2019 Regularization Program, which aims to legalize undocumented workers’ immigration and employment status, registered over 123,575 undocumented Indonesian and Filipino workers in the plantation sector.⁶ Other migrant workers employed in the plantations, especially in West Malaysia (also known as Peninsular Malaysia), include workers from Bangladesh, India, and Nepal.

1 International Organization for Migration (IOM) [UN Migration]. 2020. [World Migration Report 2020](#)

2 International Labour Organization (ILO). 2017. [ILO global estimates on international migrant workers: Results and methodology](#)

3 International Labour Organization (ILO) and Australian Aid. 2019. [TRIANGLE in ASEAN Quarterly Briefing Note](#)

4 Hwok Aun, L. and Yu Leng, K. 2018. [Counting migrant workers in Malaysia: A needlessly persisting conundrum. ISEAS-Yusof Ishak Institute. Issue Brief No. 25](#)

5 Ismail, A., Ahmad, S. M. and Sharudin, Z. 2015. [Labour productivity in the Malaysian oil palm plantation sector. Oil Palm Industry Economic Journal](#), 15(2), pp. 1-10

6 *The Star*. July 5, 2019. [Over 120,000 illegals register for the regularization program in Sabah](#)

COVID-19 RELATED CHALLENGES FACED BY PALM WORKERS IN MALAYSIA

The outbreak of COVID-19 in Malaysia in early March 2020 had led to the execution of the government-imposed Movement Control Order (MCO) across the country. While many businesses were not allowed to operate since the first phase of the MCO (March 18-31), palm operations were exempted from the MCO and permitted to operate.⁷ Government-issued a stringent [Standard Operating Procedure \(SOP\)](#)⁸ to be observed by the employers in selected sectors, including palm.⁹ While this special permission has allowed some palm workers to work, they face several COVID-19 related challenges due to the government's prolonged movement control and strict measures.

- **Overcrowded detention centers for undocumented migrant workers:** It is common practice to hire undocumented workers in palm operation to fill labor shortages.¹⁰ While some migrant workers enter “irregularly” into Malaysia to work, others come with proper travel and work-permits. Some of them later become undocumented workers for various reasons, including the employer’s failure to renew their working permit (also known as Visit Pass Temporary Employment (VPTE), or leaving their predetermined employer without Government authorization due to exploitation. Starting in April the immigration raid conducted during the MCO arrested over 2,000 undocumented workers by end of the month.¹¹ This had led to the overcrowding of the various immigration detention centers with a lack of physical distancing and an increased risk of COVID-19 outbreak. More than 700 migrant workers tested positive for COVID-19 until end of June 2020, subsequently creating new positive COVID-19 clusters among undocumented migrant workers inside the immigration detention centers.¹² Recently the government has announced repatriation measures for these undocumented migrant workers.¹³
- **Fear among undocumented migrant workers and their deteriorating mental well-being:** Nation-wide immigration-related raids embarked on April 1, caused migrant workers, particularly those without a valid passport and working pass, to go in hiding or cross borders through irregular and unsafe routes¹⁴ and facing detention. They are neither able to work, nor willing to get tested for COVID-19 should they have a symptom or significant travel history. For workers in plantations, the with prolonged MCO and isolation in remote and, rural plantation areas have exacerbated psychological and mental health issues amongst workers.¹⁵
- **Retrenchment and Irregularity:** Due to reduced staffing and MCO, some companies have limited their workforce by up to half. Daily-wage workers on smallholder farms and large plantations are impacted as they are the first to lose their daily employment. Human Rights Commission of Malaysia (SUHAKAM) reported that many migrant workers were neither allowed to work nor informed by their employers about their work status since the MCO was introduced.¹⁶ Workers were unaware of their employment status and immigration

7 *The Star*, March 23, 2020. [Strict SOP for planters to fight Covid-19, says MPOA](#)

8 [Alternative reference on the government-imposed SOP](#) (see p. 7)

9 *The Star*, March 20, 2020. [The palm oil industry gets MCO exemption](#) (The application of the exemption is not clear for smallholders.)

10 *BothENDS* and Forest Peoples Programme. 2020. [The Kota Kinabalu statement on palm oil and freedom of expression](#) (see p. 2)

11 *Aljazeera*. June 2, 2020. [Immigration detention centres become Malaysia coronavirus hotspot](#)

12 July 12, 2020. [Updates on the Coronavirus Disease 2019 \(COVID-19\) Situation in Malaysia](#)

13 *Antaraneews*. June 12, 2020. [TNI intercepts 876 undocumented Malaysia-returned migrant workers](#)

14 *Ibid*

15 *The Edge Market*. March 24, 2020. [Palm oil players reinforce physical distancing during MCO](#). In the plantation sector, pre-COVID-19 there is geographical remoteness and strict procedures to enter and exit. Coupled with a common practice of withholding workers' passport raise concerns on freedom of movement and incidents of forced labor among migrant workers. See *Malaymail*, [September 25, 2018](#)

16 Human Rights Commission of Malaysia (SUHAKAM). May 28, 2020. [Dialogue with Vulnerable Communities: An Assessment of Needs and Next Steps Amid COVID-19 Pandemic](#)

status, as it is employers' responsibility to renew their work permits annually. This raised concerns on retrenchment and "irregularity" amongst migrant workers. Some palm companies are starting to undertake retention measures for workers, such as contract renewal, cash hand-outs, access to e-wallet for all workers including migrants. Meanwhile, the Government is emphasizing recruitment of local workers and reducing the reliance of foreign migrant workers in the palm sector.¹⁷

- **Non-payment of legal wages:** Most workers in the palm sector are compensated based on the type of work and volume of work they can complete (often referred to as the piece-rate system). Shortened hours of operation constrain workers' ability to earn an income equal to before COVID-19. Companies are required by the Minimum Wages Order 2020 to pay a monthly minimum wage of RM1,100 (US\$ 260) or RM42.31 per day (US\$10) or RM5.77 per hour (US\$1.40). Usually, workers earn more than the minimum wage if they complete and produce more than the minimum target production. Expert organization reports¹⁸ document several migrant workers facing non-payment of wages during MCO and the situation worsening post COVID-19.¹⁹
- **Heightened risk of forced overtime and child labor:** Given the closure of borders and employers' actions to refuse the entry of external workers on the plantations, the workers residing on the plantation face heightened risk of forced overtime. Unlike in Peninsular Malaysia, migrant workers in Sabah may be granted a family visa, enabling them to bring their dependents (wife and children).²⁰ Estimates in 2016 indicate that at least 60,000 children of Indonesian citizens and tens of thousands of Filipinos were living around a plantation.²¹ Limited or no access to education, poverty, and lack of proper documentation (e.g., passport and birth certificate), mean that some children are already engaging in palm related activities, either as direct hires or assisting family members.²² The implementation of MCO and the recent decision to freeze the recruitment of new migrant workers until the end of 2020²³ could lead to more children and young workers engaging in the palm plantation production activities.
- **Lack of physical distancing, access to hygiene products and PPE:** Migrant workers on some plantations suffer from precarious living conditions (e.g., living in a container longhouse) and lack proper water supply and electricity, essential sanitary products, and live in overcrowded spaces²⁴ increasing the risk of virus transmission. There is in general lack of PPE post-MCO. The government prescribed standard operating procedure emphasizes the distribution of PPE, and companies are competing to buy PPE, which are already short-in-supply.

17 *Reuters*. June 24, 2020. [Malaysian palm oil producers step up perks to retain foreign workers amid pandemic](#)

18 See Fair Labor Association and Consumer Good Forum. 2018. [Assessing forced labor risks in the palm oil sector in Indonesia and Malaysia](#)

19 See Human Rights Commission of Malaysia (SUHAKAM). May 28, 2020

20 United Nations Children's Fund (UNICEF). 2015. [Mapping Alternative Learning, Approaches, Programmes and Stakeholders in Malaysia](#) (see p. 54)

21 Earthworm Foundation. 2017. [Children in the Plantations of Sabah. Stakeholder Consultation Workshop Report](#)

22 See Earthworm Foundation. 2017, p. 3. Also see Gottwald, Eric. 2018. [Certifying Exploitation: Why "sustainable" palm oil production is failing workers](#). New Labor Forum (see p. 5)

23 *Malaymail*. June 22, 2020. [Freeze on recruitment of foreign workers until year-end, says HR minister](#)

24 *Malaysiakini*. September 28, 2018. [Plantation migrant workers deserve better](#)

FLA'S RECOMMENDATIONS FOR MIGRANT PLANTATION WORKERS IN MALAYSIA

The FLA proposes the following 17 steps to employers to mitigate the negative impact of COVID-19 on migrant workers in the palm sector.

1

Regular communication with workers and their families to identify their immediate needs and concerns. Special attention should be paid to migrant workers. The supervisor can do a quick needs-assessment by a raise-of-hands survey conducted in a language the workers understand, during the morning roll call. Other structured and consistent approaches could be tested by adding an additional agenda item to regular occupational safety and health committee meetings and other employer-worker engagement platforms to enable workers to raise their needs and concerns to management related to COVID-19.

2

Take actions to meet the identified needs and concerns. The requirements, for example, could include:

- in order to cope with stress, provide extended paid leave to migrant workers with dependents in Sabah whose family members are suffering from COVID-19
- ensure payment of minimum wages as required by law, irrespective of the volume of work completed
- provide food, medical, and sanitation supplies and school fee waivers for workers' children
- facilitate means of communication (e.g., phone lines and internet) for migrant workers to be in contact with their family members in their countries of origin
- provide access to psychological support and counseling services
- enhance worker protection and welfare, including creating a dedicated hotline to allow migrant workers to raise their unique needs and concerns for immediate action

3

Integrate the government established SOP on COVID-19 into regular OSH measures in the plantation at the worksite and worker housing. Regularly communicate these measures to workers in language they understand. The measures include:

- create physical distancing measures at the workplace, workers' housing, common areas, and during travel to work using employer-provided vehicles
- provide regular cleaning and sanitization of office spaces, common areas, worker housing, and transportation vehicles
- install hand-washing stations throughout the plantation, and near worker housing

3

continued

- provide soap, clean water, and hand sanitizers
- provide masks and other appropriate PPE at no cost to the migrant workers
- provide information on COVID-19, its prevention, and maintaining proper hygiene, in the languages workers understand
- conduct regular temperature screening
- plan for suspected and positive cases
- create quarantine facilities, but at the workplace and workers' housing

4

Provide for, or facilitate COVID-19 swab tests for all migrant workers and their dependents, with the cost borne by employers. Monitor the health situation, including risk to COVID-19 with the help of the onsite health clinic, medical officers, or specially trained staff including creche handlers and teachers. Appoint and train health and safety officers and workers (including migrant workers and their dependents) responsible for rolling out and overseeing the implementation of monitoring plan. Equip the team conducting the monitoring with appropriate medical supplies and PPE. Screen workers and residents on a regular basis and apply all measures throughout operations, as well as at worker housing, learning centers, day care, and estate clinics. Maintain records of the number and frequency of persons screened, relevant symptoms, and positive cases.²⁵

5

Establish a psychological social support system and/or provide a referral system to enable all workers and especially migrant workers to access counseling services and CSOs to prevent high levels of stress and anxiety due to prolonged movement control and isolation. For migrant workers, facilitate access, including registration to their respective consular (embassy) offices.

6

Take proactive steps to prevent and address discrimination, xenophobia and social stigmatization associated with the spread of COVID-19, including mitigating any rumors and spread of false information across the plantation that could lead to additional stress, anxiety, and other unintended consequences to workers.

7

Maintain documents on work hours for all workers, including daily paid, productivity-based and monthly-salaried workers. This will assist companies to have a record on the movement of workers for COVID-19 related tracking.

8

Companies should ensure that staff reductions or workforce or temporary restrictions on new recruitment²⁶ should not be used as a reason for involuntary and compulsory overtime for workers, including for migrant workers, who may be working during this time.

²⁵ SOP introduced by the government "encourages" employers to record the results for tracking purpose.

²⁶ www.fairlab.org, 2020. [Freeze on recruitment of foreign workers until year-end, says HR minister](https://www.fairlab.org)

9

Review and adjust workers' housing arrangements, including reducing the number of migrant workers sharing the same unit of a house and/or room and establish quarantine or self-isolation facilities in case of suspected transmission. Raise awareness of good hygiene practices, such as displaying posters and disseminating informational brochures to migrant workers in the languages they understand. Offer regular updates to workers during daily morning gatherings.

10

Ensure that all migrant workers (and their dependents in Sabah, Malaysia) have access to accommodations and essential services such as potable water, food, medical, washrooms and showers, cooking and cleaning facilities, electricity, and other housing arrangements if needed for quarantine. Furthermore, ensure that children's education is facilitated by provision of educational materials and school fee waivers during the MCO.

11

Containment measures should not be at the expense of the restriction on the freedom of movement for workers. A clear and upfront communication on the containment measures must be established. Employers should not hold any documents or personal property (e.g., passport, work permits, personal belonging, etc.) to restrict movement.

12

Maintain and reinforce internal grievance mechanisms, ensuring all complaints, including those from the migrant workers, are followed and redressed confidentially. Establish collaboration with local CSOs, including those in the local community, who have workers' trust to provide alternative mechanisms to raise concerns and grievances without the fear of retaliation.

13

Where recruitment of new migrant workers had started before the COVID-19 outbreak, employers should ensure that prospective migrant workers should not be "held" by the recruiters in the country of origin. Where new recruitment cannot happen or is deferred, coordinate with labor recruiters under existing contractual obligations and organize and pay for return travel to workers' places of origin. In the event where recruitment proceeds, on arrival in Malaysia, ensure that the government guidelines on quarantine are observed and that employers cover the workers' expenses, including their monthly wage for the duration of quarantine.

14

For the return (repatriation) of migrant workers, employers should organize and pay for workers' outstanding wages and benefits, and related travel costs to countries of origin. Employers should explain the safety protocols that apply during and after travel (in Malaysia and country of origin) in language understood by workers and provide hygiene travel kits for their journey. Employers should not repatriate workers without their consent and justification, and with due regard to regulations relating to recruitment of migrant workers.

15

Migrant workers have the right to terminate their employment and return home without justification. For migrant workers who have ended their employment tenure and prefer to return to country of origin but are unable to do so due to MCO, employers should provide the necessary support, including basic needs and facilitation of communication and administrative arrangement with the consular (embassy) office and Malaysia's authorities. Employers should bear the travel costs for workers to return home and ensure that no security deposits are charged to secure the return of migrant workers.

16

Ensure all undocumented migrant workers who are in the process of regularization of their immigration and employment status are provided with adequate support, including advisory (e.g., legal and administrative advice), access to consular (embassy) office, and other administrative support.

17

Employers should take the necessary steps to renew the working permits that expired during the MCO, as soon as possible, within the guideline and timelines provided by the government of Malaysia. Ensure that workers whose working permits expired during the MCO and who are unable to return home due to closed borders, are provided the necessary support by their employer (accommodation, food etc.).

For further guidance on the role of employers and labor recruiters on protecting migrant workers during COVID-19, see [International Organization for Migration's guidance](#).

To contact the Fair Labor Association about this guidance, email info@fairlabor.org.