

The background of the entire page is a photograph of an oil palm plantation. In the upper half, tall palm trees are silhouetted against a bright, hazy sky where the sun is shining through the canopy. In the lower half, there is a large pile of harvested oil palm fruit bunches (FBs) on the ground, some showing the characteristic spiky husks. A semi-transparent blue rectangular box is positioned in the middle of the image, containing the title text.

# **THE EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS, MALAYSIA 2018**



**Kementerian Perusahaan Perladangan dan Komoditi**  
**Ministry of Plantation Industries and Commodities**



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*Kementerian Perusahaan Perladangan dan Komoditi*  
**Ministry of Plantation Industries and Commodities**

# **THE EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS, MALAYSIA 2018**

## **FINAL REPORT**

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# ACRONYMS

<b>11MP</b>	11 <sup>th</sup> Malaysia Plan
<b>12MP</b>	12 <sup>th</sup> Malaysia Plan
<b>ACS</b>	Adaptive Cluster Sampling
<b>ATIPSOM</b>	Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act
<b>CL</b>	Child Labour
<b>DOSM</b>	Department of Statistics, Malaysia
<b>EB</b>	Enumeration Block
<b>FELDA</b>	Federal Land Development Authority
<b>FL</b>	Forced Labour
<b>G2G</b>	Government-to-Government
<b>ILO</b>	International Labour Organization
<b>JIM</b>	<i>Jabatan Imigresen Malaysia</i>
<b>JTK</b>	<i>Jabatan Tenaga Kerja</i>
<b>LFS</b>	Labour Force Survey
<b>MAPA</b>	Malayan Agricultural Producers Association
<b>MAPO</b>	<i>Majlis Antipemerdagangan Orang</i> Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council
<b>MOHA</b>	Ministry of Home Affairs
<b>MOHR</b>	Ministry of Human Resources
<b>MPI</b>	Ministry of Primary Industries
<b>MPIC</b>	Ministry of Plantation Industries and Commodities
<b>MPOB</b>	Malaysian Palm Oil Board
<b>MSE</b>	Multiple System Estimation
<b>MSPO</b>	Malaysian Sustainable Palm Oil scheme
<b>NUPW</b>	National Union of Plantation Workers
<b>RSE</b>	Relative Standard Error
<b>RSPO</b>	Roundtable on Sustainable Palm Oil
<b>SDG</b>	Sustainable Development Goals
<b>SNA</b>	System of National Accounts
<b>Sub-NAP</b>	Sub-National Action Plan
<b>TVPRA</b>	Trafficking Victims Protection Reauthorization Act
<b>US</b>	United States
<b>US DOL</b>	United States Department of Labor

## EXECUTIVE SUMMARY

The Employment Survey in Oil Palm Plantations, Malaysia 2018 was carried out to estimate the prevalence of forced labour and child labour in oil palm plantations in Malaysia. This study was commissioned by the Ministry of Plantation Industries and Commodities (MPIC). The survey was conducted by the Department of Statistics Malaysia (DOSM) with technical support from the International Labour Organization (ILO).

The Cabinet first directed the Ministry of Plantation Industries and Commodities to undertake a comprehensive study on 24 March 2017 in response to the United States Department of Labor (DOL) listing Malaysia in their List of Goods Produced by Child Labor or Forced Labor (TVPRAList).

Malaysia is one of the most important oil palm producing countries in the world. As one of the top export earners in foreign exchange, the oil palm industry, together with its oil processing activity, has become an important source of employment in the Malaysian economy. Palm oil is a key ingredient in a large number of food, consumer and industrial products.

Malaysia is committed to Agenda 2030 and the Sustainable Development Goals (SDG), a United Nations initiative. Malaysia has also made significant efforts to develop a sustainable oil palm sector, supporting the Roundtable for Sustainable Palm Oil, and more recently introducing the Malaysian Sustainable Palm Oil (MSPO) scheme. The main purpose of the MSPO is to get the entire industry, large plantations and smallholders, to adopt more sustainable practices in the industry.

Malaysia's foreign worker management is implemented through a system of licensed labour recruitment and work permits. Malaysia has continued to make changes aimed at improving working conditions and eradicating forced labour and child labour. The Malaysian government aims to ensure that the protection of workers' rights is at par with international standards and which adhere to conventions established by the ILO. The Minister of Human Resources announced in 2019 that the government has declared an "all-out war" against forced labour as it does not want to attract sanctions against Malaysian goods and services, which will hurt

the economy in the long run. Through engagements with external parties, especially the ILO, the US State Department and the US Department of Labor, the Malaysian government has extended its cooperation and made concrete changes in order to address labour exploitation, forced labour and human trafficking.

Many of the reports and documents quoted by the U.S. State Department, U.S. DOL, international organisations and newspapers on forced labour and child labour are frequently cross-referenced with each other, sometimes based only on a single report. Most of the cases in the reports cannot be verified because of confidentiality and personal safety reasons. Their justification, which may be valid, is that the victims could be in danger if it is traced to them. This issue is then a conundrum as victims cannot be helped for fear that their identities would fall into the wrong hands.

In response to these allegations, the Malaysian government has issued several clarifications of the measures taken to prevent forced labour and to protect migrant workers living and working in the country. Malaysia conducted a preliminary forced labour study on the labour situation in Malaysian oil palm plantations in 2014, using the ILO Guidelines entitled Hard to See, Harder to Count. The findings showed that the incidence of forced labour among adults in oil palm estates was 0.49%; child labour was not covered in the study. The survey found evidence of workers' passport retention (safekeeping of travel documents to prevent thefts and misplacements), living conditions and debt bondage.

The 2018 US State Department, Trafficking in Persons (TIP) Report reported that while the Malaysian government made efforts to combat trafficking, it still did not meet the minimum standards for their listing status to be removed. As a result, the US State Department listed Malaysia in the Tier 2 watch list based on the extent of the government's efforts to comply with the "minimum standards for the elimination of trafficking" found in Section 108 of the Trafficking Victims Protection Reauthorization Act (TVPPRA).

## Methodology

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This new study, Employment Survey in Oil Palm Plantations Malaysia 2018, was carried out with specially designed forced labour surveys as outlined in an ILO paper entitled "**Design of forced labour surveys: Recent experiences and tentative guidelines**". Using the Guidelines

ensured a standardised collection method with various quality control measures, and the use of standard definitions of forced labour concepts and conditions enables a comparison of results with surveys that use the same methodology. Adherence to the ILO guidelines on terminology and definitions will thus provide confidence to the survey results.

The target population of this survey includes all workers aged 5 years and over who are employed or engaged in labour activities in oil palm plantations in Malaysia. There are 13 oil palm plantation occupations found in the Malaysian Standard Classification of Occupation (MASCO), and any one of them would qualify as an oil palm worker.

After taking technical and other considerations into account, a stratified multi-stage sampling design with adaptive cluster sampling (ACS) scheme was adopted for this survey. The survey was conducted using a household sample survey approach where data is collected at the place of residence of oil palm workers and covers both non-institutional and institutional households. The plantations were selected using a probability proportionate to size (pps) method from the MPOB's sample frame of oil palm plantations. The selected plantations are then overlaid onto a map of Enumeration Blocks (EBs). The selected EBs are either linked to the plantations (Linked EBs) or paired to one of the Linked EBs (Paired EBs). Finally, using ACS, living quarters are selected in the chosen EBs, where household members are screened and interviewed

The questionnaire that was used in the 2018 Employment Survey comprised three modules dealing with employment, forced labour and child labour. It was developed collaboratively between DOSM, ILO and MPIC, deliberated by the Technical Committee and approved by the Steering Committee. A sample of the questionnaire is shown in **Appendix B**.

The definitions and counting rules used to determine if a worker can be classified as forced labour and/or child labour were finalised during a ten-day ILO mission undertaken from 17 to 28 September 2018, and are as follows:

**Oil Palm Plantation Worker (Aged 18+):** Employed in an oil palm plantation occupation (see Section 3.6.1) at the current main or secondary job during the reference week.

**Oil Palm Plantation Worker (Aged 5-17):** Employed in an oil palm occupation, at a main or secondary job, or as the main activity during the last 12 months.

**Forced Labour:** 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.

**Forced Labour of Children:** Work performed by a child under coercion applied by a third party (other than his or her parents) either to the child or the child's parents, or work performed by a child as a direct consequence of his or her parent or parents being engaged in forced labour conditions.

## Findings

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### Forced Labour

Based on the survey estimates, the prevalence of forced labour among oil palm plantation workers in Malaysia is 0.8% or alternatively 8 out of 1,000 oil palm workers were in situations of forced labour. The prevalence of forced labour is the same in government schemes, private estates or smallholder oil palm plantations, at 0.8%-0.9%. The prevalence rates of forced labour were considerably higher in Sarawak (1.3%) than in Peninsular Malaysia and Sabah, each at 0.6% respectively. Sarawak has slightly more than half of the forced labour, followed by Sabah at about one-third. By occupation, 95% of forced labour are oil palm plantation labourers and the rest are manuring workers and oil palm truck drivers. The majority of the forced labour workers are employees (95.7%), with only 4.3% being unpaid family workers. The prevalence rate of forced labour was also considerably higher among non-Malaysian citizens (1.44%) than Malaysian citizens (0.1%). Among those in forced labour, about 80% are males; 65% are in the 25-44 age group, and 10.6% are aged between 5-17 years. Workers in a forced labour situation work about 48 hours per week. Some of them have attended secondary school.

Conventional forms of forced labour are more prevalent than its newer forms. Top on the list of involuntariness is "the job itself" as cited by 47.5% of workers in forced labour condition. This is followed by involuntary overtime or on-call beyond 12 hours per day at 24.6%. Only 4.3% of the forced labour workers cited that they do not receive compensation for involuntary overtime or on-call beyond 12 hours per day. More than half of the forced labour workers

were obliged to continue the activities they did not agree with or were unable to leave their employer because they faced the threat of financial penalties/fines (51.9%) while another 51.6% reasoned that the renewal of work permits relies on the employer. Employers were found to have held onto their foreign workers' passports: 31.6% of the workers stated that they do not have access to their passports. The new forms of forced labour found in the oil palm sector include abuse of vulnerability ("under constant surveillance", "loss of due wages", "in isolated place with no access to outside world" and "fear of threats and violence"), fraud and deception ("work in illicit activities", "work for longer period than was agreed", "work for other employers that were not agreed to").

### **Working Children**

The prevalence rate of working children in oil palm plantation households is defined as the number of working children aged 5-17 years divided by the total number of children in those households. The prevalence rate is estimated at 14.5% in Malaysia, about 42,500 working children. Among the three regions, Sarawak recorded the highest prevalence rate of working children at 20.4%. Independent smallholders and private estate oil palm plantations recorded prevalence rates of working children at 15.9% and 14.0% respectively. The prevalence rate of working children is low in government scheme plantations (5.9%).

Among working children, 55.5% of them are found in Sabah, 41.7% in Sarawak and 2.9% in Peninsular Malaysia. Out of 10 working children, 7 are Malaysian citizens. About 61% of working children attend school full-time. The median number of hours worked by children during the reference week was 16 hours, and the majority of them were unpaid family workers (77.5%). Age-wise, 38.5% in the age group 5-11 years and 23.5% aged 12-14 years were found to be working. These two groups together constitute 62% of working children who are below the legal working age as stipulated in the Children and Young Persons (Employment) Act, 1966 and also its amendment (2010). Children under the age of 15 are allowed (under the Act) to work under certain conditions. Those aged 15-17 years, i.e. young persons, account for 38% of working children.

### **Child Labour**

Child labour is defined as all persons below 18 years old associated with oil palm workers who are engaged in work that is likely to harm their health, safety or morals. The survey estimated



that 33,600 children aged 5-17 years are child labour. The prevalence rate for child labour out of total children who are associated with oil palm workers is 11.5% with Sarawak being the highest at 15.3%, followed by Sabah at 12.1%.

Of all child labour in oil palm plantations, the proportion in Sabah is 58.8% (estimated at 19,800 children), followed by Sarawak at 39.5% (13,200). Private estates and smallholders also had 14% and 15.9% prevalence rates of child labour respectively. About two-thirds of child labour are Malaysian citizens, while the remainder are foreign-born children mostly from Indonesia and the Philippines; family members of foreign workers are not allowed to accompany them or to live in Malaysia.

A significant proportion of child labour are aged 5-11 years, estimated at 47.5% while those aged 15-17 account for 30.9%. The survey also revealed that three out of every four in child labour are unpaid family workers with the majority (58.9%) still schooling full-time. As the wages of oil palm workers are highly dependent on the fruits harvested, it is not uncommon to find children of oil palm plantation workers helping out in activities such as picking loose oil palm fruits especially after school or during weekends. This is evident from the high percentage of unpaid family workers among child labour (75.1%). 23.8% of the 5-11-year-olds work less than 42 hours during the reference week.

### **Child Labour in Hazardous Work**

About 33.6% of those in child labour are involved in operating hazardous equipment at work. Another 11.5% are exposed to hazardous conditions. The survey estimated that the prevalence rate of child labour in hazardous work is 8.3%, involving about 24,200 children aged 5-17 years. Out of this total, 60.9% are found in Sabah while 37.9% were found in Sarawak. Most of the child labour in hazardous work are Malaysian citizens (59%), and about 43% are children aged 15-17. The highest prevalence rate is found in private estates, followed by smallholders. Comparing the prevalence rate of child labour in hazardous work with the prevalence rate of child labour at 11.5% implies that 3 out of every 4 children who are in child labour are involved in hazardous work. Sarawak has the highest prevalence rate of child labour in hazardous work at 10.5% while Sabah registered 9.0%; 69% of child labour in Sarawak involves hazardous work and the corresponding figure for Sabah is 74%. Again, the majority are unpaid family workers with 51.1% still schooling full-time.

## **Forced Labour of Children**

The survey estimated that the prevalence rate for forced labour of children is 0.2%. The highest prevalence rate of forced labour of children is reported in Sabah at 0.3%, followed by Sarawak. Less than 500 children are in forced labour with the highest share seen in Sabah at 86.2%. The majority of these children are also non-Malaysian citizens (85.5%) and are mainly in the 15-17 years age group (68.5%). None of the children in the 5-11 years age group are in forced labour. About 71.5% of the forced child labour are employees and have mainly completed schooling (85%). Note that children of parents who are in forced labour are also classified as being in forced labour. The prevalence rates for private estates and independent smallholders are 0.3% and 0.1% respectively. The number of children in forced labour is very low ( $n < 30$ ), and can be considered as insignificant.

## **Recommendations**

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There are two main short-term recommendations proposed for action within the remaining 11MP period (2019 – 2020) that will provide the overall strategy and framework to eradicate forced and child labour in the Oil Palm sector and two medium-term recommendations for the 12MP period (2021-2025). The short-term, immediate actions are a high priority as they will set in place the institutional structure and work programmes, and be the focal point for the Ministry. The medium-term plan is to build a strong partnership among the key stakeholders: employers, workers and government, define their key roles and push for self-regulation of the industry. Some of these roles can begin even now. These recommendations aim at setting high standards for the industry for it to be recognised as a socially responsible sector.

### **Short-Term Recommendation 1: Special Task Force on Forced and Child Labour**

A special Task Force on Forced and Child Labour in the oil palm sector is needed to provide leadership to resolve this special problem, as powers and responsibilities are spread across many agencies and institutions. The proposed Task Force shall be within the ambit of the MPIC and will be given the responsibility to:

- 1) take the lead in developing a sub-National Action Plan,
- 2) be responsible for the child labour issue in the oil palm sector,

- 3) be the focal point for all labour related issues that concern the development of a socially responsible industry,
- 4) work with the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council (MAPO) to ensure the strict enforcement of ATIPSOM 2007 in the industry; and
- 5) be the key institution that conducts engagement with the public and other local or international organisations on this issue.

### **Short-Term Recommendation 2: Sub-National Action Plan on Forced and Child Labour**

The sub-National Action Plan (sub-NAP) for the sector will tackle issues faced by workers at each stage of their interaction with the Malaysian Oil Palm sector, namely the recruitment process, on-the-job welfare and protection as well as the foreign worker permit renewal or repatriation process. Some of the actions that can be included in the sub-NAP are:

- 1) improving bilateral and national coordination in the labour recruitment process,
- 2) commissioning studies to provide information for policy action,
- 3) incentivising the adoption of MSPO and tightening MSPO Principle 4,
- 4) improving the surveillance, i.e., monitoring and evaluation, system,
- 5) amending legislation to tackle modern forms of forced and child labour, and
- 6) improving the workers' permit, employment pass renewal and worker repatriation processes.

### **Medium-Term Recommendation 1: A Partnership and Strategy Approach for the Oil Palm Sector**

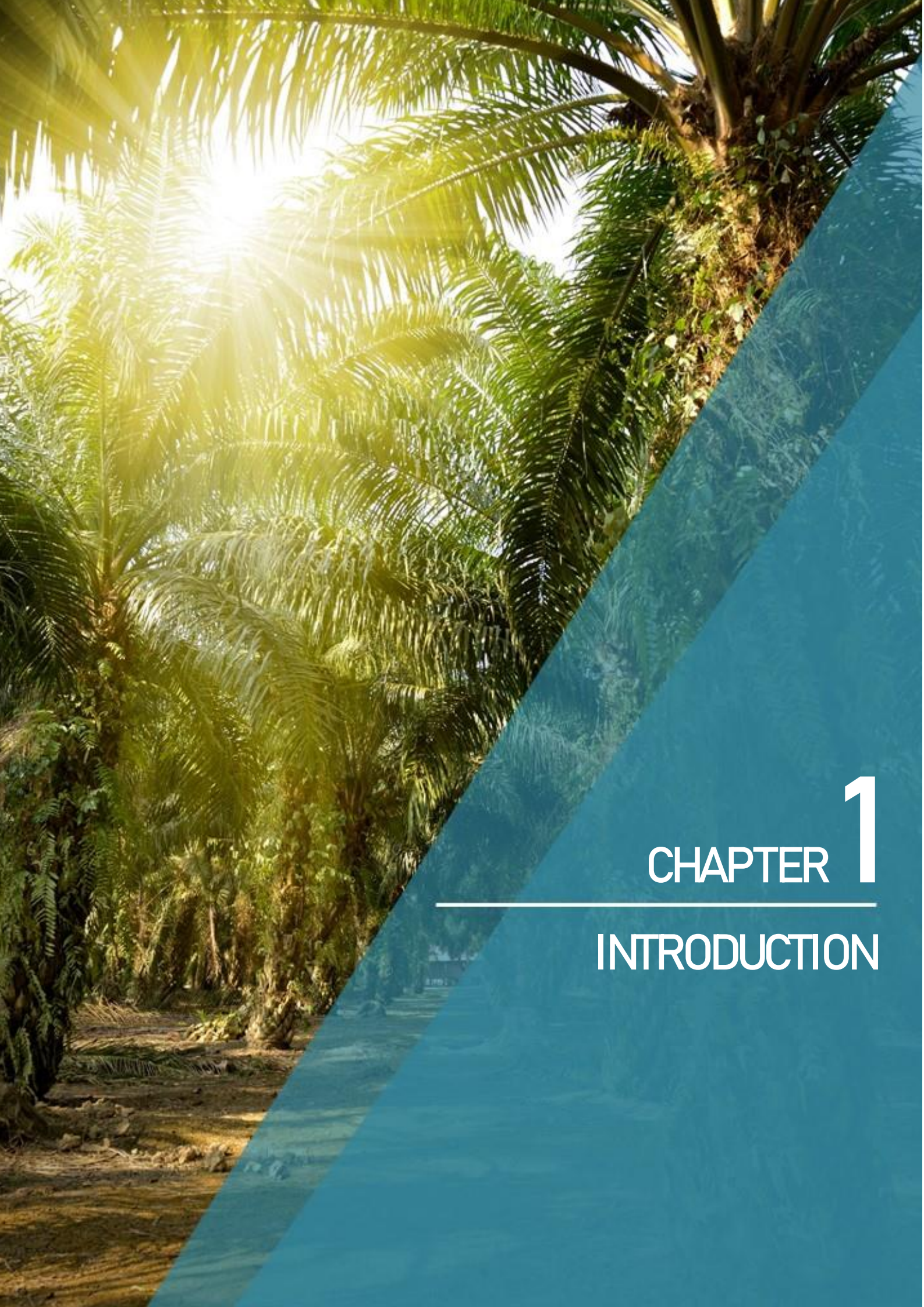
In the medium-term, Malaysia needs to move from a Task Force to a Partnership Model on Forced and Child Labour that would involve key stakeholders: the government, the private sector and workers, with each of them holding key roles. The government's role is to improve on legislation, carry out monitoring and enforcement, and punish the perpetrators of the worst forms of forced labour. The role of the private sector, in this case, plantation and smallholding operators, is vital as employers of oil palm workers because their management systems, practices and attitude towards labour and workers would largely influence and determine the prevalence of forced labour and concomitantly child labour. Workers are generally at the mercy of employers and government at the place of employment, especially for foreign

workers who are on a fixed-term contract, and need to be educated of their rights to improve the balance of power between them and employers.

### **Medium-Term Recommendation 2: Self-Regulation**

Self-regulation may take the form where firms make clear their policies on forced and child labour, and publicly declare them. Firms shall also educate workers on their rights and responsibilities and access to information, set up grievance or complaints mechanism or allow workers to access other similar channels, provide for remedial or corrective actions and report key statistics either voluntarily (on their website) or to the government. It is also recommended that employers share their best practices with the government and with the rest of the industry. The government's role will focus on monitoring via randomised inspections, investigating complaints, and improving effectiveness of its interventions.



A tropical beach scene with palm trees and a blue overlay. The sun is shining through the palm fronds, creating a bright, hazy effect. The right side of the image is covered by a large, diagonal blue overlay that contains the chapter title.

# CHAPTER 1

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## INTRODUCTION

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# 1 INTRODUCTION

This Report, “The Employment Survey in the Oil Palm Plantations Malaysia 2018”, presents and discusses the result of the prevalence surveys that were carried out in 2018.

The impetus to this comprehensive study started in 2009 when the United States Department of Labor (DOL) listed Malaysia as using forced and child labour in oil palm estates and smallholdings. In 2016, Malaysia was still listed as one of the countries that practised forced and child labour in oil palm plantations.

Responding to this allegation, Malaysia carried out a preliminary survey and analysis of the labour conditions in Malaysian oil palm plantations in 2014 to assess whether forced labour conditions existed in the plantation sector. The study used the International Labour Organization (ILO) guidelines “Hard to See, Harder to Count”. The ILO was not involved in this first survey and did not assess its conformity to the guidelines or had access to the data. The survey generated a national estimate of forced labour (but not child labour). As it was only a preliminary study, the government decided to launch a more

comprehensive study in response to queries raised by certain parties.

The Cabinet directed the Ministry of Plantation Industries and Commodities<sup>1</sup> (MPIC) on 24 March 2017 to undertake a comprehensive study on the labour situation in the Malaysian oil palm plantations with technical support from the ILO. The Ministry requested the ILO for technical support and the Department of Statistics Malaysia (DOSM) for support in a survey. The implementation of the survey is overseen by a Technical Committee, composed of representatives from DOSM, MPI, the Ministry of Human Resources (MOHR), the Malaysia Palm Oil Board (MPOB), other related government and industry agencies. The Steering Committee reviewed the recommendations of the Technical Committee for a final decision.

## 1.1 Objectives of Study

The main objective of the study is to estimate the prevalence of forced labour and child labour in oil palm plantations in Malaysia and to make recommendations for their eradication.

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<sup>1</sup> The MPIC was previously known as the Ministry of Primary Industries (MPI).

## 1.2 Key Institutions and roles in the study

The institutions central to the Employment Survey in Oil Palm Plantations, Malaysia, 2018 are: the MPIC that commissioned the study; DOSM that conducted the survey and the analysis; and the ILO that provided technical support. In addition, the MPOB, an agency under the MPIC and the regulator of the industry, facilitated the survey. The collaborative framework of the three key agencies, MPIC, ILO and DOSM, for this survey is based on their agreed roles which are as follows:

The Ministry of Plantation Industries and Commodities will:

- a) Be responsible for the survey and its results;
- b) Coordinate and provide logistical support to fact-finding, in particular in arranging meetings with relevant government and statistical agencies and palm oil associations;
- c) Provide a venue for the conduct of fact-finding meetings with government agencies and of the multi-stakeholder workshop, training of enumerators and other follow-up meetings and workshops;
- d) Provide logistical support in conducting multi-stakeholder workshops (including government

departments, employers, workers and civil society organisations) to discuss the statistical definition of forced labour, indicators, sampling, tools, review of questionnaires and validation of key findings and recommendations;

- e) Coordinate with relevant government departments to provide ILO, under conditions of confidentiality, with the dataset to enable ILO to advise MPIC and DOSM on the sampling design;
- f) Establish a Steering Committee comprising of key representatives from relevant government agencies/Ministries to advise on operational issues for the survey, and when necessary, in consultation with ILO, consult with other social partners from the workers' and employers' organisations;
- g) Coordinate with other government Ministries' and regional authorities on ensuring unencumbered and confidential conduct of the survey to avoid harassment, threats and other forms of harm to respondents and enumerators as a result of the survey;
- h) Facilitate coordination with other relevant institutions to ensure smooth implementation of the survey consistent with the recommendations provided by ILO.

- i) Provide sufficient funds and required resources for DOSM in carrying out the survey.
- j) Prepare a report (including recommendations) consistent with ILO recommendations or consult with ILO if it does not follow ILO recommendations before proceeding on any of the following steps.

The Department of Statistics Malaysia will:

- a) Undertake the survey in co-operation with ILO;
- b) Coordinate with ILO in developing the sampling, tools and data collection design and methodology that will capture all kinds of workers, regardless of their legal status;
- c) Provide ILO, under conditions of confidentiality, with the dataset to enable ILO to advise MPIC and DOSM on the sampling design;
- d) Finalise sampling design consistent with ILO recommendations or consult with ILO if it does not follow ILO recommendations;
- e) Develop the survey tools and data collection plan consistent with ILO recommendations or consult with ILO if it does not follow ILO recommendations;
- f) Manage the selection of data enumerators for the Oil Palm Plantations Survey;

- g) Train data collectors for the Oil Palm Plantations Survey with technical support from the ILO;
- h) Manage data collection consistent with the methodology recommended by the ILO or consult with ILO if it does not follow ILO recommendations;
- i) Grant access to the MPIC and ILO for validation of the data collection process;
- j) Develop and manage data entry;
- k) Grant access to the MPIC and ILO for validation of the data entry process for quality check;
- l) Develop an analytical framework in coordination with MPIC and ILO;
- m) Conduct data analysis consistent with the recommendations of ILO or consult with ILO if it does not follow ILO recommendations;
- n) Prepare statistical report consistent with ILO recommendations or consult with ILO if it does not follow ILO recommendations.

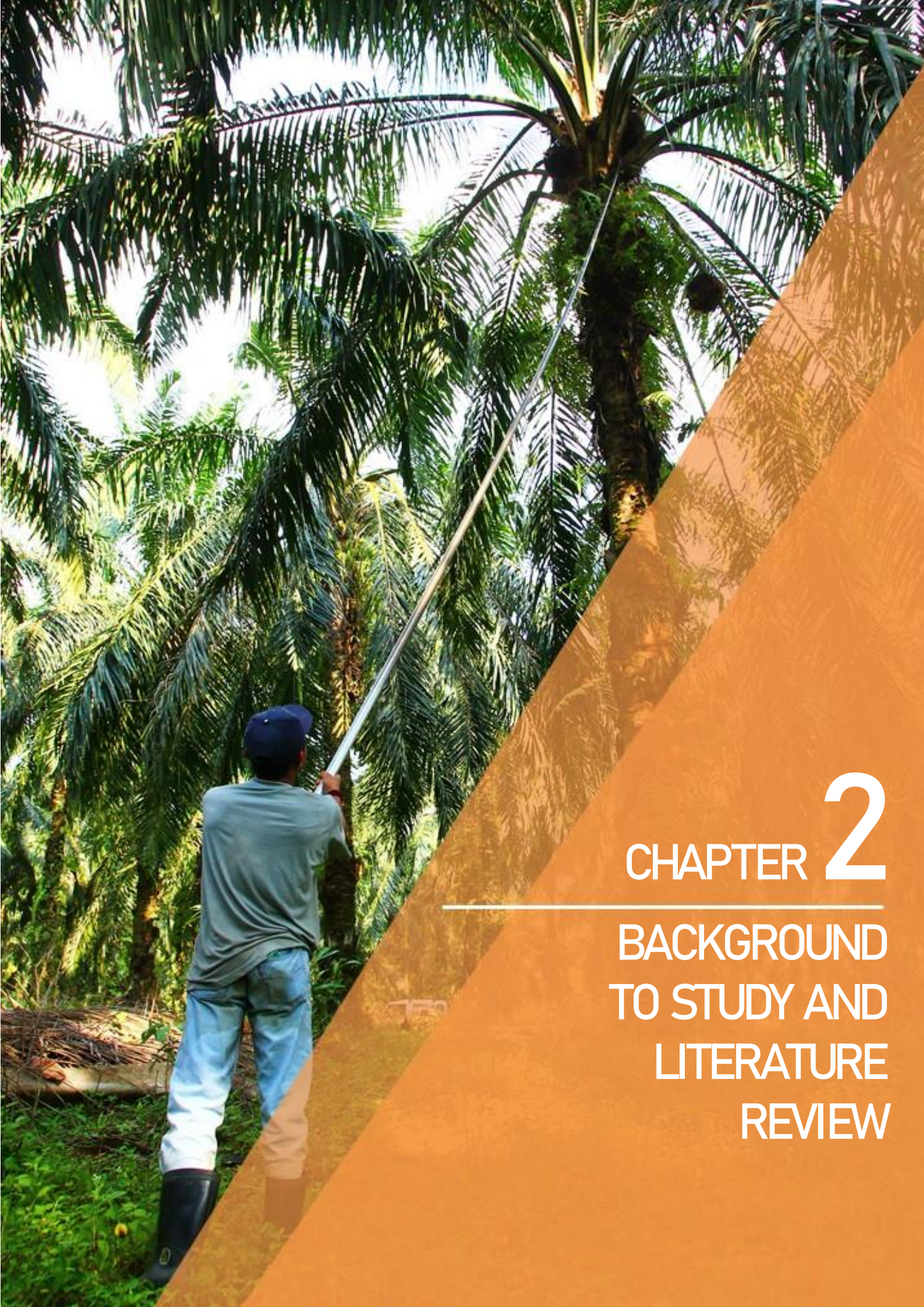
The International Labour Organization will:

- a) Provide advice and technical support to MPIC and DOSM in designing and conducting its survey, including providing comments and recommendations on sampling and tools design and data collection

- plans, data entry management, data analysis and report;
- b) Encourage the participation of civil society organisations as well as workers organisations knowledgeable about the palm oil sector in the fact-finding meetings, survey and tools design and analytical framework;
- c) Moderate the multi-stakeholder workshop to discuss statistical definition and measurement framework for forced labour and child labour;
- d) Serve as an observer to the Steering Committee;
- e) Provide technical support in reviewing and validating the survey tools and data analysis plan;
- f) Coordinate with MPIC and DOSM in planning and carrying out training for enumerators; and
- g) Conduct validation checks to ensure that recommendations on sampling design, data collection tools and methodology, data entry and data analysis are implemented.

The ILO read a draft version of this report but did not do an independent analysis of the dataset.





# CHAPTER 2

## BACKGROUND TO STUDY AND LITERATURE REVIEW



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## 2 BACKGROUND TO THE STUDY AND LITERATURE REVIEW

### 2.1 Introduction

Indonesia and Malaysia are the two most important palm oil producing countries in the world with a combined production of 87% of worldwide palm oil production. Palm oil is found 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 foodservice industry.

Malaysia accounted for 28% of world palm oil production and 33% of world exports<sup>2</sup>. Slightly over 5.8 million hectares of land is under oil palm cultivation in Malaysia; producing 19.9 million tonnes of palm oil. Malaysia's palm oil accounts for 11% of the world's oils & fats production and 27% of export trade of oils & fats. The industry employs more than half a million people and provides livelihood to an estimated one million people.<sup>3</sup> As one of the top export earners in foreign exchange, the oil palm plantations, together with its crude oil processing activity, is an important industry in

the Malaysian economy and a major source of employment. However, a vast majority of plantation jobs are not taken up by Malaysians, given the perception that plantation work is dangerous, difficult, and demeaning. It is also perceived that these jobs are relatively low-paying in comparison to service-based, urban work.

More recently, the Malaysian oil palm industry has experienced labour shortages because of declining labour supply from neighbouring countries such as Indonesia. To overcome the labour shortage problem, workers from other foreign countries such as Bangladesh, Nepal, India, Indonesia and Myanmar, have been brought in. Poor economic opportunities in their home countries, the geographic proximity of Malaysia, and relatively higher wages have attracted labour migration to Malaysia. While this cross-border migration has met the needs of the plantation industry, claims of labour exploitation have arisen.

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<sup>2</sup> <http://mpoc.org.my/malaysian-palm-oil-industry/> (accessed 22/10/2020)

<sup>3</sup> [http://www.mpoc.org.my/Palm\\_Oil.aspx](http://www.mpoc.org.my/Palm_Oil.aspx). Malaysia Palm Oil Council.

The U.S. State Department and U.S. Department of Labour, as well as other international agencies, have cited the oil palm industry in Malaysia as having various forms of labour exploitation, including forced labour and child labour<sup>4</sup>. The palm oil sector also has been linked to environmental issues, with Europe exploring actions on the use of palm oil.<sup>5</sup>

In this chapter, literature reviews are undertaken on:

- a) The Malaysian Government's current commitment to sustainable development and the existing institutional framework for foreign worker management.
- b) The forced and child labour situation in the Malaysian oil palm plantation sector, where reviews are based on selected reports consisting of mainly desk research on forced labour practices in the oil palm industry.
- c) An introduction to a similar survey conducted on the cotton industry in Uzbekistan.

## **2.2 Institutional Framework**

The significance of the findings presented in this report must be understood in the Malaysian context so that relevant changes can be made to policies and action plans to effectively tackle any prevalence of forced and child labour in oil palm plantations. This section will describe Malaysia's commitment to sustainable development and the existing foreign worker management framework to establish the basis for any potential policy changes and recommendations.

### **2.2.1 Malaysian Government Commitments to Sustainable Development**

Malaysia started its journey towards sustainable development since the 1970s, and it has been at the heart of Malaysia's development until today. In the latest 11<sup>th</sup> Malaysia Plan, the development theme is "anchoring growth on people", where people are the centrepiece of all development efforts ... ensuring that no section of society is left behind"<sup>6</sup>.

Malaysia is committed to Agenda 2030 and the Sustainable Development Goals (SDG),

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<sup>4</sup> For instance, US Department of State, Trafficking in Persons Report 2018 ([www.state.gov/j/tip/rls/tiprpt/2018](http://www.state.gov/j/tip/rls/tiprpt/2018)), US Department of Labor, List of Goods Produced by Child Labor or Forced Labor (for example, see <https://www.dol.gov/sites/default/files/documents/ilab/ListofGoods.pdf>, accessed 26 April 2019)

<sup>5</sup> [http://www.europarl.europa.eu/doceo/document/TA-8-2017-0098\\_EN.html?redirect](http://www.europarl.europa.eu/doceo/document/TA-8-2017-0098_EN.html?redirect).

<sup>6</sup> <https://sustainabledevelopment.un.org/content/documents/15881Malaysia.pdf>

which is a global commitment made by 193 countries who are member states of the United Nations. Target 8.7 of the SDGs states: “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour ... and by 2025 end child labour in all its forms”. The Malaysian government made its commitment in 2015<sup>7</sup> and has reaffirmed its pledge in the Voluntary National Review <sup>8</sup> (VNR) in 2017 and is finalising the SDG Roadmap for the country.

While significant efforts have been made to improve the foreign worker management framework, as discussed earlier, Malaysia will continue to make changes that are suitable to its current state of development but in the direction of improving working conditions and removing barriers towards eradicating forced labour and child labour.

Malaysia has also made significant efforts to develop a sustainable oil palm sector through various efforts in areas such as reducing pollution from effluent discharge, supporting various initiatives such as the Roundtable for Sustainable Palm Oil, and recently introducing the Malaysian Sustainable Palm

Oil (MSPO) scheme. Principle 4 of the MSPO on social responsibility, health, safety and employment condition has several elements of a socially responsible industry. They include a social impact assessment, setting up a system to deal with complaints and grievances, a commitment to local, sustainable development in consultation with local communities, and an occupational safety and health plan. The main purpose of the MSPO is to get the entire industry, large plantations and smallholders, to adopt the standards. Once they have been adopted, then the key elements of forced labour and forced child labour can be introduced into the regulations. This approach is part of an overall strategy to get the private sector to adopt more sustainable practices in the industry.

### **2.2.2 Foreign Worker Management Framework**

Malaysia’s foreign labour management is based on the immigration policies of work permits. There are three types of work permits: a temporary employment visit pass (up to a year, below a salary threshold), a professional employment pass for skilled workers (higher than the salary threshold)

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<sup>7</sup> See

<https://www.undp.org/content/dam/rbap/docs/meetTheSDGs/Session%20IA%20National%20-%20Malaysia%20Integrating%20the%202030%20Agenda.pdf>

<sup>8</sup> See <https://sustainabledevelopment.un.org/content/documents/15881Malaysia.pdf>

and an employment pass for workers (usually for two years) with different criteria for different levels of workers (e.g., unskilled, skilled and professional). Employers apply for a work permit, and they need to specify the nature of the job and its duration. Permits are thus firm and job-specific, time-bound, and are non-transferable. There are also other restrictions on age, nationality and no criminal record, etc. Various costs are required when foreign workers are employed: permit fees, security deposit, levy, and other costs, e.g., medical tests. In the recent past, some of the cost was passed on to the workers, but recent amendments to laws and practice have shifted the cost to employers. They also bear the cost if workers abscond. It should also be noted that foreign workers also bear some cost, especially those incurred in their home country, and some may have incurred debt to secure a foreign-based job.

Malaysia also has a system of licensed labour recruitment to reduce the effort of employers to get the supply of foreign workers. The Private Employment Agencies Act 1981 governs the operations of these agencies. Malaysia also has a government-to-government (direct recruitment) programme,

e.g., with Nepal when exploitative and forced labour conditions were found in the labour recruitment process. An earlier direct recruitment programme with Bangladesh was terminated after abuses to the process were found<sup>9</sup>. Direct recruitment by employers is an available option and is also encouraged. Amendments in 2017 to increase the government's ability to regulate this practice, e.g. setting conditions on owners of these agencies (no previous history of trafficking or forced labour), capping allowable placement fee on migrant workers to not more than one month, not allowing cost to be passed to them, even reducing such fees, and more controls on outsourcing companies<sup>10</sup>.

Malaysia requires the employer to justify his demand for foreign labour via an application for a permit. If the employer's application is approved, then the prospective workers can enter the country. The employer is also held responsible for complying with all laws that govern foreign workers in Malaysia, including issuing contracts, ensuring safe work conditions, permit renewal, repatriating them when the contract is over, and generally keeping within the law on matters related to their employment, such as ensuring that

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<sup>9</sup> US Department of State. Country Report on Human Rights Practices for 2018, Malaysia

<sup>10</sup> ILO (2018) Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Forced Labour Convention and Protocol (available at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_650658.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_650658.pdf))

workers are recruited according to the legal process, etc. Workers are allowed to join unions in certain sectors, e.g. the NUPW for oil palm workers, but they cannot hold leadership positions. Concerning pay, employers must pay at or above minimum salary, and within certain stipulated days and directly into worker's accounts, where possible. In the case of the oil palm industry, the pay is mostly structured according to a tripartite agreement and follows Malayan Agricultural Producers Association (MAPA) rates, which is linked to productivity output.

The government also regulates employers through various laws and local practices. These laws do not define forced labour. They do define recruitment practices, protection of workers' rights, set out penalties and punishment where infringements are found, prevention efforts through awareness-raising, enforcement and inspection, and more recently, requiring employers to give an undertaking on their obligations under the law. The laws also protect against exploitation, establish remedies and corrective actions, such as compensation and access to justice.

Through engagements with external parties, especially the ILO, the US State Department and the US Department of Labor, the Malaysian government has continued to improve its legal framework to prevent and address labour exploitation, forced labour and trafficking<sup>11</sup>. Recent amendments include legislating the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (2007, ATIPSOM), Private Employment Agencies Act, levy policy and proposed amendments to the Employment Act indicative of a move towards more dynamic counter-exploitation efforts. The ATIPSOM recognises forced labour as a form of exploitation. In Malaysia, various ministries have legal and regulatory powers on foreign workers management, and their efforts are generally coordinated.

### **2.3 Forced and Child Labour Situation in the Malaysian Oil Palm Plantation Sector**

The documents reviewed<sup>12</sup> include data and reports prepared by the U.S. State Department and U.S Department of Labor (DOL), international organisations<sup>13</sup>, as well

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<sup>11</sup> Ibid.

<sup>12</sup> For instance, US Department of State, Trafficking in Persons Report 2018 ([www.state.gov/j/tip/rls/tiprpt/2018](http://www.state.gov/j/tip/rls/tiprpt/2018)), US Department of Labor, List of Goods Produced by Child Labor or Forced Labor (for example, see <https://www.dol.gov/sites/default/files/documents/ilab/ListofGoods.pdf>, accessed 26 April 2019)

<sup>13</sup> See <https://humanityunited.org/labor-exploitation-and-human-rights-abuses-within-the-palm-oil-sector/>

as journals and newspapers<sup>14</sup>. In 2009, the US DOL listed Malaysia as one of the countries that use forced labour in the palm oil sector. In 2014, child labour was added to the list.

The focus of these documents is to describe the extent and patterns of labour exploitation of forced and child labour practices claimed to be present in Malaysia. Many of the reports and documents reviewed, in particular those from international organisations, are mainly desk-based research and have shown some commonality in the situation of forced labour in Malaysia. While every attempt is made to obtain the latest publicly available documents on the status of alleged forced and child labour in the Malaysian oil palm industry, the review also noted that many of the documents are based on references from relatively older reports. However, some have reported on interviews with relevant stakeholders to obtain updates on the latest situation which seemed to concur with the earlier findings.<sup>15</sup>

Instances were reported of recruitment agencies, and the studies also cited informal brokers with irresponsible recruitment practices. Document (passport/work permit)

retention was cited as a common practice in Malaysia. Communication of employment terms, conditions and rights is handled mostly by recruitment and employment agencies. Migrant workers are expected to sign off on employment contracts even if they are not written in the worker's native language. For illiterate workers, their thumbprint is evidence of their agreement, but some may not understand the content. By signing this document, they may have agreed to surrender their passport to their employer.<sup>16</sup> Deception about the nature of work (such as better wages and working conditions, combined with having no possibility to resign (because management retains their passports), makes the workers vulnerable.

Unsafe transit passages, poor living conditions and workers' facilities, are also highlighted. While the payment of recruitment fees by workers is no longer allowed, it still occurs, according to a study by the Fair Labour Association. Fees incurred include those paid to a recruitment agency (in both the country of origin and the destination), but also transportation costs,

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<sup>14</sup> See <https://www.wsj.com/articles/palm-oil-migrant-workers-tell-of-abuses-on-malaysian-plantations-1437933321>, accessed 27 April 2019)

<sup>15</sup> "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", Fair Labor Association, November 2018.

<sup>16</sup> Malaysia's Foreign Workforce, Palm Free Council, August 15, 2018.



medical examinations, registration in Malaysia's biometric system, visas and work permits. Worker accommodation and facilities, including health care and education for family members, are poorly managed and even degrading.

Several indicators of forced labour that cropped up repeatedly in the documents reviewed include coercive practices including threats, violence and lack of clarity of employment terms and conditions, dependency on 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. The highest risk of forced labour was amongst harvest and maintenance workers, notably those who apply pesticides and fertilisers. The documents point to the lack of regulations, enforcement, and limited legal procedures that contribute to an environment in which forced labour can exist and remain undetected. Other forced labour indicators mentioned included: (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.

Although employers are required to pay the national minimum wage, work on oil palm plantations is typically paid by the weight of fruits collected or the amount of fertiliser used. Employers set daily targets, and if they are not met, pay deductions are made.<sup>17</sup> Concomitantly if they produce more, then incentive pay kicks in. Workers are expected to work overtime to meet daily quotas. As there is a labour shortage in the industry, oil palm managers are probably pushing existing workers to cover more areas, which would otherwise be left idle. In Sabah, family members (including children) accompany oil palm workers. This occurrence is likely due to the lack of childcare facilities, and they assist in light chores (e.g. collecting loose fruits), often unpaid. The plantation does not pay these family members, nor do they receive training, or personal protective equipment such as face masks.

In November 2018, one of the oil palm giants, owned in part by the Malaysian government, FGV Holdings Berhad (formerly FELDA Global Ventures), was sanctioned by the Roundtable on Sustainable Palm Oil (RSPO). The charges include forced labour, complicity in the

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<sup>17</sup> <https://www.palmtreecouncil.com/malaysias-foreign-workforce/>

trafficking of workers, terrible living conditions, widespread illegality and over 25 breaches of the organisation's sustainability certification criteria on FELDA plantations were reported.<sup>18</sup>

### **Child Labour**

For this survey, the working definition follows the Children and Young Persons Employment Act 1966 (Act 350): child is defined as all persons below 15 years of age, and young persons as between 15 to below 18 years old. This is the same definition used by DOSM, e.g. the Labour Force Survey collects information from those within the working-age of 15-64. However, this definition is different from the Child Act 2001 (Act 611) which defines children as all who are below 18 years old.

The Malaysian government has always maintained a firm stand on the issue of child labour, in particular child labour in the oil palm industry. Allegations of child labour are often not substantiated in most case studies<sup>19</sup>, perhaps due to difficulty in counting them. So, very little is known about the magnitude, nature and distribution of child labour in the

country. Official data on child labour is also very limited<sup>20</sup>.

In Malaysia, children can be found working on oil palm plantations, where they assist their parents in collecting loose fruits, helping carry and load bunches of oil palm fruits and weeding the oil palm fields. One report, which cannot be verified, claimed that 60% of the children working on oil palm plantations in Malaysia are 6 to 10 years old. For workers in plantations to meet their daily quota of palm fruit harvested and collected, it has been identified that "assistance from the child worker is the savior." – Humanity United

This claim seemed to concur with observations from the preliminary study on the labour situation in Malaysian oil palm plantations.<sup>21</sup> The study team had heard directly from worker-parents that children do "work" in the oil palm plantations. They perform simple tasks such as collecting loose fruits. Since workers are paid based on yields, the additional output goes in their parent's payroll. However, children's work is allowed only after school hours, on weekends and

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<sup>18</sup> <https://www.theedgemarkets.com/article/fgv-sanctioned-global-body-over-forced-labor-other-breaches>

<sup>19</sup> For example, <https://www.dol.gov/sites/default/files/documents/ilab/ListofGoods.pdf> and <https://humanityunited.org/labor-exploitation-and-human-rights-abuses-within-the-palm-oil-sector/>

<sup>20</sup> Nik Ahmad Kamal Nik Mahmod, Marhanum Che Mohd Salleh, Ashgar Ali Muhammad, and Azizah Mohd, "A Study on Child Labour as a Form of Child Abuse in Malaysia", *International Journal of Social Science and Humanity*, Vol. 6, No. 7, July 2016.

<sup>21</sup> Final Report "Preliminary Survey on the Labour Situation in Malaysian Oil Palm Plantations", 2014, Ministry of Plantation Industries and Commodities.

holidays. Findings from the 2014 Survey indicated that they were unaware of children below 18 years of age working on the oil palm estates or smallholdings.<sup>22</sup> The allegation of child labour in oil palm plantations was refuted by the National Union of Plantation Workers (NUPW). They stated that claims of child labour in the local palm oil sector in Malaysia were not backed by evidence, referring to a list of goods produced by child and forced labour issued by the US Department of Labor.<sup>23</sup> Based on the experience of the NUPW<sup>24</sup>, children who "worked" in the palm oil sector were likely those in oil palm smallholdings run by families, where they helped out in their free time. All Malaysian children are required by law to be in school for 6 years (i.e., up to primary school level).

Despite these differing arguments on child labour, it is important to note that **child labour can occur even if children are working alongside family members or as unpaid family labour, and if they had excessive working hours or outside allowable working time, or doing hazardous work**<sup>25</sup>.

## **Malaysia's Response to Allegations of Forced Labour in the Oil Palm Industry**

In response to the US Department of Labor's 'List of Goods Produced by Forced Labor or Child Labor' which included Malaysian oil palm among goods produced by forced labour, the Malaysian government issued several statements. The first was a report prepared by the Taskforce to Address Forced Labour Issue in the Plantation Sector, which was submitted to the US State Department on 19 August 2011<sup>26</sup>. On 3 February 2012, a follow-up report titled, 'Response to Allegations of Forced Labour in the Oil Palm and Textile Industries', provided further clarification of the measures taken by the Malaysian government to prevent forced labour and protect migrant workers living and working in the country.

The report stated the "...purpose of this paper is to provide detailed information on Malaysia's foreign labour management to address the allegation of forced labour in the Malaysian Oil Palm industry raised by the US Department of Labor (US DOL) in its annual publication entitled "List of Goods Produced by Child Labor or Forced Labor Report 2010".

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<sup>22</sup> Ibid

<sup>23</sup> <http://www.mtuc.org.my/kids-helping-parents-not-child-labour-union-says-of-malaysias-palm-oil-sector/?lang=MS>

<sup>24</sup> <https://sg.news.yahoo.com/kids-helping-parents-not-child-labour-union-says-005948264.html>

<sup>25</sup> ILO comments on child labour in the first draft of this report.

<sup>26</sup> Refer to footnote 4

Based on its review of labour cases in the plantation and textile industry, as well as a follow up of the cases reported in the Tenaganita study<sup>27</sup>, the report concluded at the end that “there is no genuine case of forced labour reported in the oil palm plantations in Malaysia”. In its review, it found that none of the labour cases from 2009-2011 fall under definitions of ‘forced labour’, but had to do with matters such as disputes on payment of wages and other cash payments. The five cases in the Tenaganita case study, which were referred to by the US Department of Labor, were never reported to the Labour Department or any government official. The Ministry of Human Resources was also unable to proceed due to insufficient information provided in the Tenaganita website. In the latter report, the Taskforce reaffirmed the position of the Malaysian government - which does not condone any form of forced labour, as well as its role and responsibility in preventing forced labour from taking place. The report also maintains that the allegations by the US DOL were unfounded and was based on a single report which made no attempts to contact or consult Malaysian

Government officials to verify its claims before its publication.

Following continued allegations, Malaysia conducted a preliminary study on the labour situation in Malaysian oil palm plantations in 2014.<sup>28</sup> The study in 2014 covered only forced labour. Child labour was not in the scope of the study. The final report was presented to the Cabinet in October 2015 and subsequently submitted to the US DOL in November 2015. The study adopted a combination of qualitative and quantitative approaches. Three surveys were conducted in this study – a Workers Survey, an Employers Survey and a Labour Contractor Survey. The researchers referred to the ILO guidelines “*Hard to See, Harder to Count*”<sup>29</sup> as the basis for the survey design to carry out the three surveys. In addition, qualitative focus group interviews with stakeholders were also carried out. However, ILO was not involved in this survey and did not have access to the dataset or the analytical framework to validate its findings.

The 2014 study adopted an establishment approach (as recommended in the ILO guidelines) whereby, workers from selected oil palm plantations and smallholdings were

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<sup>27</sup> Tenaganita (2007), “Fact Finding Report: Outsourcing in Labour or Trafficking in Migrant Labor?”

<sup>28</sup> Final Report “Preliminary Survey on the Labour Situation in Malaysian Oil Palm Plantations”, 2014, Ministry of Plantation Industries and Commodities.

<sup>29</sup> ILO (2012). “Hard to see, harder to count: Survey guidelines to estimate forced labour of adults and children”. Second Edition.

interviewed in the Workers Survey. This survey of workers was conducted via face-to-face interviews without the presence of the employer or persons-in charge in the plantations.

The study collected data about the recruitment process, living and working conditions/arrangements, use of labour contractors, provision of facilities and amenities. Additionally, stakeholders' meetings were also conducted.

A total of 1,632 workers from 68 oil palm estates and smallholdings and 12 labour contractors were interviewed. The findings showed that the incidence of forced labour among adults in oil palm estates was 0.49%<sup>30</sup> using the definition in the ILO guidelines. However, the survey did concur with some of the allegations such as retention of workers' passport (safekeeping of travel documents to prevent thefts and misplacements), living conditions and debt bondage. The majority of the migrant workers possessed working permits, and about 51% indicated signing employment contracts. The majority were employed directly by the oil palm estates with only a small percentage recruited through labour contractors. About 80% of the workers interviewed worked 8 hours or less per day

with the remainder working beyond 8 hours. In terms of living conditions, a vast majority of the employers provided free accommodation, but the provision of food was always the responsibility of the worker.

The latest US State Department, Trafficking in Persons (TIP) 2018 Report<sup>31</sup> reported that Malaysia is making significant efforts to meet the standards for the elimination of trafficking, which includes forced labour. While the Malaysian government demonstrated increasing efforts compared to the previous reporting period, it still did not meet the minimum standards. Some migrant workers on oil palm and agricultural plantations, at construction sites, in the electronics industry, and in homes as domestic workers are subjected to practices that can indicate forced labour, such as passport retention—both authorised and unauthorised—and contract violations, restricted movement, wage fraud, and imposition of significant debts by recruitment agents or employers. Contract violations remain widespread in Malaysia. As a result, the US State Department lists Malaysia in the Tier 2 watch list based on the extent of the government's efforts to comply with the "minimum standards for the elimination of trafficking" found in Section 108 of the

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<sup>30</sup> The survey did not cover children and smallholders' plantations.

<sup>31</sup> US State Department, TIP 2018 Report, Malaysia, pp. 286-289

Trafficking                  Victims                  Protection  
Reauthorization Act (TVPPRA). Additionally, in 2018, Malaysia continues to be listed by the U.S. Department of Labor as using forced labour and child labour in its plantation industry.

The government had demonstrated increasing efforts by expanding trafficking investigations, prosecutions, and convictions. Officials strengthened enforcement of the law prohibiting passport retention. To galvanise coordinated anti-trafficking operations, the government established a new interagency law enforcement task force and approved an updated national action plan spanning 2016-2020 and allocated sufficient resources for its implementation.

The TIP report also provided a list of recommendations for Malaysia. Some recommendations selected for mention in this review include improving the implementation of the regulations for the 2015 amendments to the anti-trafficking law; routinely authorise victims of trafficking freedom of movement; improve collaboration across law enforcement agencies and stronger cooperation between law enforcement officials and prosecutors, more effective investigations, and increased judicial familiarity with the full range of trafficking crimes, particularly forced labour; increase the capacity of labour inspectors to

identify trafficking victims among vulnerable groups, such as migrant workers; implement planned changes to the foreign worker levy schedule to make employers, not employees, responsible for recruitment fees; continue collaboration with credible and effective NGOs and implement plans to provide more services for victims, including the construction of new shelters; continue to inform workers of their rights to maintain access to their passports at any time, and effectively enforce the law prohibiting employers from retaining passports without employees' consent, educate workers and employers on foreign worker rights, including legal recourses and remedies against traffickers, and ensure employers provide lockers or other secure passport storage facilities.

Malaysia also expanded its law enforcement efforts by amending the 2007 Anti-Trafficking in Persons Act in 2010 and 2015. The amended law prohibits all forms of human trafficking and prescribes punishments of up to 20 years of imprisonment. The government also continued to conduct anti-trafficking training, focusing on victim protection, law enforcement, and prosecution, among other topics.

In October 2017, a Malaysian oil palm giant, IOI Group, announced three significant

labour policies<sup>32</sup>: no recruitment fees charged to their workers, respect Freedom of Association and strive to pay a living wage. These policies collectively set a new standard in an industry that has been repeatedly accused of labour rights violations and worker exploitation.<sup>33</sup> Another Malaysian conglomerate, the Sime Darby Group, also pledged to ensure that slavery and human trafficking do not take place in their business and supply chains<sup>34</sup>.

The Malaysian government recently in its Manifesto sets out its aim to “ensure the protection of workers' rights is at par with international standards and which adhere to conventions established by the International Labour Organization (ILO)”.<sup>35</sup>

The Minister of Human Resources announced in February 2019 that the government has declared “all-out war” against forced labour as it does not want to attract sanctions against Malaysian goods and services, which will hurt the economy in the long run. There are plans to set up he said while many companies were compliant to labour laws,

some were “delinquents”, practising aspects of forced labour and they will be taken to court and brought to justice.<sup>36</sup> In November 2019, Malaysia announced interest to be a pathfinder country to Alliance 8.7, a global partnership focussing on accelerating actions to achieve Target 8.7 of the SDGs, which among other things aim to eradicate forced labour and child labour.

## 2.4 International Experience: Uzbekistan

In recent surveys on forced labour, one survey worth mentioning is that of the cotton industry in Uzbekistan. The production of cotton in Uzbekistan has been under intensive scrutiny by the international community and human rights associations. Following discussions over many years between the ILO and Uzbekistan stakeholders (Government, Federation of Trade Unions and Chamber of Commerce and Industry) on labour market reforms, a survey on recruitment practices and seasonal employment in agriculture in Uzbekistan was conducted. The survey was conducted in

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<sup>32</sup> [http://www.ioigroup.com/Content/S/S\\_Policy](http://www.ioigroup.com/Content/S/S_Policy)

<sup>33</sup> <https://www.finnwatch.org/en/news/495-major-malaysian-palm-oil-company-announces-groundbreaking-labor-policies>

<sup>34</sup> <http://www.simedarbyplantation.com/sites/default/files/2017%20Sime%20Darby%20Modern%20Slavery%20and%20Human%20Trafficking%20Statement.pdf>

<sup>35</sup> ILO, “Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Forced Labour Convention and Protocol”.

<sup>36</sup> <https://www.nst.com.my/news/government-public-policy/2019/02/459474/govt-declare-war-human-trafficking-forced-labour-nsttv>



August-September 2015 and March- April 2016 for the 2014 and 2015 harvests respectively. The survey covered the civilian population aged 18-50 years old. The survey covered 3,500 households using a stratified two-stage sample design. The survey results showed that in 2014, the prevalence rate of forced labour was 11% among seasonal cotton pickers while that in 2015, the rate was 14%.<sup>37</sup>

The ILO (in their website<sup>38</sup>) has also provided reports on the international experience with forced labour and child labour that includes meetings, conferences, manuals and handbooks, reports and publications, all on this topic. A global survey of slavery and child labour is available. This source is also a valuable guide to recommendations and best practices in terms of labour practices, including forced labour<sup>39</sup>.

Among the key developments in Uzbekistan's cotton industry is that the government's actions to end systematic involuntary recruitment of students, teachers, doctors and nurses for their harvest, thus greatly reducing child and forced labour. The ILO had

been monitoring the situation since 2013, after the US listed Uzbekistan in the TVPRA in 2010. Independent monitoring<sup>40</sup> using experts, human rights activists, and establishing a hotline for complaints were among the measures taken. In addition, the government increased wages in order to attract workers to less productive areas where conditions were less favourable, and established more stable jobs with decent incomes. The ILO had been implementing a decent work programme in Uzbekistan since 2014 through its work in employment and recruitment policies, labour inspection and administration, labour law and health, occupational safety and social dialogue and strengthening labour unions and employers' associations<sup>41</sup>. The US was considering in 2018 to take Uzbekistan out of the TVPRA list.

## **2.5 ILO guidelines on Design of Forced Labour Surveys**

The methodology for the Employment Survey in Oil Palm Plantations in Malaysia was first outlined and discussed in an ILO paper presented at the meeting of the ILO-Statistics and ILO-Fundamentals Working Group on Statistics of Forced Labour, IBGE in

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<sup>37</sup> De Cock, Michaelle and Mehran, Farhad, "Design of Forced Labour Surveys: Recent Experiences and Tentative Guidelines", presented at IBGE, Rio de Janeiro, 20-22 March 2018.

<sup>38</sup> See [https://www.ilo.org/asia/WCMS\\_398777/lang--en/index.htm](https://www.ilo.org/asia/WCMS_398777/lang--en/index.htm) (on Malaysia)

<sup>39</sup> See [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_653986/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_653986/lang--en/index.htm)

<sup>40</sup> [https://www.ilo.org/ipec/Informationresources/WCMS\\_681372/lang--en/index.htm](https://www.ilo.org/ipec/Informationresources/WCMS_681372/lang--en/index.htm)

<sup>41</sup> See [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_650697/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_650697/lang--en/index.htm)

Rio de Janeiro on 20-22 March 2018.<sup>42</sup> The paper entitled “**Design of forced labour surveys: Recent experiences and tentative guidelines**”, which provided guidelines associated with the design of forced labour surveys and another ILO document entitled “**Guidelines concerning the measurement of forced labour**”<sup>43</sup> are reviewed in this section. The review covers (1) Main concepts and definition of forced labour; (2) Survey design covering sampling design and sample size requirement; (3) questionnaire design; (4) data collection and data processing and; (6) measurement of forced labour.

Using the Guidelines ensured a standardised collection method that local and international users can verify; also, the use of standard definitions of forced labour concepts and conditions as well as various quality control measures enable comparison with findings from other surveys using the same methodology. Adherence to the ILO guidelines on terminology and definitions will provide a standard way for determining whether forced labour conditions exist.

## 2.5.1 Main Concepts and Definitions

### 2.5.1.1 Forced Labour

Article 2 of the ILO Forced Labour Convention, 1930 (No. 29) defines forced or compulsory labour 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*”.

For purposes of statistical measurement, a person is classified as being in forced labour if, during a reference period, the work is both involuntary and under the threat of menace or penalty. Both conditions must exist to trigger the forced labour condition.

- a) The **reference period** may be short (e.g. a week, month or season) or long (e.g. the past year, two years, five years or lifetime). A short reference period is appropriate where the concern is for a particular category of workers. A long reference period is appropriate where the interest is in a population group.
- b) **Work** is defined in line with international standards of work, employment and labour underutilisation adopted by the 19<sup>th</sup> International Conference of Labour

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<sup>42</sup> De Cock, Michaëlle and Mehran, Farhad, “Design of Forced Labour Surveys: Recent Experiences and Tentative Guidelines”

<sup>43</sup> ILO, “Guidelines Concerning the Measurement of Forced Labour”, 20<sup>th</sup> International Conference of Labour Statisticians, Geneva, 10-19 October 2018

Statisticians, 2013. It comprises any activity performed by persons of any gender and age to produce goods or to provide services for use by others or for own use. In certain circumstances, the scope of work for the measurement of forced labour may be broadened to include activities such as child begging for third parties that go beyond the scope of production of goods and services covered by the general production boundary of the System of National Accounts (SNA).

- c) ***Threat and menace of any penalty*** are the means of coercion used on a worker against his or her will. Workers can be subjected to coercion or verbally threatened by elements of coercion or witness coercion imposed on other co-workers concerning involuntary work. Elements of coercion may include, inter alia, threats or violence against workers, their families and relatives or close associates; restrictions on workers' movement; debt bondage or manipulation of debt; withholding of wages or other promised benefits; withholding of valuable documents (such as identity documents or residence permits); and abuse of workers' vulnerability through the

denial of rights or privileges, threats of dismissal or deportation.

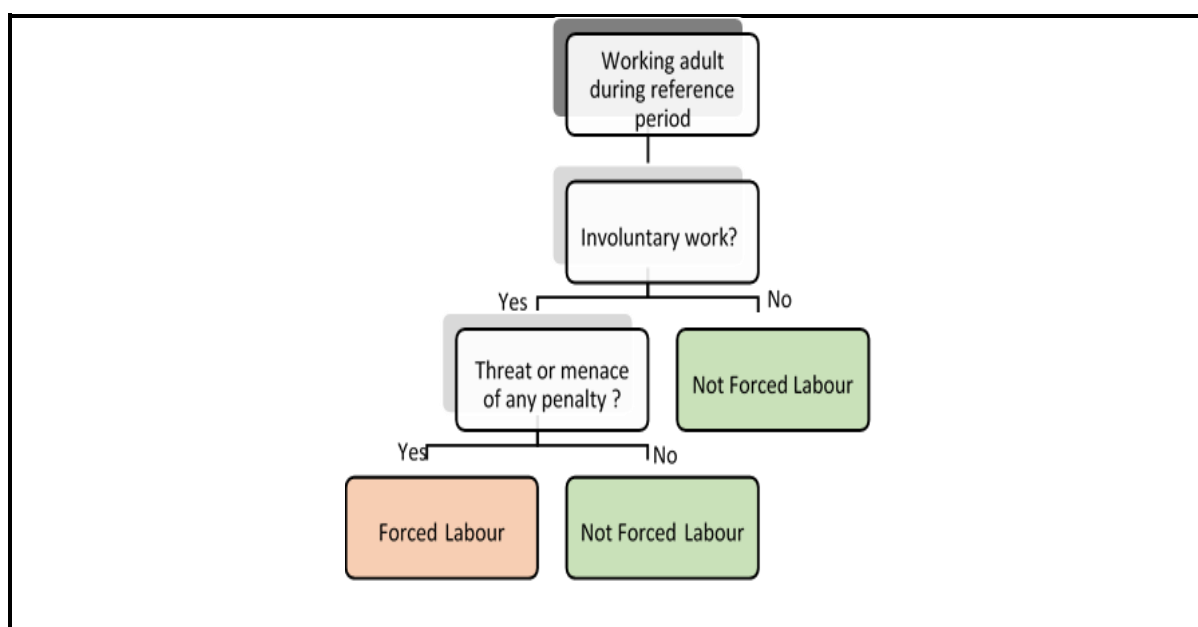
- d) ***Involuntary work*** refers to any work taking place without the free and informed consent of the worker. Circumstances that may give rise to involuntary work, when undertaken under deception or uninformed, include, inter alia, unfree recruitment at birth or through transaction such as slavery or bonded labour; situations in which the worker must perform a job of different nature from that specified during recruitment without a person's consent; abusive requirements for overtime or on-call work that were not previously agreed with the employer; work in hazardous conditions to which the worker has not consented, with or without compensation or protective equipment; work with very low or no wages; live in degrading living conditions imposed by the employer, recruiter or third party; work for other employers than agreed; work for a longer period of time than agreed; work with no or limited freedom to terminate a work contract.
- e) The measurement of forced labour of persons should not only be limited to employer-employee relationships but also other types of work

relationships. It should thus cover all categories of workers including employers, independent workers without being employees, dependent contractors, employees, family helpers, unpaid trainee workers, organisation-based volunteers and other unpaid workers as defined in

the Resolution concerning statistics on work relationships adopted by the 20<sup>th</sup> International Conference of Labour Statisticians, 2018.

A schematic representation of the statistical definition of forced labour of adults is shown in **Figure 2.1**.

**Figure 2.1: Flowchart of Definition of Forced Labour of Adults**



### 2.5.1.2 Child Labour

The term child labour adopted at the 18<sup>th</sup> and proposed for amendment at the 19<sup>th</sup> International Conference of Labour Statisticians concerning statistics of work, employment, labour underutilisation and child labour, reflects the engagement of children in prohibited work and, more generally, in types of work to be eliminated

as socially and morally undesirable. It is also guided by national legislation, the ILO Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), as well as their respective supplementing Recommendations (Nos 146 and 190). Child labour may be measured in terms of the engagement of children in productive activities either on the basis of production or on the basis of the SNA

production boundary. The underlying measurement framework should be specified.<sup>44</sup>

For statistical measurement, child labour includes all persons aged 5 to 17 years who were engaged in one or more of the following categories of activities:

- a) worst forms of child labour [including hazardous work by children];
- b) employment and other forms of work within the SNA production boundary below the minimum age; and
- c) hazardous unpaid household services, applicable where the general production boundary is used as the measurement framework.

For hazardous work by children, the ILO Recommendation No. 190 specifies the following criteria:

- a) Work which exposes children to physical, psychological or sexual abuse;

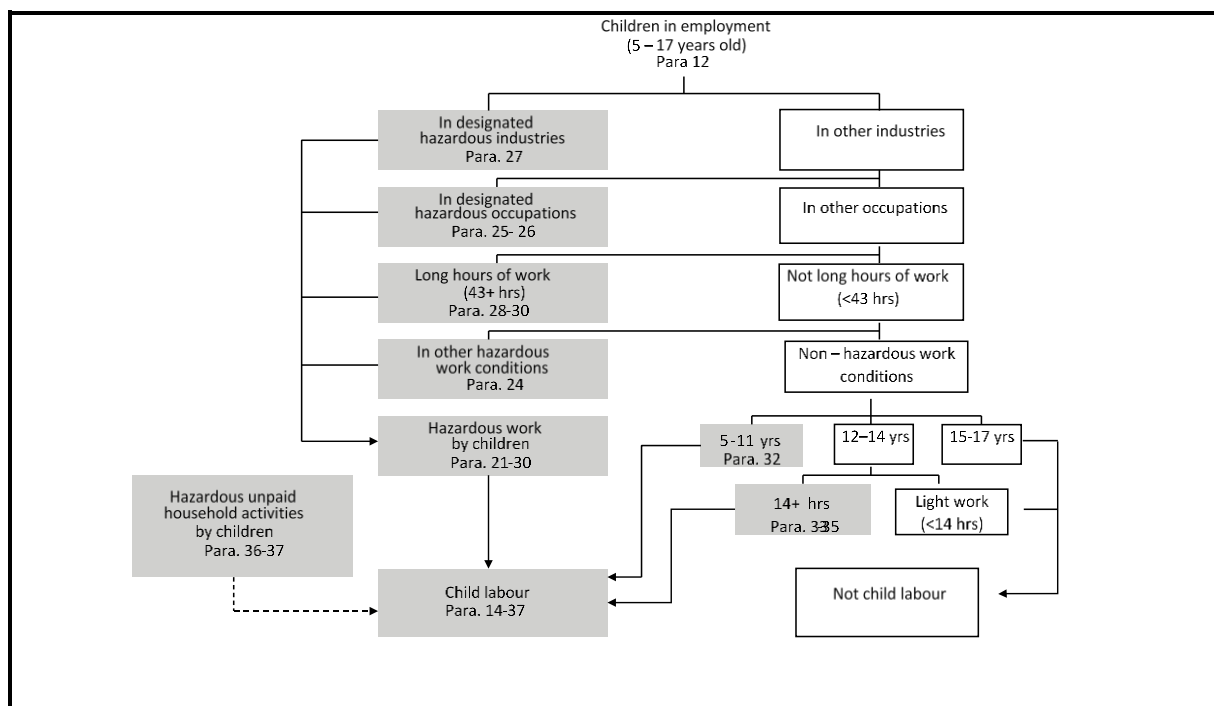
- b) Work underground, underwater, at dangerous heights or in confined spaces;
- c) Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- d) Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, temperatures, noise levels, or vibrations damaging to their health; and
- e) Work under particularly difficult conditions such as long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

A schematic of the statistical identification procedure for child labour is shown in **Figure 2.2**.

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<sup>44</sup> ILO, 18th International Conference of Labour Statisticians Concerning Statistics of Child Labour, Geneva 2008

**Figure 2.2: Schematic representation of the statistical definition of child labour (for ILO global estimation)**



Source: 18<sup>th</sup> International Conference of Labour Statisticians, Resolutions Concerning Statistics of Child Labour, ILO, Geneva, 2008

### 2.5.1.3 Forced Labour of Children

For statistical purposes of this study, **forced labour of children** is defined as work performed by a child during a specified reference period falling under one of the following categories:

- Work performed for a third party under threat or menace of penalty applied by a third party (other than the child's parents) either on the child directly or the child's parents; or
- Work performed with or for the child's parents, under threat or menace of any penalty applied by a third party (other than the child's

parents) either on the child directly or the child's parents; or

- Work performed with or for the child's parents where one or both parents are themselves in a situation of forced labour.

A child refers to any individual under the age of 18 years in accordance with the United Nations Convention on the Rights of the Child and the ILO's Worst Forms of Child Labour Convention, 1999 (No.182). In Malaysia, a child is defined as a person below the age of 15. A young person is defined as a person between the ages of 15 and 17 (i.e. below 18).



Coercion may take place during the child's recruitment to force the child, his or her parents to accept a job. It may also occur once the child is working, forcing him or her to do tasks that were not part of agreed terms at the time of recruitment, or to prevent them from leaving the work.

### 2.5.2 Data Sources

This section reviews the ILO guidelines on survey methodology concerning data sources and collection strategy. According to the ILO guidelines, statistics can be compiled using a single or a combination of data sources. Single sources refer to either a household-based survey or an establishment-based survey.

The main advantage of a household-based survey approach is that it will provide an adequate and comprehensive scope to collect statistics on prevalence and characteristics of forced labour, and to cover, in principle, all workers living in regular households, including undocumented workers and children below the legal age for employment. As household-based surveys address all household members, data is collected to assess the impact of forced labour on other members of the household. Also, because household-based surveys

reach workers in their living quarters, it could be more conducive for respondents to talk about their work experience without the presence of their employer or work colleagues. However, the rarity and uneven spread of the phenomenon makes the sampling of forced labour in household-based surveys a complex task requiring special consideration in survey design and analysis.

Another mode of data collection through a single source is through establishments or the place of work of workers <sup>45</sup>. Establishment-based surveys of forced labour may be suitable where the operators of the establishments are themselves the target of the study or where the study concerns a particular branch of economic activity or where measurements of forced labour may be disguised within a broader survey on a less sensitive topic. Also, if the employer agrees, it is possible to analyse the demand side of forced labour with access to administrative records and financial accounts of the establishment. Establishment-based surveys also provide the possibility of making a direct observation on the work environment and conditions of work of the target population. Establishment based and household-based surveys may be combined in certain

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<sup>45</sup> The Preliminary Survey on the Labour Situation in Malaysian Oil Palm Plantations, 2014 used this approach.

circumstances to take advantage of the benefits of each.

The ILO Guidelines allow for other sources of data, e.g., the use of administrative records, or by non-governmental organisations and other service providers. This approach may be useful for producing estimates of the prevalence of forced labour at a relatively low cost. Where different administrative sources refer to a standard reference period and can be confronted against each other to measure their overlap with reasonable accuracy, estimates may be derived under certain assumptions known as multiple system estimation (MSE).<sup>46</sup>

### 2.5.3 Survey Design

This section reviews the ILO guidelines for survey design for measuring the prevalence of forced labour<sup>47</sup> and includes the sample design and questionnaire design.

The sample design should provide for a sufficiently large sample size that leads to national estimates of forced labour with acceptable margins of error. In general, calculations show that the sample size required for measuring the prevalence of forced labour using probability sampling in

household-based survey vary from about 2,400 to 48,000 or more households depending on the degree of geographic concentration of forced labour and the precision requirement of the estimates. Similar calculations show that the effective sample size should include between 400 and 1,100 or more workers in forced labour to obtain estimates of characteristics of forced labour with a margin of about 5 or 3 percentage points, respectively.

To improve the efficiency of the two-stage sample design of a conventional household-based survey, different methods may be used for oversampling areas of concentration of forced labour in the first stage of sampling and targeting households of interest in the second stage of sampling. Among the **methods of oversampling** stated in the ILO guidelines are:

- a) grouping areas of concentration of forced labour based on available information as separate strata, and allocating more sample areas in these strata;
- b) merging neighbouring primary sampling units (PSU) of higher concentration of forced labour and

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<sup>46</sup> Cited in De Cock & Mehran, "Design of Forced Labour Surveys: Recent Experiences and Tentative Guidelines", Geneva 2 March 2018.

<sup>47</sup> Ibid.

assigning them the sum of the probabilities of selection of their components<sup>48</sup>;

- c) ranking the PSUs by a rough degree of concentration of forced labour and incorporating the rank in the measure of size for the sample selection of the area units with probabilities proportional to size. The procedure may be refined if the rank can be replaced by auxiliary variables available on the area frame and a high correlation with forced labour.

In the second stage of sampling, the **methods of target sampling** are:

- a) screening the households of interest as part of the listing procedure before the sample selection of households at the second stage of sampling;
- b) use of adaptive cluster sampling according to which a probability scheme selects an initial set of households, and whenever a selected unit satisfies the screening criterion, additional units in the neighbourhood of that unit are added to the sample. The efficiency of the procedure may be improved with the use of appropriate stopping and dropping rules. Finally, further

improvement can be made by expanding the sample to the immediate family network of respondents and adjusting the estimation method for proxy-response and multiplicity network sampling. This method is deemed as less costly.

#### 2.5.4 Questionnaire Design

The ILO guidelines on questionnaire design for measuring forced labour are that:

- a) The measurement of forced labour and its characteristics should be in line with the agreed concepts and definition, amenable to unambiguous identification of the different forms of forced labour;
- b) The formulation of questions and the choice of answers should take into account the sensitivity of the topic and ethical considerations, as the exaction of forced labour is a crime and therefore research on the topic may expose both interviewees and interviewers (and supervisors) to danger;
- c) Proxy responses should be avoided to the extent possible, particularly, the measurement of characteristics of

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<sup>48</sup> Based on method described in "Sampling for Household Based Surveys of Child Labour, Vijay Verma, ILO, Geneva 2008 pp 152-153

forced labour. Designing a few open questions at critical parts of the questionnaire to obtain respondents' verbatim description of the experience is deemed an efficient tool. If necessary, this information can be used to recode some of the answers;

- d) The questionnaire design should be accompanied by editing rules for statistical treatment of refusals, don't know, blanks and inconsistent responses; and
- e) For the forced labour survey, three main types of questionnaires are examined in the ILO guidelines, that is, (1) Questionnaire on Prevalence; (2) Questionnaire on Characteristics and; (3) Questionnaire on Sectors.

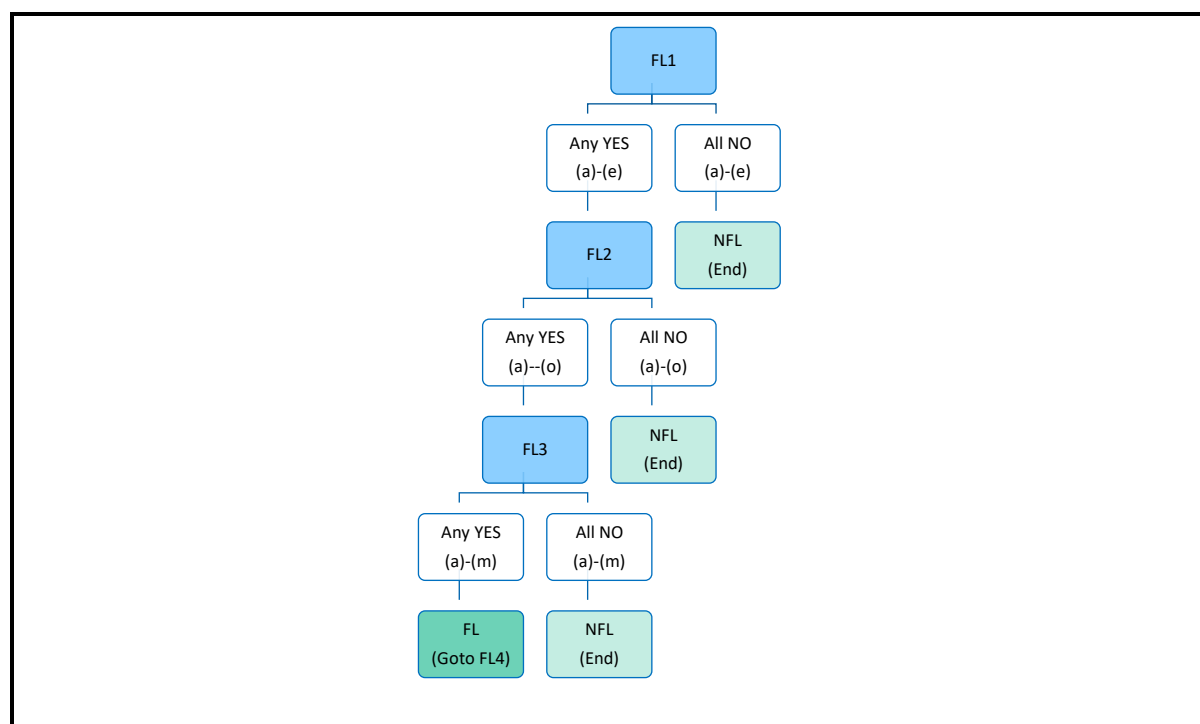
#### **2.5.4.1 Questionnaire on Prevalence**

The ILO developed a model questionnaire for measuring the prevalence of forced labour based on their experience with forced labour surveys. It includes a household roster listing all household members, and recording their demographic profile such as sex, age, marital status, educational attainment, migration status, country of birth and country of citizenship. The questionnaire on forced labour is addressed to all members above a specified age, whether working or not.

A preliminary draft of this module comprises 11 questions (FL1-FL11) starting with a screening question. The questionnaire included questions on working conditions, for example, hours of work, income from work, social security coverage, paid sick leave, and paid annual leave. The questionnaire included open questions to which the respondents could provide a verbatim description of their experience. The information may be used to recode some of the answers if necessary.

The following flow-chart (**Figure 2.3**) shows the process for classifying persons into forced labour (FL) or not in forced labour (NFL) based on the replies given to questions FL1, FL2 and FL3 of the questionnaire. According to this flow chart, a person is classified as a victim of forced labour if the person passes the screening question and reports at least one element of involuntariness (FL2) and one element of coercion in the subsequent questions (FL2 and FL3). In its present form, the procedure does not specify the statistical treatment of "don't knows" and "refusals." To be complete, the questionnaire design should include editing rules for identifying and handling of inconsistencies and non-responses (blanks, don't knows and refusals).

**Figure 2.3: Forced Labour Questionnaire Flow Chart: Classification into forced labour (FL) or not forced labour (NFL)**



#### 2.5.4.2 Questionnaire on Characteristics

The primary purpose of surveys on characteristics is to understand the forced labour phenomenon and to analyse the elements of deception and coercion experienced by the victims during their ordeal, starting from the recruitment process, their working and living conditions, and finally their ability or inability to liberate themselves from their situation. Another objective of the survey is also to assess the risk of forced labour among different categories of vulnerable people.

In the ILO guidelines, a series of questions on aspects of forced labour are listed under

three main headings: recruitment, working and living conditions, ability or inability of changing or leaving a job. Additional items regarding vulnerability and the particular case of children are also included. All questions are directed to the person concerned (self-response), thus avoiding or minimising the risk of misreporting due to proxy responses. Experience has shown that proxy-response on the sensitive subject of forced labour is subject to considerable error arising from the lack of information, memory lapses and other reporting failures.

#### **2.5.4.3 Questionnaire on Sector**

The main objective of surveys on sectors is the measurement of the prevalence of forced labour and its characteristics in a given sector of the economy or for a particular population group.

The section on sectors, thus, is to a large extent similar to the sections on prevalence and characteristics. There is an adaption of the questionnaire to the specific branch of economic activity or the particular population group. This adaption also involves terminology and wordings, the choice of the answer categories and the examples given to the interviewer.

#### **2.5.5 Classification and items of data collection**

The ILO guidelines have recommended that statistics on prevalence be classified by sex and age group to distinguish at least between adults and children below 18 years of age, and where possible, by migrant status to identify international migrants.

On the characteristics of forced labour, it is recommended that personal variables be included such as sex, age (or date of birth), marital status, educational attainment, migration status, country of birth. Elements of forced labour should include type of forced labour, branch of economic activity, duration in forced labour, indicators of involuntariness, means of coercion, working and living conditions such as hours of work, income from work, social security coverage, paid sick leave, and paid annual leave.

The classification of economic activity for forced labour should, to the extent possible, be in line with the international standard industrial classification of all economic activities (ISIC Rev 4)<sup>49</sup>. Where measurement is focussed on a particular sector of the economy or a given population group, the items of data collection should include information on the specific features of the sector or population group of interest

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<sup>49</sup> <https://unstats.un.org/unsd/cr/registry/isic-4.asp>



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A photograph of an oil palm plantation. In the foreground, several bright red oil palm fruits (bunches) are scattered on the dark, mulched ground. The background is a dense forest of tall oil palm trees, with sunlight filtering through the canopy, creating a bokeh effect. A large, semi-transparent blue diagonal shape covers the right side of the image, serving as a background for the text.

# CHAPTER 3

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## METHODOLOGY OF THE EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS

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# 3 METHODOLOGY OF THE EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS MALAYSIA 2018

## 3.1 Introduction

This chapter presents the methodology of the Malaysian Employment Survey in Oil Palm Plantations 2018.

The methodology generally follows the ILO methodology that was described in Section 2.5 of this report. The ILO concepts of forced labour as work that is both involuntary and under the threat of menace or penalty, child labour that includes all persons aged 5 to 17, forced labour of children and the definitions of forced labour and child labour are used in this survey. The definition of child and young persons in this survey is consistent with Malaysian laws. In terms of the survey approach, a household based survey was used.

## 3.2 Target population

The target population of this survey includes all workers employed or engaged in labour activities in oil palm plantations in Malaysia<sup>50</sup>

and aged 5 years and over. These oil palm workers include workers who are engaged in activities such as forest-clearing, planting, spraying, weeding, pruning, harvesting, loading trucks, driving trucks, and general work.

## 3.3 Sample design

The survey design consists of three basic components, namely sample design, questionnaire design and classification of forced labour and child labour for statistical reporting. In this section, the sample design component is explained.

For this survey, a probability household sample survey was carried out using a stratified multi-stage sample design with an adaptive cluster sampling (ACS) scheme. This sample design and related matters are explained below.

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<sup>50</sup> The term 'oil palm plantation' in this report is a generic term that refers to the combined oil palm estate and oil palm independent smallholder sub-sectors. The difference between an estate and a smallholding is the threshold of 40.46 hectares: An oil palm estate is larger than 40.46 hectares while a smallholder has less than 40.46 hectares. Analysis by estate and smallholding is also done to highlight their similarities and differences.

### 3.3.1 Technical Requirements

Several challenges were encountered in developing the sample design. The first challenge was to obtain population estimates of forced labour indicators and characteristics from a probability sample survey. This would require drawing a random sample of oil palm plantation workers from each of the estate and independent smallholder sub-sectors at their living quarters rather than at their place of work.

The main reason for this approach is for survey interviewers to reach and interview oil palm workers at their living quarters. In that environment, respondents could talk freely about their work experience without the presence of their employers or work colleagues. In this regard, a household-based

survey is deemed more appropriate than an establishment-based survey.

The second challenge is to construct a suitable sampling frame of oil palm plantation workers in both private and institutional living quarters for both estates and smallholders. Without a frame, a random sample selection problem is encountered. A special statistical technique is needed to overcome this sample selection problem. A multi-frame indirect random sampling of oil palm workers at their selected households is required in the selected EBs, and this uses a proxy frame of plantations provided by the MPOB. The distribution of the proxy frame of plantations by state and type is shown in **Table 3.1**.

**Table 3.1: Distribution of Plantation by State, Hectarage and Type (Proxy Frame)**

State	Hectarage	Number		
		Estates	Smallholders	Total plantations
<b>MALAYSIA</b>	<b>5,702,507</b>	<b>5,097</b>	<b>291,303</b>	<b>296,400</b>
<b>Johor</b>	735,367	602	90,264	90,866
<b>Kedah</b>	80,350	149	6,820	6,969
<b>Kelantan</b>	157,244	171	1,985	2,156
<b>Melaka</b>	58,325	108	3,933	4,041
<b>Negeri Sembilan</b>	176,962	262	5,854	6,116
<b>Pahang</b>	735,750	585	13,646	14,231
<b>Pulau Pinang</b>	21,901	19	4,465	4,484
<b>Perak</b>	374,504	481	47,241	47,722
<b>Perlis</b>	702	3	37	40
<b>Selangor</b>	148,566	151	29,333	29,484
<b>Terengganu</b>	168,041	150	3,781	3,931

State	Hectarage	Number		
		Estates	Smallholders	Total plantations
<b>Peninsular Malaysia</b>	<b>2,657,712</b>	<b>2,681</b>	<b>207,359</b>	<b>210,040</b>
<b>Sabah</b>	<b>1,520,589</b>	<b>1,691</b>	<b>38,002</b>	<b>39,693</b>
<b>Sarawak</b>	<b>1,524,208</b>	<b>725</b>	<b>45,942</b>	<b>46,667</b>

Source: MPOB, updated December 2017

A major technical requirement for this study is to obtain precise estimates for forced labour variables of interest (e.g. prevalence rate of forced labour) for three regional domains, namely Peninsular Malaysia, Sabah and Sarawak. The overall sample size should take into account the statistical requirements of these three domains.

The sample list comprises large private plantations, government estates and also smallholders. Stratification by plantation size takes into account the probability of selection of sample based on the early assumed ratio that, on average, one worker works on eight hectares of plantation.

After taking technical and other considerations into account, a stratified multi-stage sampling design with adaptive cluster sampling (ACS) scheme was adopted for this survey.

### 3.3.2 Sample Size Determination of Oil Palm Workers<sup>51</sup>

The sample size of plantations drawn for this survey is determined backwards (in reverse order). That is, first the required overall sample size of oil palm workers is determined for a given precision requirement; followed by obtaining the corresponding number of EBs given the sample-take per EB; finally, the required number of plantations is computed given the average number of linked and paired EBs with the plantations.

The required overall sample size of oil palm workers is determined based on the conventional expression for sample size determination,

$$n \geq \frac{(z_{\alpha/2})^2 \times pq \times deff}{\varepsilon^2 \times r \times (1 - \gamma)}$$

where  $p$  is the prescribed value of the prevalence of the target variable, that is forced labour;  $q$  is the complement value,  $1 - p$ ;  $deff$  is the design effect;  $\varepsilon$  is the

<sup>51</sup> Mehran, Farhad, ILO Consultant, and Bianco, Federico, ILO Fundamentals, "Employment Survey in Palm Oil Plantations in Malaysia: Sample and Questionnaire Design," ILO, Geneva, 10 May 2018



specified margin of error of the estimate;  $r$  is the assumed response rate; and  $\gamma$  is the assumed rate of non-matching plantations with EBs.

The value of  $p$  is determined based on the world average prevalence rate of forced

labour, 0.006 per person, converted to the prevalence per worker, 0.014 per worker, using data from the labour force participation rate in Malaysia and the share of the working-age population, 15-64 years old, to total population:

$$p = \text{prevalence} = \text{world prevalence} \times \frac{1}{\text{pop}_{15-64}/\text{pop}} \times \frac{1}{\text{LF}/\text{pop}_{15-64}}$$

$$p = 0.006 \times \frac{1}{0.67} \times \frac{1}{0.66} = 0.014$$

$$q = 1 - p = 0.986$$

The preliminary initial sample size is calculated separately for each of the three domains (that is, Peninsular Malaysia, Sabah and Sarawak) by applying the sample size formula based on the values of parameters for the expected prevalence of rate for forced labour, design effect, margin of error, response rate and matching failure rate. Thus, the design effect is set at a mid-value;  $deff = 1.5$ , corresponding to what is used in many national labour force surveys. The design effect is an adjustment to the sample size to take into account the departure of the sample design from a simple random sampling scheme. The margin of error is set at  $\varepsilon = 0.003$ . It corresponds to a confidence interval of estimation of the prevalence of forced labour within about one-fifth of the prescribed value,

that is  $0.014 \pm 0.003$ , at  $\alpha = 5\%$  level of significance, where  $z_{\alpha/2} = 1.96$ , the tail value of the standard normal distribution.

Finally, the sample size is adjusted to compensate for non-response among workers and for sample loss due to failure in matching sample plantations with EBs. The rate of non-response among workers is set at 5% corresponding to the typical value obtained in the regular labour force survey conducted by DOSM. This adjustment gives the response rate of  $r = 0.95$  used in the expression of the sample size determination.

For matching failures, a much higher rate is set,  $\gamma = 0.25$ , as preliminary experience has shown that many plantations cannot be matched with the EBs because the addresses

in the frame are either incorrect or incomplete, or as in many cases referring to the address of the owner or manager rather than the address of the plantation itself.

The resulting initial sample size based on the parameters noted above is  $n = 12,028$  workers for each of the three domains, i.e. Peninsula Malaysia, Sabah and Sarawak. These domains exclude W.P. Kuala Lumpur, W.P. Labuan and W.P. Putrajaya, where there

are virtually no oil palm plantations. Thus, the desired initial sample size for Malaysia is estimated to be 36,084 plantation workers. However, the desired initial sample size was revised to 31,880 plantation workers after some adjustments based on the findings of the pilot test conducted in Johor, Perak, Pahang, Terengganu, Melaka, Sabah and Sarawak in May 2018. The revision is based on the adjusted parameters reported in **Table 3.2**.

**Table 3.2: Parameters for Calculating Sample Size by Domain**

Type	Prevalence Rate (p)			Design Effect (Deff)			Margin of Error (MOE)	Response rate (r)	Matching failure rate (Y)
Domain	A	B	C	A	B	C	All	All	All
Initial	0.014	0.014	0.014	1.5	1.5	1.5	0.3%	95%	25%
Adjusted/Revised	0.010	0.011	0.008	2.0	1.5	1.8	0.3%	90%	25%

Note: A – Peninsular Malaysia; B – Sabah; C – Sarawak

The distribution of the revised initial sample size by domain is shown in **Table 3.3** and the distribution by state is given in **Appendix A**.

The distribution is used to allocate the number of EBs for fieldwork.

**Table 3.3: Revised Initial Sample Size of Oil Palm Workers by region, 2018\***

Domain	Oil Palm Workers	Plantations			Enumeration Blocks (EBs)
		Estates	Smallholders	Total	
Malaysia	31,880	416	469	885	1,969
Peninsular Malaysia	12,530	283	202	485	768
Sabah	10,300	65	143	208	639
Sarawak	9050	68	124	192	562

\*Data source: DOSM

### 3.3.3 Sample Design and Sample Selection

The basic sampling approach adopted may be described as a multi-frame indirect sampling of workers at their living quarters/households. It is indirect sampling because no direct sampling frame of oil palm plantation workers exists, and sampling has to be carried out indirectly through the initial selection of oil palm plantations. It is multi-frame because the list of estate plantations used is distinct from the list of smallholders with a possible overlap of the two lists. This frame uses the proxy frame of plantations provided by MPOB, as noted in section 3.3.1.

The sample frame for large private and government estates (Frame I) was provided by the Malaysian Palm Oil Board (MPOB). It contains information on 5,097 plantations, with data on contact number, type of plantation, geographic location and size in terms of hectares. The sampling frame is stratified to draw a sample of plantations with probabilities proportional to size measured in terms of hectares. Overall, 71 strata were formed representing the 13 states of the country, the two types of plantations (government or private estate), and their size categories (below 200 hectares, 200 to 999

hectares and 1000+ hectares). The sample was allocated among the three domains, states and strata.

The resulting sample estate plantations were then linked to the enumeration blocks (EBs). A sample plantation may be linked to one or more EBs. There were cases where the sample plantation could not be linked to an EB because the available information on the sample plantation was not sufficient to determine its geographic location. To increase the likelihood of covering workers living outside the plantation and workers engaged in a plantation other than the sample plantation, each linked EB was paired to another neighbouring EB, called paired EB. The paired EBs were selected randomly. Within the sample EBs, the households in each linked or paired EB were screened for plantation workers.

For each linked EB, a special technique known as adaptive cluster sampling scheme (ACS)<sup>52</sup> was used to select a sample of eligible households (with oil palm workers) and oil palm workers. In implementing the adaptive cluster sampling scheme, certain rules were established to make it practical and efficient in field operations, in particular:

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<sup>52</sup> Details and illustration of adaptive cluster sampling scheme are explained in: Farhad Mehran, "Survey of Employment in Oil Palm Plantations, Malaysia 2018, Review Mission: 17-28 September 2018", 4 October 2018 (revised 12-19 October 2018).

- Four starting points were selected in all types of EBs to spread the sample as widely as possible;
- A stopping rule was also established to avoid an excessive number of interviews when there are numerous neighbouring households of interest, and the sampling process becomes too long and expensive. It was agreed to set the stopping rule at 20 households with plantation workers in linked EBs; and
- Finally, a dropping rule was established to avoid unnecessary sampling when the conditions of adaptive cluster sampling are not present. It was calculated that a threshold of 20 households with no plantation workers would limit the error of dropping the EB while it should not have been dropped to about 10%.

The procedure for the adaptive cluster sampling scheme for selected linked EBs was similarly applied to the selected paired EBs, with one basic difference. For the paired EBs, only up to 10 eligible households with plantation workers were selected for the survey.

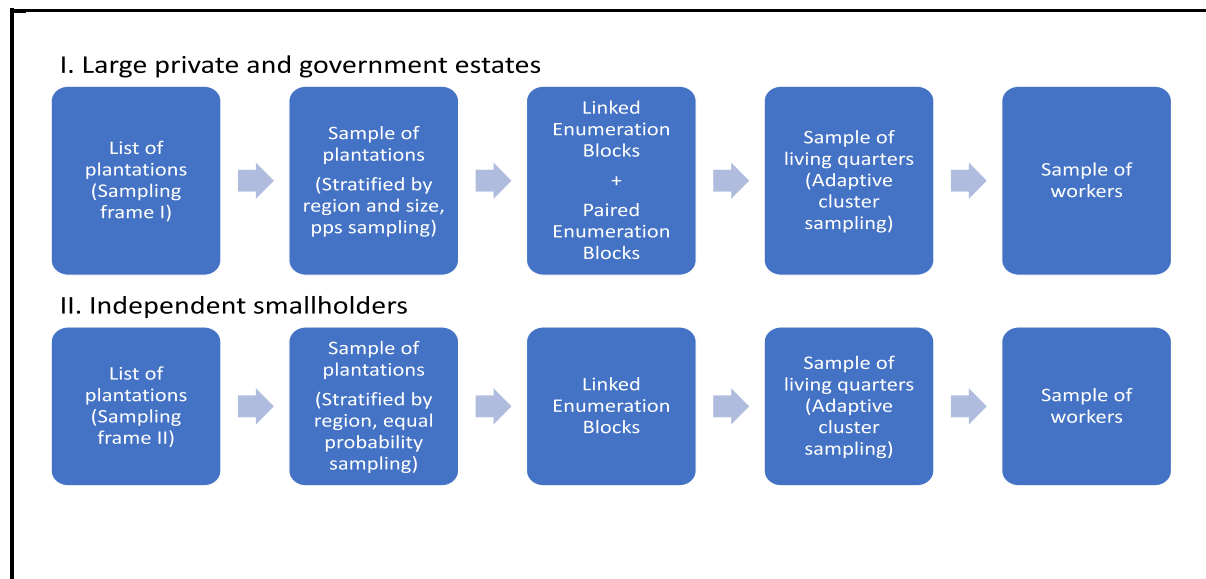
In the case of the smallholders, the sampling frame (Frame II) is much larger covering 291,303 smallholder plantations. The sampling frame was first stratified by region and state and sorted by the size of the plantation. Then, a sample of plantations was drawn by systematic sampling with equal probabilities from the sorted file.

As in the case of the estates frame (Frame I), the sample of smallholder plantations was linked to the area frame of EBs, but in this case, the linked EBs were not paired with other neighbouring EBs. This was because smallholder plantations were likely to be within the boundaries of the EB blocks to which they belonged and therefore pairing these with neighbouring EBs were less likely to provide additional information on smallholder employment characteristics.

The Adaptive Cluster Sampling Scheme, as described earlier, was implemented for the linked EBs in the smallholder plantations (Frame II). However, during the course of the survey, the sample take was set at 10 and then changed to 20.

A schematic representation of the sampling approach is shown in **Figure 3.1**.

**Figure 3.1: Schematic representation of sampling of oil palm plantation workers at their living quarters**



### 3.3.4 Sampling Weights and Estimation

The sampling weights were calculated in three steps to pave the way for estimation:

#### (a) Sampling weights of oil palm plantations

Firstly, the design weights of the sample plantations were calculated by the inverse of the probabilities of selection,

$$d_{ih} = \frac{1}{\pi_{ih}}$$

where  $d_{ih}$  is the design weight of sample plantation  $i$  in stratum  $h$  and  $\pi_{ih}$  is its probability of selection is obtained depending on the sampling frame.

The design weights were then calibrated to conform to the frame values by state and type of plantation. Calibration was carried out

according to the method of Deville and Sarndäl (1992) using the R-package "sampling". The resulting calibrated weights are designated as

$$w_i = \text{calibrated } d_i$$

#### (b) Sampling weights of enumeration blocks

The next step was the use of the calibrated design weights to calculate the sampling weights of the enumeration areas linked or paired to the sample plantations, based on the principles of indirect sampling and the weight share method. The procedure takes into account the fact that each linked or paired enumeration block could be selected in different ways, directly from the sample plantation to which it is linked or paired or

from other plantations that did not fall in the sample but also linked to the enumeration block. The resulting sampling weight is expressed as,

$$w_j = \sum_{i \in S} \frac{\theta_{ij}}{\theta_{+j}} \times w_i$$

where  $j$  is the super enumeration block composed of the linked and paired EB in frame I sampling or the linked EB in frame II sampling;  $w_j$  is the sampling weight of the super EB <sub>$j$</sub> ;  $w_i$  is the calibrated design weight of the sample plantation  $i$ ;  $\theta_{ij}$  is the dichotomous link function taking value 1 if plantation  $i$  is linked or paired to the super EB <sub>$j$</sub> , and 0, otherwise; and  $\theta_{+j} = \sum_{i=1}^N \theta_{ij}$  is the total number of links of the super EB <sub>$j$</sub>  with plantations in the sampling frame. Values of  $\theta_{+j}$  are then estimated by state and type of EB using the available data of DOSM on enumeration blocks.

### **(c) Sampling weights of oil palm plantation worker**

The last sampling unit for which sampling weights are calculated is the oil palm plantation worker selected within the sample EBs. The workers, or more precisely, the living quarters of oil palm plantation workers are selected by adaptive cluster sampling. The basic unit of sampling in adaptive cluster sampling is the “adaptive cluster”, i.e., the set of all living quarters of interest that

neighbour each other. All sample workers in the same “adaptive cluster” will then receive the same sampling weights. The sampling weight of worker  $k$  in EB <sub>$j$</sub>  is expressed by,

$$w_k = w_{k(j)} \times w_j$$

where  $w_j$  is the sampling weight of EB <sub>$j$</sub>  described earlier.

Next, the sampling weight  $w_k$  was adjusted for non-response. The adjustment for nonresponse was carried out by dividing the sampling weight  $w_k$  with the response rate of the EB in which the living quarter of the worker was located,

$$w_k(\text{adjusted for non-response}) = \frac{w_k}{r_j}$$

where  $r_j$  is the response rate of workers in EB <sub>$j$</sub> . Non-response may occur due to refusal of the sample unit to be interviewed, or because no one was at home when the interviewer visited the living quarter. Vacant or demolished living quarters or living quarters transformed to workshops or other non-residential units are not non-responses.

The final sampling weights of workers were then obtained by trimming the adjusted weights for non-response to avoid extreme values of the weights. Most standard methods of trimming are ad-hoc and do not use information in the sample data to determine optimal cut-off values for



trimming. In the present survey, the sampling weights of workers were trimmed to  $t$  as expressed by,

$$\begin{aligned} & \text{final weight } w_k \\ &= \max(\text{non} \\ & \quad - \text{response adjusted weight } w_k, t) \end{aligned}$$

where  $t$  was set at 150, based on estimates obtained from other censuses and surveys conducted by DOSM. Trimming affected about 14.1% of the total weights.

### 3.4 Questionnaire Design

#### 3.4.1 Introduction

This section discusses the questionnaire that was used in this employment survey. The questionnaire comprised three modules dealing with employment, forced labour and child labour respectively. It was developed collaboratively between DOSM, ILO and MPIC then deliberated at the Technical Committee and later was approved by the Steering Committee. The modules are described below.

#### 3.4.2 The Employment Survey in Oil Palm Plantations Questionnaire

The questionnaire for Employment Survey in Oil Palm Plantations comprises six main sections:

1) Identification particulars;

- 2) Household members' particulars;
- 3) Labour force particulars;
- 4) Salaries and Wages particulars;
- 5) Oil palm plantation workers' particulars (5 years old and above); and
- 6) Oil palm plantation workers' particulars (5-17 years old only).

A sample of the questionnaire is shown in **Appendix B**. For the employment module of the forced labour survey questionnaire, some of the basic elements of the LFS were retained with some modifications for adaptation to the broader scope of the survey which now covers children from aged 5 years and above instead of 15 years and above as in the case of the LFS. Some of the questions in the LFS were reworded while some questions were dropped and replaced with those relevant to forced labour and child labour. With this adaptation, most of Sections 1 and 2 on identification particulars and Household Particulars were retained. Only information on Identification No., Learning Institute and Field of Study were dropped.

#### 3.4.2.1 The Employment Module

For the Employment module (Section 3), the labour force particulars comprised 18 questions:

- a) household members aged 5 years and above (13 questions); and

- b) household members aged 5-17 years only (5 questions).

The household members' sub-section (**aged 5 years and above**) contained questions on working conditions such as hours worked during the **reference** week; principal job/occupation, industry and employment status and; secondary job/occupation, industry and employment status.

On the other hand, household members' subsection (**aged 5-17 years only**) contained additional questions on whether the job/occupation was their main activity for the **past 12 months**. If not, they were asked if they had worked at least one hour in a week for the past 12 months for pay or profit or family gains. Information on the occupation and industry, as well as employment status, were required if the answer was "yes".

Those who are identified as oil palm workers in **Section 3** were asked to answer **Section 4 on Salaries and Wages**. This section contained questions about cash components such as basic salaries, allowances and other cash; payment-in-kind; overtime payment and deductions.

### 3.4.2.2 Forced Labour Module

**Section 5** is the Forced Labour Module and covered topics related to the recruitment

process and debts incurred in the process. This section contained 22 questions for **oil palm plantation workers aged 5 years and above**. Answers given will determine whether oil palm plantation worker falls into the category of forced labour.

### 3.4.2.3 Child Labour Module

**Section 6** is specifically targeted at **oil palm plantation workers aged 5-17 years old only**. A total of 10 questions were used to determine whether the person could be categorised as child labour.

## 3.5 Rules for Classifying Forced Labour Indicators

This section shows the counting rules to determine if the worker can be classified as forced labour and/or child labour. The counting rules was finalised during a ten-day ILO mission undertaken from 17 to 28 September 2018. Details of the survey field operations are described in Section 3.6.1. [Oil Palm Plantation Occupations](#)

To determine the occupation of an oil palm worker, the following occupations were considered<sup>53</sup>:

- a) 6111-04 (Worker, Oil palm Production)
- b) 6111-15 (Mandore, Plantation)

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<sup>53</sup> Classifications were based on the Malaysian Standard Classification of Occupation.

- c) 6111-16 (Checker, Plantation)
- d) 6111-18 (Supervisor, Plantation)
- e) 6111-19 (Skilled Farm Workers, Field Crop)
- f) 8341-01 (Driver, Oil Palm Plantation Vehicle)
- g) 8341-02 (Driver, Oil Palm Plantation Truck)
- h) 9211-01 (Crop Farm Labourer)
- i) 9211-11 (Worker Manuring)
- j) 9211-12 (Worker, Harvesting)
- k) 9211-15 (Crop Farm Labourer, Oil Palm Plantation)
- l) 9211-21 (Worker, Crop Farm Product)
- m) 4321-22 (Weighing Clerk)

Excluded from the list of occupations in the oil palm plantation sector are:

- a) Owner/manager
- b) Administrative workers

- c) Cleaners
- d) Workers in mills/wholesale shops associated with the oil palm plantations.

### 3.5.1 Oil Palm Plantation Worker

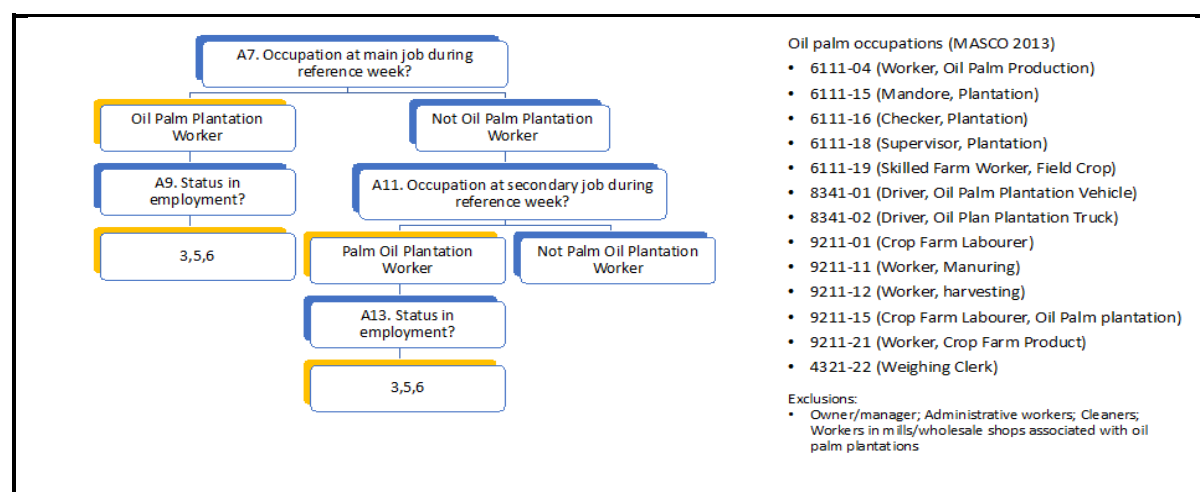
Oil palm plantation workers are identified in terms of occupation and status in employment for their main or secondary job (see **Figure 3.2**). For children (5-17 years old), the same procedure is applied except the coverage is extended to the current main or secondary job, and also the main activity in the past 12 months.

#### 3.5.1.1 Working Adults Aged 18 years old and above

**Definition:** Employed in an oil palm plantation occupation at the current main or secondary job during the reference week.

Question No:	Required Questions
<b>A7</b>	Occupation at main job during reference week
<b>A9</b>	Status in employment (main job)
<b>A11</b>	Occupation at secondary job during reference week
<b>A13</b>	Status in employment (secondary job)

**Figure 3.2: Classification of Oil Palm Plantation Workers (Adults Aged 18 and above)**

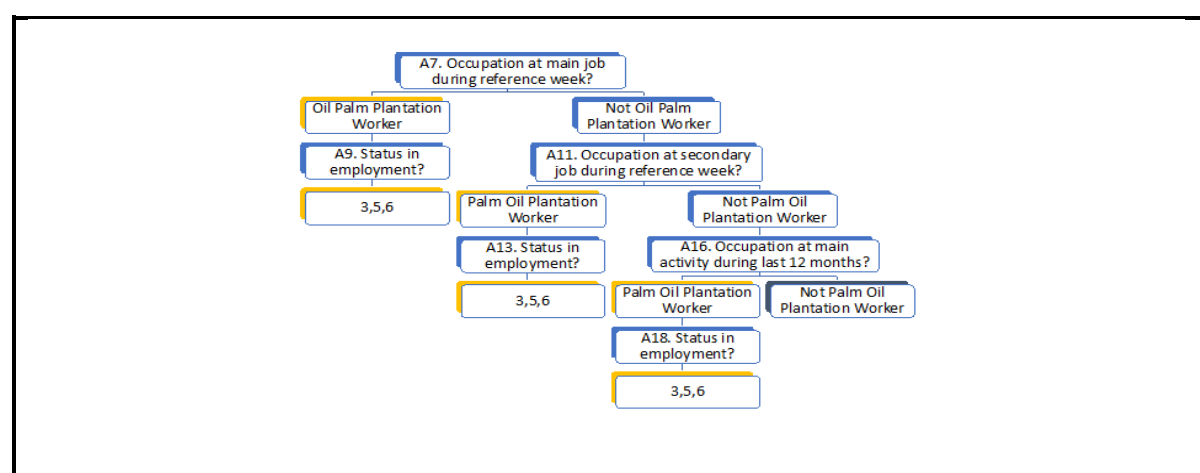


### 3.5.1.2 Working Children (Aged 5-17 years old)

**Definition:** Employed in an oil palm occupation, as a main or secondary job, or as the main activity during the **last 12 months** (using information on the additional questions A16 and A18).

Question No:	Required Questions
<b>A7</b>	Occupation at main job during reference week
<b>A9</b>	Status in employment (main job)
<b>A11</b>	Occupation at secondary job during reference week
<b>A13</b>	Status in employment (secondary job)
<b>A16</b>	Occupation at main activity during the last 12 months
<b>A18</b>	Status in employment (last 12 months)

**Figure 3.3: Classification of Oil Palm Plantation Worker (Children Aged 5-17 years old)**



### 3.5.2 Forced Labour of Adults

**Definition:**

**Work:** Any activity performed by persons of any sex and age to produce goods or to provide services for use by others or for own use.

During data collection, the definition of work used in the questionnaire includes:

- a) Any work on his / her own or the household's plot, farm food garden, plantation or help in growing farm produce or in looking after animals for the household;
- b) Online sales activities, such as selling clothes, accessories, cupcakes, etc.;

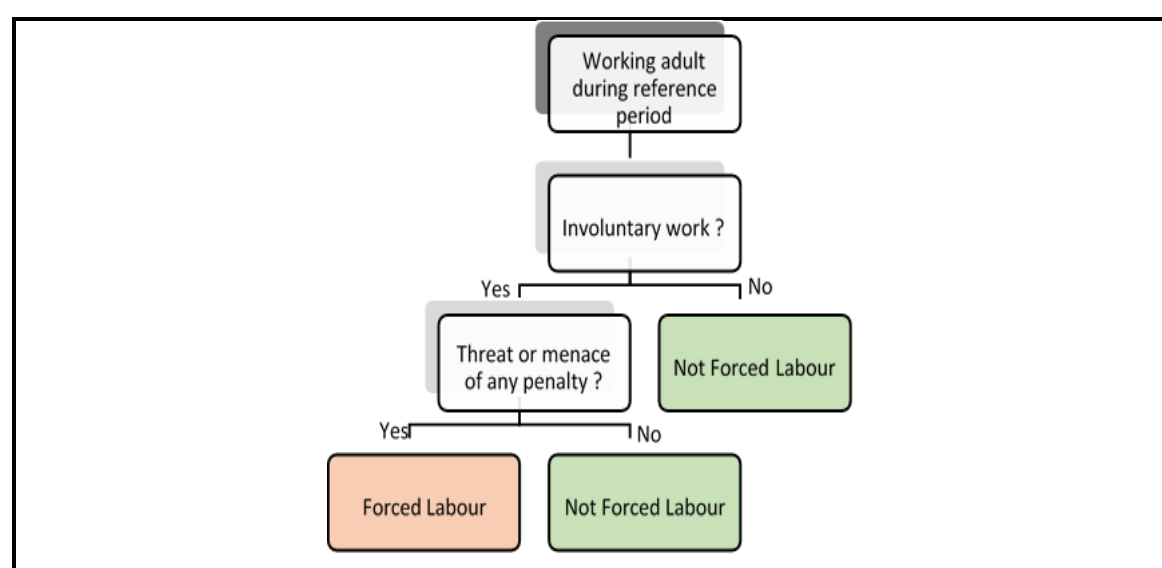
- c) Assist family members to operate their enterprises/businesses; and
- d) Activities carried out at home such as folding boxes, shelling of prawns, sending school children and sewing beads.

**Involuntary work:** Any work taking place without the free and informed consent of the worker.

**Threat or menace of any penalty:** Any means of coercion used to impose work on a worker against his or her will.

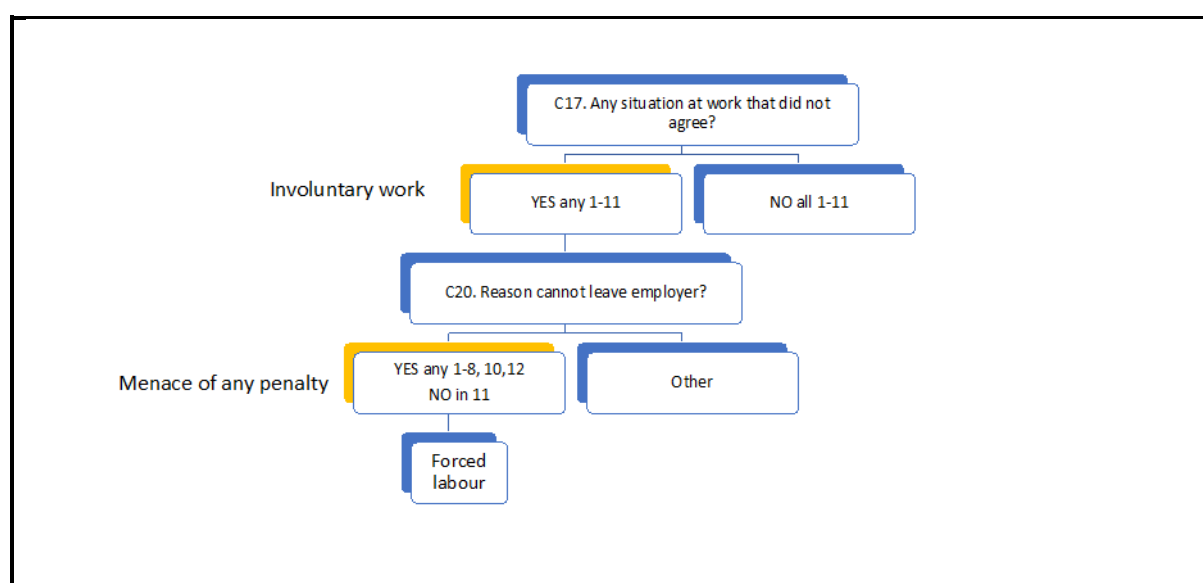
**Reference period:** short reference period, such as during the last week, was used in the survey.

**Figure 3.4: Schematic Representation of the Statistical Definition of Forced Labour of Adults**



Question No:	Required Questions
<b>C17</b>	Have you ever faced any situation that you do not agree at work?
<b>C19</b>	If you decide to stop working with this employer, can you leave when you decide (after legal notice) without negative repercussions or any risks?
<b>C20</b>	Why do you think you were obliged to do these activities you did not agree or that you cannot leave your employer when you want?

**Figure 3.5: Classification of Forced Labour of Adults**



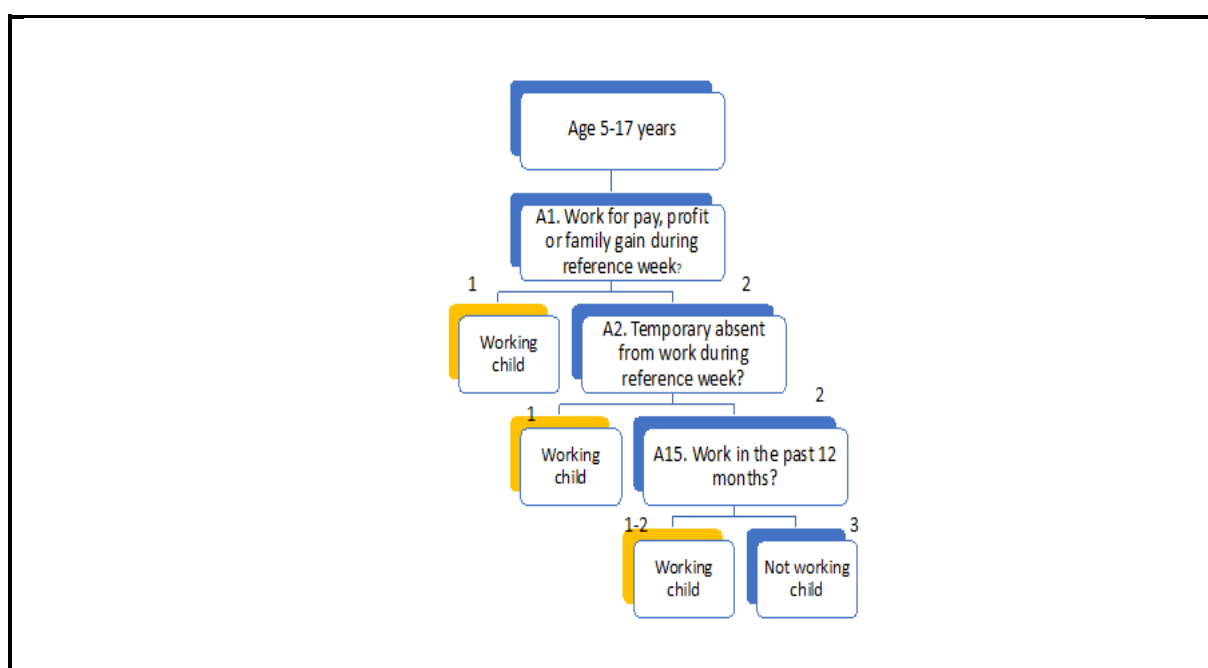
### 3.5.3 Working Children

**Definition:** It comprised all children below 18 years of age engaged in any activity to produce goods or to provide services for use by others or for own use. Different forms of work by children in the questionnaire are as follows:

- a) Own-use production work by children;
- b) Employment work by children, comprising work performed for others in exchange for pay or profit;
- c) Unpaid trainee work by children, comprising work performed for others without pay to acquire workplace experience or skills; and
- d) Volunteer work by children, comprising non-compulsory work performed for others without pay.

Question No:	Required Questions
<b>A1</b>	Did you work at least ONE HOUR during the reference week for pay or profit or family gains?
<b>A2</b>	Although you did not work during the reference week, do you have any employment, work on farm, enterprise or other family enterprises to return to?
<b>A15</b>	Although you were not involved in the job activity last week, did you work at least ONE HOUR in a week (during the past 12 months) for pay or profit or family gains?

**Figure 3.6: Classification of Working Children**



### 3.5.4 Child Labour and Child Labour in Hazardous Work

#### Definition:

ILO's definition of **Child labour**<sup>54</sup> includes all persons aged 5-17 years old who, during the reference period, were engaged in one of the following categories:

- Worst form of child labour, including forced labour and work which, by nature or the circumstances in which it is carried out, is likely to harm the health, safety or moral of children;
- Employment and other work within the SNA production boundary below the minimum age specified for the kind of work performed; and

<sup>54</sup> ILO Resolution Concerning Statistics of Child Labour adopted by the 18<sup>th</sup> International Conference of Labour Statisticians, Geneva, 2008



- c) Hazardous unpaid household services by children, including own-use production of services and volunteer work in household producing services for others performed under conditions under (a).

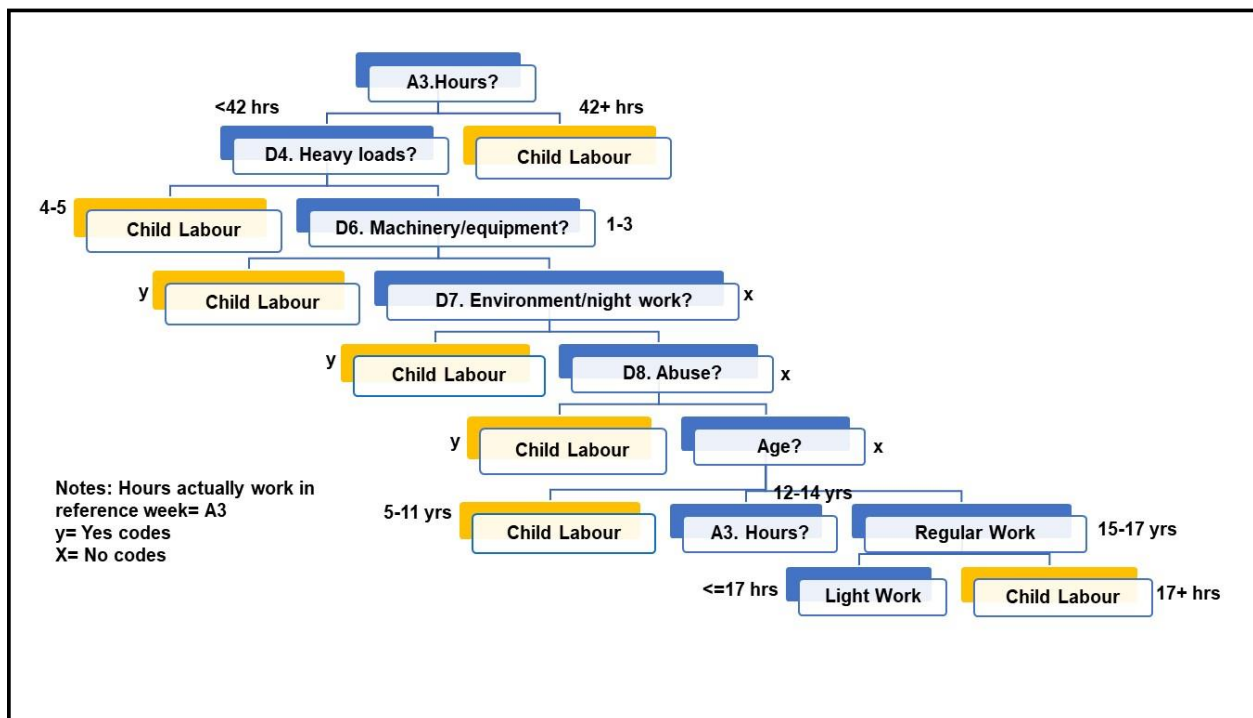
Regarding hazardous work by children, the ILO Recommendation No. 190 specifies the following criteria:

- a) Work which exposes children to physical, psychological or sexual abuse;
- b) Work underground, underwater, at dangerous heights or in confined spaces;
- c) Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

- d) Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, temperatures, noise levels, or vibrations damaging to their health; and
- e) Work under particularly difficult conditions such as long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

The international statistical definition of child labour was adapted to the circumstances of oil palm plantation work in Malaysia. In particular, the third element c) on hazardous unpaid household services by children was excluded from the scope of the definition by the Steering Committee of the Employment Survey on Oil Palm Plantation, Malaysia 2018.

**Figure 3.7: Classification of Child Labour**



To classify the tool used by the child as in Question D6, DOSM has classified the response based on the list of hazardous equipment for children in the oil palm plantation sector, which was provided by the Ministry of Human Resources (MOHR) and MPI. (see Appendix C).

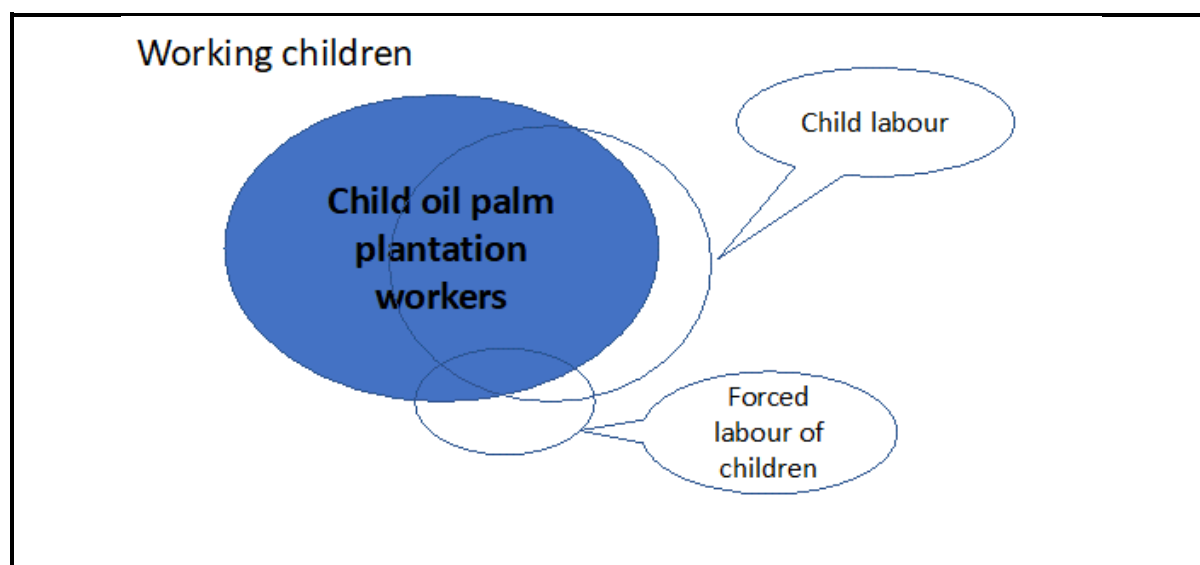
The threshold of 17 hours was established collaboratively with the MOHR in line with national law which permits children to work 36 hours per week, including hours spent at school. The threshold was accordingly set as one hour of work in addition to hours spent at school during the five school days of the week, and six hours of work per day during the weekend (17 hours =1+1+1+1+1 during school days and 6+6 during the weekend).

### ***Light Work***

Light work is work that must be performed in non-hazardous conditions, without hazardous equipment, and in the absence of any physical, sexual or other abuses. Light work applies only to children between 5-14. Children aged 12-14 years and work less than 17 hours during the reference week are considered involved in light work. Children doing light work is permitted by the Children and Young Persons (Employment) Act, 1966 and is not considered as child labour. Note that light work is illustrated in Figure 3.7 in the context of the counting rule of this survey.

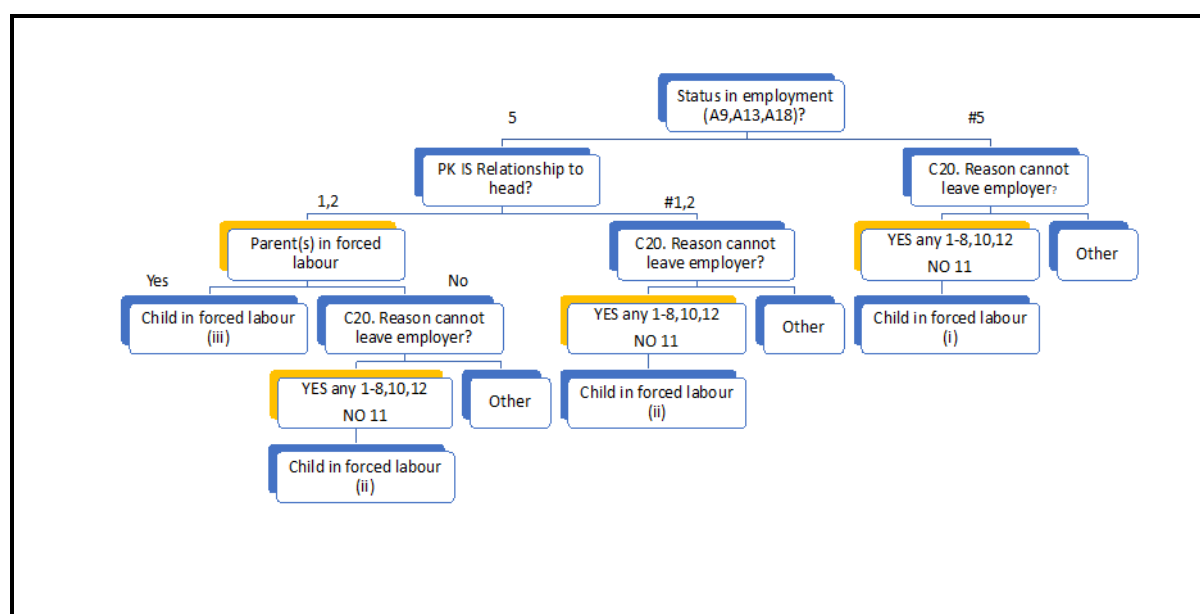
A schematic representation of working children, child labour and forced labour of children is shown in Figure 3.8.

**Figure 3.8:** Schematic representation of working children, child labour and forced labour of children



**Figure 3.9** shows the counting rules for classifying children as falling under the category of forced labour.

**Figure 3.9:** Classification of Forced Labour of Children



Note: Parents = Head of household or spouse

**Table 3.4** summarises the different components of child labour and child labour in hazardous work based on the counting rules described in **Figure 3.9**. Based on the

counting rule, all children age 5-11 years who are in employment work of at least one hour are automatically considered as child labour. On the other hand, those aged 12-14 and

work more than 17 hours during the reference week are considered as child labour. For those age 15-17 years who are considered as young persons as stipulated in

the Child and Young Persons (Employment) Act, and work 42 hours or more during the reference week fall into the category of child labour.

**Table 3.4: Components of Child Labour and Child Labour in Hazardous Work**

Age	Counting Rule	Child Labour	Child Labour in Hazardous Work
5-17	Work 42 hours and over during the reference week	√	√
	Carry very heavy or extremely heavy loads	√	√
	Operate hazardous equipment	√	√
	Exposure to hazardous conditions	√	√
	Subject to physical, sexual and other abuses	√	√
15-17	Work less than 42 hours during the reference week	×	×
12-14	Work between 18-41 hours during the reference week	√	×
	Work less than 17 hours during the reference week	×	×
5-11	Work between 1- 41 hours during the reference week	√	×

*Interpretation: only “√” is considered child labour; “×” is not considered as child labour.*

According to the definition of child labour, children include both those involved in oil palm activities as well as other economic activities not related to oil palm. Since they are found in the living quarters of oil palm workers, they form the basis for defining child labour and child labour in hazardous work. However, when referring to the questionnaire, questions related to hazardous work such as carrying heavy loads, operating hazardous

equipment, exposure to hazardous conditions, subject to abuse, are related only to oil palm workers aged 5-17 years (Section D of the questionnaire) and do not seem to be extended to other children who are not in oil palm occupations/activities.

### 3.5.5 Forced Labour of Children

**Definition:** Refers to work performed by a child under coercion applied by a third party

(other than his or her parents) either to the child or child's parents, or work performed by a child as a direct consequence of his or her

parent or parents being engaged in forced labour.

Question No:	Required Questions
	Working Child
<b>A9, A13, A18</b>	Status in employment = Unpaid family worker
	Relationship to HH head
<b>C20</b>	Why do you think you were obliged to do these activities you did not agree or that you cannot leave your employer when you want?

## 3.6 Issues and Limitations

### 3.6.1 Field Operations

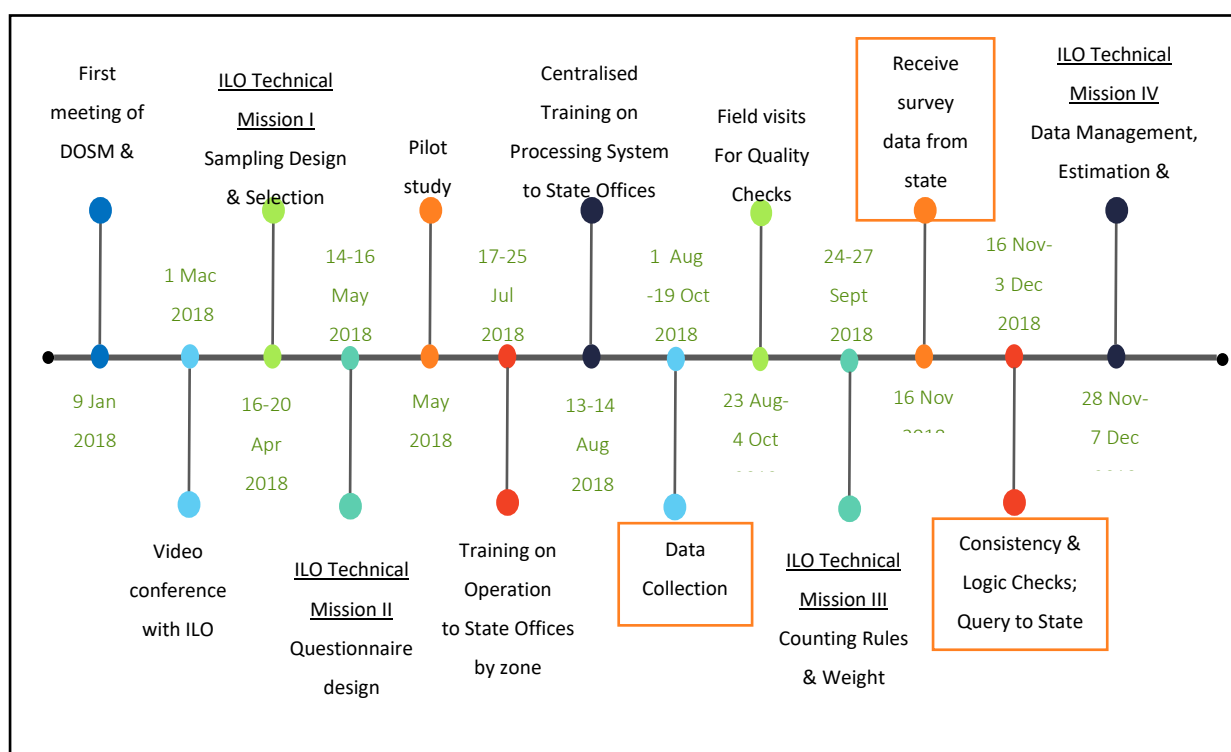
To monitor the progress and accuracy of the fieldwork methods, DOSM conducted field visits to all 13 states in the survey, with participation from ILO, MPIC and MPOB from 27 August 2018 to 5 October 2018.

A ten-day ILO mission was undertaken from 17-28 September 2018 to review the progress of the survey and to clarify issues raised in the course of field operations. Field visits were organised for the ILO-DOSM teams in Miri and Bintulu in Sarawak (18-20 September 2018), and Johor (16-17 September 2018)

and Perak (19-20 September 2018) in Peninsular Malaysia. Two further field visits with the ILO were planned after the mission in Sabah and Pahang (1-5 October 2018).

A workshop was organised in the second week of the ILO mission and two main topics were discussed: (a) Calculation of Sampling weights; and (b) Specification of counting rules on forced labour and child labour. The workshop also discussed the main findings of the field visits. A working group was established with a selected number of participants of the workshop to review the main issues and make appropriate proposals for field operations.

**Figure 3.10: Timeline of Survey Activities**



### 3.6.1.1 Sample-take in Linked EBs

The ILO report on survey design had a mixed indication on the target number of sample workers per linked independent smallholder EB. The Guideline specified 10 oil palm workers as sample take in such EBs, but the calculation and tables of data pointed to a sample take of 20 oil palm workers. Given that the sample size calculation was based on the sample take, the correct number is a sample take of 20 workers per linked smallholder EB. This was corrected through a new guideline issued by DOSM.

questions on recruitment (C3, C4, C5, C14), on debt (C6, C7, C8, C10), and on contract (C9, C11, C12, C13). Additionally, the questions on salary and production in Section B of the questionnaire (B4, B5, B8, B16) were also problematic as they do not apply to contributing family workers. Thus, these questions were skipped when interviewing contributing family workers. It has been recommended that the questionnaire and data processing of the results be modified accordingly for future surveys.

### 3.6.1.2 Contributing Family Workers

The interview of contributing family workers revealed the difficulty of administrating the

### 3.6.1.3 Recruitment

It was found on a visit to one location that some workers were initially recruited for and

employed in a different sector but were later transferred to the oil palm plantation. On recruitment, it was therefore unclear whether they were responding based on recruitment to the current job in the plantation or based on their recruitment from the country of origin to Malaysia, in the other sector.

An additional point for consideration, for future surveys, is the possibility of using a more extended reference period such as the past year or 12 months to capture seasonal work of adults in independent smallholdings better.

### 3.6.1.4 Non-interviews

If there was a failure of an interview at a sample unit for any reason, the situation was recorded in the screening form. This information is required for the adjustment of the sampling weights for non-response.

## 3.6.2 Coverage and Survey Response

### 3.6.2.1 Coverage

The 2018 Employment Survey was conducted using a household sample survey approach where data is collected at the place of residence of oil palm workers. Unlike the national Labour Force Survey, which focuses only on non-institutional households, this survey covers both non-institutional and institutional households. Accommodation provided by employers, especially migrant workers, are commonly housed in institutional-typed living quarters.

Although an initial sample size of 31,880 was planned, the final sample size achieved 13,295 oil palm workers with an acceptable level of sampling and non-sampling errors, as detailed in the next chapter. This achieved sample size was obtained based on fieldwork and counting rules and was used for the estimation and further analysis (see **Table 3.5**). The achieved sample size by state is shown in **Appendix A**.

**Table 3.5: Achieved Sample Size of Oil Palm Workers by region, 2018\***

Domain	Oil Palm Workers	Plantations		Total	Enumeration Blocks (EBs)
		Estates	Smallholders		
<b>Malaysia</b>	13,295	412	462	874	1,827
<b>Peninsular Malaysia</b>	6,448	282	195	477	1,187
<b>Sabah</b>	4,131	65	143	208	392
<b>Sarawak</b>	2,716	65	124	189	248

\*Data source: DOSM



Cases found in the samples are based on statistical definitions (counting rules) and is weighted to represent the population. Any policy interventions have to be considered in the big picture using statistics obtained.

After taking this into account, the number of observations for forced labour, working children, child labour, child labour in hazardous work and forced labour of children were not included in this report. However, to ensure caution when interpreting statistics, all of the said issues had more than 30 observations at the national level, except for forced labour of children.

### 3.6.2.2 Non-response

Non-response occurs due to failure to obtain the required information from units selected in the sample (unit non-response) or failure

to obtain some items of information from the selected unit (item non-response). Unit non-response may occur due to refusals or temporary absence of sample living quarters/households, eligible for the survey. Non-response and unmatched plantations also occurred for cases of linkage failure between plantations and EBs.

**Table 3.6** shows the unit non-response in the Survey of Employment in Oil Palm Plantations. The rates are below 5%, indicating a high level of participation in the survey.

**Table 3.6: Non-response rate of Sample Households and Unmatched plantation by region**

	Malaysia	Peninsular Malaysia	Sabah	Sarawak
<b>Non response rate of Sample Households</b>	1.6%	2.3%	0.6%	0.7%
<b>Unmatched Rate of sampled Plantations</b>	1.2%	1.6%	0.0%	1.6%

Note: Calculated by DOSM. Non-response rate refers to the percentage of refusals and temporary absent sample households in the total number of eligible households. Unmatched rate refers to the percentage of sample plantations that could not be linked to the Enumeration Blocks of DOSM.

## Other Issues

An issue was encountered during a field visit on the effect of skip pattern for questions C19 and C20 of the questionnaire.<sup>55</sup> Due to the skip pattern, there were cases where workers positively answered question C19 (C19=Yes), question C20 on the risk of stopping work or leaving the employer would not be asked due to circumstances where they needed a salary, were isolated and have no means of searching for another employer. In addition, respondents do not understand or do not pay attention to the last part of C19 on “without negative repercussion or any risk”.

Thus, the technical committee decided at a meeting on 28<sup>th</sup> September 2018 that C19 should be asked together with C20 and the categories 1-8 risk and repercussions in C20 should be used as examples when asking C19. The amendment was circulated to the state

offices of DOSM on 1<sup>st</sup> October 2018 to be implemented only for EBs that are yet to be visited. **The format of the questionnaire, both in the system and in the hard copy remain unchanged.**

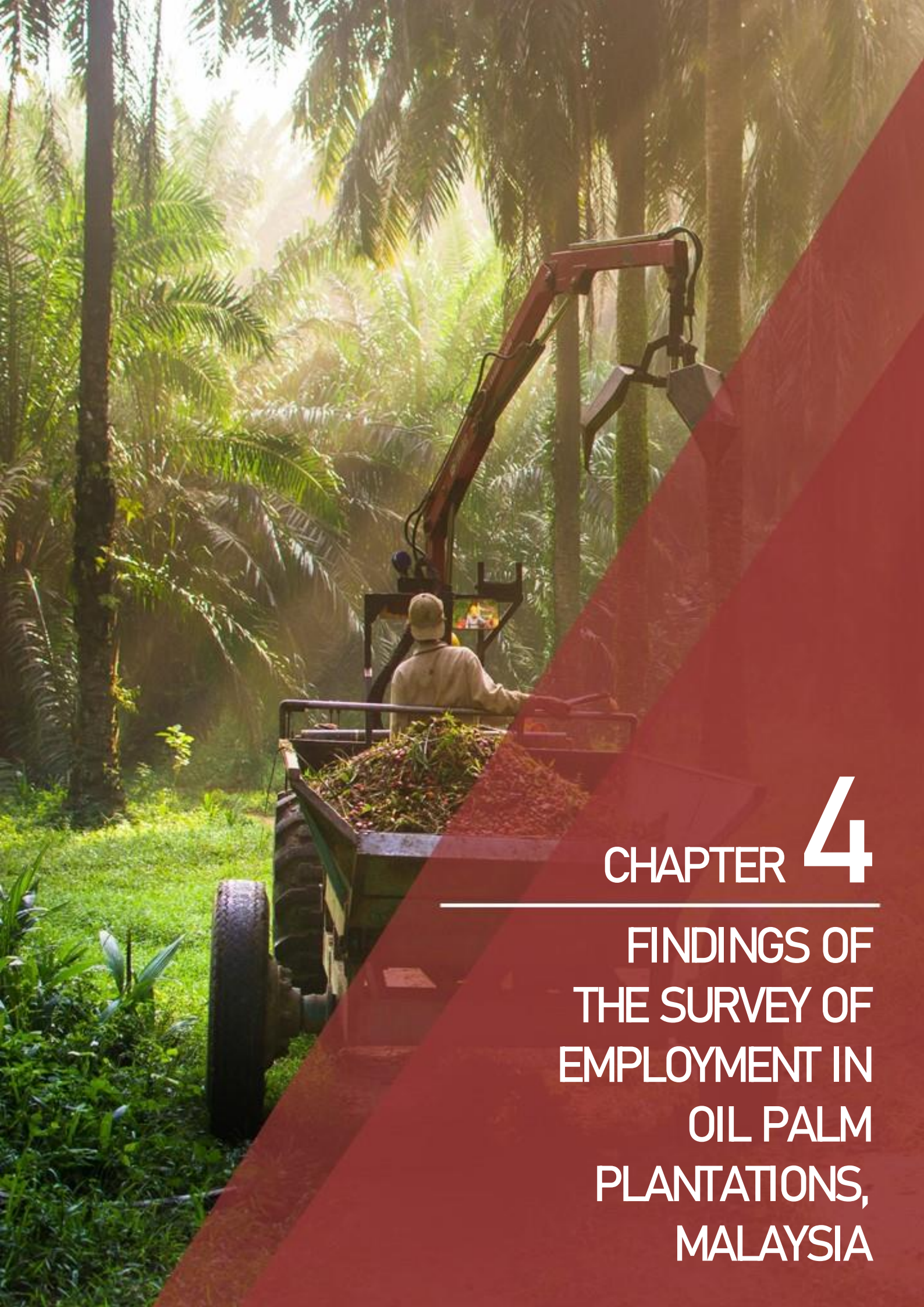
For category 7 of question C20, if the worker answers that he/she has to ask the employer for permission to gain access to his/her passport, then the answer is “No”. With this, a worker is identified as being in forced labour if both C17 and C20 are answered.

There was a change in the method of asking question C19, whereby types of penalties in C20 are asked as examples of C19, towards the end of the survey due to a lack of understanding by respondents (see Section 3). However, despite this change, DOSM had identified almost half of the final records had followed the old rule, i.e. C19 was answered as “Yes” and C20 was blank.

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<sup>55</sup> Farhad Mehran, “Survey of Employment in Oil Palm Plantations, Malaysia 2018, Review Mission: 17-28 September 2018”, 4 October 2018 (revised 12-19 October 2018).

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# CHAPTER 4

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## FINDINGS OF THE SURVEY OF EMPLOYMENT IN OIL PALM PLANTATIONS, MALAYSIA

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## 4 FINDINGS OF THE SURVEY OF EMPLOYMENT IN OIL PALM PLANTATIONS, MALAYSIA 2018

### 4.1 Survey Findings

#### 4.1.1 Caution on Use and Interpretation

To interpret the findings, users need to know the classification of oil palm workers, forced labour and child labour as they form the basis for the estimation of prevalence rates for each of the labour types. As this survey is about employment in the palm oil plantation sector, the definition of palm oil workers in this context will focus on their main or secondary jobs during the reference week. The oil palm occupations are based on MASCO 2013 and are listed in Section 3.6.

However, there are differences in the coverage of adults and children in this survey for the classification of forced labour of adults and children to derive the respective prevalence rates. For adults, the coverage for forced labour is confined to only oil palm plantation workers. On the other hand, all children aged 5 to 17 years old who are members of households in living quarters of oil palm plantation workers, which is estimated at 292,700 are the universe of children within the scope of the survey. The

difference is because these children are the population at risk for the case of forced labour or child labour.

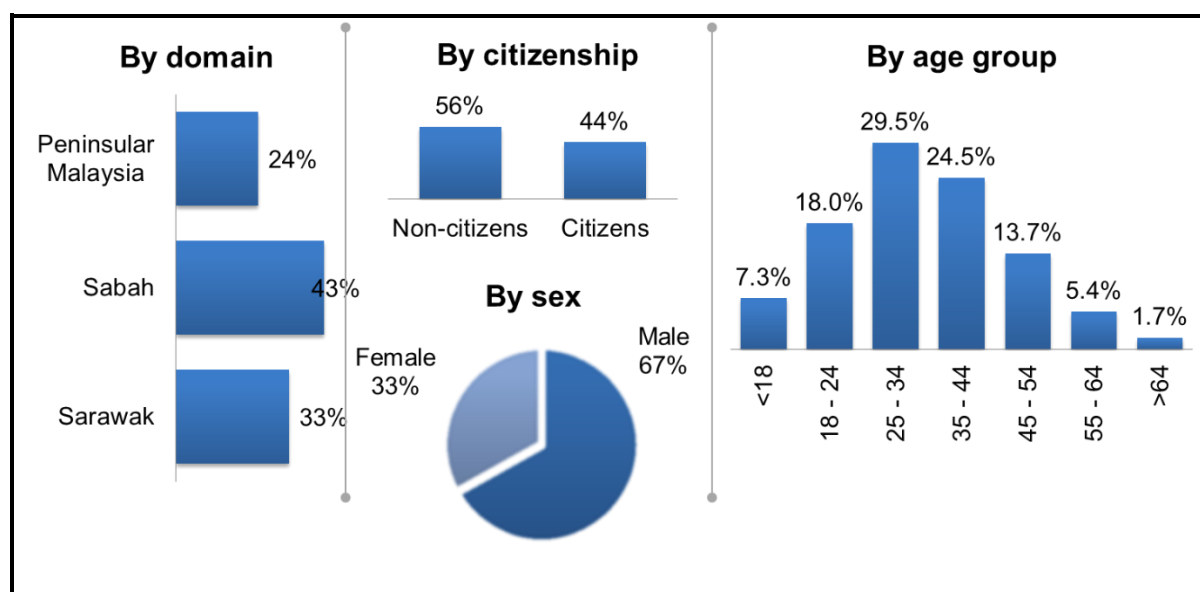
#### 4.1.2 Prevalence Rates and Profiles

##### 4.1.2.1 Profile of Oil Palm Plantation Workers

The survey identified 13,295 oil palm workers, representing an estimated total of 583,300 oil palm plantation workers in Malaysia, of whom 141,700 (24%) are found in Peninsular Malaysia, 249,300 (43%) in Sabah and 192,200 (33%) in Sarawak.

The profile shows that 67% of the oil palm plantation workers are males indicating a highly male-dominated industry. Oil palm plantation workers who are non-Malaysian citizens outnumber those who hold Malaysian citizenship (56%:44%). In terms of age profile, working children (aged between 5-17 years of age) form 7.3% of oil palm workers. The majority of the adult oil palm workers are young, with almost half of them between the ages of 18-34 years. **Figure 4.1** shows the profile of oil palm workers.

**Figure 4.1: Profile of Oil Palm Plantation Workers**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

#### 4.1.2.2 Prevalence Rate of Forced Labour Oil Palm Plantation Workers

In this survey, the prevalence rate of forced labour of oil palm plantation workers are defined as:

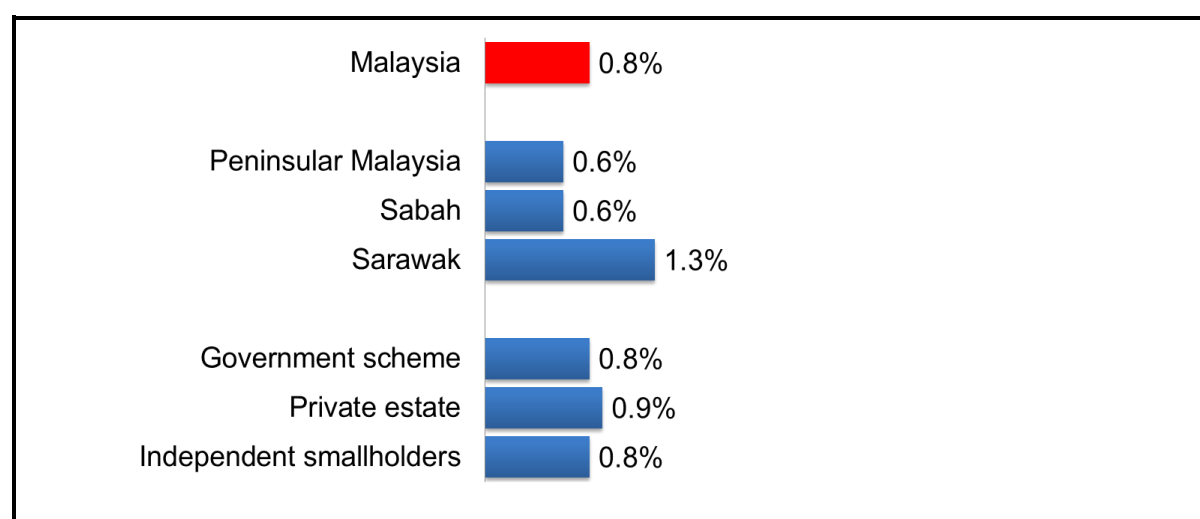
$$\frac{\text{Number of oil palm workers aged 5 years and over in forced labour}}{\text{Total number of oil palm workers aged 5 years and over}}$$

The survey estimates the number of oil palm plantation workers aged 5 years and above who are in this situation to be 4,900 persons based on the counting rules to determine forced labour. Based on these estimates from the survey, the prevalence of forced labour among oil palm plantation workers in Malaysia is about 0.8%. This result indicates that out of 1,000 oil palm workers, 8 were in situations of forced labour.

The prevalence rates of forced labour for those aged 5 years and over were considerably higher in Sarawak (1.3%) than in Peninsular Malaysia and Sabah, each at 0.6% respectively. However, the prevalence of forced labour is about the same whether they are found in government scheme, private estates or smallholder oil palm plantations at 0.8%-0.9% (see **Figure 4.2**):



**Figure 4.2: Prevalence Rate of Forced Labour Aged 5 years and over by Region and by Plantation Type**



Note: 'Type of plantation' refers to the sampled plantation linked to the enumeration block (EB) that the sampled worker lives in.

The prevalence rate of forced labour was also considerably higher for non-Malaysian citizens (1.44%) than Malaysian citizens (0.10%).

### Profile of Oil Palm Plantations Workers in Forced Labour Situation

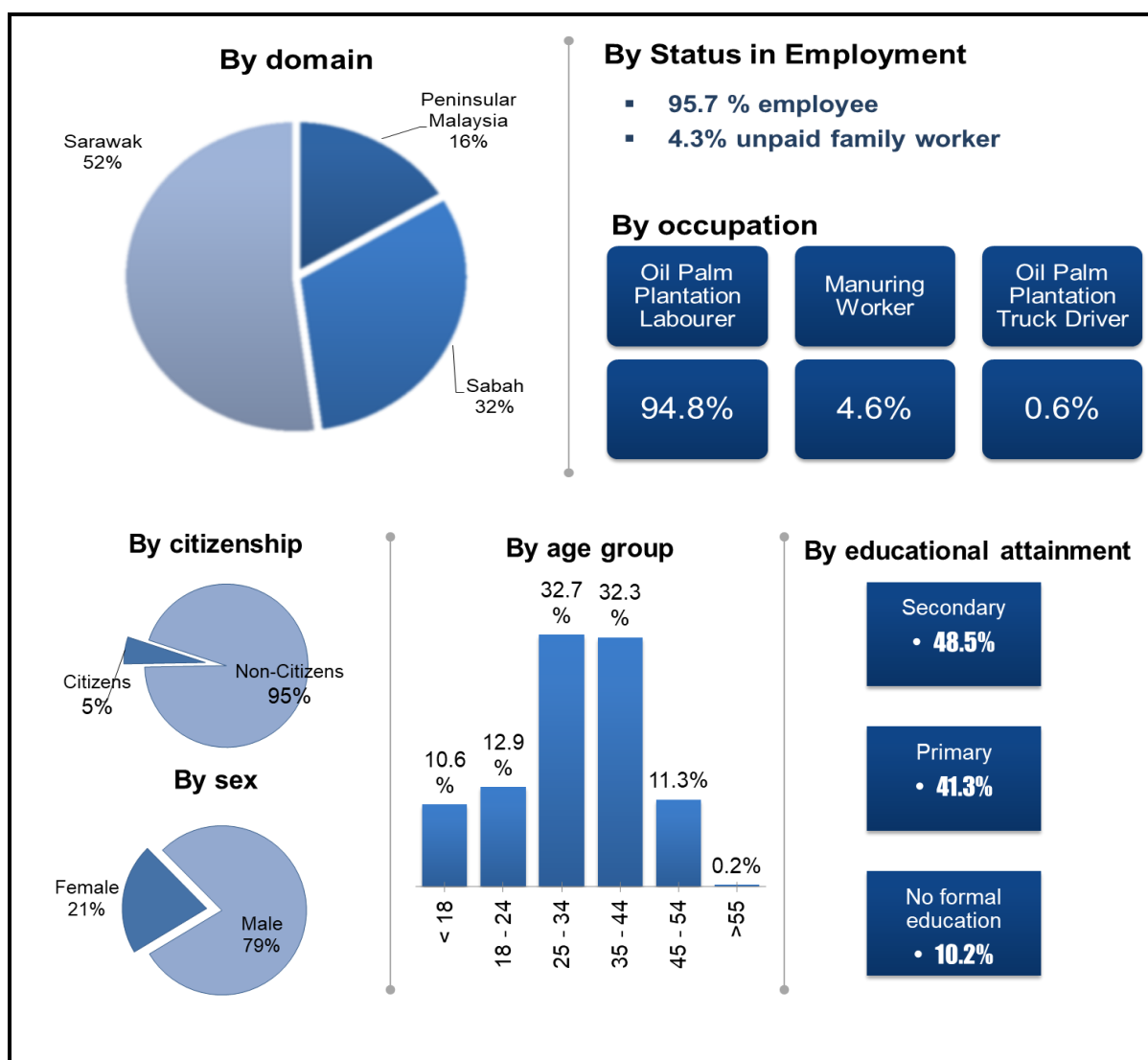
Sarawak accounts for slightly more than half of the forced labour, followed by Sabah at about one-third. The majority of these workers are employees (95.7%), with only 4.3% being unpaid family workers. By occupation, oil palm plantation labourers form the highest percentage of oil palm workers subjected to forced labour with accounting for 95%. The remaining 5% are manuring workers and oil palm truck drivers.

Non-Malaysian oil palm workers are the ones mainly subjected to forced labour; they account for 95% and are mostly males (80%). The age structure shows that 65% of the oil palm plantation workers who are subjected to forced labour are found in the 25-44 age group. Forced labour in those aged between 5-17 years accounts for 10.6%. All those that are subjected to forced labour have attained education in secondary school or less. The median number of hours worked by workers in a forced labour situation is about 48 hours per week<sup>56</sup>. **Figure 4.3** shows the profile of oil palm plantation workers who are subjected to forced labour.

<sup>56</sup> The grouping of hours worked by adults (1-29, 30-48, 48+) is based on the following reasons (DOSM):

- 1-29 hours worked refers to those underemployed in terms of hours worked
- Based on Employment Act, the maximum number of hours worked should be 48 hours

**Figure 4.3: Profile of Oil Palm Plantation Workers in Forced Labour**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

**Table 4.1** lists the main reasons where workers face situations where they do not agree at work. Top on the list of involuntariness cited by 47.5% of the forced labour workers is the job itself. This is followed by involuntary overtime or on-call

beyond 12 hours per day at 24.6%. However, this group receives compensation for overtime work or on-call. Only 4.3% of the forced labour workers cited no compensation for involuntary overtime or on-call beyond 12 hours per day.

**Table 4.1: Nature of Involuntariness of Forced Labour**

<b>Nature of Involuntariness</b>	<b>Percentage of Oil Palm Plantation Workers in Forced Labour Conditions</b>
<b>Job itself</b>	47.5
<b>Involuntary overtime, on-call work beyond 12 hours/day (compensated)</b>	24.6
<b>Work with no or reduced freedom to terminate work contract</b>	18.6
<b>Work for a longer period than was agreed</b>	14.1
<b>Involuntary work in hazardous conditions without protection</b>	6.2
<b>Involuntary overtime, on-call work beyond 12 hours/day (not compensated)</b>	4.3
<b>Work under sub-standard living conditions not suitable for the job</b>	3.0
<b>Work in illicit activities or use of illicit substances without consent</b>	2.5
<b>Work at sub-standard or with no wages</b>	2.5
<b>Work for other employers that were not agreed to</b>	2.5
<b>Other</b>	0.5

Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

Note: This question allows multiple responses

**Table 4.2** shows that more than half of the forced labour workers were obliged to continue the activities they did not agree or were unable to leave their employer because they faced the threat of financial penalties/fines (51.9%) while another 51.6% reasoned that the work permit renewal is done by the employer. It must be pointed out that permit applications and renewals are the responsibility of the employer as stipulated by the Immigration Act. Without a valid work permit, foreign workers are not allowed to stay and work in the country and should they continue to be employed, they will be

deemed as illegal or undocumented employees. Employers are heavily fined for failure to apply for valid work permits for their foreign workers. Employers could also exploit this situation to their benefit, which would then constitute a forced labour situation. This situation is, in fact, a conundrum. In spite of reminders to employers not to withhold their foreign workers' passports, 31.6% of forced labour workers stated that they do not have access to their passports. Infringement of the Passport Act 1966 provides for a maximum fine of RM10,000, or a jail term of up to 10 years, or both, upon conviction.

**Table 4.2: Forced Labour by Type of Menace**

Nature of Involuntariness	Percentage of Oil Palm Workers in Forced Labour Conditions
Threat of financial penalties/fines	51.9
Work permit renewal by employer	51.6
No access to passport	31.6
Cannot go to another employer	24.4
Loss of all due wages	19.5
Under constant surveillance	19.1
In isolated place with no access to outside world	18.7
Debt not paid back	11.4
Fear of threats and violence against myself or relatives	4.9

Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

Note: This question allows multiple responses

#### 4.1.2.3 Prevalence Rate of Working Children in Oil Palm Households

In this survey, the prevalence rate of working children is defined as:

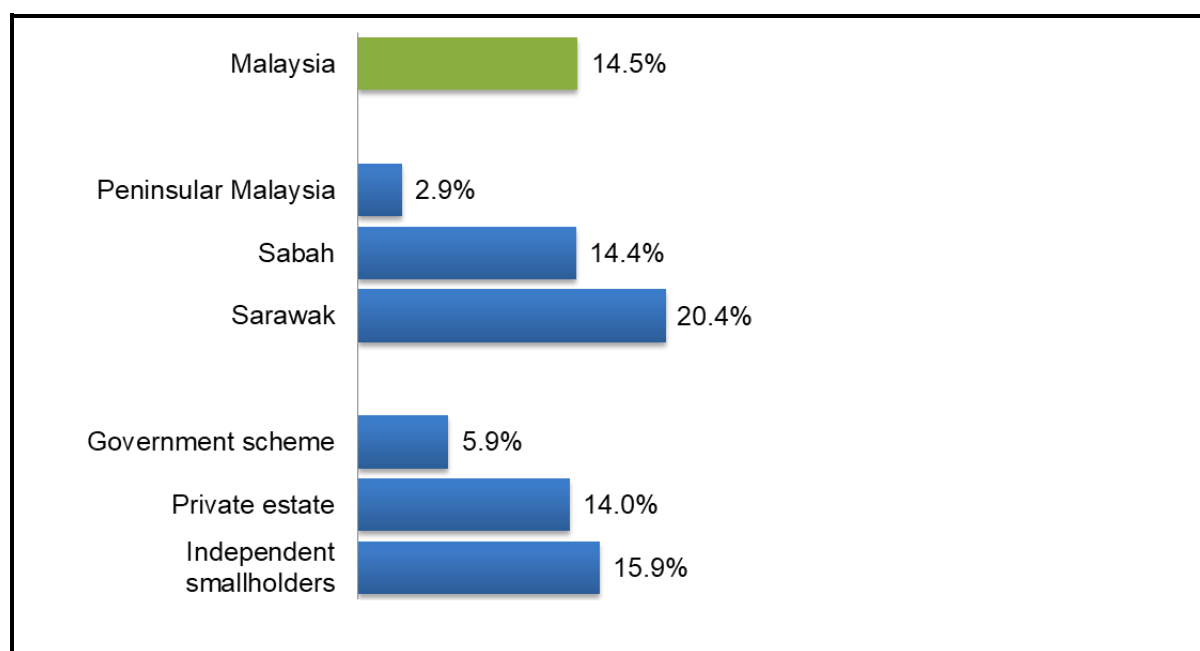
$$\frac{\text{Number of working children aged 5 – 17 years}}{\text{Total number of children associated with oil palm workers}}$$

The concept of working children includes all children who work in households where there is at least one oil palm worker, i.e. not only children working in oil palm plantations but also children working in other economic activities during the reference period.

The prevalence rate of working children in oil palm households is estimated at 14.5% in Malaysia.

Among the three regions, Sarawak recorded the highest prevalence rate of working children at 20.4%. Independent smallholders and private estate oil palm plantations recorded prevalence rates of working children at 15.9% and 14.0% respectively. The prevalence rate of working children is low in government scheme plantations (5.9%). **Figure 4.4** shows the prevalence rates of working children by region and by plantation type.

**Figure 4.4: Prevalence rates of working children of household members engaged in oil palm plantations**



Note: 'Type of plantation' refers to the sampled plantation linked to the enumeration block (EB) that the sampled worker lives in.

### Profile of Working Children

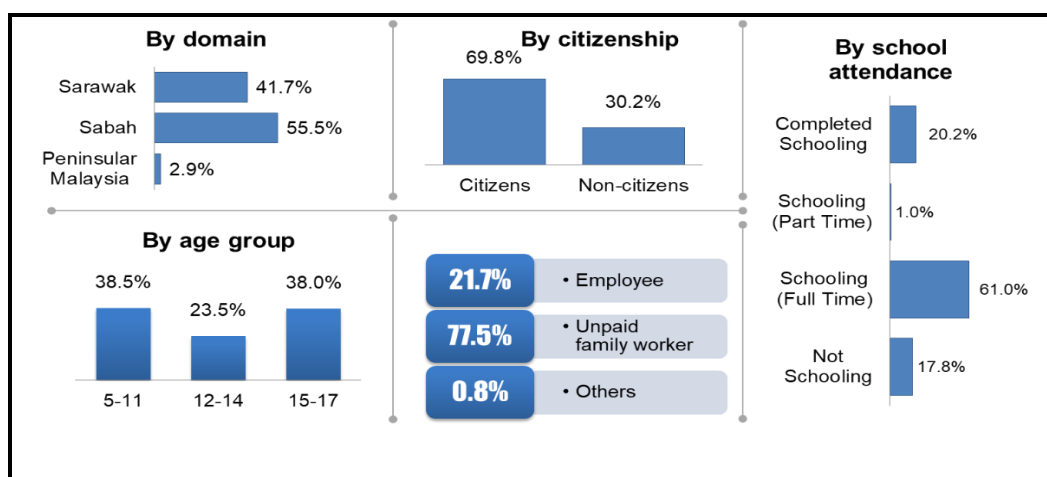
The survey estimated that there are about 42,500 working children aged 5-17 years. Among the working children, 55.5% are found in Sabah, 41.7% in Sarawak and 2.9% in Peninsular Malaysia. Out of 10 working children, 7 are Malaysian citizens.

Age-wise, 38.5% in the age group 5-11 years and 23.5% aged 12-14 years were found to be working children. These two groups together constitute 62% of working children who are below the legal working age as stipulated in the Children and Young Persons (Employment) Act, 1966 and also its amendment (2010). Those aged 15-17 years, i.e. young persons, account for 38% of

working children and they are allowed (under the Act) to work under certain conditions.

About 61% of working children attend school full-time. The criteria for work is only one hour during the reference week or even one hour during the last 12 months, and the counting rules were meant to cover those at risk and not, according to DOSM, to undermine the severity of the prevalence. In any case, the findings show that the majority of working children had worked during the reference week. The median number of hours worked by children over the reference week was 16 hours. The majority of them were unpaid family workers (77.5%). **Figure 4.5** depicts the profile of working children.

**Figure 4.5: Profile of Working Children Aged 5-17 years**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

#### 4.1.2.4 Prevalence Rate of Child Labour

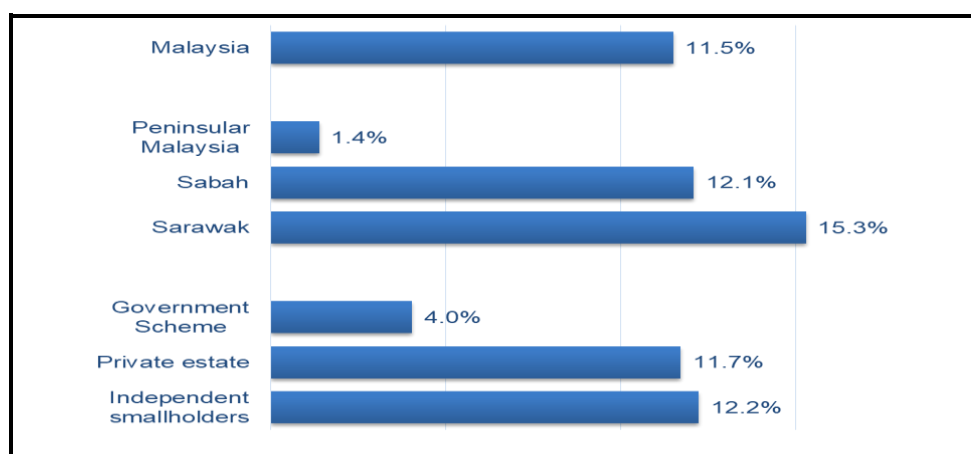
In this survey, the prevalence rate of child labour is defined as:

$$\frac{\text{Number of child labour}}{\text{Total number of children associated with oil palm workers}}$$

The survey estimated that child labour out of total children who are associated with oil palm workers is 11.5% with Sarawak being the highest at 15.3%, followed by Sabah at 12.1%. Since private estates and smallholders account for the majority of working children,

it is not surprising that the prevalence of child labour is also highest in these two types of plantations. **Figure 4.6** shows the prevalence rates of child labour by region and by type of plantations.

**Figure 4.6: Prevalence Rate of Child Labour by Region and by Type of Oil Palm Plantation**



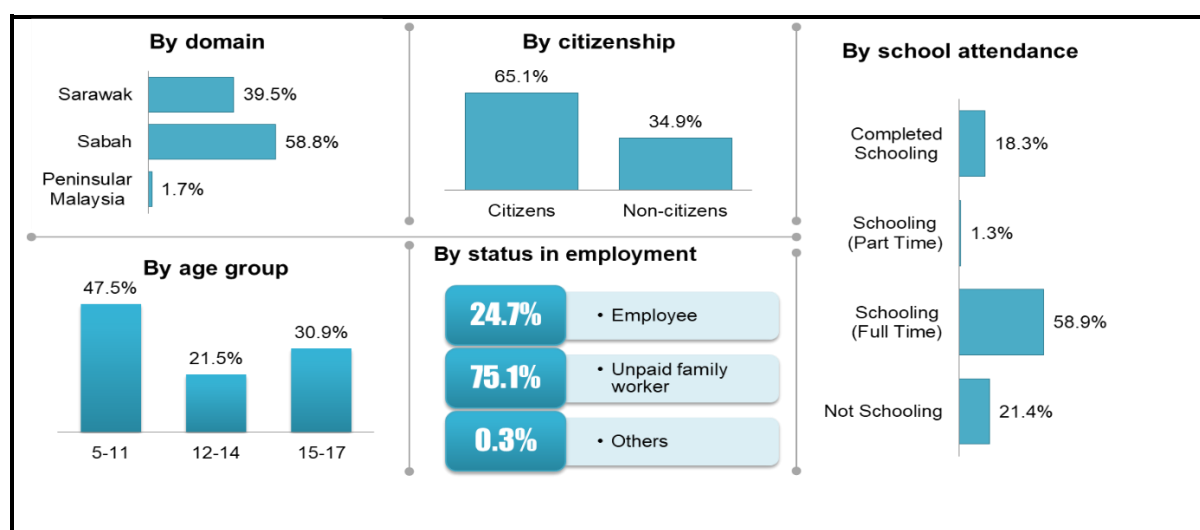
Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM. Note: 'Type of plantation' refers to the sampled plantation linked to the enumeration block (EB) that the sampled worker lives in.

## Profile of Child Labour

The survey estimated that 33,600 children aged 5-11 years are in child labour. The profile of child labour has similar characteristics to the profile of working children. Of all child labour in oil palm plantations, the proportion is significantly high in Sabah at 58.8%, followed by Sarawak at 39.5%. About two-thirds of child labour are

Malaysian citizens. A significant proportion of child labour belongs to those aged 5-11 years, estimated at 47.5% while those aged 15-17 account for 30.9%. The survey also revealed that three out of every four child labour are unpaid family workers with the majority (58.9%) still schooling full-time. The median number of hours worked is 16 hours over the reference week. The profile of child labour is depicted in **Figure 4.7**.

**Figure 4.7: Profile of Child Labour Aged 5-17 years old**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

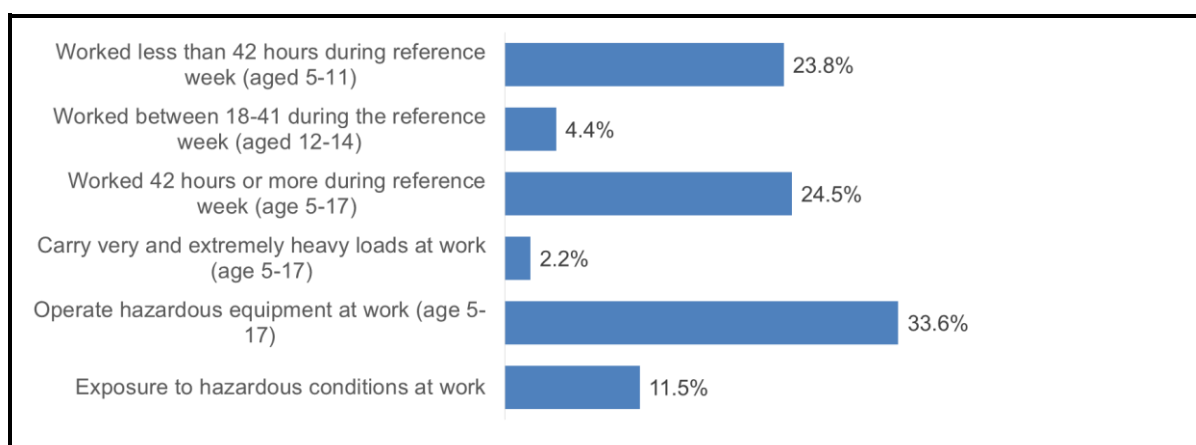
The age profile estimated that 47.5% of the child labour are aged between 5 and 11 years old. As salaries of oil palm workers are highly dependent on the fruits harvested, it is not uncommon to find children of oil palm plantation workers helping out in activities such as picking loose oil palm fruits especially after school or during weekends. This is evident from the high percentage of unpaid family workers among child labour (75.1%).

**Figure 4.8**, which shows the distribution of the components of child labour, shows that 23.8% of the 5-11-year-olds work less than 42 hours during the reference week.

**Figure 4.8** also shows that 33.6% of the total child labour is involved in operating hazardous equipment at work. Another 11.5% are exposed to hazardous conditions.



**Figure 4.8: Distribution of Child Labour by Component**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

#### 4.1.2.5 Prevalence Rate of Child Labour in Hazardous Work

In this survey, the prevalence rate of child labour in hazardous work is defined as:

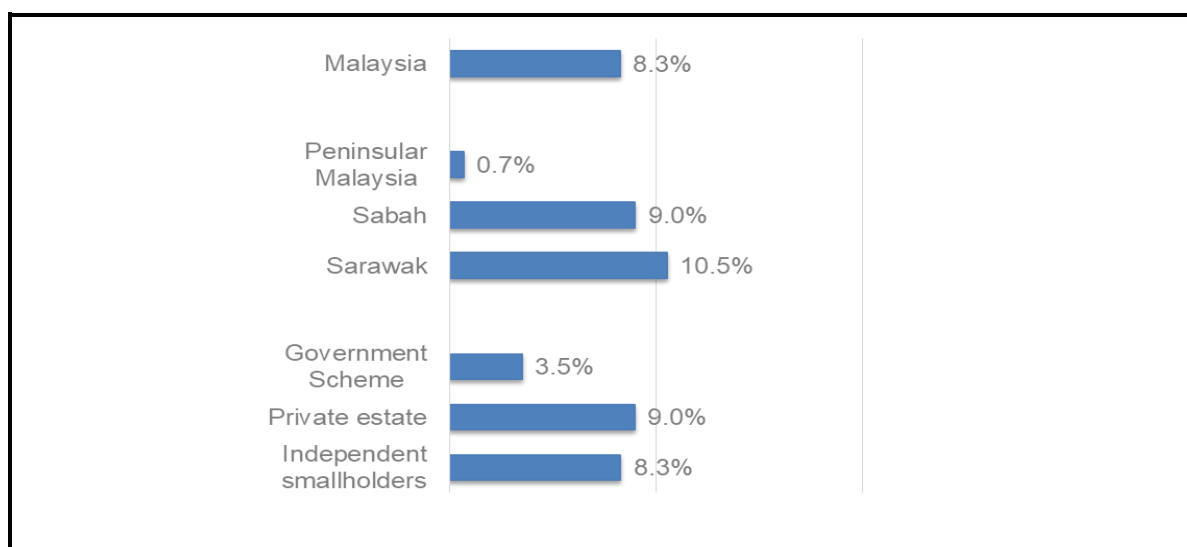
$$\frac{\text{Number of child labour in hazardous work}}{\text{Total number of children associated with oil palm workers}}$$

The survey estimated that the prevalence rate of child labour in hazardous work is 8.3%. Comparing this with the prevalence rate of child labour at 11.5% implies that 3 out of every 4 child labour are involved in hazardous work. This figure concurs with the distribution of the components of child labour shown in **Figure 4.9** and **Table 4.3**.

Sarawak has the highest prevalence rate of child labour in hazardous work at 10.5% while Sabah registered 9.0%. The highest

prevalence rate is found in private estates, followed by smallholders (see **Figure 4.9**). Comparing the prevalence rates of child labour and that involved in hazardous work reveals that the proportion of those in hazardous work is rather high. For example, the prevalence rate of child labour in Sarawak is 15.3% while those involved in hazardous work is 10.5%; this suggests that about 69% of the child labour is involved in hazardous work. Similarly, the corresponding figure for Sabah is 74%.

**Figure 4.9: Prevalence Rates of Child Labour in Hazardous Work by Region and by Type of Plantation**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

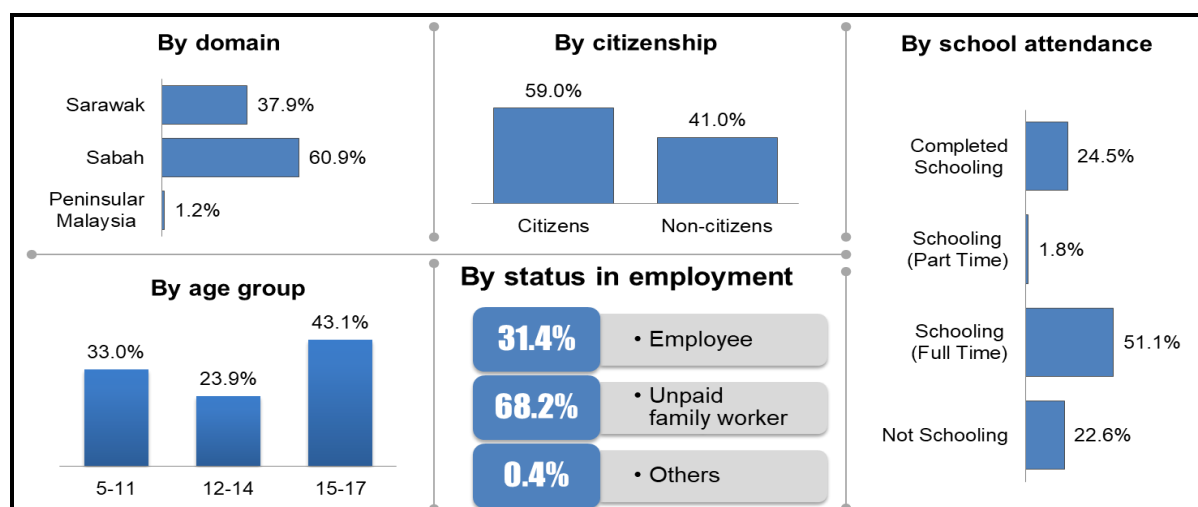
Note: 'Type of plantation' refers to the sampled plantation linked to the enumeration block (EB) that the sampled worker lives in.

### Profile of Child Labour in Hazardous Work

Data from the survey estimates that child labour in hazardous work involved about 24,200 children aged 5-17 years. Out of this total, 60.9% are found in Sabah while 37.9% were found in Sarawak. Most of the child

labour in hazardous work are Malaysian citizens (59%). About 43% are children aged 15-17. Again, the majority are unpaid family workers with more than half are still schooling full-time (51.1%). **Figure 4.10** shows the profile of child labour in hazardous work.

**Figure 4.10: Profile of Child Labour in Hazardous Work**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

#### 4.1.2.6 Prevalence Rate of Forced Labour of Children

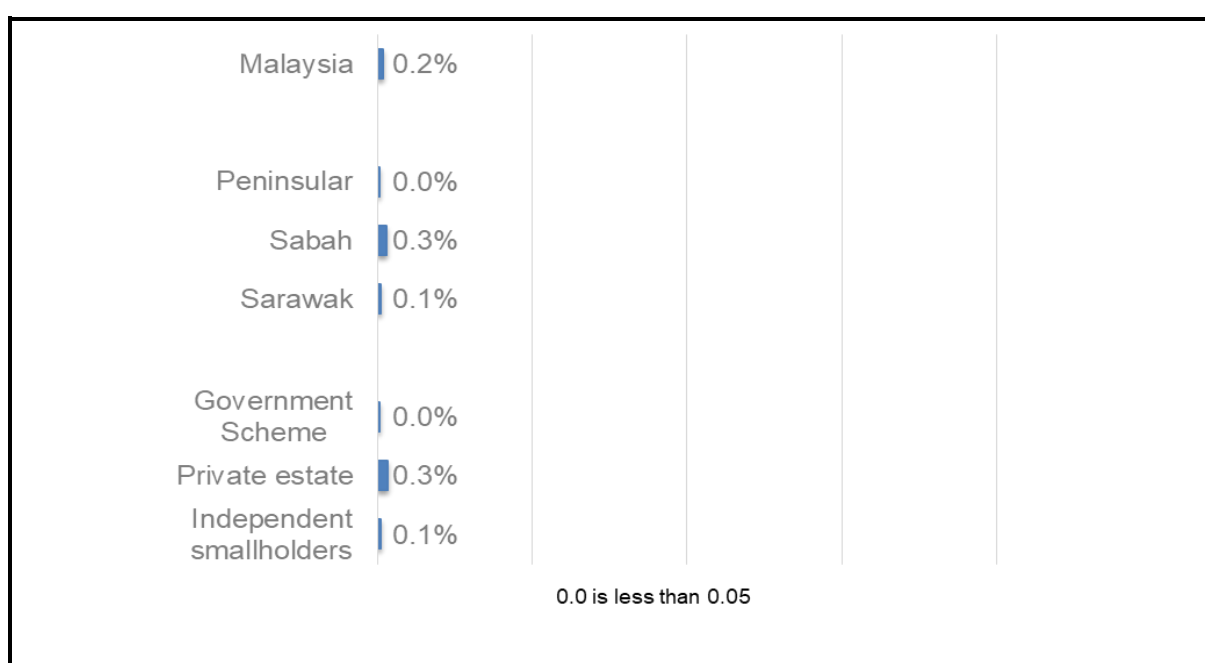
In this survey, the prevalence rate of forced labour of children is defined as:

$$\frac{\text{Number of forced labour of children}}{\text{Total number of children associated with oil palm workers}}$$

The survey estimated that the prevalence rate for forced labour of children is 0.2%. The highest prevalence rate of forced labour of children is reported in Sabah at 0.3%, followed by Sarawak. The prevalence rates for

private estates and independent smallholders are 0.3% and 0.1% respectively (see **Figure 4.11**). However, the sample size for the forced labour of children is very small ( $n < 30$ ) and is insignificant.

**Figure 4.11: Prevalence Rate of Forced Labour of Children**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

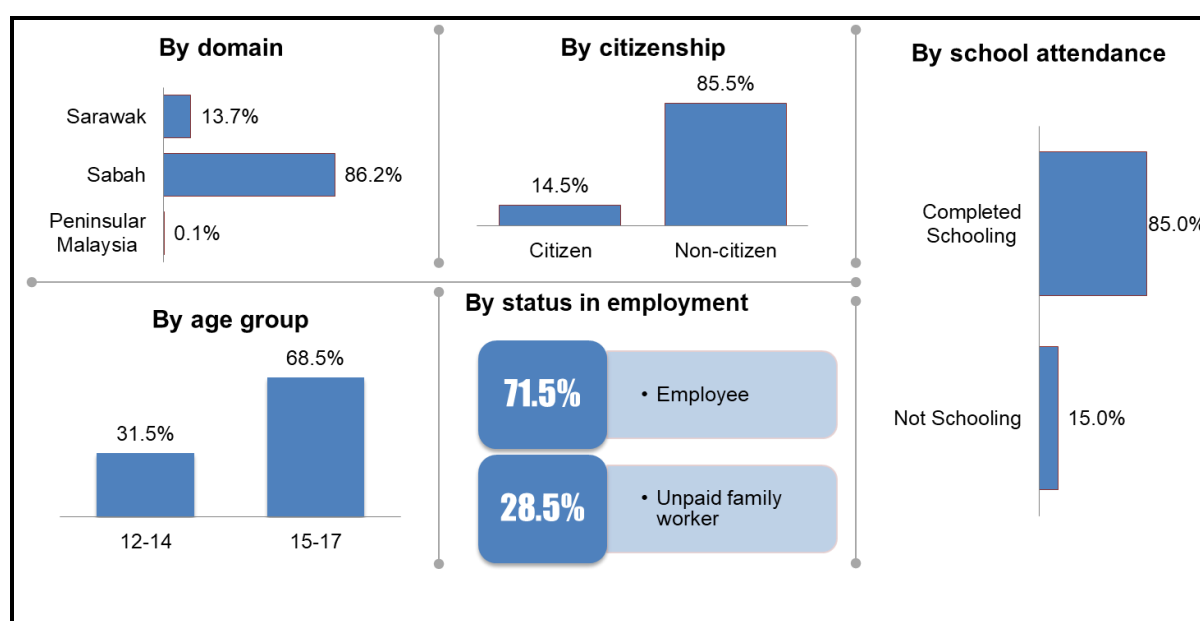
Note: 'Type of plantation' refers to the sampled plantation linked to the enumeration block (EB) that the sampled worker lives in.

#### Profile of Children under Forced Labour

The survey estimated that less than 500 children are in forced labour with the highest share seen in Sabah at 86.2%. The majority of these children are also non-Malaysian citizens (85.5%) and are mainly in the 15-17

years age group (68.5%). None of the children in the 5-11 years age group is in forced labour. About 71.5% of the forced child labour are employees and have mainly completed schooling (85%). The profile of the children in forced labour is shown in **Figure 4.12**.

**Figure 4.12: Profile of Forced Labour of Children**



Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

## 4.2 Comparing the 2014 and 2018 Prevalence surveys of Forced (and Child) Labour

Malaysia has conducted two national surveys that explore the prevalence of forced labour in the oil palm plantation sector, one of them more comprehensive than the other. The first survey in 2014 was a Preliminary Survey of the Labour Situation in Malaysian Oil Palm Plantations and the second survey in 2018 is the Employment Survey in Oil Palm Plantations. In the 2014 Preliminary Survey, a private firm was commissioned to undertake

the survey and was asked to follow the ILO Manual entitled "Hard to See, Harder to Count": Survey Guidelines to estimate forced labour of adults and children<sup>57</sup>. In the 2018 Employment Survey, the ILO provided technical support for the sampling design<sup>58</sup>, assisted in questionnaire design, assisted in the pilot test and conducted field inspection while DOSM conducted the canvassing of the survey. The two surveys are designed differently with different coverage but they also share some common features. The key characteristics of both surveys are shown in **Table 4.3**.

<sup>57</sup> <http://un-act.org/wp-content/uploads/2015/06/Harder-to-See-Harder-to-Count.pdf>.

<sup>58</sup> The sampling design were discussed in the earlier chapters. They are also documented in the References.

**Table 4.3: Key Characteristics of Prevalence Surveys of Oil Palm Plantations**

Characteristics	2018 Employment Survey	2014 Preliminary Survey
<b>Methodology Used</b>	ILO methodology with ILO technical support	ILO methodology used: Hard to See, Harder to Count but without ILO technical support.
<b>Sampling Frame</b>	Households in and around plantations (Linked and Paired EBs)	Establishments (i.e. plantations) were selected by MPOB
<b>Sampling Method</b>	Multi-frame probability survey, using adaptive cluster sampling approach with linked and paired EBs	Multi-stage probability survey, with plantations as the first stage of selection
<b>Sample Units (population)</b>	Oil Palm Workers (583,300 workers), Children aged 5-17 (292,700 children)	Oil Palm Workers (366,945 workers)
<b>Geographical Coverage</b>	All states	Six (6) states with the largest oil palm plantations
<b>Other methods</b>	Consultation via a working group involving several stakeholders	Interviews with government and private sector and unions
<b>Other surveys</b>	n.a.	A small sample of smallholders, labour contractors (non-probability surveys)
<b>Prevalence</b>		
<b>(Forced Labour)</b>	0.8%	0.491%
<b>(Child Labour)</b>	11.5%	n.a.
<b>(Forced Child Labour)</b>	0.2%	n.a.

Source: 2018 Preliminary Findings of Employment Survey (presentation slides and tables); 2014 Final Report - Preliminary Survey on the Labour Situation in Malaysian Oil Palm Plantations

There are several differences between the two surveys; they use different sampling frames. The 2018 survey covers child labour and all states in Malaysia, whereas the 2014 survey covered only six (6) states with the largest oil palm plantations, and child labour

was not included in the scope of work. Also, in the 2018 survey, the ILO was supporting the survey at the technical level whereas in the 2014 survey, the survey relied only on the ILO Manual entitled "Hard to See, Harder to Count" but without supervision by ILO.

In the 2014 Preliminary Survey, the prevalence rate was 0.49% or 5 forced labour cases per 1000 workers, and in the 2018 Employment Survey, the prevalence rate was 0.8% or 8 forced labour cases per 1000 workers were found. So, despite different approaches, i.e. establishment and household surveys, a comparable prevalence rate was found<sup>59</sup>.

The second major finding of the 2018 Employment Survey is the relatively high prevalence of child labour (11.5%). Child labour is defined in **Section 3.5.5** and in **Figure 3.10**. In Malaysia, children between ages 15-17 are called young persons, and they are allowed to work under certain conditions stipulated in the Children and Young Persons (Employment) Act, 1966 and also its amendment (2010). Malaysia does not condone exposing children and young persons to hazardous working conditions and regulates working conditions under the Occupational Health and Safety Act.

### 4.3 Summary

This section summarises some of the key findings of the survey. The summaries of prevalence rate and selected demographic profiles of forced labour and child labour in

oil palm plantations are presented in **Tables 4.4 and 4.5**. It can be seen that forced labour and child labour occurred more in Sarawak than the other two regions of Malaysia. The prevalence rate of forced labour in Sarawak is 1.3%, which is double that for Peninsular Malaysia and Sabah. Forced labour tend to be higher among non-Malaysian citizens, with a prevalence rate of 1.44%. Males are also being subjected to a higher prevalence of forced labour at 2.0%. Among the nature of involuntary work and the type of menace that defines forced labour, the “job itself” accounts for 47.5% of the reasons for involuntariness. The types of menace that topped the list are “threat of financial penalties/fines” (51.9%) and “work permit renewal by employer” (51.6%). However, it should be pointed out that the application for work permit and renewals relies on the employer as stipulated by the Immigration Department of Malaysia. Employers can exploit the situation to their advantage, so the law as it stands is a conundrum.

In terms of children, the prevalence rates are again higher in Sarawak than in Peninsular Malaysia and Sabah. The prevalence rate for child labour in Sarawak is 15.3%, followed by Sabah at 12.1%: 59% of child labour is in

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<sup>59</sup> The 2018 prevalence rate for forced labour includes child labour and covered smallholdings and estates, which were not covered in the 2014 survey. Hence, the 2018 rate is higher than 2014 is a consistent result. Note that in 2014 survey, the prevalence rate was incorrectly termed as incidence.

Sabah while 39% is in Sarawak. About 48% of children classified as child labour are between 5-11 years old. These two states of Malaysia together account for 53.4% of the total plantation area in Malaysia in 2018.<sup>60</sup> Most of the oil palm plantations in the two states are in rural areas, and children tag along with their working parents where there is no childcare, and after school hours, and invariably they would work alongside them, mostly as unpaid family workers. Three-quarters (75%) of child labour are unpaid family workers, and about 58.9% are still schooling full-time. The median working hours for these children is about 16 hours over the reference week. The majority of child labour tends to be Malaysian citizens, comprising 65%. Family members of foreign workers are not allowed to accompany the recruited foreign worker or live in this country. About one-third of the child labour is foreign-born, and they are mostly from Indonesia and the Philippines.

Some children and young persons are also found to suffer forced labour conditions. These children are mostly foreigners (85%), and two-thirds of them are aged 15-17. Note that the children of parents who are in forced

labour condition are also classified as being in forced labour.

These findings represent the nature of problems that need to be taken into account in Malaysia's response to tackling the issues of forced labour and child labour in the oil palm plantation sector.

In addition, the types of involuntariness and menace of penalty provide information on the types of response that ought to be taken to reduce the prevalence of forced labour and child labour. **Table 4.1** and **Table 4.2** show the nature of involuntariness and threat of menace respectively in the study.

The conventional forms of involuntariness, such as "involuntary overtime" (paid or unpaid), "no freedom to terminate contract", or "work for a longer period than was agreed" are prevalent. In terms of the menace of penalty, the conventional menace of "financial penalties and fines", "work permit renewal by employer" and "passport retention" are also prevalent.

However, new forms of forced labour, as alluded by ILO<sup>61</sup>, are also present in the oil palm sector, e.g., abuse of vulnerability ("under constant surveillance", "loss of due

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<sup>60</sup> [http://bepi.mpob.gov.my/images/area/2018/Area\\_summary.pdf](http://bepi.mpob.gov.my/images/area/2018/Area_summary.pdf)

<sup>61</sup> ILO (2018). Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Forced Labour Convention and Protocol, page 23 under Forced Labour definition.

wages”, “in isolated place with no access to outside world” and “fear of threats and violence”), fraud and deception (“work in illicit activities”, “work for longer period than was agreed”, “work for other employers that were not agreed to”). However, in the survey, they are most likely recorded as “the job itself”. In any case, data for the new forms of forced labour is better collected through qualitative means before quantitative methods are used.

Only when the new forms of forced labour are clearly established can changes to current programmes and action plans or even new interventions be formulated as required.

With a forced labour prevalence rate of 0.8% or 8 forced labour cases per 1,000 oil palm plantation workers, that is an estimated 4900 forced labour cases in oil palm plantations in Malaysia. The 2018 survey indicates that Sarawak has a higher prevalence (1.3%) than Sabah or Peninsular (0.6%). Hence, regional actions specifically targeting these issues would be necessary.

An understanding of concentration or dispersion of forced labour and child labour

would enable more targeting actions to be taken, but the survey was not designed at that level. However, the prevalence of forced or child labour is not a random occurrence but indicates that there are employers’ whose actions or practices fall below acceptable ILO standards and may violate or infringe existing laws and regulations (e.g., passport retention).

As with all other industries, there is a size distribution character to the oil palm industry where the large plantation companies account for 60% of the total planted area but probably account for less than 10% of all establishments. Hence, there is a large number of plantations and estates that need to be inspected, and a more efficient way to manage labour conditions is needed. Increasing the number of inspections would be extremely costly because of the numbers of small holdings, and geographical distribution across three regions. Thus, an alternative step-wise approach to bringing them on board to face the realities and expectations of the international market is necessary.



**Table 4.4: Prevalence rates of Forced Labour and Child Labour by region**

Prevalence Rate	Malaysia	Peninsular Malaysia	Sabah	Sarawak
<b>Forced Labour</b>	0.8%	0.6%	0.6%	1.3%
<b>Working Children</b>	14.5%	2.9%	14.4%	20.4%
<b>Child Labour</b>	11.5%	1.4%	12.1%	15.3%
<b>Child Labour in Hazardous Work</b>	8.3%	0.7%	9.0%	10.5%
<b>Forced Labour of Children</b>	0.2%	0.0%	0.3%	0.1%

Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

**Table 4.5: Selected Demographic Profile of Forced Labour and Child Labour**

Profile	Forced Labour	Child Labour	Child Labour in Hazardous Work	Forced Labour of Children
<b>Citizenship</b>				
- <b>Malaysian</b>	5.3%	65.1%	59.0%	14.5%
- <b>Non-Malaysian</b>	<b>94.7%</b>	34.9%	41.0%	<b>85.5%</b>
<b>Status of Employment</b>				
- <b>Private Employee</b>	<b>95.7%</b>	24.7%	31.4%	<b>71.5%</b>
- <b>Unpaid Family Worker</b>	4.3%	75.1%	68.2%	28.5%
- <b>Others</b>	-	0.3%	0.4%	-
<b>School Attendance</b>				
- <b>Not Schooling</b>	*	<b>21.4%</b>	<b>22.6%</b>	15%
- <b>Schooling (Full Time)</b>	*	58.9%	51.1%	-
- <b>Schooling (Part Time)</b>	*	1.3%	1.8%	-
- <b>Completed Schooling</b>	*	18.3%	24.5%	<b>85%</b>
<b>No. of hours worked during the reference week</b>				
- <b>Mean</b>	49	25	29	46

Profile	Forced Labour	Child Labour	Child Labour in Hazardous Work	Forced Labour of Children
- <b>Median</b>	48	16	30	48

Source: Employment Survey in Oil Palm Plantations, Malaysia 2018, DOSM

Note: \* Not relevant

Note: Figures in bold have a Relative Standard Error (RSE) between 25% to 50%, and are recommended to be used and interpreted with caution, while figures in red have an RSE above 50% and are not recommended to be used.

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# CHAPTER 5

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## RECOMMENDATIONS

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## 5 RECOMMENDATIONS

This chapter will be presented in two parts. The first part will discuss the proposed measures by the ILO to reduce and combat forced labour in Malaysia. The second will be a proposal of new recommendations that are based on the survey and analysis of the forced labour and child labour prevalence in oil palm plantations in Malaysia. The second set of recommendations were developed alongside a consultation <sup>62</sup> with relevant stakeholders across different government ministries, agencies, regulatory boards and representatives from the private sector which aim to transform the entire industry into a modern, socially (and environmentally) responsible sector as Malaysia pursues its vision of being a developed country.

The recommendations bring about a more holistic approach to this critical issue and can also be divided into two stages. The first, short term phase are actions proposed for the next 12-18 months, i.e. 2019-2021. The second, medium-term phase are steps that are proposed for 2021 until 2025. The end year of 2025 is in alignment with Target 8.7 of

the Sustainable Development Goals, which require all countries to achieve zero child labour.

### 5.1 ILO Proposed Measures to Reduce and Combat Forced Labour

It is important to compare the Malaysian laws on forced labour and child labour with the ILO's analysis of the situation <sup>63</sup> and gap analysis on Malaysian legislation, policies and programmes and the ILO Forced Labour Convention and Protocol. According to the ILO's analyses, the gaps in Malaysia's legislation, policies and programmes are in the following areas (the overall analysis provides more comprehensive recommendations but only those relevant to the oil palm sector are reproduced below):

- Currently, the labour laws do not give adequate protection to victims of forced labour. Modern forms of forced labour such as psychological coercion, deception, fraud and abuse of vulnerabilities fall outside the ambit of the Employment Act (although it is acknowledged that

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<sup>62</sup> A workshop was hosted by MPIC from 18-19 September 2019 in Hotel Impiana, Ipoh to present the findings of the Employment Survey and facilitate discussion and policy recommendations by relevant stakeholders.

<sup>63</sup> ILO (2018). Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and the ILO Forced Labour Convention and Protocol.

amendments to include forced labour are being considered), and such forms of forced labour are also not sufficiently covered by the existing Anti-Trafficking and Smuggling of Migrants Act (ATIPSOM) 2007;

- Employer-led process of work permit renewal gives undue power to employers and impedes the right of workers to change employment in the event of abuse for fear of becoming undocumented;
- Weak enforcement of legislation prohibiting passport retention compounds the problem, and regulations are needed to require employers to post notices about worker's rights to keep their own passports;
- Inadequate allocation of resources for labour inspection and lack of synergies with other stakeholders on enforcement and efforts to manage compliance with labour laws. Insufficient number of unannounced inspections, which could act as a deterrent;
- Lack of or insufficient efforts at educating workers about their rights and access to justice;

- For workers who are involved in labour violation, fees associated with the pass to remain in Malaysia are too high, and they are not allowed to seek alternative employment;
- Inadequate engagement with the private sector to combat forced labour (and human trafficking). Employers control living and working conditions, wage payment, passport retention, and outsourcing of services, which tilts their power over workers; and
- A lack of a comprehensive action plan on forced labour or a sub-plan for the oil palm sector.

To reduce and eradicate the forced labour cases, Malaysia needs to consider taking several concurrent measures in a comprehensive manner under the current Foreign Worker Management framework as well as for the oil palm plantations, targeting the reduction and eventual eradication of forced labour and child labour in Malaysia in general and also in the oil palm industry specifically.

## 5.2 Short Term Recommendations:

There are two main short-term recommendations for 2019 – 2021 that will provide the overall strategy and framework to eradicate forced and child labour in the Oil Palm sector across every stage of the worker's interaction with the sector. They are: (1) set up a **Special Task Force on Forced Labour and Child Labour** that is MPI-led which will provide leadership on actions to be taken and (2) develop a **sub-NAP (National Action Plan)** that tackles deficiencies in the labour recruitment process, on-the-job exploitation and the foreign worker permit renewal or repatriation process.

### 5.2.1 Special Task Force on Forced and Child Labour

A special Task Force on Forced and Child Labour in the oil palm sector is needed to provide leadership to resolve this problem, as powers and responsibilities are spread across many agencies and institutions. There is a precedent as the Malaysian government had set up a Special Task Force in 2011 to respond to the US DOL allegations of Forced and Child Labour. The 2011 Task Force pulled resources from multiple government ministries and agencies, especially from MOHA, Attorney General's office, MOFA, MPIC, MOHR and among others. The Task Force had not been active after the initial duties. A new Task Force should be formed and given a strict working

timeline (2019-2021) with clear goals to ensure it achieves its objectives.

The proposed Task Force will be given the responsibility to:

- 1) take the lead in developing a sub-National Action Plan, in line with the ILO Convention on Forced Labour, for the eradication of forced labour in the oil palm plantation sector. Such a Plan should be developed collaboratively and in partnership with industry, unions, local and international NGOs, government as well as with international agencies;
- 2) be responsible for monitoring the child labour issue in the oil palm plantation sector;
- 3) be the focal point for all labour related issues, including on forced labour, that concern the development of a socially responsible plantation industry;
- 4) work with the Malaysian Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council (MAPO) to ensure strict enforcement of ATIPSOM 2007 in the industry; and
- 5) be the key agency that conducts periodic engagement with industry, unions, public and other local or international organisations on this issue, as engagement with the ILO is



expected to be frequent as well as with US government agencies, the EU and other countries.

Given the importance of the Task Force, which shall be led by the MPI, it shall be staffed with sufficiently high-level officers so that they can carry out their functions with similar level officers from other government departments and agencies. Sufficient resources shall also be allocated for them to perform their work, especially staff strength but also to take into consideration the range of issues and responsibilities that it takes on.

### **5.2.2 Sub-National Action Plan on Forced and Child Labour**

This sub-National Action Plan (sub-NAP) shall be consistent with the government's overall policy on forced labour and may improve on the current foreign worker management framework. It will tackle issues faced by workers at each stage of their interaction with the Malaysian Oil Palm sector, namely the recruitment process, on-the-job welfare and protection as well as the foreign worker permit renewal or repatriation process.

This sub-NAP will need further consultation before its launch and implementation, as concurrence by government, industry, workers' unions and major stakeholders would ensure better compliance that will be the basis for the transition from a Task Force

model to a partnership model in the medium-term (See Section 5.3 for further details). This Report proposes that the following recommendations, amongst others, be implemented in the sub-NAP:

#### **5.2.2.1 Improving Bilateral and National Coordination in the Labour Recruitment Process**

Coordination of the labour recruitment process can be improved at both the international level (between Malaysia and the home country of foreign workers) and at the national level (between government ministries and between Federal and State governments) to better protect the rights of foreign workers when they are employed in Malaysia. Some improvements to the policy framework with respect to coordination efforts include:

- 1) Consider incentivising "responsible" employers by setting up "green lane" channels or with extra permits to fill their vacancies. Stringent criteria should be applied and track record attained before these privileges are given. Concomitantly, heavy penalties shall be levied for any abuse of or infringement to the system. The benefit of incentives is that it reduces the cost of inspection and surveillance.

- 2) Implementing government-to-government (G2G) direct recruitment programmes in the Oil Palm sector to reduce exploitation of workers by agents in their home countries, improve transparency of the recruitment process and prevent job deception and debt bondage of workers. Sector specific pre-departure and post-arrival training shall be conducted by their government and its consulate in Malaysia so that incoming oil palm plantation workers know their rights and what to expect when they report for work.
- 3) Strengthening the coordination between Federal and State bodies, namely the Immigration Department (JIM) and the Labour Department (JTK), by sharing information about employers' non-compliance with the labour laws and regulations, particularly with regard to forced labour, and anomalies in foreign worker applications. Additionally, the results of this study shall be shared with all State Governments so that they are aware of the situation in their states, especially in Sabah and Sarawak, where the prevalence rates are high. Consulting them early would facilitate improved national coordination to eliminate forced labour conditions in the oil palm plantations.

- 4) Increasing the prerequisites for access to basic childcare and education facilities for the children of foreign workers and that parents do not have to bring their children to work with them. Strict enforcement of the Workers' Minimum Standards of Housing and Amenities Act 1990 is also required.

#### **5.2.2.2 Commissioning Studies to Provide Information for Policy Action**

The Task Force should be empowered to commission studies for the sub-NAP on important and critical issues in the oil palm sector such as:

- (1) A special study on child labour, which shall provide ground-level understanding of child labour within the oil palm sector, especially in Sabah and Sarawak. Although statistical details are important, the special study should explain why and how this situation occurs, and explore with parents (through discussions) possible options for improving the conditions of children, and more importantly, to reduce the prevalence of child labour. The study should also cover the situation of child rights, of children living in oil palm plantations, e.g. access to education, health, right to play, right to identity (documentation), and religious rights among others;

- (2) A special study on labour contractors operating in the oil palm industry and in smallholders and estates, especially concerning labour practices and forced labour conditions and the status of child labour;
- (3) An analysis of the stakeholders in the oil palm industry and, in particular, the public, unions and employer organisations, international agencies and local NGOs to understand the key issues and frame a communication plan to address the problems that have persisted thus far; and
- (4) The government may also wish to learn the experiences of other countries that have successfully been removed from the TVPRA list.

#### **5.2.2.3 Incentivising the Adoption of MSPO and Tightening MSPO Principle 4**

The Malaysian Standards for Palm Oil (MSPO) is a certification system that has been made compulsory for all oil palm plantations, estates and smallholdings to adopt. Although aimed at all players, the impact on the smaller players is greater as they have fewer resources to invest than the large firms. Nonetheless, the MSPO can be used for improving labour and work conditions in the oil palm industry. A gradual raising of the MSPO standards will lead to better working conditions and reduce the prevalence of

exploitation. After the MSPO is fully implemented with all players on board, the MSPO could establish a gold standard to recognise firms that are free of forced labour and child labour (and also other social and environmental conditions). The gold standard would have a brand value that can translate into a market premium. The MSPO will improve working conditions in the industry: through license renewal, reach out to small and mid-level players, use as Independent Social Compliance Audit mechanism, education and sensitization of forced labour and child labour issues and also a means for data collection.

#### **5.2.2.4 Improving the Monitoring and Evaluation System**

There should be a monitoring and reporting system to ensure that the Task Force and government are kept abreast of the prevalence of forced labour and child labour on a regular basis. It can also measure the effectiveness of intervention programs and action plans and their impact on the ground. The Malaysian Palm Oil Board (MPOB) as the regulatory body of the industry is the best agency to lead in planning this surveillance system with technical assistance from DOSM. The surveillance system can provide data for estimating the prevalence rates of forced labour and child labour without having to conduct ad hoc surveys. The Labour

Department shall still be responsible for conducting the inspections but a dedicated inspectorate on forced labour is proposed so that they can have adequate resources to meet their commitment. The sub-NAP should also propose improved monitoring mechanisms to ensure a strict enforcement of the Children and Young Persons Act 1966 and the Workers' Minimum Standards of Housing and Amenities Act 1990, and Employment Act 1955. Finally, MPOB can implement a product traceability initiative to ensure that only products that are free from forced and child labour is permitted to access the market.

#### **5.2.2.5 Amending Legislation to Tackle Modern Forms of Forced and Child Labour**

As pointed out in the ILO analysis, the existing legislations such as the Employment Act 1955 and the ATIPSOM Act 2007 should be reviewed. The review should consider the ILO recommendations as well as some areas that have been a source of complaints: ensuring non-detention or arbitrary arrest of victims of forced labour, ensuring there is appropriate victim-centered process for determining forced labour, etc. This effort is currently being spearheaded by MOHR and MAPO and is being discussed at the inter-agency level. Getting the Ministry's and the Cabinet's support of the legislative changes is vital.

#### **5.2.2.6 Improving the Workers' Permit/Employment Pass Renewal and Repatriation Process**

Currently, employers can renew employment passes even though they do not fully comply with the country's labour laws. A red flag system that is linked to the surveillance system can show which employers have not complied. Employers must comply with the law and regulatory requirements before the working permits of their foreign workers are renewed. The Immigration Department must also ensure that there are no outstanding issues between the employer and the foreign worker before issuing a Check Out Memo to the employer. This is to protect the welfare of foreign workers before repatriation to their home country.

### **5.3 Medium-Term Recommendations:**

The medium-term recommendations for 2021 – 2025 are: (1) to move from a Task Force approach to a Partnership Model on Forced and Child Labour that would involve key stakeholders; and (2) to move towards greater self-regulation of the oil palm industry.

#### **5.3.1 A partnership approach and strategy for the oil palm sector**

Malaysia needs to take a partnership approach to deal with forced labour and child labour issues, with the ultimate goal of its

eradication. The main partners in this strategy are the government, private sector and workers and their representatives, with each of them holding key roles.

#### **5.3.1.1 Government**

A coordinated effort from all levels of government is required. The government's role is to improve governance, ensure laws and policies are being complied, carry out monitoring and enforcement and punish perpetrators of forced labour and exploitation. Other important areas of interventions include:

- (1) An engagement programme with employers and plantation owners to create awareness on the prevalence of forced and child labour throughout the supply chain, convince them that forced labour and child labour issues are critical and changes are needed to their policies, operations and efforts for the long-term sustainability of the industry;
- (2) Educate employers, workers and the general public so that all parties are aware of all forms of forced labour and the conditions of child labour, and the types of corrective actions needed;
- (3) Set up a help, call-in centre and a grievance mechanism that provide avenues for victims to report abuses. It can be done via partnerships between government agencies and stakeholders

and provide measures for workers to access the system despite their location. A system to resolve grievances, child safety and child rights programmes that improve on the current situation is needed;

- (4) An independent external assessment of the social conditions in the oil palm sector will improve the transparency of focussed efforts to eradicate forced labour and child labour conditions in the oil palm sector. The government may wish to consider a social license to operate programme in order to address critical issues and communicate that to the key stakeholders and the local community.

#### **5.3.1.2 Private Sector**

The role of the private sector, both unions or workers representatives and industry associations, in this case, plantation and smallholding operators, is vital. Their management systems, practices and attitude towards labour and workers would largely influence and determine the prevalence of forced labour and concomitantly child labour.

- (1) In the current system, employers have more power than workers which could lead to exploitation or suppression of worker's rights and result in forced labour conditions. A revised law could provide workers with an opportunity to report

abuses without fear to counterbalance this position. It is mandatory for plantations and smallholdings to become members of MSPO, and to abide by the principles, regulations and rules established therein;

- (2) Oil palm owners and operators are encouraged to make public declarations that they will respect and raise awareness of worker's rights within the ambit of the law, and refrain from using coercion, deception and fraud in dealing with workers; and
- (3) Big companies with good labour practices are also encouraged to share their best practices with small and medium-sized companies for them to emulate and improve overall worker welfare in the sector.

Engagement with the private sector needs to be at the partnership level through consultation and discussion of how these policy objectives can be fulfilled. The government is cognisant that the industry is not fully aware of forced labour and child labour practices, and that the sub-NAP would form the basis for the engagement to raise the level of their participation. It is vital to stress to plantation owners that these actions are needed so that the interests of the industry can be protected. The eradication of forced labour and child labour conditions

would lead to a higher premium for Malaysian palm oil.

### **5.3.1.3 Workers and their representatives**

Workers want work and income to support their families and livelihood, and are generally at the mercy of employers and government at the place of employment, especially for foreign workers who are here on a fixed-term contract. The following are some measures for improving the balance of power between workers and employers.

- (1) Educating them in terms of their rights is a step in the right direction. Trade unions and other formal organisations could organise workers, formally or informally, to raise their awareness on protection against abuses. More than just rights, information should be provided on any grievance mechanisms within the industry and also among the workers, how to access the mechanisms and channels, so that their vulnerabilities are reduced through recourse channels and raised awareness. A module on workers' rights specifically for children could be introduced into the primary school syllabus; and
- (2) Workers are encouraged to join unions as part of their freedom of association. However, workers' need to be aware that all these efforts are done to reduce their

vulnerability to exploitation. After all, they are partners in the oil palm industry and they contribute to its output and productivity.

### 5.3.2 Self-Regulation

The government does not have all the resources to detect low levels of forced labour prevalence, both the conventional forms (physical coercion) and the subtle forms (psychological coercion, deception, fraud and abuse). To totally remove any prevalence would require enormous effort to organise random, unannounced inspections across more than 5,000 small holdings, estates and plantations, dispersed in rural and semi-urban areas across the country on a regular basis. In this regard, the proposed measures made earlier, for workers and employers and other stakeholders are relevant.

Another complementary, and sustainable solution is self-regulation. Self-regulation may take the form where companies make clear and publicly declare their policies on forced and child labour. Companies shall also educate workers on their rights and responsibilities and access to information, set up grievance or complaints mechanism or allow workers to access other similar channels, provide for remedial or corrective actions and report key statistics either voluntarily (on

their website) or to the government. Some companies, especially the large ones, have already reached this stage, and it is recommended that they provide information to the government on how to bring such practices to the rest of the industry.

The government's role will then focus on monitoring via randomised inspections, investigating complaints, and improving effectiveness of its interventions, especially in the subtle forms of coercion and forced labour.

### 5.4 Conclusion

This chapter has proposed recommendations to address the issue of forced labour and child labour, and they are framed at the national level. Two sets of recommendations - short and medium-term – were proposed and their rationale discussed. The short-term, immediate actions include setting up a Task Force and putting in place a National Action Plan for redressing the Forced Labour and Child Labour issue. Both these actions are of high priority as they will set in place the institutional structure and work programmes, and be the focal point for the Ministry. The government may also wish to learn the experiences of other countries that have successfully been removed from the TVPRA list.

The medium-term plan is to build strong partnerships among the key stakeholders: employers, workers and government, define their key roles and push for self-regulation of the industry. Some of these roles can begin even now. These recommendations aim at

setting high standards for the oil palm industry so that it can also be recognised as a socially responsible sector in addition to its reputation as an efficient and profitable industry.



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# APPENDIX A: DESIRED INITIAL AND ACHIEVED SAMPLE SIZE

**Table A- 1: Desired Initial Sample Size by State**

Domain	State	Oil palm workers	Plantations		Total	Enumeration Block (EBs)
			Estates	Smallholders		
	Malaysia	<b>31,880</b>	<b>416</b>	<b>469</b>	<b>885</b>	<b>1,969</b>
A	Johor	2,480	50	49	99	149
	Kedah	750	15	15	30	45
	Kelantan	980	28	7	35	63
	Melaka	600	12	12	24	36
	Negeri Sembilan	1,120	28	14	42	70
	Pahang	2,210	59	22	81	140
	Pulau Pinang	430	5	14	19	24
	Perak	1,720	36	32	68	104
	Perlis	80	2	1	3	5
	Selangor	1,120	20	26	46	66
	Terengganu	1,040	28	10	38	66
	<b>Peninsular Malaysia</b>	<b>12,530</b>	<b>283</b>	<b>202</b>	<b>485</b>	<b>768</b>
B	<b>Sabah</b>	<b>10,300</b>	<b>65</b>	<b>143</b>	<b>208</b>	<b>639</b>
C	<b>Sarawak</b>	<b>9,050</b>	<b>68</b>	<b>124</b>	<b>192</b>	<b>562</b>

Data source: DOSM

**Table A- 2: Achieved Sample Size by State**

Domain	State	Oil palm workers	Plantations		Total	Enumeration Block (EBs)
			Estates	Smallholders		
	Malaysia	<b>13,295</b>	<b>412</b>	<b>462</b>	<b>874</b>	<b>1,827</b>
A	Johor	1,740	50	49	99	263
	Kedah	248	15	15	30	169
	Kelantan	504	28	7	35	81
	Melaka	158	12	12	24	56
	Negeri Sembilan	252	28	13	41	64
	Pahang	1,080	59	22	81	174
	Pulau Pinang	20	4	12	16	44
	Perak	1,336	36	32	68	173
	Perlis	20	2	1	3	9
	Selangor	599	20	22	42	86
	Terengganu	491	<b>28</b>	<b>10</b>	<b>38</b>	<b>68</b>
	<b>Peninsular Malaysia</b>	<b>6,448</b>	<b>282</b>	<b>195</b>	<b>477</b>	<b>1,187</b>
B	<b>Sabah</b>	<b>4,131</b>	<b>65</b>	<b>143</b>	<b>208</b>	<b>392</b>
C	<b>Sarawak</b>	<b>2,716</b>	<b>65</b>	<b>124</b>	<b>189</b>	<b>248</b>

Data source: DOSM

# APPENDIX B: EMPLOYMENT SURVEY 2018 QUESTIONNAIRE

TOTAL HOUSEHOLD

Confidential when filled



DEPARTMENT OF STATISTICS  
MALAYSIA

SGTSPKS

Under the provisions of the Statistics Act, 1985 (Revised 1989), the contents of the questionnaire received are **CONFIDENTIAL** and will not be divulged to any person or institution outside the Department.

## EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS, MALAYSIA 2018

### INTRODUCTION

- (a) The Department of Statistics, Malaysia has been given the responsibility to conduct the **EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS, MALAYSIA 2018**. The main objective of this survey is to collect employment-related information required by the Government in the Malaysian oil palm plantation sector, particularly in terms of number of employment and employment characteristics.
- (b) The information is gathered under the provision of the Statistics Act, 1965 (Revised - 1989). Section 5 of this Act requires all households in Malaysia to provide actual information or best estimates to the Department. Under the Act, the content of the individual returns are **CONFIDENTIAL** and will not be divulged to any person or institution outside the Department. Moreover, Section 7 under the same Act charges penalty to respondents who could not comply to the survey undertaken.
- (c) Your participation is very much important to ensure that the information collected in this survey are accurate.
- (d) Your co-operation in ensuring the success of this survey is very much appreciated.

DATO' SRI DR. MOHD UZIR MAHIDIN  
CHIEF STATISTICIAN MALAYSIA



DEPARTMENT OF STATISTICS, MALAYSIA  
EMPLOYMENT SURVEY IN OIL PALM PLANTATIONS, MALAYSIA 2018

REFERENCE WEEK

--	--	--	--	--	--

STATE /  
OPERATIONAL CENTRE

--	--

## IDENTIFICATION PARTICULARS

- |                             |    |                      |                      |                      |                      |
|-----------------------------|----|----------------------|----------------------|----------------------|----------------------|
| (1) State                   | NG | <input type="text"/> | <input type="text"/> |                      |                      |
| (2) Administrative District | DP | <input type="text"/> | <input type="text"/> |                      |                      |
| (3) Census District         | DB | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |
| (4) E.B. No.                | BP | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| (5) Strata                  | S  | <input type="text"/> |                      |                      |                      |
| (6) L.Q. No.                | TK | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |
| (7) Household No.           | IR | <input type="text"/> | <input type="text"/> |                      |                      |

(8) **Town**

--	--

(9) Name of Respondent

--	--

(12) Address of Living Quarters

--

(13) Date and Time of Interview

Visit No.	Date	Time		Total (Minute)	Outcome of Visit	Name of Field Enumerator	Language of Interview
		From	To				
1st visit							
2nd visit							
3rd visit							
4th visit							

#### (14) Reasons for NON-Interview

\_\_\_\_\_

(15) Coding :

Name of Coder

--

Date \_\_\_\_\_

\_\_\_\_\_

[2] HOUSEHOLD MEMBER'S PARTICULARS											
No.	NAME	RELATIONSHIP TO THE HEAD OF HOUSEHOLD	HOUSEHOLD MEMBER NO.	SEX	DAY, MONTH AND YEAR OF BIRTH			AGE AT LAST BIRTHDAY			
	List all persons in this household. Start with the name of the head of this household. What are the names of all other persons who belong to this household?		For usual member	1 Male 2 Female				In completed years			
(1)	(2)	(3)	(4)	(5)	(6)			(7)			
		PK IS	HM IS	J	HR	BK	TK	U			
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
REMARKS:											

[2] HOUSEHOLD MEMBER'S PARTICULARS (cont.)									
No.	ETHNIC GROUP	CITIZENSHIP	MARITAL STATUS  1 Never married 2 Married 3 Widowed 4 Divorced 5 Separated	PLACE OF BIRTH (STATE)	PLACE OF BIRTH (COUNTRY)	SCHOOL ATTENDANCE  1 Not schooling 2 Schooling (Full time) 3 Schooling (Part time) 4 Completed schooling	HIGHEST LEVEL OF FORMAL EDUCATION	HIGHEST CERTIFICATE OBTAINED AT SCHOOL, COLLEGE OR UNIVERSITY	FOR OFFICE USE ONLY  Continue data capture on page
(1)	(8) KET	(9) KW	(10) TP	(11) NGRI	(12) NGRA	(13) P	(14) PT	(15) SJ	
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
REMARKS:									

**[3] LABOUR FORCE PARTICULARS**

(TO BE ANSWERED BY THE MEMBER AGED 5 YEARS OLD AND ABOVE)

Household member no. (HM IS)

--	--

Name

--

**A1 Did you work at least ONE HOUR during the reference week for pay or profit or for family gains? (Include own account work). Work Include:**

- (I) Any work on his / her own or the household's plot, farm food garden, plantation or help in growing farm produce or in looking after animals for the household  
 (II) Online sales activities such as selling clothes, accessories, cup-cakes, etc.  
 (III) Assist family members to operate their enterprises / businesses  
 (IV) Activities carried out at home such as folding boxes, shelling of prawns, sending school children and sewing beads

1: Yes 2: No

**A2 Although you did not work during the reference week, do you have any employment, work on farm, enterprise or other family enterprise to return to?**

1: Yes 2: No (For member aged 5-17 years, go to A15)

(For member aged 18 years and above, END THE INTERVIEW HERE)

**A3 How many hours did you work during the reference week? (including extra work, work on secondary jobs, etc.)**

Write the number of hours at work. If 30 hours or more, go to A7.

**A4 What was the reason for working less than 30 hours?**

1. Insufficient work / In the nature of the job
2. Retired / old age
3. Housework / family / community responsibilities
4. Leave
5. Illness / Injury
6. Weather condition

**A5 If working less than 30 hours, are you ABLE and WILLING to accept additional number of hours of work?**

1: Yes 2: No

**A6 What was the reason for not being at work during the reference week?**

1. Illness / Injury
2. Weather conditions
3. Leave
4. Labour dispute
5. Social / religious reasons
6. Temporary layoff (Paid Employees)
7. Off-season / In the nature of the job

Please mark "X" in the relevant boxes

Yes		No	
1		2	

Yes		No	
1		2	

Hours		If less than 30 hours	

1		2	
		3	
		4	
		5	
		6	

Yes		No	
1		2	

1	
2	
3	
4	
5	
6	
7	

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HM IS	A1	A2	A3	A4	A5	A6

PRINCIPAL JOB		SECONDARY JOB	
If "Yes" to A1 or A2, ask:		A10 Beside your principal job, do you have other secondary jobs during the reference week? (Ask this question if did not answer "oil palm plantation worker" in A7(I)) Yes <input type="checkbox"/> 1 <input type="checkbox"/> No <input type="checkbox"/> 2 <input type="checkbox"/> (For member aged 5-17 years, go to A14) (For member aged 18 years and above, END THE INTERVIEW HERE)	
A7 Occupation <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (I) What is your occupation? _____ _____ _____ (II) Please describe your duties / nature of your job? _____ _____		A11 Occupation <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (I) What is your secondary / other jobs during the reference week? _____ _____ _____ (II) Please describe your duties / nature of your job? _____ _____	
A8 Industry <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (I) What is the name and address of your establishment or the establishment which you are employed? (this refers to the plantation not the labour contractor for oil palm plantation Industry) _____ Telephone: _____ (II) What are the main activities / product of this establishment? _____ _____ (III) In which state / country is your usual place of work? _____ (a) State code <input type="text"/> <input type="text"/> <input type="text"/> (b) Country code <input type="text"/> <input type="text"/> <input type="text"/>		A12 Industry <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> (I) What is the name and address of your establishment or the establishment which you are employed? (this refers to the plantation not the labour contractor for oil palm plantation Industry) _____ Telephone: _____ (II) What are the main activities / product of this establishment? _____ _____ (III) In which state / country is your usual place of work? _____ (a) State code <input type="text"/> <input type="text"/> <input type="text"/> (b) Country code <input type="text"/> <input type="text"/> <input type="text"/>	
A9 Status in employment <input type="checkbox"/> Were you a / an...? 1 Employer 2 Government Employee 3 Private Employee 4 Own Account Worker 5 Unpaid Family Worker 6 Others: (Please specify) _____		A13 Status in employment <input type="checkbox"/> Were you a / an...? 1 Employer 2 Government Employee 3 Private Employee 4 Own Account Worker 5 Unpaid Family Worker 6 Others: (Please specify) _____	

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A7	A8	A8 (III) a	A8 (III) b	A9	A10	A11	A12	A12 (III) a	A12 (III) b	A13
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

(TO BE ANSWERED BY THE MEMBER AGED 5 - 17 YEARS ONLY)

**A14** Was the work reported in A7, A8, A9, A11, A12 or A13, your main activity during the past 12 months?

- 1: Yes (For oil palm plantation worker, go to B1)  
 (For non oil palm plantation worker, END THE INTERVIEW HERE)  
 2: No (Go to A15)  
 3: Did not report any work on A7, A8, A9, A11, A12 or A13 (Go to A15)

**A15** Although you were not involved in the job activity last week, did you work at least ONE HOUR in a week (during the past 12 months) for pay or profit or for family gains? (Include own account work). Work Include:

- (I) Any work on his / her own or the household's plot, farm food garden, plantation or help in growing farm produce or in looking after animals for the household  
 (II) Online sales activities such as selling clothes, accessories, cup-cakes, etc.  
 (III) Assist family members to operate their enterprises / businesses  
 (IV) Activities carried out at home such as folding boxes, shelling of prawns, sending school children and sewing beads

- 1: Yes, for pay or profit (i.e., employee or own-account worker)  
 2: Yes, for family gains (i.e., contributing family worker)  
 3: No (END THE INTERVIEW HERE)

**A16** Occupation

- (I) What is your occupation?

\_\_\_\_\_

- (II) Can you describe your duties / nature of your job?

\_\_\_\_\_

**A17** Industry

- (I) What is the name and address of your establishment or the establishment which you are employed? (this refers to the plantation not the labour contractor for oil palm plantation industry)

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

- (II) What are the main activities / product of this establishment?

\_\_\_\_\_

- (III) In which state / country is your usual place of work?

\_\_\_\_\_

**A18** Status in employment

Were you a / an...?

- 1 Employer  
 2 Government Employee  
 3 Private Employee  
 4 Own Account Worker  
 5 Unpaid Family Worker  
 6 Others: (Please specify) \_\_\_\_\_

Please mark "X" in the relevant boxes

Yes	No	Did not report
1	2	3

A15

1	
2	
3	

END

A16

--	--	--	--	--	--	--	--

A17

--	--	--	--	--	--

State Code
a

Country Code
b

1	
2	
3	
4	
5	
6	

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A14	A15	A16					A17					A17 (III) a	A17 (III) b					A18

## [4] SALARIES AND WAGES PARTICULARS

(TO BE ANSWERED BY OIL PALM PLANTATION WORKERS AS IN A7, A11 OR A16,  
EXCLUDING EMPLOYER AND OWN ACCOUNT WORKER AS IN A9, A13 OR A18)

Reference Month

Household member no. (HM IS)			
Name			
<b>B1</b> Is this your occupation, industry and employment status in the reference month? 1: Yes (Go to B4) (For unpaid family worker, answer B5-B7) 2: No (Go to B2)	B1	Code <input type="text"/>	Code <input type="text"/>
<b>B2</b> What is your usual occupation in the reference month? (If the answer is oil palm plantation worker, go to B4)	B2	<input type="text"/>	<input type="text"/>
<b>B3</b> State the activity / main production of the establishment which you are employed (END THE INTERVIEW HERE)	B3	<input type="text"/>	<input type="text"/>
<b>B4</b> Type of salary 1 - Hourly 2 - Daily 3 - Weekly 4 - Monthly 5 - Piece rate 6 - Payment in Kind E.g. 'piece rate': bunch, bouquet, stick, sheet, bundle, trip, pack, pieces, pairs, sacks, batch, etc CASH NEXT STEP: - For code 1, 2, 3, 4 or 6, answer B6 - B8 - For code 5, answer B5 - B8 For code 1, 2 or 5, state the payment per hour / day / piece rate	B4a	Salary code <input type="text"/>	Salary code <input type="text"/>
<b>B5</b> (a) The number produced in the reference month? (per ton for harvesting, per tree for pruning, per acre for weeding, etc.) (b) Please state the unit used. (For question B4, code 5 only)	B5a	No. <input type="text"/>	No. <input type="text"/>
<b>B6</b> Numbers of working hours per day in the reference month?	B6	<input type="text"/> hours	<input type="text"/> hours
<b>B7</b> Number of days worked in the reference month?	B7	<input type="text"/> days	<input type="text"/> days
<b>B8</b> Wage Period 1 - Regular 2 - Up to employer 3 - Others: (Please specify) _____	B8	Wage period code <input type="text"/>	Wage period code <input type="text"/>

[4] SALARIES AND WAGES PARTICULARS (cont.)				
Household member no. (HM IS)				
Name				
B9 TOTAL SALARIES AND WAGES RECEIVED IN THE REFERENCE MONTH (EXCLUDE overtime payment) (B10 + B11 + B12 + B13)		B9	RM <input type="text"/>	RM <input type="text"/>
CASH				
B10 BASIC SALARIES / WAGES (Before deduction of Income tax, EPF contributions, etc.)		B10	RM <input type="text"/>	RM <input type="text"/>
B11 ALLOWANCE (B11a + B11b + B11c + B11d + B11e + B11f)		B11	RM <input type="text"/>	RM <input type="text"/>
a. Housing	B11a	RM <input type="text"/>	RM <input type="text"/>	
b. Cost of Living	B11b	RM <input type="text"/>	RM <input type="text"/>	
c. Medical	B11c	RM <input type="text"/>	RM <input type="text"/>	
d. Food	B11d	RM <input type="text"/>	RM <input type="text"/>	
e. Transport	B11e	RM <input type="text"/>	RM <input type="text"/>	
f. Others: (Please specify) _____	B11f	RM <input type="text"/>	RM <input type="text"/>	
B12 OTHER CASH (B12a + B12b)		B12	RM <input type="text"/>	RM <input type="text"/>
a. Commissions / Tips	B12a	RM <input type="text"/>	RM <input type="text"/>	
b. Others: (Please specify) _____	B12b	RM <input type="text"/>	RM <input type="text"/>	
B13 OTHER CASH (B13a + B13b + B13c)		B13	RM <input type="text"/>	RM <input type="text"/>
a. Food	B13a	RM <input type="text"/>	RM <input type="text"/>	
b. Lodging	B13b	RM <input type="text"/>	RM <input type="text"/>	
c. Others: (Please specify) _____	B13c	RM <input type="text"/>	RM <input type="text"/>	
B14 OVERTIME PAYMENT		B14	RM <input type="text"/>	RM <input type="text"/>
B15 DEDUCTIONS (B15a + B15b + B15c + B15d + B15e + B15f)		B15	RM <input type="text"/>	RM <input type="text"/>
a. Housing	B15a	RM <input type="text"/>	RM <input type="text"/>	
b. Food	B15b	RM <input type="text"/>	RM <input type="text"/>	
c. Social Protection	B15c	RM <input type="text"/>	RM <input type="text"/>	
d. Fines	B15d	RM <input type="text"/>	RM <input type="text"/>	
e. Reimbursement / payment for debt	B15e	RM <input type="text"/>	RM <input type="text"/>	
f. Others: (Please specify) _____	B15f	RM <input type="text"/>	RM <input type="text"/>	
B16 TOTAL SALARIES AND WAGES INCLUDE OVERTIME PAYMENT (B9 + B14 - B15)		B16	RM <input type="text"/>	RM <input type="text"/>



**[5] OIL PALM PLANTATION WORKERS PARTICULARS (5 YEARS OLD AND ABOVE)**(TO BE ANSWERED BY OIL PALM PLANTATION WORKERS AS IN A7, A11 OR A16,  
EXCLUDING EMPLOYER AND OWN ACCOUNT WORKER AS IN A9, A13 OR A18)Household member no. (HM IS) Name **C1 Did you work in any other plantation during the last week?**

1: Yes (go to C2)

2: No (go to C3)

**C2 How many other plantations that you have worked during last week?**1:  (With less than 5 plantation workers)2:  (With 5 or more plantation workers)**C3 How were you recruited for this job?**

1. Through an agent / recruitment agency / broker from country of origin

2. Through an agent / recruitment agency / broker from Malaysia

3. Through direct recruitment by the plantation

4. Through a labour contractor

5. Family member

6. Others: (Please specify) **C4 Where were you recruited?**

1: Outside Malaysia

a. Country of origin b. Others: (Please specify) 

2: In Malaysia

**C5 Aside from the official cost for employment such as ticket, visa, security clearance and other cost imposed by the government of the country of origin, did you have to pay any other costs to obtain this job?**

1: Yes

2: No

**C6 Did you incur a debt to get the job?**

1: Yes

2: No (Go to C11)

**C7 To whom you are debted to? [ANSWER ALL QUESTIONS]**

1. Recruiter / Intermediary / broker outside of Malaysia

2. Recruiter / Intermediary / broker in Malaysia

3. Bank / cooperative / microfinance institution / other lending institution

4. Informal money lenders

5. Employer

6. Friends / relatives

7. Others: (Please specify) 

Please mark "X" in the relevant boxes

Yes		No	
1		2	

1	
2	

1	
2	
3	
4	
5	
6	

1a	
1b	
2	

Yes		No	
1		2	

Yes		No	
1		2	

Yes		No	
1		1	
2		2	
3		3	
4		4	
5		5	
6		6	
7		7	

C11	
-----	--

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HM IS	C1	C2		C3	C4	C5	C6	C7						
		1	2					1	2	3	4	5	6	7

## [5] OIL PALM PLANTATION WORKERS PARTICULARS (5 YEARS OLD AND ABOVE) (cont.)

C8 Were you cleared with the terms and conditions of the debt payment when you borrowed the money?

- 1: Yes  
2: No

C9 Do you have any written agreement on the plan for reimbursement?

- 1: Yes  
2: No

C10 How is the loan or debt being repaid? [ANSWER ALL QUESTIONS]

1. Deduction from salary  
2. Work by family members  
3. Regular payment to the creditor  
4. Others: (Please specify) \_\_\_\_\_

C11 Did you sign any contract at the time of your recruitment?

- 1: Yes  
2: No (Go to C14)

C12 Did you sign any contract when you started your job?

- 1: Yes  
2: No (Go to C14)

C13 Were the terms and conditions in the contracts in C11 and C12 are the same?

- 1: Yes  
2: No  
3: I do not know

C14 During recruitment, did you receive information about:  
[ANSWER ALL QUESTIONS]

- a. The type of work you were going to do?  
b. Working hours / days?  
c. Number of rest-day per week?  
d. Living conditions?  
e. Safety equipment and procedures?  
f. Wages?  
g. Deductions?  
h. Contract duration?  
i. Terms of debt re-payment ?

C15 When did you start this job? (mm/yyyy)

C16 How long do you plan to stay with this job? (mm/yyyy)

Please mark "X" in the relevant boxes

Yes	No
1	2

Yes	No
1	2

Yes	No
1	1
2	2
3	3
4	4

Yes	No
1	2

Yes	No
1	2

1
2
3

1: Yes, same in reality		2: Yes, but different from reality		3: No	
a		a		a	
b		b		b	
c		c		c	
d		d		d	
e		e		e	
f		f		f	
g		g		g	
h		h		h	
i		i		i	

--	--	--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--	--	--

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C8	C9	C10				C11	C12	C13	C14									C15	C16			
		1	2	3	4				a	b	c	d	e	f	g	h	i					



**[6] OIL PALM PLANTATION WORKERS PARTICULARS (5-17 YEARS OLD ONLY)**(TO BE ANSWERED BY OIL PALM PLANTATION WORKERS AS IN A7, A11 OR A16 OR YES IN A14  
EXCLUDING EMPLOYER AND OWN ACCOUNT WORKER AS IN A3, A13 OR A18)

Household member no. (HM IS)

Name

**D1 Have you experienced any of the following in the past 12 months because of your work in the plantation? [ANSWER ALL QUESTIONS]**

1. Superficial injuries or open wounds
2. Fractures
3. Dislocations, sprains or strains
4. Burns, scalds or heat stroke
5. Breathing problems
6. Eye problems
7. Skin problems
8. Stomach problems / diarrhea
9. Fever
10. Extreme fatigue
11. Snake / wild animal bites
12. Others: (Please specify) \_\_\_\_\_

If all "NO" go to D4

**D2 What is the stage of your illness / injury experienced and the effect on your working or schooling?**

- 1: Not serious - did not stop work / schooling
- 2: Serious - stopped work or school for some time

If 1, proceed to D4. If 2, proceed to D3.

**D3 For how many days did you stopped work or school due to your illness / injury? (Specify the exact number of days)****D4 Do you carry heavy loads at work?**

1. Not heavy
2. Slightly heavy
3. Moderately heavy
4. Very heavy
5. Extremely heavy

**D5 Do you operate any machinery / heavy equipment at work?****[ANSWER ALL QUESTIONS]**

1. Harvesting tool
2. Pruning equipment
3. Equipment for loading fruits at the estate
4. Weeding tool
5. Others: (Please specify) \_\_\_\_\_

**D6 What type of tools, equipment or machines do you use at work?**

(Write down 2 mostly used)

1. \_\_\_\_\_
2. \_\_\_\_\_

Please mark "X" in the relevant boxes

Yes		No	
1		1	
2		2	
3		3	
4		4	
5		5	
6		6	
7		7	
8		8	
9		9	
10		10	
11		11	
12		12	

1	
2	

1	
2	
3	
4	
5	

Yes		No	
1		1	
2		2	
3		3	
4		4	
5		5	

**FOR OFFICE USE ONLY**

HM IS	D1												D2	D3	D4	D5				
	1	2	3	4	5	6	7	8	9	10	11	12				1	2	3	4	5

## [6] OIL PALM PLANTATION WORKERS PARTICULARS (5-17 YEARS OLD ONLY) (cont.)

D7 Are you exposed to any of the following at work?

[ANSWER ALL QUESTIONS]

1. Dust, fumes
2. Fire, gas, flames
3. Loud noise or vibration
4. Extreme cold or heat
5. Dangerous tools (knives, etc)
6. Work underground
7. Work at heights
8. Work in water / lake / pond / river
9. Workplace too dark or confined
10. Insufficient ventilation
11. Chemicals (pesticides, glues, etc)
12. Explosives
13. Other things, processes or conditions bad for your health or safety  
(Please specify) \_\_\_\_\_
14. Work between 8pm to 7am (5-14 years old)
15. Work between 8pm to 6am (15-17 years old)
16. Others: (Please specify) \_\_\_\_\_

Please mark "X" in the relevant boxes

Yes		No	
1		1	
2		2	
3		3	
4		4	
5		5	
6		6	
7		7	
8		8	
9		9	
10		10	
11		11	
12		12	
13		13	
14		14	
15		15	
16		16	

D8 Have you ever been subject to the following at work?

[ANSWER ALL QUESTIONS]

1. Constantly shouted at
2. Repeatedly insulted
3. Beaten / physically hurt
4. Sexually abused, touched, done things that you did not want
5. Others: (Please specify) \_\_\_\_\_

Yes		No	
1		1	
2		2	
3		3	
4		4	
5		5	

## FOR OFFICE USE ONLY

D7																D8				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	1	2	3	4	5

Comments by Field Enumerator:

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Remarks by Supervisor:

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## APPENDIX C: LIST OF HAZARDOUS EQUIPMENT FOR CHILDREN BELOW 18 IN THE OIL PALM PLANTATION

MESIN/ JENTERA YANG DIGUNAKAN	GAMBAR
Manual (Galah & Sabit)	
Motorised Cutter	
Mini Tractor	
Trailer	
Grabber	



MESIN/ JENTERA YANG DIGUNAKAN	GAMBAR
Three Wheeler Powercart	
Four Wheeler Power Cart	
Wheel barrel	
Motorised Knapsack Sprayer	
Controlled Droplet Application (CDA)	
Tractor Tanker	

MESIN/ JENTERA YANG DIGUNAKAN	GAMBAR
Fertilizer Spreader	
Lori	