

Precarious conditions for foreign labour in Malaysian Palm oil Plantations - A systems analysis

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Introduction

The second largest exporter of palm oil, Malaysia faces growing scrutiny over precarious working conditions, a term which encapsulates both the working and living conditions of workers.¹ Palm oil plantations have been a part of Malaysia's agricultural sector for over a century with accelerated growth over the last 50-years.² Increased consumer demand for palm oil internationally has driven the need for additional plantation workers and Malaysia relies heavily on migrant workers who represent over 80% of the plantation workforce to support the growth of a mature industry since the local population deems work on palm oil plantations to be dangerous and lacking sufficient compensation (See Figure 1).³ Migrant workers, many of whom are escaping poverty in their country of origin face the precarious working conditions of palm oil plantations with a reduced level of protection through local laws.⁴ Journalistic reporting and studies have exposed conditions in the palm oil sector that include document

¹ Amnesty International, 2016; Fair Labor Association, 2018; Kumar et al., 2014

² Basiron, 2007; Kumar et al., 2014

³ Chu, 2020; Kumar et al., 2014; Mason & McDowell, 2020a; Ming and Chandramoha, 2002; Choog et al., 2014

⁴ Fair Labor Association, 2018; Wahab, 2020

retention, involuntary overtime, coercive practices, and lack of access to basic needs, including education for children of plantation workers.⁵ In 2020, the COVID-19 pandemic worsened conditions for migrant workers further exposing the vulnerabilities they face while working in Malaysia.⁶

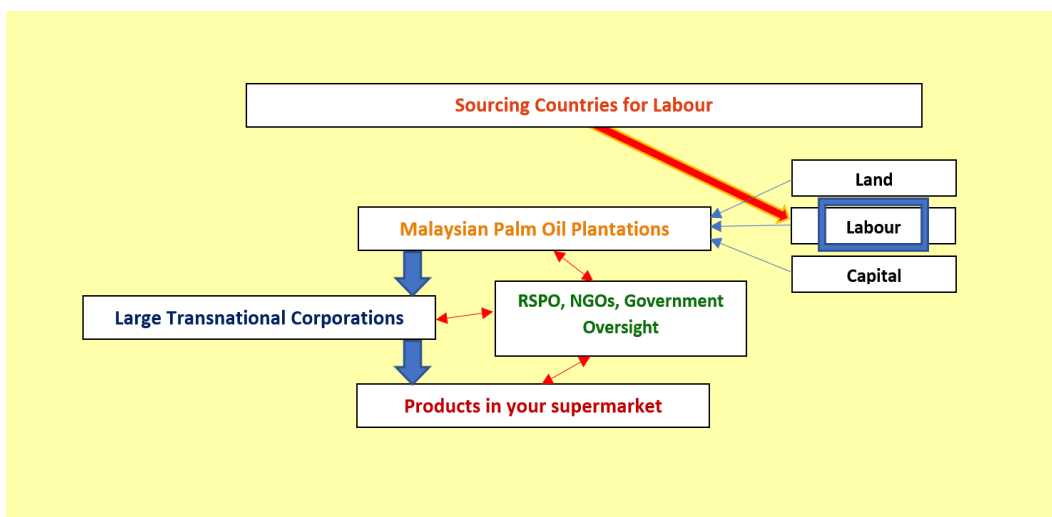


Figure 1 Outline of palm oil value chain from demand to distribution from Malaysian plantations

With several issues facing the palm oil industry in Malaysia, the current system is geared towards benefitting the consumers and thus the multinational corporations which are part of the value chain of numerous consumer products.⁷ The research objective is to explore the precarious labour conditions in Malaysia's palm oil plantations to better understand patterns of behaviour and the structure of the system that might be holding patterns in place. We will conduct our research through an organizational sustainability lens to identify areas of impact that will support the development of socially responsible palm oil plantation labour-related practices that contribute to the achievement of the United Nations (UN) Sustainable Development Goals (SDGs).⁸

Challenge Analysis

The chain of events that leads to the problematic conditions for plantation labour starts from deprived communities domestically and in countries like Nepal and Bangladesh, and then worsened by the corruption in the recruiting mechanism that oversees the exporting of labour force to Malaysian palm oil plantations.⁹ (See Figure 2) Plantation labourers have expressed a lack of power at not being able to overcome the twin challenges of working conditions because of exploitative ownership practices and of monetary entrapment due to debt taken on to secure employment.¹⁰ In several cases, the workers lack a voice for grievances and concerns because of a structure that does not allow collective representation. This is related to other challenges that is reflected in critical gaps in knowledge of the palm oil value chain which in turn affects the level of sustainability that can be achieved.¹¹

⁵ Fair Labor Association, 2018; Kumar et al., 2014; Mason & McDowell, 2020a

⁶ Wahab, 2020

⁷ Fair Labor Association, 2018; Mason & McDowell, 2020

⁸ General Assembly resolution 71/313, 2017; GRI et al., 2015

⁹ Fair Labor Association, 2018

¹⁰ Verité, 2013; Pattison, 2020; Fair Labor Association, 2018

¹¹ Fair Labor Association, 2018; Myzabella et al, 2019; Devadason, 2020

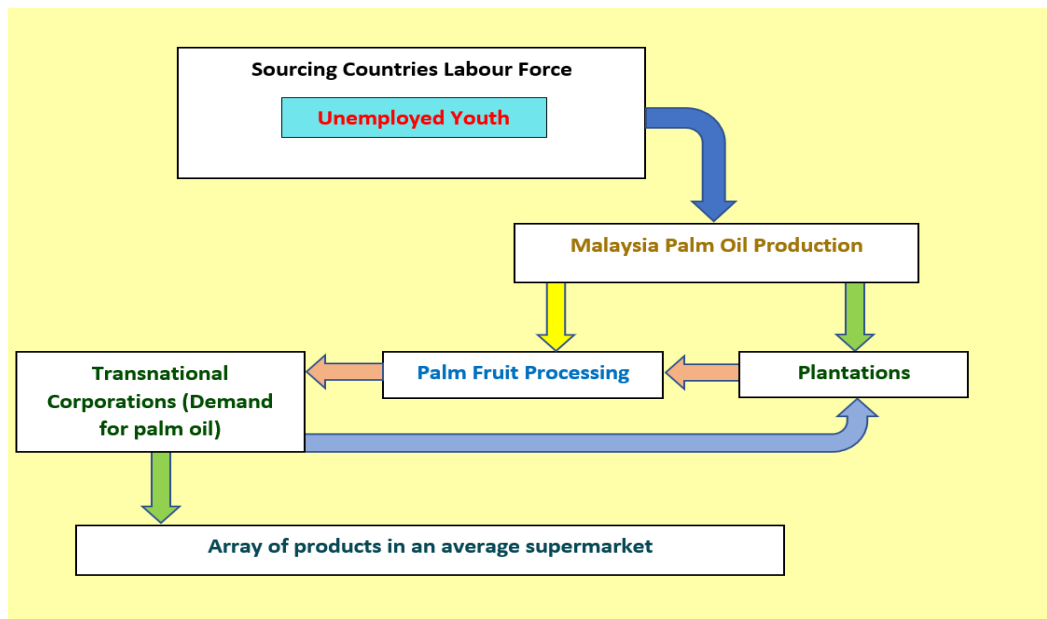


Figure 2 Flow of labour into Malaysian palm oil value chain

Palm oil, a critical ingredient in around half, if not more, of the products in any global supermarket, comes from plantations where 80% of the workforce are estimated to come from Indonesia, Bangladesh, Nepal and India.¹² In addition to legal migrant workers, other research yields a conservative estimate of close to a million irregular workers in Malaysia.¹³ Studies have found that the lack of a formal arrangement for payment and legal status makes the labour particularly vulnerable to plantation owners forcing work for meager survival wages and, in very few cases, some funds to be transferred to home countries.¹⁴ The latest studies have found that while the Malaysian government and international corporations have developed better mechanisms for education and monitoring of workers' rights, there are still significant gaps in both awareness and reporting of workers' conditions.¹⁵ A missing link between the need and availability of monitoring information is the disengagement of large buyers from the process of sourcing of palm oil. This is contrary to many of the commitments that the buyers – large international conglomerates – have made under the UN Global Compact (UNGC). A greater involvement could entail higher costs for the buyers as well as liability exposure for inadvertent mistakes even when monitoring independent local smallholders.¹⁶

The key cause of the challenge draws from the demand for plantation labour in Malaysia and the desperation of unemployed or underemployed youth in countries like Nepal and Bangladesh. With a lack of transparency in the recruitment oversight and governance process in the sourcing countries, this leaves labourers coming to Malaysia vulnerable to employers breaking contracts and underpaying.¹⁷ While a significant number of workers were initially of Malaysian origin, the serious long-term health effects of working on the plantations have reduced considerably the willingness of locals to work on the plantations.¹⁸ Others have found that despite significant improvements in monitoring, there is a

¹² The Guardian, 2020

¹³ World Bank Group, 2020

¹⁴ Fair Labor Association, 2018

¹⁵ Puder, 2019; Mason & McDowell, 2020

¹⁶ Abazue, et al, 2015; Padfield, 2016; Amnesty International, 2016

¹⁷ Nepal et al., 2013; Devadason, 2020; MOLESS, 2020

¹⁸ Myzabella et al., 2019

significant prevalence of child labour on many plantations especially those which are smaller in scope and owned by families.¹⁹

The beneficiaries of the current system are the plantation owners, palm oil mills, and international corporations who get to reduce costs and increase profits. The government is also benefiting by owning some plantations themselves as well as getting tax and miscellaneous fee revenue.²⁰ The indirect beneficiaries of this system are consumers of the products which incorporate the palm oil. The reason why so many products containing palm are so cheap and available in such massive quantities is because of such practices in the plantation sourcing mechanism, ultimately rewarding current system beneficiaries at the expense of plantation workers.²¹

The evolution of the challenge follows the demand for an increase in the production of palm oil in the world market. The other concurrent measures to monitor are the employment rates in the labor sourcing countries – Nepal, Bangladesh, for example – and the income differential within and between Malaysia and the corresponding labor sourcing countries.²² While some countries have provided significant economic opportunities, there are questions about the level of access to such opportunities. Many who feel left out of the economic growth in a system that rewards a select section of the population, tend to accept such arduous work abroad.²³ Corruption and bureaucratic inefficiencies have increased the level of unwillingness to report adverse working conditions once members of the sourced labour start working in plantations.²⁴ Then the critical area to monitor has been the evolution of the processes followed both during and after the palm fruit production that affects the health and well-being of labour on the various plantations. Many researchers have found that this varies by the size and ownership of the plantation.²⁵ Small plantations have more pressure to increase yield in some cases leading to negligent safety practices, greater child labour, and forced labour. Larger plantations have greater control over the legal status of their lowest level workers opening a window to potential abuse if workers do not comply with strict production and efficiency quotas.²⁶ The advent of COVID has made the situation even more complicated with two additional burdens. First, workers are unable to move freely even among plantations in the same region let alone to local government and other services. Second, workers are not able to go back to their home country thereby significantly affecting their mental health and thus in turn their productivity.²⁷

¹⁹ Fair Labor Association, 2018; Crowley, 2020

²⁰ Abazue, 2015; Alam, 2015; Mason, M., & McDowell, R., 2020b

²¹ Wright D, Meadows DH. 2008; Fair Labor Association, 2018; Mason & McDowell, 2020

²² ILO, 2016; Mason & McDowell, 2020; MOLESS, 2020

²³ Pye, O., Daud, R., & Harmono, Y., 2012; ILO, 2016; Chu, 2020; World Bank, 2020

²⁴ World Bank, 2020

²⁵ Ferdous Alam et al., 2015; Bissonnette & Koninck, 2017; Crowley, 2020

²⁶ Puder, 2019; Crowley, 2020; Mason & McDowell, 2020

²⁷ Wahab, 2020

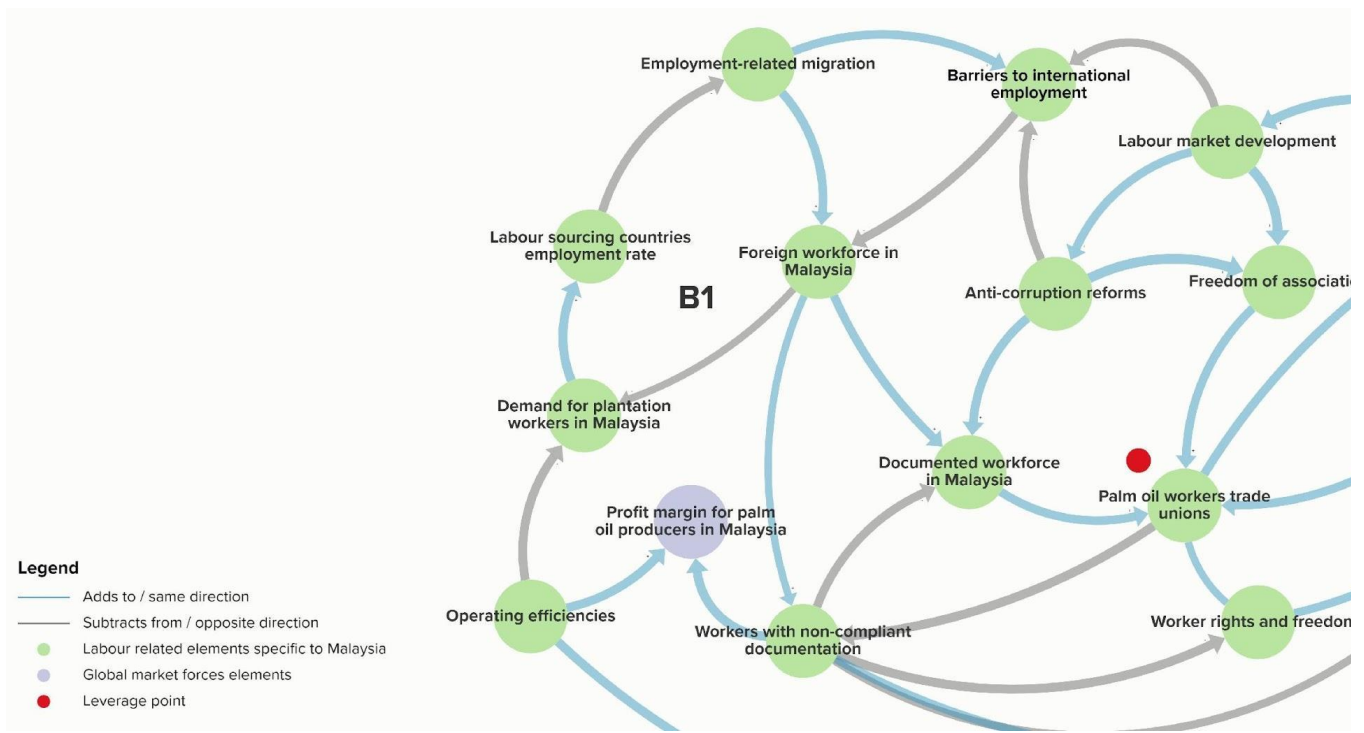


Figure 3 Labour related elements specific to Malaysia

The ways the problem is likely to evolve is threefold – first, an increase in the use of technology and second, greater government oversight at least superficially. While greater use of technology in the harvesting and processing of palm oil increases operating efficiencies, it could lead to a decline in the number of workers needed. This could in turn have the unintended consequence of a greater and more expensive struggle for fewer positions on the plantations.²⁸ The other development – greater involvement of government agencies – could reduce the severity of corruption in the recruitment and transfer of labour to the plantations, if and only if the government involvement itself is properly monitored and carefully assessed without undue burden to labour and employers.²⁹ (See Figure 3) Studies related to land use in various sectors in Malaysia and the reporting of such have found that this is unlikely to happen.³⁰ This brings us to the third way the issue is expected to evolve – the greater involvement of international organizations sanctioned by the primary buyers to facilitate the monitoring and reporting with consequences for noncompliance.³¹ This creates a reinforcing feedback loop (R2) and exposes a leverage point for intervention within the existing system (See Figure 4).

²⁸ Crowley, 2020

²⁹ Nepal et al., 2013; World Bank Group, 2020

³⁰ Padfield et al., 2016

³¹ Abazue et al 2015; Fair Labor Association, 2018

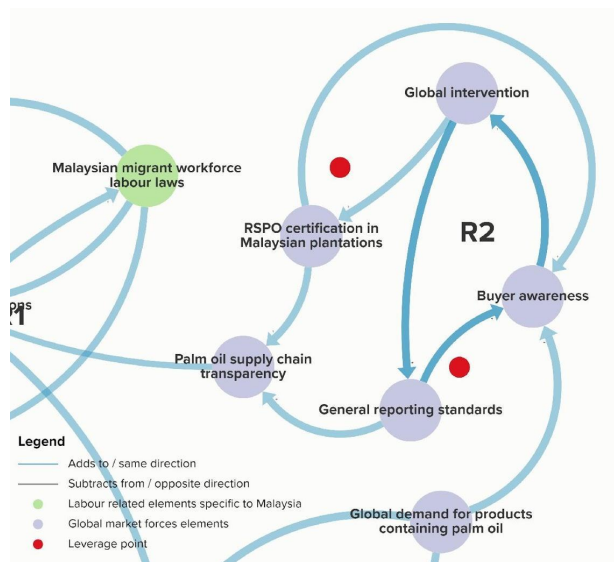


Figure 4 Global market forces elements

Solutions Landscape

Plantation areas in nations like Indonesia and Malaysia are typically faced with varying levels of human rights violations, exploitative working conditions and long-term health hazards that accompany the labour conditions in the industry.³² These challenges come in form of precarious working conditions, social injustices, and land conflicts.³³ Responding to these challenges, in 2010, the Malaysian government made deliberate efforts to limit the expansion of the palm oil plantation by retaining land areas for secondary purposes.³⁴ In a bid to support the land density, technological innovations were developed to fully maximize the potential of the limited plantation areas while reducing the burden of plantation workers.³⁵ In doing this the increase in technology-use could encourage small holder farmers to engage in better production practices.³⁶ Supporting this initiative, collaboration with other governments like the Indonesian government, non-governmental organizations and human rights organizations were done through workshops to address the unfair labour practices in these nations but these efforts failed to eliminate the systemic abuses in the industry.³⁷

Internally, Malaysia has reduced certain levels of human rights violations by addressing incidences of infringement on the right to assembly and association through the implementation of policies and amended laws.³⁸ However, these models have not impacted the palm oil industry as challenges in this sector persist, as discussed above.³⁹ The intensity of the challenges caused palm oil plantation workers to attempt industrial strikes and develop collective strategies to challenge policies that hinder their rights as

³² Verité, 2013; Fair Labour Association, 2018

³³ Forum Palmöel, n.d.-a

³⁴ Morales, 2010

³⁵ Jelani et al., 2008

³⁶ Myzabella et al., 2019

³⁷ Rainforest Action Network, 2014

³⁸ Human Rights Watch, 2020

³⁹ Amnesty International, 2016

workers and citizens.⁴⁰ Due to the constant growing demand for palm oil products, this act proved futile, as excessive work overtime and the exploitative labour condition persists in the industry.⁴¹

The innumerable issues in the oil palm industry have led to global interventions from the United States and Brazil. The United States implemented trade barriers, after finding forced labour indicators that included “physical and sexual violence, restriction of movement, intimidation and threats, debt bondage, withholding of wages and excessive overtime” in Malaysia’s oil palm industry.⁴² Additional measures were implemented, ensuring palm oil and its products imported to the United States are subject to seizure until proof of exclusion of forced labour production is provided.⁴³ This barrier pressures companies importing from Malaysia into implementing policies to protect workers.⁴⁴

Brazil utilizes an environmental approach in addressing this challenge, a program focused on the utilization of already deforested areas for plantation areas was launched by the government, offering incentives to firms to engage smallholders' farmers in the palm oil supply chain.⁴⁵ This approach could be drawn upon by the Malaysian government to maximize the involvement of smallholder farmers in the palm oil supply chain.⁴⁶

These global examples provide strategies to adopt that systemically address plantation challenges in Malaysia. In addition to that, the Roundtable on Sustainable Palm Oil (RSPO) established in 2004 formed a basis to provide ethical practices through global standards and multistakeholder governance in the industry, but lapses occur in effective implementation of social and legal compliance to the sustainability standards, as RSPO standards are constantly being critiqued for lacking detail and depth in addressing human right violations which calls for strengthening of the labour standards.⁴⁷ To further support RSPO’s mission, the Palm Oil Innovation Group (POIG) founded in 2013 was created to provide innovative solutions to reduce the exploitation of workers in the palm oil industry.⁴⁸ However, the exploitative labour practices of palm oil producers in Malaysia have not included the myriad of challenges such as the low wages and poor working conditions, faced by migrant workers, which poses constraints on the health status of these plantation workers.⁴⁹ The technological innovation solution previously stated could address these health-related issues present in the palm oil industry.⁵⁰ Likewise, a standard ethical framework that solely focuses on labour and employment issues could be adopted to address the overall labour challenges, including health.⁵¹

Due to international criticisms in the industry, in addition to RSPO and POIG, other certification schemes like Rainforest Alliance, International Sustainability & Carbon Certification (ISCC) and the Roundtable on Sustainable Biomaterials (RSB) were created to address deforestation concerns and human rights violations, though more emphasis has been placed on the former.⁵² These sustainability

⁴⁰ Pye et al., 2016

⁴¹ Alam et al., 2015; Aminuddin, 2009

⁴² Mason & McDowell, 2020, para. 3

⁴³ Committee on Ways and Means, House of Representatives, 2020; Mason & McDowell, 2020

⁴⁴ Slater, 2017

⁴⁵ Brandão et al., 2021

⁴⁶ Verité, 2013

⁴⁷ RSPO, 2020; Gottwald, 2018

⁴⁸ Palm Oil Innovation Group (n.d.)

⁴⁹ Chu, 2020, Reuters 2018

⁵⁰ Jelani et al., 2008

⁵¹ Verité, 2013

⁵² Forum Palmöel, n.d.-b

schemes aimed at promoting transparency in the supply and value chain and respecting the basic rights of plantation workers and indigenous landowners, but implementation remains a challenge.⁵³ Moreover, the media has been used as an effective tool in exposing the ill practices in the palm oil sector in Malaysia and this intervention has served as a means to create awareness, hence, reducing these unfair practices to a certain extent.⁵⁴

Within the context of the highlighted solutions and the lapses in the palm oil sector, large scale palm oil companies have made attempts to reduce few gaps in human rights governance by embracing policies that show safe business activities and a transparent supply chain.⁵⁵ However, focus needs to be redirected to the development and re-implementation of policies and strategies targeted at decreasing the negative impacts of the oil palm industry as future solutions are hinged on the industry's effect on the nation's economic development.⁵⁶ Likewise, the palm oil supply chain and network tiers need to be focused on, to avoid deterioration of the environmental and social future of the industry.⁵⁷

Collective solutions such as the creation of independent plantation workers union can address the current practices in the system while promoting responsible production and consumption of palm oil.⁵⁸ Moreover, the creation of a scorecard that focuses on broader labour issues, similar to Greenpeace's scorecard on environmental challenges in the palm oil industry, can be focused on, to highlight the labour condition challenges in the palm oil sector.⁵⁹ However, without public policies and standard regulatory framework that address the precarious working conditions in Malaysia's palm oil sector and support the development of socially responsible palm oil plantation industrial practices globally, difficulties will emerge, causing environmental and social consequences in the sector.⁶⁰

Impact Gaps

Although the RSPO provides sustainability certification in the palm oil industry, its effectiveness at addressing labour issues present today is lacking, as previously discussed.⁶¹ Furthermore, in Malaysia, less than 25% of the harvested area and less than 5% of tonnes produced are certified based on recent figures.⁶² As a comparison, RSPO certifies 19% of palm oil produced globally.⁶³ This signifies a large gap in Malaysia and globally when it comes to certification of a raw material subject to unsustainable production practices.⁶⁴ Given the widespread demand and use of palm oil in products globally responsible sourcing rests on the shoulders of companies purchasing the raw material and consumers using the end products.⁶⁵

A recent report by World Wildlife Fund focused its analysis on environmental sustainability within the palm oil industry using a scorecard approach and found that while being certified by RSPO helps bolster

⁵³ Forum Palmöel, n.d.-b

⁵⁴ Wahab, 2019

⁵⁵ Wahab, 2019

⁵⁶ Voora et al., 2020

⁵⁷ Choong et al., 2014; Verité, 2020

⁵⁸ Fair Labour Association, 2018

⁵⁹ Greenpeace, 2016

⁶⁰ Fair Labour Association, 2018

⁶¹ Gottwald, 2018; RSPO, 2020; Verité, 2013

⁶² FAO, 2021; RSPO, 2021

⁶³ RSPO, 2021

⁶⁴ Choong & McKay, 2014

⁶⁵ Buerke et al., 2017; Mason & McDowell, 2020a

responsibility of companies sourcing the raw material, certification on its own is not enough. These findings indicate three potential actions to fill the gaps that currently exist between the challenges and solutions explained above: (1) greater demand by purchasing companies for improved labour practices on palm oil plantations through regulations, certifications, and reporting practices; (2) more robust requirements of certification by the RSPO; (3) the development of a labour-specific scorecard for the palm oil industry.

Multinational corporations committed to contributing to the achievement of the UN SDGs can play a larger role in affecting change in the palm oil industry by placing pressure on suppliers to improve practices.⁶⁶ Corporations can work collaboratively with the Malaysian Government, the UNGC, and the International Labour Organization (ILO) to put standards in place for the palm oil industry, using Malaysia as a potential pilot location. These standards could serve as a requirement for UNGC signatories and help non-signatories in contributing to Goal 8 of the SDGs, *Decent Work and Economic Growth*.⁶⁷

The government of Malaysia can contribute to solutions by regulating and enforcing standards through consistent monitoring of plantations (i.e., site visits, audits), facilitating greater protection for migrant workers, applying stricter measures to decrease undocumented workers, and increasing oversight of recruitment agencies.⁶⁸ The RSPO can work to improve its certification process by increasing transparency of its methodology and enhancing criteria around labour-specific issues (i.e., freedom of association, collective agreement).⁶⁹

Lessons Learnt

Drawing from varied perspectives of the team, a close examination of the system has identified points of action that can be leveraged to develop better working conditions.⁷⁰ As outlined previously, the overall value chain seems to follow a “shifting the burden” archetype which leads to creation of new problems as critical ones are being dealt with.⁷¹ Before the systems analysis, the need for involvement of the labour at the ground level and in a structured form was a key gap that was not known. This means that activists and NGOs need to develop an effective plan for both information and action, working with Malaysian national and regional governments as well as relevant business associations to involve labour – local and foreign – voices in key welfare related decision and policy making. RSPO needs to include more plantations and provisions for monitoring of labor practices. Consumers who currently benefit from the system need to force the issue with corporations to become part of the solution.

Conclusion

⁶⁶ General Assembly resolution 71/313, 2017; GRI et al., 2015

⁶⁷ General Assembly resolution 71/313, 2017; United Nations, 2020

⁶⁸ ILO, 2016

⁶⁹ Roundtable on Sustainable Palm Oil, 2020

⁷⁰ Wright D, Meadows DH. 2008, Leverage Points—Places to Intervene in a System. In: *Thinking in Systems*. Routledge; 2009:152-172. doi:10.4324/9781849773386-15

⁷¹ Kim, Daniel & Lannon, Colleen, “A Pocket Guide to Using the Archetypes,” *The Systems Thinker®* Newsletter, Vol. 5 No. 4

Through our research of existing challenges and solutions within the Malaysian palm oil industry, we have learned that impacts should be applied through consistent and timely incremental changes to provide greater outcomes within the existing system and enhance efforts put forth by key stakeholders in Malaysia and globally. We conducted our research holistically recognizing that proposed solutions applied in Malaysia need to be replicated in other regions given that palm oil is produced around the globe.