



INSTITUTE FOR MIGRANT RIGHTS



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**Ms Siobhan Mullally**

*Special Rapporteur on trafficking in persons,  
especially women and children*

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**RE: Call for Inputs: Trafficking of Persons in the Agricultural Sector**

Dear Special Rapporteur Siobhan Mullally,

We refer to the United Nations Special Rapporteur's call for inputs in respect of its report to examine the limits of current legal and policy frameworks that contribute to risks of trafficking in persons in the agricultural sector.

The Institute for Migrant Rights is an Indonesia based academy initiative that dedicates itself to the promotion and practical implementation of human rights.

The Cornell Law School Farmworker Legal Assistance Clinic provides research support for farmworker rights organizations.

We provide the submission **annexed** to this letter in relation to the treatment of migrant workers on palm oil plantations in Indonesia and the relevant protections under Indonesian law.

We gratefully note the assistance of Ms. Claire Gay, Ms. Isobel Hyett, Ms. Fatemah Khasheei and Ms. Nancy Zou through the ACICIS law professional practicum in the preparation and finalisation of this submission.

Kind regards

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#### A. Summary

- I. Since Indonesia's Universal Periodic Review in 2017, the national government has successfully implemented many recommendations relating to its protection of migrant workers. Indonesia's continued efforts in improving the social and economic rights of migrant workers has demonstrated its ongoing support of human rights concerns.
- II. Indonesia has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (**ICRMW**); however, few efforts have been made to enshrine the ICRMW in domestic legislation.
- III. This submission addresses the exploitation of migrant workers on palm oil plantations in Indonesia despite the regulations contained under the International Labour Organisation (**ILO**) and Indonesian labour laws. This submission highlights the necessity to implement human rights protections for migrant workers in Indonesia and strongly recommends that the government amend *Law No. 13 of 2003 concerning Manpower (Manpower Law)*<sup>1</sup> to achieve this goal.

#### B. Introduction

1. As part of its support for the United Nations' Sustainable Development Goals, Indonesia has addressed tasks which contribute to Goals No. 1, 8, and 16. In doing so, Indonesia has focused on peace and justice of strong institutions upon migrants and has further committed to improving the working conditions of migrant workers.
2. Despite such improvements, many areas remain which continue to require significant attention in order to strengthen and improve Indonesia's protection of human rights for migrant workers in the palm oil industry. This submission will highlight the need for Indonesia to strengthen its reporting and follow-up mechanisms in order to ensure that human rights violations are identified quickly and addressed consistently. To achieve this, the discrepancies between the Manpower Law and Indonesia's international obligations relating to human rights must be resolved.

#### C. Human rights abuses of migrant workers on palm oil plantations

3. As multiple reports have suggested, serious human rights abuses continue to occur on Indonesian palm oil plantations, including child labour, labour trafficking, unprotected work with hazardous chemicals and long-term abuse of temporary

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<sup>1</sup> Undang-undang No. 13/2003 tentang Ketenagakerjaan (unofficial translation accessible through the [ILO](#)).



contracts.<sup>2</sup> These violations not only breach Indonesian law, but also international human rights and labour laws, and a myriad of plantation certification schemes.<sup>3</sup>

4. Reporting on and addressing the human rights abuses on palm oil plantations is complicated by their remote locality, as well as the significant number and size of plantations. It is highly likely that the instances of human rights abuses in the palm oil industry are more widespread than reported.
5. There needs to be external pressure from the government in ensuring that employers will not interfere with workers 'right to union' as protected by Article 1 of the Manpower Law. Employers are known to use force and manipulative tactics on workers to violate their right to union.
6. Migrant workers joining unions will significantly improve their working conditions and promote a healthy relationship with their employer, which would reduce the instances of below minimum wage payments and inhumane working and living conditions.

#### D. Why labour inspection is the preferred method

7. Reforming the Indonesian labour inspection regulations is the most practical and effective solution to ending the human rights abuses on plantations. It is important to note that this is merely the starting point for addressing such human rights violations.
8. Currently, labour inspectors in Indonesia carry out inspections according to regulations pursuant to the Manpower Law. Inspections are carried out by the Directorate General of Labour Inspection within the Ministry of Manpower and Transmigration (**MOMT**) (the government institution responsible for labour affairs, including labour inspection regulation). The Directorate General investigates issues such as worker deaths, wage violations and statuses of employment.<sup>4</sup> While this is in accordance with the Directorate General's obligation to ensure favourable conditions of work, such as fair wages and safe and healthy working conditions under Indonesia's international obligations, this can be better served through improvements to Indonesia's labour inspection regulations.
9. Broadening the scope of labour inspectors' duties to also include the inspection of human rights abuses, is the most common-sense solution to reducing the number of violations on palm plantations.

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<sup>2</sup> [When We Lost the Forest, We Lost Everything](#), Human Rights Watch; [Report finds Litany of Labor Abuses on RSPO-certified Oil Palm Plantations](#), Mongabay.

<sup>3</sup> In 2011, Indonesia introduced the Indonesian Sustainable Palm Oil (**ISPO**) standard that required a licensing system for palm plantations. For further details see the March 2020 [EFECA briefing](#).

<sup>4</sup> For further information see the [Ministry of Manpower and Transmigration website](#).



10. It is an oversight oversight by the MOMT that the current labour inspection regulations do not mandate that inspectors identify and address human rights abuses. There are approximately 1,070 palm oil enterprises operating in 26 provinces across Indonesia, which provides livelihoods to more than 6 million workers.<sup>5</sup>
11. The challenges posed by the remoteness, large number, and scale of plantations are best remedied by mandating that inspectors carry out regular inspections of the plantations and focus on identifying and redressing human rights abuses.
12. In recent years, there has been an increase in the illegal recruitment system of plantation workers through the reliance on brokers. This has resulted in an increased risk of human trafficking and unclear employment terms, which violates the essential rights of employees, putting migrants works at higher risk of human rights violations and abuses.
13. Organizations such as the Roundtable on Sustainable Palm Oil (**RSPO**)<sup>6</sup> have highlighted the lack of documentation for migrant workers in plantations, and its neglected position. However, such findings will have limited impact without consistent and regular labour inspections of palm plantations.

#### E. Current issues with labour inspection

14. The efficiency of labour inspection on palm plantations and similar related industries in Indonesia is impeded by a lack of human resources and inadequate training for inspectors. In addition to amending the labour inspection regulations to mandate the investigation of human rights abuses, it is also necessary to resolve these issues.
15. The absence of trained inspectors available to carry out inspections combined with limited access to transport to the remote locality of many plantations provides opportunities for plantation companies to manipulate workers in order to portray a positive image of the workplace. Furthermore, inspections are carried out so infrequently that they fail to have any substantive effect.
16. Upon recruitment, inspectors undertake a generalised training programme run by the Centre for Training and Education of the MOMT. This programme arms inspectors with the applicable skills required to carry out an inspection in any industry, which educates newly recruited inspectors in a general sense, but fails to provide them with the specific training required for the labour issues of the palm oil industry.

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<sup>5</sup> [Guide for Labour Inspection in Indonesia's Palm Oil Sector](#), International Labour Organisation, p.1.

<sup>6</sup> For further details see the [RSPO website](#).



17. Of the approximately 2,000 labour inspectors in Indonesia, only 23 (or 1.15%) are Working Environment Specialists.<sup>7</sup> As such, labour inspectors are often not equipped with the critical knowledge vital to carrying out a comprehensive, principled inspection of palm plantations.
18. Furthermore, on a purely numerical scale, the number of labour inspectors in Indonesia is insufficient to regulate the number of migrant plantation workers in Indonesia, which is estimated to number 3.78 million.<sup>8</sup>
19. Indonesia's National Report in respect of the 2017 UPR stated that it provided legal assistance to 27,000 Indonesian migrant workers between 2012-2016.<sup>9</sup> The clear difference between the number of migrant workers (and reported abuses) in Indonesia and the instances of legal assistance does not indicate a successful resolution of this issue.
20. A reform of the current labour inspection regulations and legislative framework offers the potential to significantly reduce human rights abuses in palm oil plantations and similar fields.

#### F. Recommendations

21. This report seeks to reduce human rights violations against migrant workers in the palm oil industry.
22. We recommend that Indonesia continue its domestic protection of the rights of migrant workers by taking the following steps:
  - a. mandating the protection of human rights under Indonesian labour inspection regulations by reforming the Manpower Law to specify a minimum number of inspections required per year; and
  - b. increasing the number of staff and funding to the Directorate General of Labour Inspection within the MOMT, including expanding the number of trained inspectors.
23. Furthermore, we recommend that Indonesia reinforce its international commitments domestically by:
  - a. ratifying the ILO's Plantations Convention of 1958, the Labour Inspection (Agriculture) Convention of 1969, and the Safety and Health in Agriculture Convention of 2001, which will provide the MOMT with best practice procedures for labour inspections;

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<sup>7</sup> [Factsheet on Labour Inspection in Indonesia](#), International Labour Organization, p.2.

<sup>8</sup> [Protecting Local Labour Rights in the Palm Oil Sector](#), Roundtable on Sustainable Palm Oil.

<sup>9</sup> [National Report submitted to United Nations General Assembly](#), Human Rights Council Working Group on the Universal Periodic Review (20 February 2017), p.14.



- b. ratifying the Protocol of 2014 to the Forced Labour Convention of 1930 to prevent trafficking of persons for the purpose of forced labour by improving labour inspections and other services responsible for implementing labour laws; and
- c. ratifying the Optional Protocol to the International Covenant on Civil and Political Rights to ensure that migrant workers may seek remedy against human rights violations and for the Human Rights Committee to follow up on its investigations of such matters.