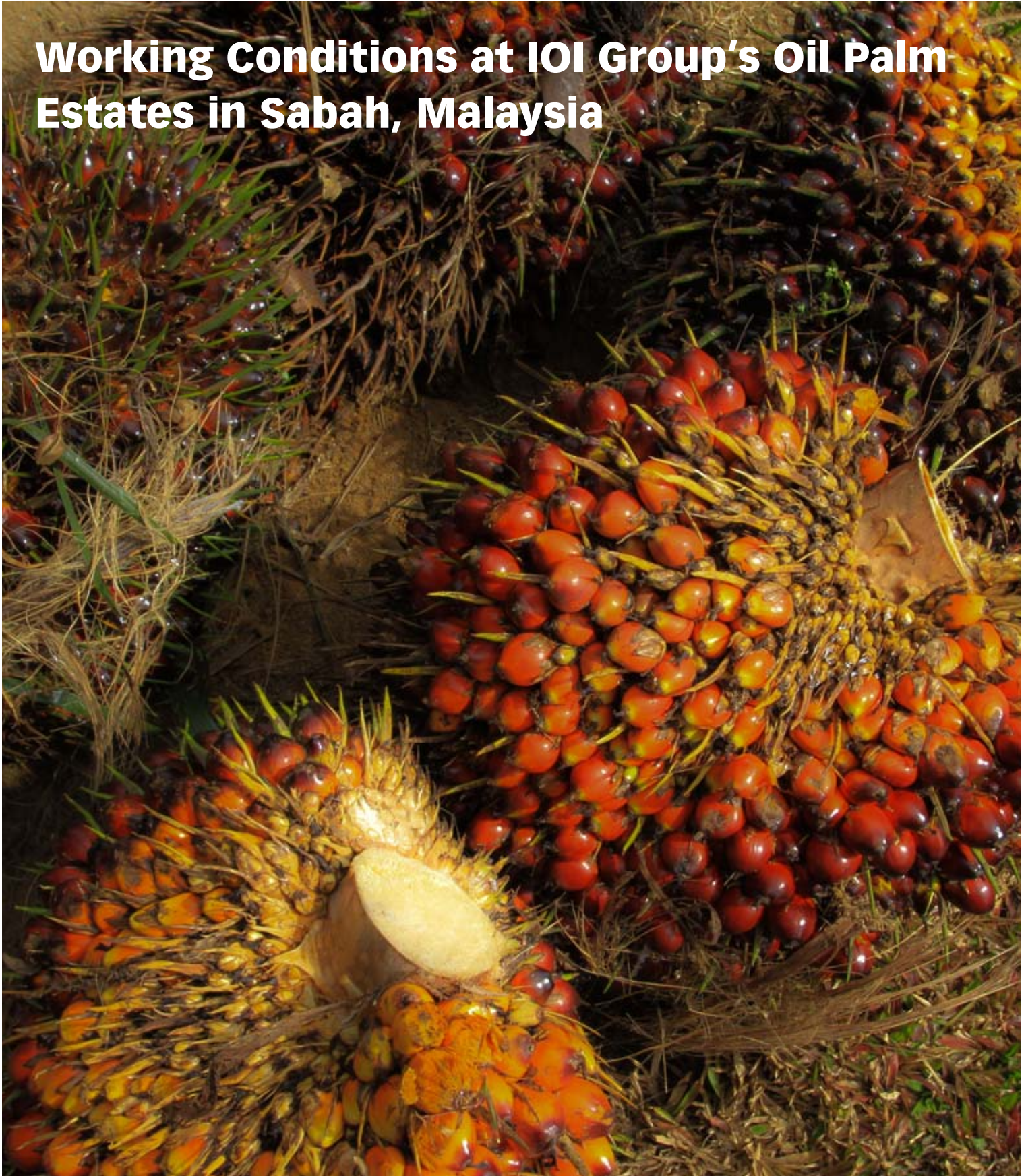


4/2018

# **Working Conditions at IOI Group's Oil Palm Estates in Sabah, Malaysia**



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## Introduction

Finnwatch has been monitoring labour rights situation at the oil palm estates of a Nestle and Paulig Group supplier, IOI Group already since 2014.<sup>1</sup>

The first report, published by Finnwatch in 2014, brought to light serious problems at IOI's estates. The company was paying its workers less than the legal minimum wage, had confiscated their passports, restricted freedom of association and was charging the workers high recruitment fees.<sup>2</sup> Finnwatch also noted several shortcomings in the certification schemes commonly used by the palm oil industry.<sup>3</sup>

Following lengthy dialogue with IOI Group, Finnwatch conducted new research at the company's estates in Peninsular Malaysia. A follow-up report, based on interviews with the workers, indicated some improvements. IOI had removed from employment contracts restrictions on industrial action, increased salaries paid during probation to match minimum wages, and increased training offered to workers. During 2017, the company fixed some of the problems related to recruitment fees.

Peninsular Malaysia is, however, only one area where IOI Group operates in Malaysia. For this report, Finnwatch wanted to assess working conditions outside Peninsular Malaysia, in Sabah.

IOI Group has 57 oil palm estates in Sabah. These estates supply fresh fruit bunches to ten IOI owned mills. Of all palm oil that IOI produces, 67 percent comes from Sabah, and the operations in Sabah employ 75 percent of all IOI workforce.

The first chapter of this report looks at labour rights risks in the oil palm production in Sabah in general. The second chapter is dedicated to the results of field research, conducted at three IOI Group estates in Sabah. In line with Finnwatch's ethical guidelines, IOI Group has been provided an opportunity to comment on the findings prior to the publication of this report. The company's views have been incorporated into the second chapter. The third chapter concludes and in the fourth chapter, Finnwatch makes recommendations to IOI Group and palm oil certification scheme RSPO.

1 Paulig Group stopped purchases from IOI in 2015. Nestle also stopped purchases gradually over 2015 and 2016. At the end of 2017 Nestle, however, re-started purchases from IOI.

2 Finnwatch, 2014, *The law of the jungle*, available at <https://www.Finnwatch.org/images/palmoil.pdf>

3 Finnwatch, 2015, *The new law of the jungle*, available at [https://www.Finnwatch.org/images/pdf/Palm\\_oil\\_followup\\_EN\\_2015.pdf](https://www.Finnwatch.org/images/pdf/Palm_oil_followup_EN_2015.pdf)

## 1. Labour rights risks in Sabah

Sabah is a state of Malaysia located on the Borneo Island. In Sabah, large scale conversion of forests to oil palm began at the turn of the 1970s to 1980s. Since then, the proportion of land area dedicated to growing oil palm has grown rapidly<sup>4</sup>. In 2016, oil palm was grown on over 1,5 million hectares of land in Sabah<sup>5</sup>.

The conditions and labour rights risks differ significantly between Sabah and Peninsular Malaysia. This is foremost due to land border between Sabah and Indonesia, which makes it easier for migrant workers to move between the two countries. The number of migrant workers in Sabah has exploded at a similar pace as land has been converted to oil palm. In the beginning of 1990s, there were less than 9 000 migrant workers in the area – by 2002 their number was 13 times that. According to estimates, almost one third of all people living in Sabah are not Malaysian citizens.<sup>6</sup> Of the migrants, the majority are Indonesian. The second biggest group are the Filipinos.

Compared with Peninsular Malaysia, migrant workers in Sabah are much more likely to have arrived with their families. Although having their families with them is beneficial for the quality of life of the workers and for the realisation of children's rights, it can also have negative consequences. The risk of child labour is significantly higher in the oil palm estates in Sabah than in Peninsular Malaysia. Another risk factor is the work undertaken by the workers spouses, unofficially and without pay, which makes them vulnerable to abuse

and leads to problems for example in case of workplace accidents. Without insurances and employment contracts, the spouses may be left completely without compensation even in serious cases of bodily harm.

Some migrants will stay in Malaysia permanently, and their children are born in Malaysia. Malaysia, however, does not grant citizenship to the children of migrant workers. Stateless children and adults face discrimination for example in education, health care, and social security.<sup>7</sup> People belonging to vulnerable groups and excluded from the social safety net, often have to accept compromised terms of employment and unofficial, underpaid work with poor working conditions.

The trade union movement in Sabah is even weaker than in Peninsular Malaysia. In Sabah, the estate workers are organised by the Sabah Plantation Industry Employees Union.



4 CIFOR, 2011, *The local impacts of oil palm expansion in Malaysia*, p. 8, available at [https://www.cifor.org/publications/pdf\\_files/WPapers/WP-78Andriani.pdf](https://www.cifor.org/publications/pdf_files/WPapers/WP-78Andriani.pdf)

5 Malaysian Palm Oil Board, *Malaysian Oil Palm Industry Performance 2016 and Prospects for 2017*, available at [http://www.mpob.gov.my/images/stories/pdf/2017/2017\\_Dr.KushairiPALMEROS2017.pdf](http://www.mpob.gov.my/images/stories/pdf/2017/2017_Dr.KushairiPALMEROS2017.pdf)

6 Malesia, Open Data Portal, *Time Series Population Projection by Ethnic Group*, [http://www.data.gov.my/data/en\\_US/dataset/time-series-population-projection-by-ethnic-group-and-sex-sabah-2020-2025-2030-2035-and-2040/resource/0ae0ca88-4162-4843-a996-ee9005a3d33?inner\\_span%3DTrue](http://www.data.gov.my/data/en_US/dataset/time-series-population-projection-by-ethnic-group-and-sex-sabah-2020-2025-2030-2035-and-2040/resource/0ae0ca88-4162-4843-a996-ee9005a3d33?inner_span%3DTrue) (referenced on 31.5.2018)

7 For more information see e.g. UNHCR, *The Urgent Need to End Childhood Statelessness*, <http://www.unhcr.org/ibelong/the-urgent-need-to-end-childhood-statelessness/>

## 2. Finnwatch field study at three IOI Group estates

In spring 2017, Finnwatch contacted IOI Group in order to visit company's oil palm estates located in Sabah, Malaysia by the end of 2017. As the field study began in autumn 2017, Finnwatch asked IOI Group for a list of its oil palm estates located in Sabah. Finnwatch intended to randomly select the estates it would visit from this list. However, IOI Group did not supply the list to Finnwatch nor the possibility of independently selecting the estates. IOI cited busy timetables related to IOI's certification cycle, and the company itself selected the three estates where Finnwatch's local researcher was welcome to visit to carry out interviews with workers.

As Finnwatch was not allowed to independently select the estates where the interviews would be carried out, it is possible that IOI has selected three of its so-called model estates, where working conditions and other conditions are better than average. In Malaysia, outsiders cannot visit palm oil estates without permission from the owner of the estate in question and interviews for the field study could not be carried out off-site. Workers live in living areas on the estates, and it is nearly impossible to meet with them without contacts inside the estates.

In December 2017, Finnwatch's local researcher visited IOI's Moynod, Luangmanis and Baturong 1 estates, which are located in Sabah. Our researcher interviewed a total of 30 workers, 25 of whom were Indonesian migrant workers and 5 of whom were migrant workers from the Philippines. Twelve of the interviewed workers were female and two interviewed workers worked as an independent contractor.

The length of time the workers had worked at IOI Group estates varied a great deal: some of those who were interviewed had only worked for the company for a few months while some had worked for IOI for as long as 30 years. On average, the interviewed workers

had worked on IOI estates for 11 years. The workers performed various tasks on the estates, which included weeding, application of herbicides, application of fertilisers, maintenance of seedlings, collection and loading of fresh fruit bunches, quality monitoring, cleaning and guard work.

Interviews were organised at the estate in separate rooms where the workers' supervisors were not present. All the interviews were recorded. The interviews were carried out in Bahasa, the most commonly used language in Malaysia (and very similar to Bahasa Indonesia), which all the interviewed workers understood. However, the interview language was not the workers' mother tongue, and this may have influenced the answers given to Finnwatch during interviews.

The information collected from the interviews was checked by going through documents maintained by the management of the different estates including working hour lists, payroll and annual holiday accounting and payslips. Additionally, the workers were asked to bring their own copy of their employment contract and some of the pay slips they had received. The local Finnwatch researcher also interviewed the estate managers at each estate and visited the workers' living areas and some workers' homes. Each worker was individually asked whether the Finnwatch researcher could visit their home.

After Finnwatch conducted these worker interviews in December, it continued its dialogue with IOI Group in early 2018, and the company was asked to provide answers to additional questions as well as to provide more documents. The company has been given the opportunity to comment on the report and its views have been included in the following chapters, which detail findings made during the visits.



*A room in a worker's flat on the Moynod estate. Unlike in Peninsular Malaysia, in Sabah migrant workers live on the estates with their families.*

## **2.1. IOI'S NEW RESPONSIBILITY POLICIES HAVE IMPROVED THE REALISATION OF WORKERS' RIGHTS**

Finnwatch has engaged in dialogue with IOI Group on working conditions at the company's oil palm estates since 2014<sup>8</sup>. Before the field study began in Sabah, groundbreaking progress was made during dialogue when IOI published three new worker policies after a long consultation process. The company committed to no longer charging recruitment fees from its workers, to implementing several measures to ensure that freedom of association was respected, as well as promised to calculate a living wage and make an effort to pay its workers a living wage in the future.<sup>9</sup> Before this in June 2017, IOI Group had published an update to its policy on sustainable palm oil production that highlighted matters related to social responsibility.<sup>10</sup>

The managers of oil palm estates interviewed for this report in the Malaysian state of Sabah were aware of the adopted policies and were able to specify what changes these had brought to everyday operations at the estates. All the interviewed managers

confirmed that the estates had given workers their passports back. Additionally, management reported that they had implemented changes to the payment of salaries: the salaries of workers who worked on a piece-rate wage had been increased, separate monitoring had been implemented to ensure the payment of minimum wages and steps had been taken to prepare for the implementation of policy that prohibited the deduction of recruitment fees by estates. According to the managers who were interviewed, this meant that the company would no longer make deductions from workers' salaries for payments related to passports. The company had already forgone payments related to recruitment prior to this. IOI also said that in August 2018, the estates would adopt a minimum wage policy concerning shorter workdays (see chapter 2.3).

## **2.2 MINORS ATTEND SCHOOL, EMPLOYMENT OF SPOUSES RAISES QUESTIONS**

Nearly all the migrant workers interviewed at the visited estates had brought their families with them to Malaysia. Both the workers and their families live on the estates in housing provided by IOI Group. The interviewed workers had an average of two children each, who ranged in age from seven months to 27 years. Ten of the interviewed workers did not have children.

<sup>8</sup> See the introduction chapter on page 4.

<sup>9</sup> Finnwatch, press release 31 October 2017, Major Malaysian Palm Oil Company Announces Groundbreaking Labor Policies, <https://www.Finnwatch.org/en/news/495-major-malaysian-palm-oil-company-announces-groundbreaking-labor-policies>

<sup>10</sup> Finnwatch, press release 12 June 2017, Response to IOI Group's Updated "Sustainable Palm Oil Policy", <https://www.Finnwatch.org/en/news/455-response-to-ioi-group-s-updated-sustainable-palm-oil-policy>

The majority of interviewed workers confirmed that their grown-up children and spouse helped them out regularly or on occasion in performing salaried work on the estate. According to IOI, minors were forbidden from taking part in work at estates, and all the interviewed workers who had families said that their children who were minors attended school.

There are comprehensive and secondary schools on all of the three inspected estates and workers' children may attend these free of charge. Education services were provided by NGO Humana or CLC<sup>11</sup>, which is supported by the Indonesian government. Only one of the workers said that their child attended a Malaysian public school, which are usually not open for children of migrants.

Employment given to spouses varied between the estates as follows:

- At Moynod estate, workers' spouses have official employment contracts and are employed by IOI. According to IOI, this is because both spouses have come to be employed by IOI independently and have only moved in together after this.
- At the Luangmanis estate, spouses take part in work at the estate unofficially under the actual worker's contract. The worker receives the salary for work carried out by their spouse, and it is up to the family to decide how the salary is divided (usually the man of the household makes this decision). In spite of this, the Luangmanis estate does provide safety gear and occupational healthcare to the spouse and oversees the official process related to the spouse's immigration. According to IOI, unofficial work in the estates is rare, for example in Luangmanis estate the issue relates to 2–3 workers and their spouses. Spouses who work unofficially as harvesters usually work officially in the estate part time as general workers.
- The Baturong 1 estate applied a combination of the practices used by the Moynod and Luangmanis. Some of the workers at

the Baturong estate share their salary with their spouse who works at the estate unofficially, while some spouses work under their own employment contract with IOI. Families can independently decide which practice they will apply. Spouses, who worked either officially or unofficially on the estate, are afforded the same benefits (housing, health care) as all other workers.

The payslips of spouses (in possession of an official employment contract) that Finnwatch has obtained copies of show that they have been paid the Malaysian minimum wage for their work (35.38 ringgit per day). The pay offered to unofficial workers remains unclear.

According to IOI, estates do not encourage their workers to bring their spouse to work if they do not have an official employment contract with IOI. Still, many spouses do work in the estates. The activities seem to be not in line with the local law. Malaysia forbids those who have entered the country as a worker's spouse<sup>12</sup> from working and not all spouses of migrant workers employed by IOI have an official work permit in Malaysia.

Spouses who work unofficially are not in the scope of insurance policies nor will IOI pay compensation if a spouse is seriously injured. Workers' spouses work at oil palm estates at their own risk. IOI does not monitor the way in which a wage is divided among a family in cases where wages are only paid to the spouse who is officially employed.

According to IOI, the company offers official employment to the spouses of workers at all estates, but not all spouses wish to enter into an employment contract. According to IOI, the problem is that Sabah State law does not allow workers to be employed to hourly work, but instead all workers must be paid at least the daily minimum wage, which requires workers to work an eight hour workday.<sup>13</sup> As spouses only want to work for a few hours

<sup>12</sup> Immigration department of Malaysia, <https://esd.imi.gov.my/portal/latest-news/announcement/employment-for-dependent-pass-holder/> (viewed on 2 March 2018)

<sup>13</sup> Sabah Labour Ordinance, Chapter 1 Section 3(a) and (b), can be viewed at: [https://www.sabahlaw.com/Labour\\_Ordinance.htm](https://www.sabahlaw.com/Labour_Ordinance.htm)



a day and only occasionally, they cannot be officially employed the company stated.

IOI did not however forbid workers from bringing their spouse to work, but instead shifted responsibility for the practice to the worker.

### **2.3 PROBLEMS WITH SALARIES PAID TO WORKERS ON PIECE RATE WAGES**

IOI's estates in Malaysia generally pay a piece-rate wage. Nearly 70 percent of the workers interviewed by Finnwatch said that they received a piece-rate wage.

Piece-rate wages are directly linked to production targets, which the worker must reach in order to receive a minimum wage. A wage is thus not tied directly to the number of hours a worker works but the amount of work they complete.<sup>14</sup>

Nearly all the workers interviewed for Finnwatch's report felt that the production targets were reasonable. Only one worker tasked with spraying herbicides felt that the set targets were too high.

Although workers felt the targets were reasonable, all the involved estates still paid wages that were below the statutory minimum wage. The interviewed workers, who had received wages that were below the minimum wage, said that this was due, for example, to unpaid leave. Some said that they were sick on the days they were absent from work, but that they were not paid compensation for their sick leave. In these cases, they had not notified management of their illness or visited the estate's health clinic.

<sup>14</sup> IOI implements productivity-linked wage payment as an incentive to earn above minimum wage where the work offered to the workers shall be calculated on piece rated basis. However, if a worker fails to complete the tasks given during the normal 8 hours or spread-over period of 10 hours, the estate shall pay the worker the minimum wage as long as the workers report to work. See IOI's minimum wage policy, available at: <http://www.ioigroup.com/Content/S/PDF/Minimum%20Wage%20Policy.pdf>

However, the most common reason for wages that are below the monthly minimum wage were situations in which family members who are officially employed by IOI worked on the estates. In many of the cases these workers are not working every day and hence their salary levels do not meet the monthly minimum wage. Spouses who are working unofficially at the estates are not paid salary. Instead they share their salary with their spouse who is officially employed by IOI. In these cases compliance with minimum wages cannot be monitored.

In an individual case that Finnwatch investigated, a worker had been paid a wage lower than the minimum wage because the employee had left work early to go home and had not thus reached his daily target. According to IOI, this practice is not in accordance with Malaysia's updated minimum wage legislation, and the company will change the salary policies in this respect at its estates in Sabah by July–August 2018. In the future, workers will be paid at least a minimum wage also when they do not complete a full 8 hours of work. Instead of a pay deduction, workers who leave the workplace without permission will be given a warning, and repeated warnings will either lead to being assigned to a different task or to their employment contract being terminated.

All the interviewed workers said that they received a payslip at the same time as they receive their salary. However, the workers did not understand all the reasons and grounds for wage payments. Annual holiday payments in particular caused problems as did the practices related to annual bonuses. After having heard about these problems from Finnwatch, IOI told Finnwatch it has now put in their schedule to conduct re-orientation and training programme at all company estates. The re-orientation programme is planned in the 2nd quarter of 2018.

There are very few statutory annual holidays in Malaysia. Workers, who have worked in the same workplace for over a year, are entitled to 8 days of annual leave, those who have worked for more than 3 years in the same place to 12 days of annual leave and those

who have worked there for more than 5 years to 14 days of annual leave.

Although there are only a few holidays, the majority of workers did not understand that an annual holiday referred to paid leave. Nearly all the workers interviewed for this report thought that annual holiday only referred to the bonus paid at the end of the year. For this reason, the workers hardly used their holiday leaves at all, but instead worked year-round. On the basis of the annual leave accounting documents and payslips that Finnwatch has examined, it can be concluded that the workers are paid legal compensation for the annual holiday days that they do not have as holidays (a daily wage for each working day and annual holiday compensation). However, it would be important to inform workers that they have the possibility to take time off during their annual leave and receive their annual leave compensation during the month they take time off. The possibility of periodic paid holidays is a human right<sup>15</sup>. According to IOI, some workers do take their annual leave and combine it with unpaid leave to go back to their home country for 2–3 months.

Other problems related to the payment of salaries included deductions made from salaries. According to the workers, deductions were taken for official payments related to immigration (see chapter 2.1) as well as for hospital visits and broken, lost or stolen work gear. IOI felt that deductions made for lost or stolen work gear were called for as workers have a responsibility to take care of their gear accordingly.

Workers, who receive a piece-rate wage, also said that if they accidentally collect unripe fresh fruit bunches, the weight of these is not taken into account when calculating their piece-rate wage. One of the interviewed workers also said that workers who make mistakes may be asked to take unpaid leave as a penalty. According to IOI, this is an old practice that has been stopped after the estates were RSPO certified (Moynod and Luangmanis estates were RSPO

certified in April 2013, Baturong 1 estate was RSPO certified in October 2010).

## **2.4 SERVICE PROVIDERS AND TEMPORARY AGENCY WORKERS ARE A RISK GROUP**

All three of the estates that were included in the field study used small amounts of labour provided by small private entrepreneurs, usually a one-person enterprise. These workers took care of the estate's support functions carrying out tasks such as acting as drivers.

These workers who are in the position of private entrepreneurs seem to be in a weaker position than other workers. As they work in the employment of the estate as private entrepreneurs they cannot join the workers' committee and they bear the risks related to their employment themselves: IOI does not pay a private entrepreneur, who acts as a temporary agency worker, any compensation for sick leave or an annual holiday.

During interviews with management, Finnwatch asked why IOI does not employ private entrepreneurs directly as employees of IOI. Various practical matters were cited including the issue that temporary agency workers could not in this case use their own cars to provide transport services. According to IOI, private entrepreneurs who work as temporary agency workers do not want to be on the IOI payroll. In conversations with the IOI Group management it also emerged that some of the workers who were not employed by IOI had first arrived to the estates as undocumented migrants. Before they can be added to the official payroll, IOI has to first get them the necessary work permits.

IOI has drawn up an agreement with private entrepreneurs and agencies that provide temporary workers in which agencies and entrepreneurs commit to bearing responsibility for all statutory obligations. According to the copy of the agreement Finnwatch has obtained, labour recruitment agencies are expected to bear responsibility for all statutory employer obligations and to see to it

<sup>15</sup> For example, article 7, paragraph d of the International Covenant on Economic, Social and Cultural Rights.



that work is only carried out by Malaysians and other workers who have the appropriate work permits. The agreement allowed the IOI estates the right to terminate the agreement at any given time without warning and for any given reason. The managers interviewed at the estates said that the IOI holds talks with the agencies that supply temporary workers on compliance with requirements once every two months. The IOI policies for the recruitment of migrant workers also apply to agencies that provide temporary workers to IOI estates.<sup>16</sup>

Finnwatch feels that it is extremely unlikely that small labour recruitment agencies could in any way ensure compliance with requirements, and the agreement leaves the agency as well as the worker that is employed through it vulnerable. Using migrant workers as temporary agency workers is a human rights risk for IOI, which more attention should be drawn to.

<sup>16</sup> IOI Plantation Foreign Workers Recruitment Guideline & Procedure in Malaysia, available at <http://www.ioigroup.com/Content/S/PDF/Foreign%20Workers%20Recruitment%20Guideline%20Procedure.pdf>

## **2.5 WORKERS HAD NEVER HEARD OF TRADE UNIONS, WORKERS' COMMITTEES EXIST**

The majority of the interviewed workers had not heard about the local trade unions and they did not know the meaning of the term trade union. Only five of the interviewed workers were aware of a trade union's purpose and only one had met a representative of a trade union at some point in time. The interviewed estate managers confirmed that there was no trade union at any of the three estates. For the purposes of this report, Finnwatch tried to obtain an interview from the Sabah Plantation Industry Employees Union but was unable to get a response from the union.

All three estates had a functioning workers' committee, and nearly all the interviewed workers said that they were aware of how they could issue complaints about possible problems related to their workplace. Eleven of the interviewed workers were members of the committee.

In addition to the workers' committee, workers at the Baturong 1 estate said that they also had access to the IOI Group's complaints mechanism Green Book, which they could use to relay information of various problems to the management. Of the interviewed workers, 24 said that the employer was quick to respond to problems.

Interviewed members of estate management said that the most common complaints were related to the repair of buildings and devices, problems with water flow and problems related to the use of safety gear.

## **2.6 WORKERS' LIVING AREAS ARE CLEAN, WORKERS ARE SATISFIED WITH WORKING CONDITIONS**

All the interviewed workers said that they were happy with the living conditions at the estates. The workers had access to clean water, adequate sanitation and electricity. Other services were also available on the estates including a shop and transport services. The living areas at all three estates were in better condition than at the IOI Group estates Finnwatch has previously visited on the Malay Peninsula. As a rule, every worker has their own house, where they can live with their family.

All 30 workers who took part in Finnwatch's interviews were asked an open question where they were given the opportunity to air any grievances or problems they had encountered on the estates which they would like to see corrected. Only a few workers drew attention to any problems. The workers were generally satisfied with their working and living conditions at all three of the inspected estates. The only two wishes that were brought to light were the repair of roads and bridges at the Baturong 1 estate<sup>17</sup> as well as increased dialogue between workers and factory management at the Luangmanis estate.

<sup>17</sup> The same finding about problems in road maintenance at Baturong estates was made in the RSPO audit report, see 4.3.3, <https://rspo.secure.force.com/membership/servlet/servlet.FileDownload?retURL=%2Fmembership%2Fapex%2FRSPOCertSearch&file=00P9000001IF1qaEAD>

### 3. Conclusion

No blatant violations of human rights were found at the three IOI Group estates (Moynod, Luangmanis and Baturong 1) where field research was conducted for this report. The 30 workers that were interviewed were largely satisfied with both their salaries and their working and living conditions. This is also reflected in the length of their stay working for the company: on average, the interviewees had been employed by IOI for over 10 years.

The observation that most obviously requires action is related to unofficial employment of workers' spouses in the estates. The spouses of several of the interviewees took part in the harvesting of fresh fruit bunches even though they had been contracted to perform other work or had no work permit. Unofficial employment is a risk to the worker for example in case of an accident at work. Working without the appropriate work permit is also against the law in Sabah.

The workers that were interviewed by Finnwatch and who had no permanent employment contracts were working as private entrepreneurs. Among the interviewees there were no temporary agency workers. The estate management, however, confirmed that all the estates occasionally employ temporary agency workers. Like in the report<sup>18</sup> published already in 2016, Finnwatch recommends IOI to pay particular attention to ensure that the rights of temporary agency workers who are also migrant workers are realised both during recruitment and employment.

A third problem that has also been raised before is related to annual leave. None of the workers interviewed knew what annual leave meant. Already when the research was still ongoing, IOI announced that it will organise more training to the workers on the annual leave issue. As the same problem has been observed every time that Finnwatch has

researched<sup>19</sup> working conditions at the IOI oil palm estates, this is clearly needed. However, neither in the interviews nor in the documents reviewed for this report, were problems observed in regard to compensation offered to the workers in-lieu of annual leave – the problems observed were solely related to the workers' not being aware of their being entitled to paid annual leave.

Many things were in good shape on the investigated estates. Those who were officially employed were mostly paid according to the law, the workers felt that they could raise any issues with the management, all underage children were reportedly attending school and the worker's living conditions can be described as appropriate.

The reliability of the results is however impacted by the fact that Finnwatch was not allowed to freely choose the estates where field research was conducted. Otherwise, IOI was open to Finnwatch conducting research on its estates, granted the researchers access to estate archives and shared requested documents on email.

18 Finnwatch, 2016, Working conditions at the IOI Group's oil palm estates in Malaysia: a follow-up study, available at [https://www.Finnwatch.org/images/pdf/IOI-2016\\_EN.pdf](https://www.Finnwatch.org/images/pdf/IOI-2016_EN.pdf)

19 Finnwatch, 2016, Working conditions at the IOI Group's oil palm estates in Malaysia: a follow-up study, p. 11, available at [https://www.Finnwatch.org/images/pdf/IOI-2016\\_EN.pdf](https://www.Finnwatch.org/images/pdf/IOI-2016_EN.pdf); Finnwatch, 2014, The law of the jungle, p. 41, available at <https://www.Finnwatch.org/images/palmoil.pdf>

## 4. Recommendations

### TO IOI GROUP

- IOI must address workers' family members unofficial work in the estates. Harvesting fresh fruit bunches is associated with several occupational health and safety risks, and all those who participate in it must have been given the necessary training and be covered by the necessary insurances. This is possible only if they are employed officially.
- Related to the above, IOI must ensure that the families living on the estates do not depend on the work that is performed by the spouses and children unofficially. This can be done by calculating a living wage using an internationally accepted methodology. This would also be in line with the IOI Group's minimum wage policy. After the living wage has been established, a plan must be made to close the gap between the prevalent wages and the living wage.<sup>20</sup> Finnwatch recommends that IOI use the so-called Anker methodology<sup>21</sup> developed by the Global Living Wage Coalition to calculate the living wage.
- In addition, IOI must seek ways to employ the spouses officially even in situations when they are unable to accept full-time employment. One possible way would be to discuss the interpretation of the minimum wage regulations with the Sabah State authorities and whether Sabah would allow hourly minimum wages. The Malaysian national law recognises hourly minimum wage which in 2016 was set at 4,42 ringgit.
- Finnwatch has pointed out the unclarity surrounding annual leave entitlement for the first time already in 2015; however, the company's workers still do not understand the concept. IOI must ensure that the training that it is now planning on annual leave entitlement delivers and meets its targets. It is beneficial for both the employer and the employees themselves that the workers can enjoy paid annual leave as is their internationally recognised human right.
- IOI should not make deductions from workers' salaries on the grounds of gear that was broken or lost, or for any other reason.
- IOI cannot transfer its responsibility for the appropriate recruitment of temporary agency workers who are also migrants and other human resource management issues to the small and medium size local employment agencies. IOI must ensure workers are appropriately treated as if they were employed by the company itself. The contract IOI has entered into with the local employment agencies is unreasonable and IOI must incorporate to the contract for example, an adequate termination period.
- IOI must initiate an active dialogue with the trade union in Sabah and ensure that the union is always welcome to meet and organise workers in its estates.

<sup>20</sup> IOI has already committed to calculating a living wage as part of its minimum wage policy: "IOI will conduct a living wage assessment of its workers' wages based on a credible methodology with the goal of providing workers a living wage. The assessment is expected to be completed in Q2 2018." The policy is available at <http://www.ioigroup.com/Content/S/PDF/Minimum%20Wage%20Policy.pdf>

<sup>21</sup> For more information about Global Living Wage Coalition see <https://www.isealalliance.org/about-iseal/our-work/global-living-wage-coalition>

## TO RSPO CERTIFICATION SCHEME

- RSPO should step up monitoring of unofficial work performed by migrant workers' family members in Sabah. Problems related to such unofficial work had not been detected during audits of Baturong, Moynod and Luangmanis estates. The RSPO criteria and audit manual are currently not sufficient to address this problem.
- RSPO should intervene in untaken annual leave at oil palm estates in Malaysia. The problems related to annual leave have been raised in all previous Finnwatch reports on Malaysia.
- RSPO should join the Global Living Wage Coalition and calculate a living wage for all major oil palm production areas. In Malaysia, it could be possible for RSPO to cooperate with IOI on this as IOI is already committed to calculating a living wage.



Finnwatch ry  
Malminrinne 1B, 2.krs  
00180 Helsinki  
[info@finnwatch.org](mailto:info@finnwatch.org)  
[www.finnwatch.org](http://www.finnwatch.org)  
[@Finnwatch1](https://www.instagram.com/finnwatch1)