

Conclusions and Recommendations

Verité research found a number of human rights and labor risks related to Guatemala's palm sector. These risks included land grabs and displacements; unethical recruitment and hiring practices; indicators of forced labor; wage and hour violations; and other issues, such as child labor, violations of women's rights, unacceptable living conditions, environmental damage, and a lack of grievance mechanisms. Verité research found that Sayaxché was the municipality with the highest concentration of serious labor and human rights risks linked to the palm sector.

Labor and human rights violations, including forced labor and human trafficking are all-too-often hidden from view, deep within the supply chain where social compliance and government enforcement programs have little, if any, visibility. They involve deception and are typically complicated by long chains of labor supply. Compounding this, coercive practices by employers or third party labor recruiters can be exacerbated by policies that increase worker vulnerability. This situation requires new and strategic ways of thinking about supply chain due diligence. Therefore, it is essential that the government and companies involved in the production and consumption of palm oil take urgent action to reduce labor and human rights risks. Verité has drafted the following recommendations.

Recommendations to the Government of Guatemala

1. Effectively implement all 18 points of Guatemala's Enforcement Plan in order to promote increased respect for labor rights. Of special importance to ensuring improved enforcement of labor law in the agricultural sector are:
 - a. implementing an inter-agency information sharing plan;
 - b. providing inspectors with police assistance;
 - c. providing the labor inspectorate with sufficient resources to ensure enforcement of labor law in the agricultural sector;
 - d. granting the Ministry of Labor the authority to issue sanctions;
 - e. establishing standardized timetables for inspections in the agricultural sector;
 - f. implementing a system to ensure compliance with judicial orders;
 - g. verifying employer compliance with judicial orders; and
 - h. ensuring that labor judges and tribunals take measures to ensure compliance.
2. Take measures to improve the capacity of the labor inspectorate by:
 - a. paying for labor inspectors' gas and providing inspectors with financial incentives to carry out inspections in the agricultural sector and in remote locations;
 - b. increase labor inspectors' salaries in order to combat corruption;
 - c. provide inspectors with incentives for detecting labor law violations;
 - d. provide labor inspectors with the authority to issue sanctions during inspections;
 - e. set standards for the amounts of fines corresponding to specific violations in order to combat corruption and favoritism;
 - f. increase the amount of fines for labor violations and for failing to submit reports on compliance to the labor inspectorate to dissuasive levels;
 - g. improve the system for collecting and distributing lists of authorized labor brokers to local labor inspectorate offices;

- h. improve systems to ensure that labor brokers are complying with legal requirements and are not engaging in deceitful or coercive recruitment practices;
 - i. take measures to ensure that the number of active labor inspectorate staff engaged in inspections in each Department is not inadequate for the number of inhabitants;
 - j. take measures to protect labor inspectors carrying out inspections in the agricultural sector, including by providing them with police assistance and by prosecuting individuals who threaten or intimidate them;
 - k. inspect plantations in which labor law violations have been reported;
 - l. set up a system to verify compliance with minimum wage requirements, including among workers who are paid a piece rate;
 - m. train labor inspectors to detect indicators of forced labor and labor trafficking and establish a system to report cases of forced labor and labor trafficking to appropriate authorities for prosecutions of offenders; and
 - n. establish a system to refer victims of forced labor and labor trafficking to government and NGO service providers.
3. Reform labor law provisions that fail to adequately protect agricultural workers from forced labor and other forms of exploitation by:
- a. including an explicit prohibition of forced labor in the Labor Code;
 - b. removing any legislation that provides agricultural workers with less favorable terms of employment, including provisions that allow agricultural workers to be provided with reduced vacation time;
 - c. requiring that agricultural workers be provided with written contracts in both Spanish and their native language, and a verbal description of their terms of employment in their native language; and
 - d. eliminating legal provisions that allow up to 30 percent of agricultural workers' wages to be paid in food and supplies.
4. Improve measures to detect, report, refer, and prosecute cases of forced labor and labor exploitation in the agricultural sector and to protect victims by:
- a. training members of the Ministry of Labor, labor inspectorate, police, NGOs, service providers, and health workers on the signs of and laws covering forced labor, labor trafficking, and labor exploitation in the agricultural sector and referring victims to victim services;
 - b. training police, prosecutors, and judges on laws that can be used to convict and sanction exploitative employers and labor brokers in the agricultural sector;
 - c. training police and prosecutors on interviewing victims, collecting evidence, and building successful cases against employers, labor brokers, and complicit public officials in the agricultural sector;
 - d. creating and distributing information on labor rights, forced labor, and labor trafficking to workers in the agricultural sector;
 - e. provision of improved victim services to adult and child victims of forced labor and labor trafficking in the agricultural sector; and
 - f. providing victims of forced labor and other forms of labor exploitation with free legal assistance and witness protection, as necessary.

Recommendations to Palm Oil Producers and Buyers

1. Design and carry out effective supply chain assessments to identify non-compliances with corporate or multi-stakeholder codes of conduct by:
 - a. strengthening assessment protocols to cover labor and human rights risks identified in the palm sector;
 - b. improving training for staff to enable them to identify labor and human rights risks;
 - c. extending assessments to supply chain “locations” where the risk is greatest; and
 - d. focusing on sub-contracting arrangements and business relationships that can include third-party labor providers.

2. Design and implement training and capacity building programs in order to enable relevant staff to better understand the risks associated with palm oil production and institutionalize knowledge and expertise within the company and across its supply chain by:
 - a. developing collaborative training programs that involve suppliers and stakeholders to generate joint understanding and engagement on key issues and strengthen important supply chain and stakeholder relationships; and
 - b. training workers to inform them of their rights in order to enable them to better defend themselves in the face of vulnerability, both individually and collectively, and give them the confidence to use appropriate mechanisms to raise and resolve grievances.

3. Develop and make available to workers and community members credible grievance mechanisms to provide them with an outlet to lodge complaints and give them recourse if their rights are violated by:
 - a. designing confidential, effective and trustworthy grievance mechanisms that account for the unique circumstances of migrant workers;
 - b. developing grievance mechanisms that are broad enough in scope and mandate to handle problems that may arise during recruitment or migration before the worker arrives at the workplace;
 - c. ensuring that grievance mechanisms are accessible to all workers and community members;
 - d. creating a “feedback” loop that flags key or recurrent issues and promotes continuous improvement in employment relations; and
 - e. effectively addressing grievances.

4. Engage in policy advocacy and stakeholder dialogue on a local, national, and international level in order to address risks linked to palm oil production by:
 - a. advocating for legal reforms in countries in which palm oil is produced in order to reduce the risk of human and labor rights violations;
 - b. joining CSR initiatives, such as Rainforest Alliance and the RSPO, which represents an important framework for promoting multi-stakeholder action against abuses; and
 - c. adhering to existing standards and advocating for improved standards to protect against labor and human rights risks.³⁶²

Palm Plantation in Guatemala

