

Exploitation And Mistreatment of Migrant Workers in Malaysia

MUHAMMAD FARIS DANIEL SALLEHUDIN

MOHD SHAHRIL NIZAM MD RADZI

ABSTRACT

Human rights are severely violated when migrant workers in Malaysia are exploited and mistreated. This represents a significant labor issue. Migrant workers in Malaysia contribute substantially to the country's economy but are often victims of exploitation. This study explores the complex issues surrounding these challenges, highlighting problems such as unsatisfactory living conditions, human trafficking, unpaid wages, unsuitable working conditions, and lack of legal protection. Weak enforcement of labor laws is also a major contributor to these problems. Additionally, the legal framework related to migrant workers is discussed. Therefore, addressing these issues requires comprehensive legal reforms, strict enforcement, and collaborative efforts to protect the rights and dignity of migrant workers in Malaysia. This study employs a doctrinal legal analysis method to examine the need for resolving issues faced by foreign workers in Malaysia.

Keywords: Migrant Workers, Exploitation, Malaysia

INTRODUCTION

Malaysia has become a significant destination for migrant workers, particularly from Bangladesh, Indonesia, Nepal, and other Southeast Asian countries. As a fast developing country, Malaysia, is heavily rely on migrant workers to sustain various sectors of its economy, including construction, manufacturing, agriculture, and domestic services. These workers, primarily hailing from neighboring countries such as Indonesia, Nepal, Bangladesh, and Myanmar, are integral to the nation's economic growth. However, their contributions are often overshadowed by widespread exploitation and mistreatment.⁴ This research aims to examine the extent of exploitation faced by migrant workers in Malaysia and the measures that can be taken to address these issues.

The exploitation of migrant workers in Malaysia manifests in several forms, ranging from deplorable working conditions and unpaid wages to human trafficking and inadequate legal protection. Despite existing labour laws

intended to safeguard all workers, enforcement is inconsistent, and many migrant workers remain unaware of their rights. The situation is exacerbated by the prevalence of unscrupulous recruitment practices, where workers are burdened with exorbitant fees, leading to debt bondage and further vulnerability.

The mistreatment of migrant workers in Malaysia is a multifaceted problem, encompassing a range of abuses such as poor working conditions, unpaid wages, legal neglect, human trafficking, and substandard living environments. Despite the presence of labor laws designed to protect all workers, enforcement is often weak and inconsistent, leaving many migrant workers vulnerable and without recourse. The exploitation begins often even before they arrive in Malaysia, with many falling victims to deceitful recruitment practices that saddle them with heavy debts, creating a cycle of dependency and exploitation.² One of the most glaring issues faced by migrant workers in Malaysia is the deplorable working conditions.³ Many of these workers are subjected to grueling hours, hazardous

environments, and insufficient safety measures. The lack of adequate protection and oversight leads to frequent workplace injuries and long-term health problems. Additionally, the practice of withholding wages or imposing unjust deductions exacerbates their financial instability, making it difficult for them to support themselves and their families.

RESEARCH METHODOLOGY

This article employs a doctrinal legal research approach, which involves the analysis of legal provisions. The primary sources for this research are statutes, including the Malaysia Employment Act 1955, International Conventions and case law. Additionally, textbooks and journals serve as secondary sources for the analysis.

MIGRANT LABOUR IN MALAYSIA

Malaysia Department of Statistic estimated that there 2.2 million of migrant worker out of 14.1 million of labour force in Malaysia.⁵ Beginning in the 1970s, aggressive industrialization required more labour than was available domestically. Malaysia signed memoranda of understanding with Bangladesh, Indonesia, the Philippines and Thailand in the mid-1980s to provide for the recruitment of migrant workers in the construction and plantation sectors and as domestic workers. In part as a result of these policies, Malaysia is now one of the largest receiving countries of migrant workers in Southeast Asia.

From 2011 to 2019, it is evident that the Malaysian government implemented many programs to regulate the population of foreign workers in the country.⁶ In 2018, the Cabinet established an Independent Committee on Foreign Worker Management at the national level. The Independent Committee's Report recommended overhauling the foreign

worker management system in several areas, including the standardization of MoUs, the implementation of the National Foreign Workers Management System, and the enhancement of employment contracts, among others. The report recommends discontinuing the enforcement operation known as “Ops Mega” and redirecting the Immigration Department's focus from enforcement efforts to the underlying causes and conditions that lead to the presence of irregular migrants.⁷ The primary performance metrics of enforcement agencies, determined by the tally of illegal immigrant arrests, require reassessment.⁸

As regards to the legal protection, Malaysian government has amended several provisions in their Employment Act 1955, as to in line with international standard and to promote and strengthen protection for migrant workers in Malaysia. As for instances to hire a foreign worker, the employer must demonstrate that there are no unresolved cases related to any convictions for violations of the Employment Act, the Employees' Social Security Act 1969, the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, or the National Wages Consultative Council Act 2011. Any infraction may incur a penalty of up to MYR100,000 or imprisonment for a maximum of five years, or both. Not only that, but the employer has also to inform the Director General if they want to terminate foreign worker service within 30 days.⁹ The employers are also required to inform the Director General if their foreign workers runaway from workplace with 14 days. An amendment to Employment Act 1955 also introduces a new provision to prohibit from element of forced labour. Section 90 B of the Act clearly mentions that any employer who force or coercion and restrict his employee from leaving a working place will be considered commit a crime.

Other than Employment Act 1955, several other regulations have also been amended as to enhance legal protection and provide better social security for migrant workers in Malaysia. Malaysia also amended its statutory minimum wage for both domestic and foreign workers. The current minimum pay rate of MYR1,500 in Malaysia was implemented on May 1, 2022, coinciding with Labour Day, under the Minimum Wages Order 2022. This equates to MYR7.21 per hour. According to daily pay, this amounts to MYR57.69 for a six-day workweek, MYR69.23 for a five-day workweek, and MYR86.54 for a four-day workweek.

Previously, there was a different treatment in compensation or medical expenses for migrant workers and local. For migrant workers their compensation and medical expenses, be covered by their employer under Workmen Compensation Act, whereas for local workers be covered under Social Security Organization (SOCSO). Realizing to this issue, Malaysian government has taken a drastic initiative in 2019 by requiring all employers who hire migrant workers to contribute to SOCSO so then they will be covered equally similar to local workers.¹⁰

THE INTERNATIONAL LEGAL FRAMEWORK

Malaysia has pledged to suppress forced labour, slavery and slave-like practices, and trafficking in persons, each of which is prohibited under international law. It has made international commitments to set a minimum age of 15 for employment, to eliminate hazardous child labour for any child under age 18 and to provide other protections for children under the age of 18. These obligations are set forth in the Forced Labour Convention¹¹, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the UN Convention against Transnational Organized Crime; the

Protocol to Prevent, Suppress and Punish Trafficking in Persons; the Minimum Age Convention (ILO Convention No. 138); the Worst Forms of Child Labour Convention (ILO Convention No. 182); and the Convention on the Rights of the Child. Furthermore, as stipulated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Malaysia has pledged to respect the human rights guarantees. More specifically, Malaysia is required by CEDAW to ensure legal equality.

Malaysia has also ratified International Labour Organization (ILO) conventions in which it undertakes to establish a labour inspection system to ensure safety in the workplace, take steps to protect wages from unreasonable deductions, protect the right to collective bargaining and ensure equal pay for equal work by men and women. As a member of the ILO, Malaysia has committed to uphold fundamental principles and rights in four categories freedom of association and collective bargaining, the elimination of forced and compulsory labour, the elimination of discrimination in employment, and the abolition of child labour as set forth in the ILO Declaration on Fundamental Principles and Rights at Work 1998. Lastly, Malaysia has an obligation to protect everyone from third parties violating their rights. As required by international law, Malaysia must also take all reasonable steps to safeguard people from non-state actors violating their rights.

In 2009, the United States State Department has designated Malaysia as Level Three regarding its efforts to combat human trafficking.¹² Later, in 2011, Malaysia was designated on the Tier 2 Watch List in the U.S. Department of State's Trafficking in Persons Report for failing to fully meet the minimum standards of the Trafficking Victims Protection Act for the eradication of trafficking, despite making substantial efforts to comply with those standards.¹³

In 2013, the U.S. State Department has also ranked Malaysia a Level Three designation regarding its efforts to combat human trafficking.¹⁴

DISCUSSION

Malaysia remains a significant transit hub for human trafficking. Malaysia offers a favorable atmosphere and serves as a transit point for human trafficking activities. Numerous victims voluntarily move to Malaysia in pursuit of jobs in plantations, construction, textile industries, and domestic work, only to face forced labour or debt bondage imposed by their employers, recruitment agents, or informal labour brokers. The exploitation and mistreatment of migrant workers in Malaysia represent a significant human rights challenge that demands urgent and comprehensive action. As key contributors to the nation's economic growth, migrant workers from countries such as Indonesia, Nepal, Bangladesh, and Myanmar play vital roles in various sectors.

Despite comprehensive legal framework, migrant workers contribution still marred by widespread abuse and neglect, manifesting in poor working conditions, unpaid wages, insufficient legal protections, human trafficking, and deplorable living environments. To understand and address the exploitation of migrant workers in Malaysia, it is crucial to recognize the systemic nature of the problem. The issues begin even before the workers arrive in Malaysia, often rooted in exploitative recruitment practices that leave them indebted and vulnerable. This initial exploitation sets the stage for further abuses, trapping workers in a cycle of dependency and mistreatment. The Malaysian government must work closely with source countries to regulate and monitor recruitment practices, ensuring

that workers are not subjected to exorbitant fees and deceitful promises.

After arriving in Malaysia, migrant workers usually experience dangerous working circumstances with insufficient safety precautions, which increases the risk of accidents and long-term health issues. Their condition is made worse by long workdays without adequate pay or downtime. Malaysia must tighten the enforcement of labour regulations, like the Employment Act 1955, to solve these problems and guarantee that all workers, regardless of where they are from, are protected and treated equally. To maintain these standards, strong fines for employers who violate them and frequent inspections are required. Migrant workers frequently complain about unpaid pay and unreasonable deductions, which puts them in a difficult financial situation. Improving their living conditions requires making sure that their wages are paid on time and in full. A strong system for wage monitoring and dispute settlement might be established by the government, giving employees. By adhering to these principles, Malaysia may promote a society that is more just and equitable and where each worker's contribution is respected. This dedication will improve migrant workers' lives as well as the social and economic advancement of the country as a whole, building a more robust and inclusive society in the long run.

The coordination among government agencies are also needed to overcome the issue. The Ministry of Human Resources is responsible for overseeing the implementation of the National Labour Policy, including the employment of migrant workers and the protection of employment opportunities for citizens. The Ministry of Home Affairs, of which the Immigration Department is a part, is responsible for immigration matters and the processing and approving of applications for migrant workers, determining the source country,

issuing and revoking employment visas and preventing irregular employment. 6As part of the application approval process, it takes steps to verify that the company needs a particular number of workers, officials with the ministry explained. The Immigration Department administers and enforces the Immigration Act and its corresponding rules, including by carrying out the deportation of migrant workers who work without authorization.

CONCLUSION

Malaysia's reliance on migrant workers has significantly contributed to its economic development across multiple sectors. However, the persistent exploitation and mistreatment of these workers underscore a critical human rights challenge. Issues such as poor working conditions, unpaid wages, human trafficking, and insufficient legal protections highlight systemic failures that need urgent redress.

The Malaysian government has made commendable efforts to strengthen labor laws and improve protections, such as amendments to the Employment Act 1955, minimum wage adjustments, and integration of migrant workers into the Social Security Organization (SOCSO). Additionally, international commitments, such as ratifying ILO conventions, reflect a willingness to align with global labor standards. However, enforcement gaps, weak oversight, and exploitative recruitment practices continue to undermine these efforts.

Addressing these challenges requires a multi-faceted approach, including stricter enforcement of labor laws, robust monitoring systems, and enhanced collaboration with source countries to regulate recruitment practices. Equally important is fostering inter-agency coordination within Malaysia to streamline processes and

address systemic vulnerabilities. Ensuring timely wage payments, improving living conditions, and implementing effective dispute resolution mechanisms are vital to protecting migrant workers' rights.

By prioritizing these measures, Malaysia can create a more equitable labor environment that values the contributions of all workers. This commitment will not only enhance the well-being of migrant workers but also contribute to Malaysia's social cohesion and sustainable economic growth.

NOTES

¹ Assessment of Cause and Contributing factor to migrant worker becoming undocumented in Malaysia, International Organization for Migration, 2023, https://www.iom.int/sites/g/files/tmzbd1486/files/documents/2023-08/english_undocumented-migrant-workers-report.pdf

² Rahel, M., & Chowdhury, T. M. (2017). Migrant Workers under the Domestic Law and International Labour Organization (ILO) Convention in Perspective of Malaysia. *International Journal of Business and Technopreneurship*, 7(2), 151-166.

³ Putul, S. J., & Mia, M. T. (2020). Exploitation of migrant workers in Malaysia and protection under domestic laws. In *Proceedings of the international law conference (iN-LAC)* (pp. 125-131).

⁴ DOSM <https://open.dosm.gov.my/dashboard/labour-market>

⁵ Czaika, M., & De Haas, H. (2013). The effectiveness of immigration policies. *Population and development review*, 39(3), 487-508.

⁶ Anderson, J. T. (2021). Managing labour migration in Malaysia: Foreign workers and the challenges of 'control' beyond liberal democracies. *Third World Quarterly*, 42(1), 86-104

⁷ Anderson, J. T. (2021). Managing labour migration in Malaysia: Foreign workers and the challenges of 'control' beyond liberal democracies. *Third World Quarterly*, 42(1), 86-104

⁸ Section 60KA (2) Employment Act 1955

⁹ Mandatory Copntribution, PERKESO <https://www.perkeso.gov.my/en/our-services/protection/foreign-worker.html>

¹⁰ ILO Convention No. 29, 1930

¹¹ Saad, S., & Salman, A. (2014). Government policy and the challenge of eradicating human trafficking in Malaysia. *Geografia: Malaysian Journal of Society and Space*, 10(6), 66-74.

¹²Saad, S., & Salman, A. (2014). Government policy and the challenge of eradicating human trafficking in Malaysia. *Geografia: Malaysian Journal of Society and Space*, 10(6), 66-74.

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Muhammad Faris Daniel Sallehudin
Faculty of Law
Universiti Kebangsaan Malaysia (UKM)
43600 UKM Bangi, Selangor, Malaysia
Email: faris.mfd125@gmail.com

Mohd Shahril Nizam Md Radzi
Faculty of Law
Universiti Kebangsaan Malaysia (UKM)
43600 UKM Bangi, Selangor, Malaysia
Email: shahrilnizamr@ukm.edu.my