

## Malaysia

### At a Glance

| Data/Policy  |  |
|--|--|
| A. Total number of migrants in the country   | Total: 2.4 million+ documented, possibly up to 2 million+ undocumented<br>Men: 1.4 million+ documented<br>Women: 1 million+ documented |
| B. Key countries of origin: (with number if available)                                     | 1. Indonesia: around 1,000,000<br>2. Bangladesh: around 350,000<br>3. Myanmar: around 250,000<br>4. Nepal: around 200,000              |
| C. Key work sectors employing migrant workers (with percentage of migrant workers in them) | 1. Agriculture: 30%<br>2. Construction: 15%<br>3. Electronics<br>4. Manufacturing  |
| D. Types of visas:   | Work permit sponsored by employer or Outsourcing Agency  |
| E. Minimum wage in the country:<br><br>Application of the minimum wage to migrant workers: | MYR 900 (USD 278) per month<br><br>Yes   |
| F. Maternity protection is applied to migrant women:                                       | No – women deported after pregnancy is detected  |
| G. National labour laws are applied to migrant labour:                                     | Yes – except domestic workers  |
| H. Migrants are covered by Social Security or equivalent:                                  | No   |

|  |   |
|--|---|
| I. Migrants can join a trade union:  | Yes by law – often No in practice                   |
| J. Migrants can form a trade union:  | Yes by law – often No in practice                   |
| K. Path to permanent residency:  | No  |
| L. Path to citizenship:  | No  |
| M. Migrants' children can access public schools:   | Documented children Yes, Undocumented children NoE  |
| Ratification status of relevant conventions  |   |
| ICCPR  | No  |
| ICESCR   | No  |
| ICERD  | No  |
| CEDAW  | No  |
| CRC  | Yes 17 February 1995                                |
| Intl Convention on the Protection of the Rights of All Migrant Workers and Members of their Families | No  |
| ILO29 (Forced Labour)  | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No |
| ILO105(Forced Labour)  | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No |
| ILO87 (Freedom of Association)   | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No |
| ILO98 (Collective bargaining)  | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No |

|  |   |
|--|---|
| ILO100 (Equal remuneration)                          | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No   |
| ILO111 (discrimination in employment and occupation) | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No   |
| ILO97 (Migration)                                    | Peninsular Malaysia: No<br>Sabah: Yes 3 March 1964, but excludes provisions of Annexes I and III<br>Sarawak: No |
| ILO143 (Migrant Worker)                              | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No   |
| ILO189 (Domestic Worker)                             | Peninsular Malaysia: No<br>Sabah: No<br>Sarawak: No   |

## Migrant Profile

There are few exact figures on the number of migrants residing in Malaysia because of the sheer scale of undocumented migration to the country. A report produced by Amnesty International estimates that the country was home to 2.2 documented migrants and nearly the same number of irregular migrants in 2010.<sup>i</sup> A later report commissioned by the World Bank in 2013 estimates that the total number of migrants in the nation lies somewhere between 2 and 4 million, out of which 1.817 million are documented.<sup>ii</sup> However, figures from the online World Bank database indicate that 8.2% of the national population<sup>iii</sup> - which comprises around 30 million people<sup>iv</sup> - is migrant. This yields a tentative estimate of 2.5 million migrants, though this figure ostensibly only accounts for registered migrants. This number is corroborated by the fact that over 2.3 million under the Malaysian government's registration programme in August 2011: many more migrants, however, are known not to have registered themselves under this scheme.<sup>v</sup>

As Table 1 below indicates, Indonesians constitute the bulk of migrant workers in Malaysia. Despite the confusion over the figures involved, there is "consensus that the primary sending countries are Indonesia, Nepal, Bangladesh, Burma, the Philippines, Vietnam, India, Cambodia, and Thailand".<sup>vi</sup> In particular, many migrants from Myanmar are refugees seeking asylum: Malaysian law, however, makes no differentiation between refugees and undocumented migrants.<sup>vii</sup>

## Migrant stock by origin (2013)

| Top 5 countries or areas of origin | Total            |
|------------------------------------|------------------|
| Indonesia                          | 1 051 227        |
| Bangladesh                         | 352 005          |
| Myanmar                            | 247 768          |
| Nepal                              | 201 345          |
| India                              | 130 320          |
| <b>Total</b>                       | <b>1 982 665</b> |

Table 1: *Migrant Stock by Origin.*<sup>viii</sup>

Most migrants to Malaysia are of working age, as Figure 1 and Table 2 show. The sex ratio between male migrants and female migrants is around 142:100.

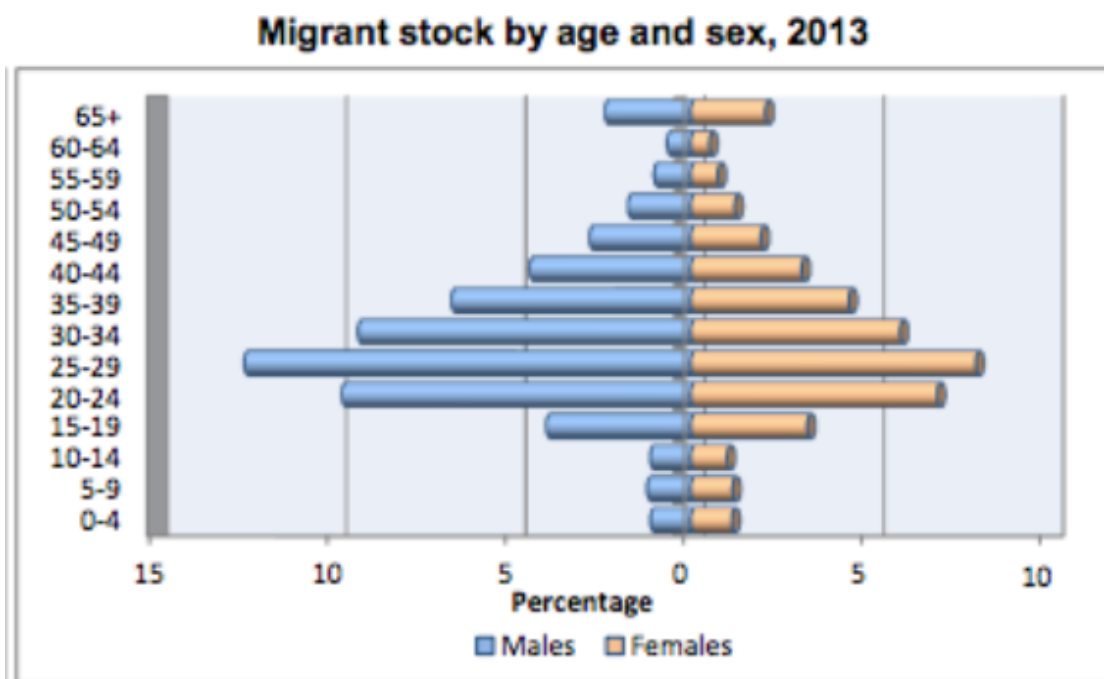


Figure 1: *Migrant Stock by Age and Sex, 2013.*<sup>ix</sup>

|       | 2013      |           |           |
|-------|-----------|-----------|-----------|
|       | Male      | Female    | Total     |
| 0-4   | 27 551    | 28 292    | 55 843    |
| 5-9   | 29 878    | 28 838    | 58 716    |
| 10-14 | 27 679    | 25 007    | 52 686    |
| 15-19 | 99 357    | 80 362    | 179 719   |
| 20-24 | 240 130   | 169 594   | 409 724   |
| 25-29 | 307 481   | 196 298   | 503 779   |
| 30-34 | 229 052   | 144 205   | 373 257   |
| 35-39 | 164 620   | 108 926   | 273 546   |
| 40-44 | 110 808   | 76 517    | 187 325   |
| 45-49 | 69 514    | 48 427    | 117 941   |
| 50-54 | 43 041    | 30 411    | 73 452    |
| 55-59 | 25 057    | 18 651    | 43 708    |
| 60-64 | 16 057    | 12 945    | 29 002    |
| 65+   | 58 938    | 51 537    | 110 475   |
| Total | 1 449 163 | 1 020 010 | 2 469 173 |

Table 2: *Migrant Stock by Age and Sex, 2013.*<sup>x</sup>

A lot of the women who come to Malaysia find employment in the electronics sector. Verite notes that:

...according to the Government of Malaysia's Department of Statistics, approximately 60% of those employed in the electronics sector in 2001 were women, while an independent report from 2013 estimated that up to 70-80% of the sector is made up of women.<sup>xi</sup>

The men are employed across various sectors, including agriculture, construction, and manufacturing, as Figure 2 shows.

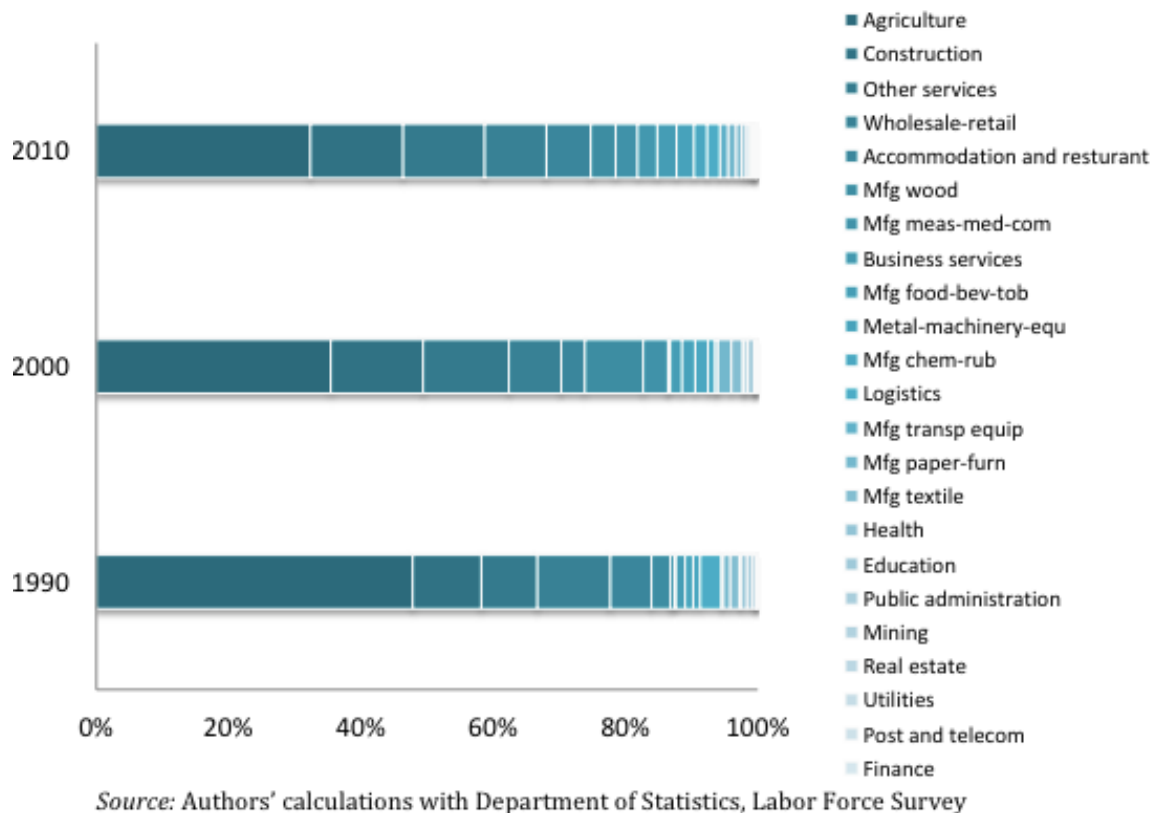


Figure 2: *Distribution of Foreign Workers Across Sectors.*<sup>xii</sup>

## Policies on Migrant Labourers

### Entering Malaysia

The process by which migrant workers procure official clearance to work in Malaysia is both long and highly conducive to labour exploitation. Workers are approved to enter the nation at the One-Stop Centre, where they receive a temporary *pas lawatankerja sementara* (PLKS)<sup>xiii</sup>. This document allows workers to remain in Malaysia while their employers complete the paperwork needed to process their actual work permits. Prospective migrant workers are also subject to a mandatory health check at the One-Stop Centre, where they are automatically disqualified from working in Malaysia if any of fifteen medical conditions are detected - including HIV seropositive status and pregnancy.<sup>xiv</sup> Workers who renew work permits must also pass the same health tests.

### Work Permits

The work permit is a temporary employment visa that grants migrants the right to live and work in Malaysia for as long as the document is valid.<sup>xv</sup> Much like in

the ‘kafala’ system employed in GCC countries, it ties migrant workers in Malaysia to an employer, who is also known as a sponsor.<sup>xvi</sup> Sponsors are given considerable control over their employees: for example, workers must procure a “check out memo” from their sponsor before leaving the country for any reason.<sup>xvii</sup> At the same time, sponsors are held responsible for providing their employees with “essential amenities such as housing, food, and transportation”.<sup>xviii</sup> Workers without work permits are considered “prohibited immigrants” by the law: after the expiration of his/her work permit, a worker has to “leave the country immediately or else be forcibly removed, or, upon conviction, penalized with a fine not less than MYR 10, 000 (USD 3,150) or imprisonment of not more than 5 years or both before being deported”.<sup>xix</sup>

The sponsorship provisions make it extremely difficult for workers to change jobs in Malaysia. A worker cannot change employers without first changing the sponsor on his/her work permit.<sup>xx</sup> Moreover, “foreign workers must already have an employer-sponsor before they can enter Malaysia” on a work permit.<sup>xxi</sup> This means that a worker who wants to seek new employment needs to procure a check-out memo from his/her current sponsor, leave Malaysia entirely, and then re-enter the country under the sponsorship of a new employer.<sup>xxii</sup>

Work permits are renewed every year by the sponsors – and it is entirely their prerogative as to whether they choose to do so for their employees.<sup>xxiii</sup> If an employer chooses not to renew an employee’s work permit, the employee is seen as overstaying on his work permit, and is hence considered a prohibited immigrant to be punished.

Workers lose their work permit authorization if they fail any of the health tests mentioned earlier - hence, if “they test positive for HIV/AIDs, tuberculosis or pregnancy”, they are no longer allowed to work in Malaysia.<sup>xxiv</sup> It is also not unlawful for employers to revoke work permits when their employees file complaints against them, or if they are “known to be active in labour organizing”.<sup>xxv</sup>

### **Contract of Service**

By Malaysian law, all legal migrant labourers must have signed a basic contract of service that must stipulate, at the minimum, “terms on wages, rest days, overtime, leaves and other benefits, and work shift(s)”.<sup>xxvi</sup>

### **Employment Agencies and Labour Outsourcing**

Over the last decade, Malaysia has introduced many policies to liberalize the migrant labour recruitment market by empowering labour supply intermediaries.<sup>xxvii</sup> This approach, however, has “instigated the blurring of employment relations in that recruitment agencies can increasingly also act, by law or if such basis is unclear, in practice, as a direct employer”.<sup>xxviii</sup> This in turn

has made it more difficult to hold parties accountable for human rights violations, argues Amnesty International.<sup>xxix</sup>

In July 2005, Malaysia introduced a policy called the “Foreign Worker Supply and Management System according to the Outsourcing method”, which stated that “employers may use the services of outsourcing companies to supply and manage the foreign workers”.<sup>xxx</sup> This system allowed “outsourcing companies” to formally sponsor the migrant labour used by employers, as opposed to the employers themselves having to do so.<sup>xxxi</sup> Later, a 2012 amendment to the Employment Act of 1955 introduced the term “contractor for labour” to describe the role of agencies: this description further “legitimized the labour-broker-as-employer arrangement”.<sup>xxxii</sup> It also required Malaysian companies which employ fewer than 50 foreigners to hire them via these contractors of labour.<sup>xxxiii</sup>

The introduction of these laws has fundamentally changed the role of intermediaries in the Malaysian labour supply market. On the whole, these actors fall into one of two categories. The first type of actor is the traditional supply intermediary who is responsible solely for recruiting workers from abroad and “placing” them, which refers to the process by which agencies connect workers to employers who need labour.<sup>xxxiv</sup> These actors are referred to as Private Employment Agencies, or PEAs. They do not sponsor work permits for the migrant workers they recruit. Hence, employers alone are legally responsible for these workers: they must sign contracts of service with the labourers they utilize.<sup>xxxv</sup> The second type of labour intermediary is the Outsourcing Agency, which manages and employs foreign workers. Outsourcing Agencies formally sponsor migrant labourers and then lease the workers under their supervision to different labour seeking employers. In turn, Outsourcing Agencies must perform the roles expected of sponsors. Employers, however, are not legally responsible for these workers, as the Outsourcing Agency alone serves as the sponsoring entity for the labourers they use. There is no contractual agreement between employers and the labour they use: employees only have a contractual agreement with the Outsourcing Agency.<sup>xxxvi</sup>

Following the 2012 amendment to the Employment Act, Verite notes, a large number of traditional PEAs sought licenses to act as Outsourcing Agencies as well.<sup>xxxvii</sup> As of 2014, there were 241 licensed Outsourcing Agencies in Malaysia.<sup>xxxviii</sup> Most agencies offer labour demanding parties a choice from three services, as shown in Figure 3 below.<sup>xxxix</sup> Intermediaries that are exclusively PEAs, however, can only offer the first two. Licensed Outsourcing Agencies can also offer employers the third option.



- A. **Recruit and Supply (Recruitment Consultancy):** Under this arrangement, the client company is the employer of the workers. Recruitment processes are undertaken under the name of the client company and the labor intermediary only provides guidance, oversees, or facilitates the recruitment process for, and deployment of, foreign workers to the company.
- B. **Recruit, supply, and manage (Total management):** Under this arrangement, the labor intermediary is contractually responsible for recruiting, deploying and managing the workers for and on behalf of the client company throughout the workers' employment, but the company usually makes the final selection of candidates and remains the employer of the foreign workers on paper.
- C. **Recruit, supply, employ, and manage (Outsourcing):** Under this scheme, the full recruitment process and management of workers is undertaken under the name of the labor intermediary acting as outsourcing company. The labor intermediary is the employer of the foreign workers on paper, and the contractual relationship is only between the labor intermediary and the client company (principal), thus relieving the client company of direct legal responsibilities over the workers.

Figure 3: *Services Offered by Labour Supply Intermediaries in Malaysia*<sup>xi</sup>

Verite also notes that there is generally confusion over the exact stipulations of Malaysia's policies, and the limits (if any) they impose on the behaviour of private actors, as the differentiation between the responsibilities of PEAs and of Outsourcing Agencies has not been made explicitly clear.<sup>xii</sup> This vagueness has arguably only served to aid the purposes of these agencies, however, and has led to problems for migrant workers on numerous occasions.

### **Foreign Workers' Levy**

In January 2013, the Malaysian government imposed a levy on employers using foreign workers, the burden of which has actually fallen on the workers themselves.<sup>xiii</sup> As a result of this regulation, employers are asked to submit to the government an "up-front" amount of MYR 1,240 (USD 343) in a single payment for every foreign worker they hire.<sup>xiii</sup> However, they are allowed to recoup this cost through monthly deductions from their workers' salaries: in most cases, this happens through a series of 12 such monthly deductions, with each one amounting to MYR 104 (USD 32). Assuming workers are paid the minimum wage of MYR 900 a month (though in many cases this does not happen either), this deduction amounts to a sizeable 12% of a monthly wage.<sup>xiv</sup>

## Labour Laws

All foreign workers in Malaysia are technically granted the same protections as national workers under the country's labour laws. These protections include:

- "Overtime pay after eight hours per day or 48 hours per week.
- "No more than 12 hours of work in a single day and a limit on overtime of 104 hours per month, except in cases of accidents and other emergencies.
- "A 30-minute rest period after five hours of work. If an employee's work must be carried out continuously, the employee may be required to work eight consecutive hours, but that eight-hour period must include breaks totalling 45 minutes and must include the opportunity to have a meal.
- "One day off each week, although employees may be required to work in cases of accidents and other emergencies.
- "Twelve paid holidays each year.
- "Paid annual leave of at least eight days or payment in lieu of leave if the employee has worked a full year, pro rated if the employee has worked less than 12 months during the year.
- "Paid sick leave of at least 14 days each calendar year."<sup>xlv</sup>

In 2012, Malaysia introduced legislation on a national minimum wage. In Peninsular Malaysia, this figure has been set at MYR 900 (USD 278) per month or MYR 4.33 (USD 1.34) per hour.<sup>xlvi</sup>

Moreover, Section 8 of the Employment Act of 1955 and the Trade Unions Act 1959 guarantee that all workers' contracts must allow them to join trade unions, participate in their activities, and organise new trade unions if they so desire.<sup>xlvii</sup>

Foreign workers are also technically protected by laws providing for worker compensation. Employers must bear all expenses concerning the treatment of workplace injuries, and are required to have insurance policies for their foreign workers to cover adverse circumstances under the Foreign Workers' Compensation Scheme.<sup>xlviii</sup>

These labour protections, however, do not extend to domestic workers.<sup>xlix</sup> These workers hence face no working hour protections, no guarantee of compensation in the event of a workplace related injury, and no course to seek redress in the event of abuse.

## Problems Faced by Migrant Workers

Despite the presence of legislation on labour protections and the like, foreign workers in Malaysia are often especially poorly treated. Numerous NGOs have documented evidence of migrants facing gross human rights violations.

### Wage Manipulation and Work Related Threats

Migrant workers often complain of underpayment, arbitrary wage reductions, and even the withholding of wages entirely.<sup>i</sup> Amnesty International, for example, says that:

Many workers reported that their Malaysian agents and employers immediately began to deduct the cost of their work permits from their salaries, usually in monthly instalments known as levies. Nearly all of these workers had already paid for their work permits in their home countries, meaning that they were paying twice for the same permits. To most workers, these extra expenses come as a surprise. For all, the levy charges substantially reduce their take-home pay and increase the amount of time they will need to repay the loans they have taken out in order to come to Malaysia.<sup>ii</sup>

The organization notes that “the assessment of levies is an accepted practice for employers who have paid to have their workers’ permits renewed, although it results in a substantial deduction from monthly wages”.<sup>iii</sup> However, many sponsors also make arbitrary deductions from the wages they pay, or do not fulfill their roles following these deductions. For example, several workers have complained that agencies and/or individual employers fail to renew work permits despite taking the money to do so.<sup>iiii</sup> Naturally, this leaves workers in an extremely precarious position, given Malaysian authorities’ ruthless approach to culling out those they see as illegal migrants.

This problem is compounded by the general “lack of transparency” experienced by workers about their wages. In many cases, workers are not given pay slips, and hence have no knowledge of why they are paid a given amount.<sup>liv</sup>

Moreover, withholding wages is a tactic many employers use “as a means of keeping employers from changing jobs, or in some cases, as a penalty for making a mistake, complaining, or failing to achieve a quota”.<sup>lv</sup> In other cases, workers have reported being threatened with layoffs, the “loss of overtime” opportunities, and the loss of opportunities to work in general if they did not meet the standards expected of them by their supervisors.<sup>lvi</sup> Others have reported being threatened with detention and even deportation<sup>lvii</sup>.

Verite notes that threats and penalties of this nature are extremely common – over 17% of the workers they polled reported having been through experiences like this.<sup>lviii</sup>

## Debt Burdens

As is the case with most migrant labourers worldwide, workers in Malaysia often arrive in the country having incurred massive debts due to the recruitment fees they have paid agents at home. Verite reports that 92% of the foreign workers in Malaysia they polled reported having paid recruitment fees to agents either back home or in Malaysia.<sup>lix</sup>

In almost every single case – 99% of those where workers paid Malaysian agents, and 92% of cases where they paid agents at home – the fees charged far exceeded “legal and industrial standards equivalent to one month’s wage”.<sup>lx</sup> As a result of these exorbitant charges, 72% of the workers the organization spoke to indicated they had been forced into procuring a loan, often at incredible interest rates.<sup>lxi</sup> Moreover, 95% of the workers they spoke to indicated that they took over three months to repay the debts they incurred as a result of having to pay recruitment fees – while 50% of workers said they took over a year to do so. “When one considers that the typical work contract for foreign workers is two years in duration (with the option of a third year extension), this means that 50% of workers were paying off recruitment for at least half of their first work contract”, the organization notes.<sup>lxii</sup> The fees workers pay recruitment agents varies by country, as Figure 4 below shows.

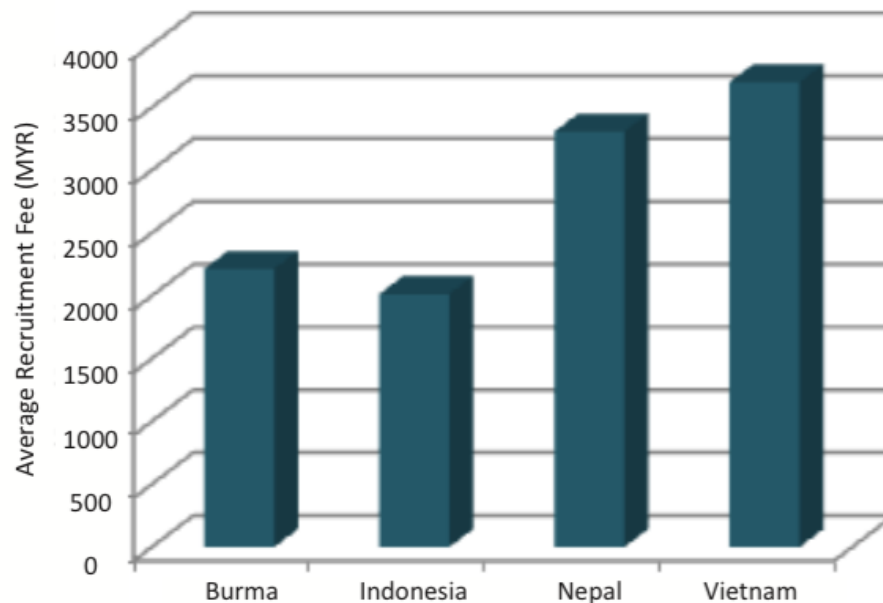


Figure 4: *Average Recruitment Fees by Country of Origin Among Foreign Workers.*<sup>lxiii</sup>

In some cases, workers pay these recruitment fees via deductions from their monthly wages, as opposed to an up-front sum.<sup>lxiv</sup> These arrangements, however, are in breach of the Protection of Wages Convention, an ILO treaty that has been ratified by Malaysia.<sup>lxv</sup>

The chronic indebtedness workers face often leads to conditions of forced labour.<sup>lxvi</sup> As a result of having to repay steep debts, workers are compelled to accept any conditions their employers may set because they cannot afford to lose a source of income.

### **Restrictions on Unionization**

Despite Malaysian and international laws prohibiting employers from including contractual prohibitions on workers joining unions, this is a common practice. Contracts often include stipulations explicitly prohibiting foreign workers from joining unions and participating in union activities.<sup>lxvii</sup> Such stipulations are actually in violation of three Malaysian laws:

..the Trade Union Act 1959, which states that a foreign worker can become a member of a trade union; the Employment Act 1955, which states that a contract of employment shall not contain a clause prohibiting a worker from joining a union; and the Industrial Relations Act 1967, under which a worker cannot be dismissed for union activity.<sup>lxviii</sup>

### **Contract Termination**

It is extremely difficult for foreign workers to terminate their employment contracts early to change jobs. Verite reports that 57% of the workers they spoke to:

...could not leave their jobs before their contracts were finished, because they would be charged an illegally high fine, would forfeit wages or runaway insurance, would lose their passport, would be forced to pay the balance of the levy, or would be denounced to the authorities.<sup>lxix</sup>

Table 3 below shows the various concerns workers reported regarding the possibility of terminating their contracts early.

| Penalty                             | Incidence of penalty among respondents for whom the “no freedom to resign” indicator is present |                            |
|-------------------------------------|---|----------------------------|
|                                     | Incidence of Penalty (%)*   | Incidence of Penalty (No.) |
| Wouldn’t get back my passport       | 25%   | 62***                      |
| Denunciation to the authorities     | 5%  | 13                         |
| Pay illegally high fine             | 10%   | 24                         |
| Forfeit forced savings or insurance | 2%  | 6                          |
| Forfeit wages due                   | 20%   | 50                         |
| Pay the balance of the levy         | 55%   | 136                        |
| [No plane ticket home]**            | 43%   | 106                        |

*\*Note the percentages in this table are derived from the total number of respondents for whom the “no freedom to resign” indicator is present (n=248)*

*\*\*Note this was not included in the calculation of the indicator for the purposes of making a determination of forced labor but is included here to demonstrate its pervasiveness as a concern for workers.*

Table 3: *Penalties Included in the Composition of “No Freedom to Resign” Indicator.*<sup>lxx</sup>

According to Verite, 29% of workers reported facing more than one of these barriers to early termination.<sup>lxxi</sup> Passport retention and the possibility of having to pay large fines appeared to particularly dissuade workers from considering leaving their jobs. The “fee levels cited by workers were quite high, and ranged from MYR 500 (USD 154) to MYR 4,500 (USD 1,392)”, based on how much time they had left on their employment contract.<sup>lxxii</sup> Workers are expected to pay this charge in addition to the levy that employers already institute on their wages.

## Seeking Redress

Workers find it prohibitively difficult to lodge complaints and seek redress for any contractual or rights violations. The protections set forth by Malaysian law are often not afforded to workers - and these “abuses go unchecked in large part because of the weakness of Malaysia’s systems to prevent labour violations and to provide redress when they do occur”.<sup>lxxiii</sup>

The number of workplace inspections has decreased substantially in recent years. Individual complaints can take years to resolve, and employers may cancel workers’ permits as soon as they file a complaint. When workers’ permits are cancelled, they can no longer work lawfully, and they lose their right to remain in Malaysia unless they obtain special passes, issued in one-month intervals at a cost of 100 ringgit (\$29).<sup>lxxiv</sup>

The special pass is issued to workers who have cases pending in the Labour Court but have had their work permits cancelled by their employers.<sup>lxxv</sup>

Even when cases are heard, however, it is often difficult for workers to present their case convincingly. For example, employers often pay workers informally, without issuing them actual payslips, which makes it difficult for workers to prove that they have worked in a company if their work permits are cancelled, or if they never received permits in the first place.<sup>lxxxvi</sup>

Situations like this are not by any means uncommon, and they make it extremely difficult for foreign workers to make complete representations of their cases. Seeking redress is further complicated by the presence of outsourcing agencies, as the confusion surrounding laws dictating division of responsibility for worker welfare in this case may be exploited by offending parties.

## **Documents and Status**

“Losing one’s legal status is easy”, says Amnesty International. Beyond the legal requirements workers must adhere to, “many migrant workers become undocumented through no fault of their own when their employers fail to renew their permits.”<sup>lxxxvii</sup> This is exacerbated by the fact that sponsors often retain documents, and do not allow employees access to them. Verite found that an incredible 94% of the migrant workers they polled reported that their sponsors were in possession of their passports, and that 71% said they had little or no access to these documents.<sup>lxxxviii</sup> Workers told the organization that their passports are seized as soon as they land in Malaysia, and are only returned to them following the end of their two or three year long contracts.<sup>lxxxix</sup> In some cases, workers were charged exorbitant sums to access their documents – in others, agencies simply refused to return documents to workers even in situations like hospitalization.<sup>lxxx</sup> This occurs despite the fact that passport retention is illegal in Malaysia.<sup>lxxxi</sup>

Amnesty International has also reported of finding instances where sponsors – possibly deliberately, to escape processing fees – failed to procure work permits for their employees at all.<sup>lxxxii</sup> Working without official documentation is a source of huge stress for these migrant workers, who are often aggressively harassed by Malaysian officials to prove their legitimacy at the threat of detention and eventual deportation.<sup>lxxxiii</sup>

## **Policing**

Perhaps the greatest source of this harassment is the 480,000 strong<sup>lxxxiv</sup> *Ikatan Relawat Rakyat*, or RELA, a volunteer only corps that is charged with eliminating illegal immigration to Malaysia.<sup>lxxxv</sup> RELA agents have the authority to enter people’s homes at will, despite their often poor training, where they often “terrorize migrant workers and their families, steal money and valuables, and destroy their few other possessions”.<sup>lxxxvi</sup> These volunteers act under the auspices of the Ministry of Home Affairs, and as such enjoy legal immunity.<sup>lxxxvii</sup> They have been known to create an extremely hostile environment for foreign

workers in Malaysia, and have been accused of “violence, extortion, theft, and illegal detention”.<sup>lxxxviii</sup> However, despite the considerable power they enjoy, they are often poorly trained. There are “no educational or physical requirements” and “no background or criminal checks on those who join” RELA: new members simply attend 3-14 days of training before being inducted into the force.<sup>lxxxix</sup>

Many foreign workers have complained of being intimidated, detained, and abused by RELA agents, and this problem is only amplified in the detention centres where this corps is responsible for security.<sup>xc</sup> Despite meek efforts by the Malaysian government to rein in the powers of the force – in 2012, RELA agents were forbidden from bearing firearms and were stripped of their power to make arrests – the force continues to harass migrants.<sup>xcii</sup>

Verite found that 40% of the migrant workers they spoke to felt that fear of RELA, immigration officials, and police prevented them from “moving freely” – that they could not “make a phone call” or “go to the store” because they did not hold their identity documents. Moreover, as Table 4 shows, 46% of the workers they polled indicated that they had been stopped by these agents. Out of this group, 70% of respondents said that they had been detained, threatened with arrest and deportation, or forced into paying bribes to escape custody.<sup>xcii</sup>



| Nature of encounters with immigration authorities, police, or RELA   | Incidence of Encounter (%) | Incidence of Encounter (No.) | Total No. of Respondents |
|--|----------------------------|------------------------------|--------------------------|
| Workers who have been asked by immigration authorities, police, or RELA to show their passport or similar document             | 35%                        | 154                          | 438                      |
| Workers who paid bribes to immigration authorities, police, or RELA  | 11%                        | 49                           | 438                      |
| Workers who were threatened with detention, physical harm, or general intimidation by immigration authorities, police, or RELA | 26%                        | 115                          | 438                      |
| Workers who were detained or brought to lockup by immigration authorities, police, or RELA                                     | 3%                         | 15                           | 438                      |
| <b>All migrant workers who had some encounter with immigration authorities, police, or RELA in the last year</b>               | 46%                        | 203*                         | 438                      |

Table 4: *Incidence Among Foreign Workers of Encounters with Immigration Officials, Police, and RELA, and the Nature of Such Encounters.*<sup>xciii</sup>

## Detention

Foreign workers who are caught without the documents that sanction their presence in Malaysia are detained in special detention facilities. These centres, however, fall “far short of minimum international standards of detention”, as Amnesty records.<sup>xciv</sup>

These facilities are extremely overcrowded. They fail in fundamental ways to meet basic international standards and generally accepted good practice in the treatment of detainees and the management of institutions. Detainees in immigration centres lack bedding, regular access to clean water, medication and sufficient food. They spend most of their time in their cells with no opportunities for exercise, organised worship or other activities. Diseases spread quickly, and fights are common. Detainees under age 18 are held together with adults, in

violation of international law.

Moreover:

Skin diseases are common. Many detainees showed Amnesty International rashes on their arms and legs. “Everyone has skin disease, all people; we cannot get any soap,” said John, a 33-year-old man held in the KLIA Immigration Depot. Others described severe itching, an indication of scabies, bedbugs or other parasites. “I have rashes all over the body. And there are blood suckers in the wood [floor], where we sleep. We sleep on the wood,” said Michael, a Liberian man held in Lenggeng. “There are insects that get on our bodies,” said José, also in Lenggeng, adding that rats ran over them while they slept.<sup>xcv</sup>

Many foreigners remain in detention for extended periods of time because they cannot meet the costs of a flight back home: deportation in Malaysia is “generally at the detainee’s expense”.<sup>xcvi</sup>

### **Social Interactions and Living Conditions**

Migrants in Malaysian society are often subject to unfair negative stereotypes, which impacts how they are treated by citizens in the country, as Figure 5 below shows.

# Attitudes to migrant workers

“Agree to some extent” or “Agree completely”

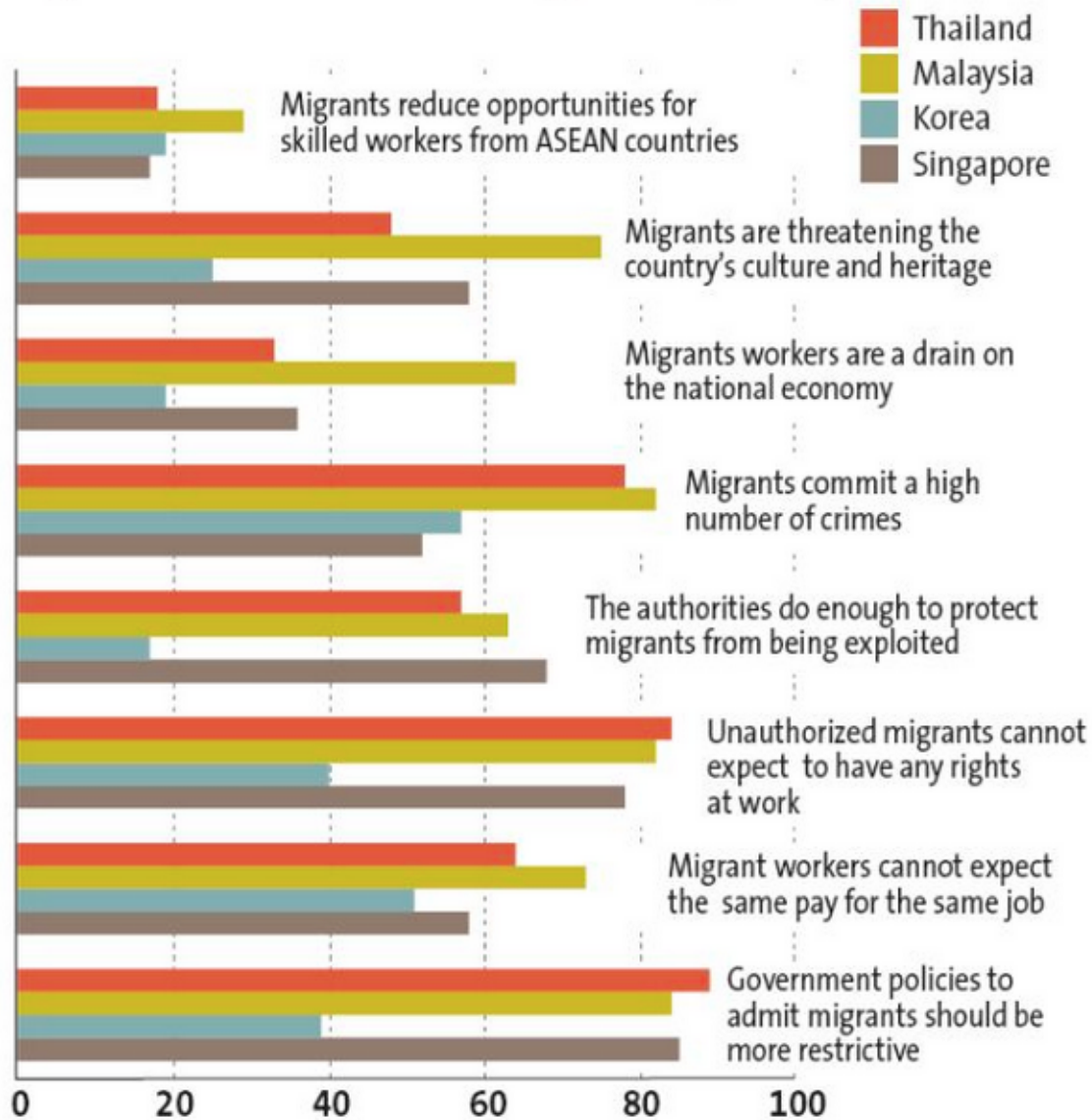


Figure 5: *Attitudes to Migrant Workers.*<sup>xcvii</sup>

These conceptions, however, are almost entirely false. The World Bank reports, for example, that “an additional 100,000 immigrants in a state of Malaysia reduces the absolute number of crimes committed in Malaysia by between 1.4 and 4.6 percent, depending on the crime, while having no effect on the number of murders.”<sup>xcviii</sup>

Migrant workers also often suffer from substandard living conditions, as Verite’s

research - depicted in Table 5 below - shows.

| Component of Degrading Living Conditions Indicator                          | Incidence of Indicator Component (%) | Incidence of Indicator Component (No.) | Total No. of Respondents |
|---|--------------------------------------|--|--------------------------|
| Workers that sleep in a room with more than 8 people                        | 30%                                  | 129                                    | 436                      |
| Workers who have nowhere they can safely store their belongings             | 43%                                  | 187                                    | 431                      |
| Workers who do not feel safe at their housing                               | 22%                                  | 94                                     | 427                      |
| Workers that describe their living conditions as “very bad” or “unbearable” | 9%                                   | 41                                     | 437                      |

Table 5: *Component Analysis of “Degrading Living Conditions” Indicator Among All Foreign Workers.*<sup>xcix</sup>

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- <sup>i</sup> Amnesty International, 'Trapped: The Exploitation of Migrant Workers in Malaysia'. Available at [http://www.amnesty.org.au/images/uploads/ref/trapped-migrant\\_workers\\_in\\_malaysia.pdf](http://www.amnesty.org.au/images/uploads/ref/trapped-migrant_workers_in_malaysia.pdf) (accessed 12/07/2015). p.6.
- <sup>ii</sup> World Bank, 'Immigration in Malaysia: Assessment of its Economic Effects, and a Review of its Policy and System'. Available at <http://psu.um.edu.my/images/psu/doc/Recommended%20Reading/Immigration%20in%20Malaysia.pdf> (accessed 10/07/2015). p.3.
- <sup>iii</sup> World Bank databank on International Migrant Stock. Available at <http://data.worldbank.org/indicator/SM.POP.TOTL.ZS/countries/1W?display=default> (accessed 12/07/2015).
- <sup>iv</sup> <http://www.thestar.com.my/News/Nation/2014/02/26/Malaysia-30-mil-population/>;  
<http://worldpopulationreview.com/countries/malaysia-population/>
- <sup>v</sup> War on Want, 'Restricted Rights: Migrant Women Workers in Thailand, Cambodia and Malaysia'. Available at <http://www.asianmigrantcentre.org/restricted-rights>.
- <sup>vi</sup> Verite, 'Forced Labour in the Production of Electronic Goods in Malaysia', p.28.
- <sup>vii</sup> Amnesty International, 'Trapped', p.6.
- <sup>viii</sup> UNICEF, 'Malaysia: Migration Profiles'. Available at <http://esa.un.org/MigGMGProfiles/indicators/files/Malaysia.pdf> (accessed 13/07/2015).
- <sup>ix</sup> Ibid.
- <sup>x</sup> Ibid.
- <sup>xi</sup> Verite, 'Forced Labour', p.28.
- <sup>xii</sup> World Bank, 'Immigration in Malaysia', p.20.
- <sup>xiii</sup> Verite, 'Forced Labour', p.45.
- <sup>xiv</sup> Amnesty International, 'Trapped', p.15.
- <sup>xv</sup> Ibid., p.56.
- <sup>xvi</sup> Ibid.
- <sup>xvii</sup> Ibid., p.56.
- <sup>xviii</sup> Ibid., p.31.
- <sup>xix</sup> Ibid., p.46.
- <sup>xx</sup> Ibid., p.57.
- <sup>xxi</sup> Verite, 'Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains'. Available at <http://www.state.gov/documents/organization/237137.pdf> (accessed 14/07/2015). p.15.
- <sup>xxii</sup> Verite, 'Forced Labour', p.56.
- <sup>xxiii</sup> Ibid.
- <sup>xxiv</sup> War on Want, 'Restricted Rights', p.17.
- <sup>xxv</sup> Ibid.
- <sup>xxvi</sup> Ibid., p.57.
- <sup>xxvii</sup> Amnesty International, 'Trapped', p.15.
- <sup>xxviii</sup> Ibid.
- <sup>xxix</sup> Ibid.
- <sup>xxx</sup> Verite, 'Forced Labour', p.31.
- <sup>xxxi</sup> Ibid.
- <sup>xxxii</sup> Ibid.
- <sup>xxxiii</sup> War on Want, 'Restricted Rights', p.18.
- <sup>xxxiv</sup> Ibid.

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- xxxvii Ibid.
- xxxviii Ibid.
- xxxix Verite, 'Forced Labour', p.32.
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- xli Ibid., p.30.
- xlii Ibid., p.136.
- xliii Ibid.
- xliv Ibid.
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- lxx Ibid., p.138.
- lxxi Ibid., p.139.
- lxxii Ibid., p.140.
- lxxiii Amnesty International, 'Trapped', p.67.
- lxxiv Amnesty International, 'Trapped', p.67.
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- lxxix Amnesty International, 'Trapped', p.167.

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