

## Labour migration in Malaysia – trade union views

*Private enterprise in the supply of migrant labour in Malaysia has put social standards at risk. The Government should extend its regulatory role.*

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Malaysia experienced rapid economic development in the nineteenth century under the British colonial economic development policies. The development of plantations, tin mines, infrastructure such as roads and railways and the distribution and services sectors all depended on immigrant labour through various systems of recruitment and repatriation of workers from China, India and Indonesia. The British colonial government and the private sector played an important role in this labour migration process in the country. These immigrant workers who were brought in through formal and informal systems of recruitment and repatriation fulfilled the demand from the public and private sectors for labour with specific attributes. The immigrants became permanent residents and part of the cosmopolitan Malaysian society, and their future generations became citizens after independence in 1957.

### Current Situation

Malaysia's rapid economic development since independence has relied on Malaysian workers moving from rural-to-rural and rural-to-urban areas and immigrant workers, especially from ASEAN (Association of South-East Asian Nations) coun-

tries such as Indonesia, the Philippines, Thailand and other Asian countries. In the case of movement from rural-to-rural areas, rapid migration was precipitated mainly by government intervention in rural development and agriculture. The development of plantations in Sabah and Sarawak in the 1960s also attracted labour migration from Peninsular Malaysia, facilitated by the Government through the Sabah Labour Migration Fund. This rural-to-rural migration involved workers in the agricultural sector, especially landless farmers and plantation workers with relatively low levels of skills, suited for agricultural occupations.

Rural-to-urban migration accelerated after government intervention in urban and industrial development was stepped up, especially after the Second Malaysia Plan. Specific regions became centres for inward migration from rural areas, e.g. Klang Valley, Pasir Gudang, Penang. Strategies by the Government to distribute industries to rural areas of Peninsular Malaysia, Sabah and Sarawak helped to ease the concentration of inflow of rural migrant workers to these specific areas. The development of industrial zones, especially in the east coast states of Kelantan, Terengganu and Pahang in the past three decades to cater for manufacturing and downstream petrochemical and heavy industries, has

seen inflows of workers into the emerging industrial zones. The low quality of life in the traditional rural areas acted as a “push” factor for workers to migrate out of their existing environment to new environments with better opportunities for an improved quality of life, which acted as the “pull” factor.

The “push” and “pull” factors at the international level in the region also caused workers to immigrate into Malaysia for employment. The accelerated economic development programmes and the sustained high economic growth rates in Malaysia over approximately three decades caused the influx of migrant workers to meet the increasing demand in the Malaysian labour market. The incidence of immigrant workers, especially from Bangladesh, Indonesia, Myanmar, Philippines and Thailand, in Malaysia has been the focus of debate in recent times. The implementation of several strategic infrastructure development and urban development projects increased the demand for labour, especially in the construction sector. Further, adjustment by Malaysian workers to better economic opportunities between the industrial sectors in the economy also saw other sectors such as plantations, forestry and services sectors experiencing labour “shortages”, i.e. inadequate numbers of workers responding to the wage levels and conditions of employment offered by employers in the respective industries or sectors.

The demand for domestic maids and assistants increased with rapid urbanization, greater participation of women in the labour market and better income opportunities for Malaysians. This demand was initially met by women and men from rural areas but is now fulfilled by women and men from neighbouring ASEAN countries. Hotels, restaurants and other enterprises in the hospitality industries also rely on foreign workers, especially for jobs on the lower rungs of the hierarchy or in some skilled occupations, e.g. chefs. Apart from these sectors, we also see a trend of “shortages” in the skilled categories of labour. For example, the expansion of private

medical health care has created an increased demand for paramedical staff such as nurses. Today, the country has to rely on immigrant skilled health care workers to meet this demand.

The rapid expansion of the manufacturing sector created an increased demand for workers in the various manufacturing industries, especially textiles, electrical goods and electronics. There is also a rapid expansion of small and medium-sized industries in the food, furniture and metal fabrication enterprises. These industries have created an increased demand for skilled and semi-skilled industrial workers. Immigrant workers make up for “shortages” in these industries. Today, it is obvious that immigrant workers are part of Malaysian society. The number of immigrant workers in the country can only be estimated, and several figures have been put forward from time to time. As at July 1999, the total number of registered foreign workers according to the Government was 715,145, of whom 73 per cent were Indonesians, 19 per cent Bangladeshis, 3 per cent Filipinos and the remainder from other nations such as India, Myanmar, Pakistan and Sri Lanka. The incidence of foreign workers in the various sectors of the economy was 37 per cent in manufacturing, 24 per cent in agriculture, 22 per cent in domestic services, 9 per cent in construction, 8 per cent in the services sector. However, all Malaysians are aware that the actual number of immigrant workers and their dependants far exceeds this number. It is estimated that approximately 1.5 million immigrant workers (both legal and illegal) work in Malaysia. Estimating the number of the illegal immigrant workers in Sabah and Sarawak is difficult, because of the relaxed entry and exit opportunities for immigrants. Further, contractors for labour services have devised their own routes for entry and exit into and out of Malaysia for illegal immigrant workers. Both the workers and the contractors know the high risk involved in the illegal trafficking of workers. However, this traffic continues because of the poor quality of life in the neighbouring countries, such as Indonesia.

Malaysian employers prefer to contract work out to immigrant workers through contractors for labour services, as these keep labour costs low. This illegal traffic in workers is therefore a lucrative business for contractors and agents who supply immigrant labour.

Apart from the inward migration of workers, consideration must also be given to the outward migration of Malaysians to work in other countries. Skilled Malaysian workers respond to better wages and terms and conditions of employment in Singapore, Taiwan, West Asian countries and other parts of the world from time to time. This global traffic of workers out of Malaysia also causes "shortages" in specific sectors of the economy.

### Main issues for unions

There are four main issues for trade unions concerning labour migration.

**Manpower development policies.** The Government has recognized the need for a National Manpower Development Plan and for programmes suited to the nation's successive stages of development. However, although the demand for training opportunities in various skills has been high, the available opportunities have been limited. This is because the private sector did not play an active role in training until recent times, when the Government embarked on policies to allow the private sector to become more active in education and training. The formulation, implementation and evaluation of manpower development policies have helped to improve the available training systems to cater for current and future needs. However, the time lag involved in increasing the supply of trained manpower has to be recognized. In the current situation, where industries will have to implement advanced technologies – i.e. shift away from labour-intensive to capital-intensive and high-tech methods of production – the available trained manpower is limited, and this compels investors to seek permission to bring in immigrant labour.

This is especially true in the emerging multimedia industries. Employment generation through high-tech industries must take this situation into account. Otherwise, investors will take advantage of excellent infrastructure facilities in Malaysia but will create only limited employment opportunities for Malaysians. As remedies to these problems have inherent time lags, there is a need to review and evaluate the current Manpower Development Plan and policies to cater for the future. A dynamic and labour-market sensitive approach is needed in the Manpower Development Plans, so that Malaysians can prepare themselves to take up the employment opportunities created in the expanding new industries, especially in the high-tech and information technology industries. Further, special incentives must be given to employers and workers for retraining of workers, so that they can acquire new skills. The challenge of the future is to have a multiskilled labour force, which will respond to changes in demand for skills in the labour market as a result of changes in technology and organization and methods of work. In this way, the productivity and earnings of workers can be enhanced without compromising the quality of work and the competitiveness of the industry.

**Labour market policies.** Malaysia experienced declining unemployment rates during almost a decade of sustained economic growth. The 2.6 per cent unemployment rate in 1997 is considered an excellent achievement. This rose to 4.9 per cent or 443,200 workers in 1998, as a result of the East Asian economic crisis. Employment in the construction sector declined by 13 per cent whilst in agriculture and forestry it went down by 5.3 per cent. However, the levels of unemployment do not indicate the extent to which the characteristics of employment have changed over time, especially with the presence of immigrant workers. The Government encouraged employers to repatriate immigrant workers who became unemployed as a result of the East Asian economic crisis. Between 1998 and 1999, approximately 300,000 immigrant

workers were repatriated. However, many immigrant workers did not respond to this exercise and chose to join the informal sector in search of casual employment.

The labour market is divided into the formal and informal sectors. It is not really as free a market as it is often perceived to be. The presence of a large immigrant workforce, both legal and illegal, creates a further division in the labour market. It is obvious that employers can select their workers from amongst either Malaysians or immigrants. They can also choose between the formal and informal sectors of the labour market. Employers are cost-conscious and choose workers who are not only inexpensive but also have the necessary skills and comply with strict discipline and hard work. The preference will be for immigrant foreign workers, who will accept both lower wages and worse terms and conditions of employment, as their primary objective is to earn as much money as possible within a short span of time. A further phenomenon is the presence of contractors for labour services. Their control over certain types of workers, especially in the low-wage jobs, creates a further segment in the labour market. These contractors for labour services facilitate casual employment and are in control of the informal sector of the labour market. Trade unions are concerned about the gradual enlargement of the informal sector, as employment in this sector is casual and does not comply with basic standards of labour legislation as regards maintaining an acceptable quality of life for the workers. Abuses with regard to wages and terms and conditions of employment by labour contractors often go unchecked because of the informal social control mechanisms available to labour contractors. These can include workers' indebtedness to contractors and other obligations which, if breached, can incur severe consequences. This unhealthy trend is on the increase, with more work being made casual and performed on an informal basis without a *contract of service* but through a *contract for services*. Workers in the informal sector cannot expect full compliance of provisions of the Employment Act and

other labour legislation, for example the Employees Provident Fund Act or Social Security Organization Act.

Home-based work has emerged recently in many industries, especially in textiles and electronics where workers, especially women, are employed to perform work for an enterprise through a contract for services. All obligations other than payment of a fixed sum are avoided, e.g. maternity benefits, sick leave, holiday pay, Employees' Provident Fund, social security and other benefits. There is as a result a declining quality of life for workers in the informal sector in particular, and all workers in general, especially in the plantation, construction and services sectors.

**Industrial relations.** The Industrial Relations Act and the Trade Unions Act govern the formal industrial relations system in the country. The presence of immigrant workers and the challenges faced by them for representation through their respective trade unions is great. Although the law allows immigrant workers to become members of trade unions, the employers and the contractors ensure that they do not. Thus, they are prevented from seeking relief for their grievances through the formal industrial relations system. The existing trade unions with Malaysian workers in membership also find it difficult to sustain their collective bargaining strength when workers are prevented from becoming members of the union. Immigrant workers who are illegal are totally helpless, because they cannot be identified in the formal system. The legal immigrant workers face various tactics by employers and contractors to keep them out of trade union membership. The formal industrial relations system is therefore weakened by the emergence of an informal system controlled by contractors and employers. Unfair labour practices can flourish in these situations. This phenomenon is a matter of grave concern, as it calls into question the principles and systems of governance. Further, the weak collective bargaining position of trade unions does not deliver an equitable distribution of incomes. Free collective bar-

gaining, with total solidarity of workers reflected through trade union membership, is necessary to ensure that workers gain a fair share of the income and wealth they help to generate in society.

**Social security.** The social security safety net for workers in Malaysia is governed by legislation and by provisions in collective agreements. However, these have real meaning only in the formal labour market. As immigrant workers are largely within the informal market, employed on a contract for services through contractors, employers usually do not meet their social security obligations. This evasion of responsibility by employers, in order to reduce costs, does not help to maintain standards of social security. Malaysian workers demand their right to social security. The presence of immigrant workers, who are prepared to suffer the loss of social security benefits in return for employment, undercuts wages in the labour market. Immigrant workers suffer in silence the denial of paid sick leave, medical benefits, retirement benefits, maternity benefits, paid holidays and other monetary benefits.

The Government has recognized all the economic and social problems created by the “free market” traffic of immigrant labour in the country. It has adopted drastic measures recently to repatriate immigrant workers, especially the illegal immigrants. An amnesty was given to all illegal immigrants who voluntarily returned to their country by the end of July 2002. Approximately 350,000 illegal immigrant workers applied for this amnesty announced by the Government. As a severe warning to others, the Government introduced whipping as part of the punishment for illegal immigrant workers who are caught by the authorities. These measures have checked the swelling numbers of illegal immigrant workers. However, employers are lobbying for the recruitment of foreign workers through formal channels, and under greater scrutiny by the government authorities, so that exploitation of workers is prevented.

## Conclusion

ILO Conventions and Recommendations provide for basic standards of protection of welfare for workers in the following contexts in the migration process:

- Before leaving the home country and during the journey to the new country.
- On arrival.
- During employment.
- In the exercise of social and civil rights.
- During repatriation.

These ILO standards are useful guidelines for governments to adopt in maintaining fair treatment of immigrant workers. However, the inflow of immigrant workers was not fully in the control of the Malaysian Government. Private entrepreneurs saw the commercial opportunities in the recruitment and supply of labour to industries in need of such labour. This free enterprise in labour supply has led to a neglect of standards in the recruitment of immigrant workers. It is therefore important for the Government to extend its current regulatory role from one of providing permits to one where it is involved at each stage, from the approval of permits to the supervision of welfare standards for immigrant workers in the various industries, and of repatriation. Free enterprise in the traffic of labour tends to create slave-like conditions for workers. This is no longer acceptable in any civilized society.

The current challenge faced by the Malaysian Government is to deal with the “ghost population” of illegal immigrant workers. Retaliation by these communities of workers is real and the process of detention and repatriation is going to be a major exercise for the security forces. However, there are lessons that can be learnt from countries like Germany, which had a large immigrant, Turkish workforce. Whatever strategies are adopted will emphasize the need for evaluation of the economic and social relevance of immigrant workers in the context of accelerated and sustained economic development.