

Exploitation of Migrant Workers in Malaysia

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Laborers taking a break from work at a construction site in Kuala Lumpur, Malaysia, by Saeed Khan, via

<https://www.enbc.com/2020/11/05/covid-19-migrant-worker-neglect-may-hurt-malaysia-economic-recovery.html>



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INTRODUCTION

The exploitation of migrant workers is a major issue in Malaysia that the country has been dealing with for decades. Malaysia heavily relies on foreign labour across various domains including construction, agriculture, manufacturing, and domestic work. Throughout time, Malaysia has won the title of one of the most common destinations for migrant workers from countries such as Indonesia, Bangladesh, Nepal, Myanmar, and the Philippines. This is due to the better economic opportunities promised. However, reality has frequently destroyed this ideal with harsh conditions which include exploitation, abuse, and violations of human rights.

This report aims to illuminate the complex situation of migrant worker exploitation in Malaysia. The report will provide a comprehensive understanding of not only the factors that contribute to these circumstances, but also what impact it has on the individuals involved. The document will also explore the legal framework along with its challenges and the country's efforts to create a better environment for the workers.

1. HISTORY OF MIGRANT LABOR IN MALAYSIA

As Great Britain was dominating the first wave of globalisation¹ in the early twentieth century, Malaysia and other Southeast Asian countries were also colonised into this new system of production, trade, and investment.² After the British intervened in the Malay States, they created a demand for migrant workers to develop “manpower supply chains” connected to India and China.³

After the 1870s, the Malayan Government became the official state agency for organising Indian labour recruitment,⁴ and it developed an infrastructure focusing on migration in order to expand labour mobility that complied with Indian legislation.

Malaysia's independence from the United Kingdom in 1957 significantly impacted the influx of foreign labour.⁵ The newly established government shifted its focus from external to local employment in order to reduce its dependence on foreign workers.⁶ The year was also marked by low inflation and unemployment all around the country.⁷

¹ Amrith, M. S., & Lee, E. (2023). Labour brokers in migration: Understanding historical and contemporary transnational migration regimes in Malaya/Malaysia. *International Review of Social History*. Cambridge University Press. <https://doi.org/10.1017/S0020859023000079>. Accessed 23 August 2024

² Ibid.

³ Ibid.

⁴ Aliran. (2017). *History of the labour movement in Malaysia*. Aliran.

<https://m.aliran.com/aliran-csi/aliran-csi-2017/history-labour-movement-malaysia>. Accessed 23 August 2024

⁵ Arnold, R., & Roos, E. (2021). Malaysia's success in the IMF-supported post-crisis program. In *Malaysia: A success story* (pp. 61-72). International Monetary Fund. <https://doi.org/10.5089/9781513537863.071>. Accessed 24 August 2024

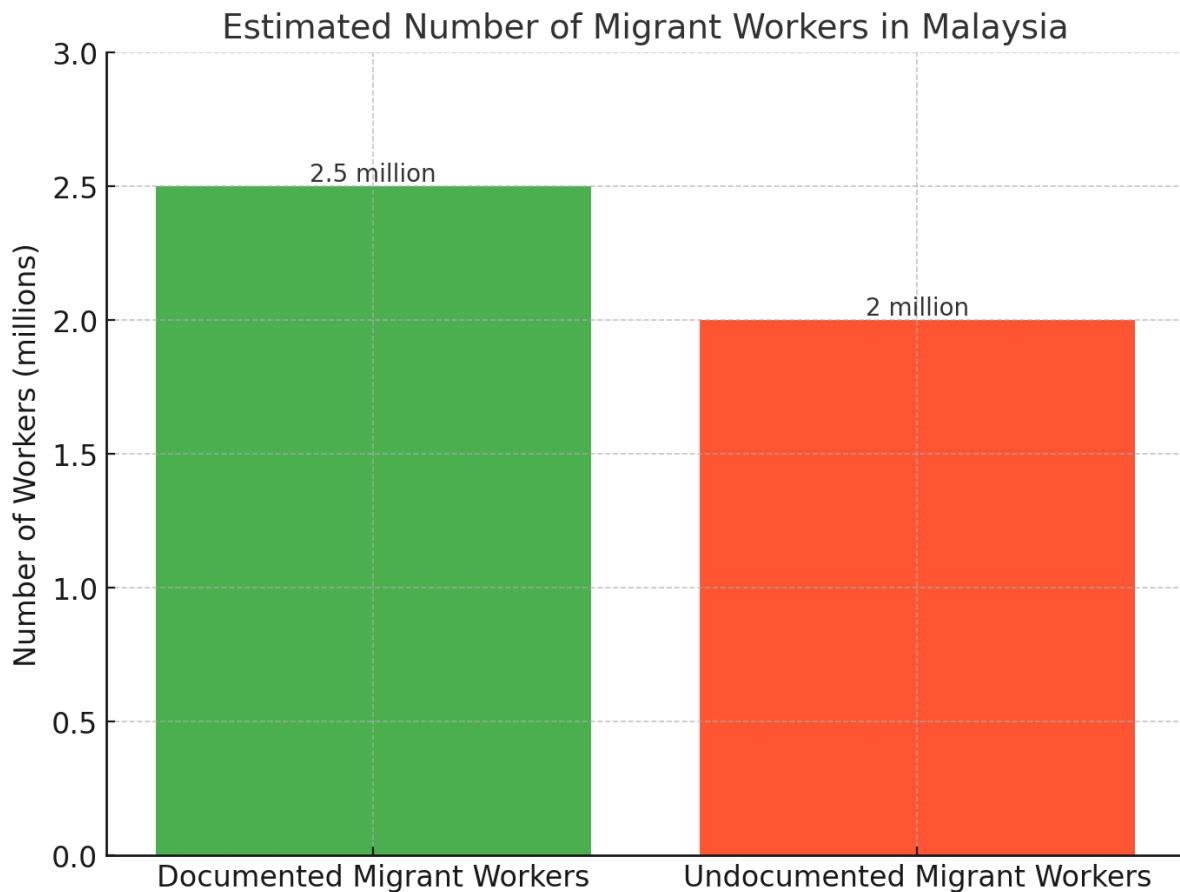
⁶ Ibid.

⁷ Ibid.

The Malaysian economy achieved rapid growth from the Second Malaysian Plan to the Sixth Malaysian Plan (also known as national development plans in the economic sector) from 1971 until 1995 under the New Economic Policy (NEP)⁸ and National Development Policy⁹.¹⁰ The NEP, introduced in 1971, was a socio-economic restructuring initiative by the Malaysian government aimed at reducing poverty and addressing the economic disparities between ethnic groups, particularly between the Bumiputera (Malay and Indigenous people) and non-Bumiputera (Chinese, Indian, etc.). The NDP, introduced in 1991, replaced the NEP and continued many of its objectives but with a broader focus on sustainable economic growth.

Around these times, Malaysia was already home to people from several other nations, such as Indonesia, China, and India. Workers from neighbouring countries have increasingly adjusted to the Malaysian system and started working under the same umbrella.¹¹

2. KEY INDUSTRIES FOR MIGRANT WORKERS



⁸ Economic Planning Unit. (2020). *Chapter 1: Macroeconomic performance and prospects*. Economic Planning Unit, Malaysia.

⁹ Leinbach, T. R. , Lockard, . Craig A. , Ahmad, . Zakaria Bin and Bee, . Ooi Jin (2024, August 29). *Malaysia*. *Encyclopedia Britannica*. <https://www.britannica.com/place/Malaysia>. Accessed 25 August 2024.

¹⁰ Ibid.

¹¹ Ibid.

There is a range of sectors where migrant workers are employed in Malaysia, often in roles that are considered low-skilled or intensive. Usually, this is because there is a shortage of local workers who are willing to fill those positions. The three most common sectors are:

2.1. CONSTRUCTION

The construction industry in Malaysia remains a very important labour market.¹² Without optimal labour utilisation, construction projects may be affected. However, local labourers were unable to fulfil the industry's demand. Consequently, a staggering number of foreigners were recruited to join the workforce.

Around 204,000 foreigners were employed in the construction industry in Malaysia in 2022.¹³ That makes for nearly 70-80 percent of the construction labour. Although the industry has expanded, it has continued to rely on low-skilled foreign workers for a long time.¹⁴

2.2. MANUFACTURING

The manufacturing sector in Malaysia is a crucial component of the national economy. This industry focuses on the production of petroleum and chemical rubber, as well as products such as foods, beverages, and electrical goods.¹⁵

In 2022, a study¹⁶ showed that around 35 percent of documented migrant workers were in the manufacturing sector. Among Asian countries, Malaysia is in desperate need of migrant workers to keep up with sustainable economic development.¹⁷

2.3. PLANTATION AGRICULTURE

The plantation agriculture industry in Malaysia plays an important role due to the production of palm oil and other key crops. Besides palm oil, the plantation sector also produces cocoa,

¹² Kanapathy, V. (2023). *Migrant labour and its impact on Malaysian economy*. In A. Nair & A. Narayanan (Eds.), *Migrant Workers and Labourers: Social, Legal, and Political Perspectives in Asia* (pp. 291-307). Springer. https://doi.org/10.1007/978-981-19-8024-4_18. Accessed 26 August 2024.

¹³ Statista. (2023). *Number of non-citizens employed in the construction industry in Malaysia from 2015 to 2021*. Statista.

<https://www.statista.com/statistics/952433/non-citizens-employment-in-construction-industry-malaysia/>. Accessed 26 August 2024.

¹⁴ Daniel Lode, Jin Chai Lee, Zeety MD. Yusof & Samuel Lee. (2023). *Employment of Foreign Workers at Construction Industry in Malaysia - A review* (pp 213-222).

https://link.springer.com/chapter/10.1007/978-981-19-8024-4_18. Accessed 26 August 2024.

¹⁵ GradMalaysia. (n.d.). *Manufacturing in Malaysia: An overview*. GradMalaysia.

<https://gradmalaysia.com/graduate-careers-advice/sector-areas-of-work/manufacturing-in-malaysia-an-overview>. Accessed 26 August 2024.

¹⁶ International Organization for Migration. (2023). *Undocumented migrant workers: Challenges and recommendations* (Report No. 2023-08). International Organization for Migration.

https://www.iom.int/sites/g/files/tmzbdl486/files/documents/2023-08/english_undocumented-migrant-workers-report.pdf. Accessed 26 August 2024.

¹⁷ Othman, S. A., & Rahim, R. A. (2014). Migrant workers in Malaysia: protection of employers. *Pertanika journal of social sciences and humanities*, 22(S), 271-282.

rubber, and other crops. As a sector, it has struggled attracting and retaining local workers due to the challenging conditions and low salaries compared to other industries.

Approximately 105,000 migrant workers are employed in this sector. This high number reflects the sector's heavy reliance on foreign and manual labour. The industry's attempt to focus on sustainability includes adherence to national standards to ensure safe labour practices.

3. LEGAL FRAMEWORK

3.1 NATIONAL LAW

Malaysia's legal framework governing migrant workers is complex, covering various aspects of employment, immigration, and protection against exploitation.

The Immigration Act 1959/63 (Act 155)¹⁸ imposes strict penalties on undocumented migrant workers, including arrest, detention, fines, and, since 2002, mandatory whipping for illegal entry. The Employment Act 1955/1968¹⁹ establishes minimum standards for employment, including for migrant workers, and has been expanded over time to cover various sectors such as construction, plantation, manufacturing, and services.

However, amendments in 2005 allowing recruitment through outsourcing companies, known as "Contractor for Labour," have been criticised for enabling the temporary use of migrant labour without ensuring long-term worker welfare. Furthermore, the Minimum Wage Orders (2022)²⁰ mandate a monthly salary of MYR 1,500. The Employees' Minimum Standards of Housing, Accommodations, and Amenities Act 1990 (Act 466)²¹ ensures that migrant workers have minimum standard accommodations, reflecting Malaysia's commitment to maintaining basic labour standards for its workforce.

3.2 INTERNATIONAL LAW

Internationally, Malaysia has endorsed the Global Compact for Safe, Orderly and Regular Migration²² and acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1995.²³ However, Malaysia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and

¹⁸ Immigration Act 1959/63 (Act 155). (1959). Laws of Malaysia. <https://www.agc.gov.my>. Accessed 26 August 2024.

¹⁹ Employment Act 1955/1968. (1955). Laws of Malaysia. <https://www.agc.gov.my>. Accessed 26 August 2024.

²⁰ Minimum Wage Orders 2022. (2022). Ministry of Human Resources Malaysia. <https://www.mohr.gov.my>. Accessed 29 August 2024.

²¹ Employees' Minimum Standards of Housing, Accommodations, and Amenities Act 1990 (Act 466). (1990). Laws of Malaysia. <https://www.agc.gov.my>. Accessed 29 August 2024.

²² United Nations. (2018). Global compact for safe, orderly and regular migration.

²³ United Nations. (1979). Convention on the elimination of all forms of discrimination against women. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>. Accessed 29 August 2024.

Members of Their Families²⁴ or any of the International Labour Organization (ILO) migration conventions.

Despite this, Malaysia has ratified several fundamental ILO conventions that protect labour rights, including the Forced Labour Convention, No. 29,²⁵ Right to Organise and Collective Bargaining Convention, No. 98,²⁶ Equal Remuneration Convention, No. 100,²⁷ and the Employment Service Convention, No. 88.²⁸

Although not fully comprehensive in the context of migration, these international commitments demonstrate Malaysia's adherence to fundamental labour rights.

4. WAYS OF EXPLOITATION

Migrant workers in Malaysia are often subjected to various forms of exploitation that undermine their rights and well-being. Common practices²⁹ include wage theft, where employers withhold salaries or pay below the agreed amount, and excessive working hours without proper compensation.

Many migrant workers are also subjected to hazardous working conditions,³⁰ especially in sectors like construction and plantation agriculture, where safety standards are often overlooked. Furthermore, the confiscation of passports by employers, a widespread practice, severely limits workers' freedom of movement and ability to leave abusive situations.³¹

Additionally, the recruitment process itself can be exploitative,³² with workers being charged exorbitant fees by recruitment agencies, leading to a cycle of debt bondage. These forms of exploitation are exacerbated by the lack of legal protection and the fear of retaliation through deportation or violence, which prevents many migrant workers from reporting abuses.

²⁴ United Nations. (1990). International convention on the protection of the rights of all migrant workers and members of their families. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>. Accessed 29 August 2024.

²⁵ International Labour Organization. (1930). Forced labour convention, 1930 (No. 29). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029. Accessed 29 August 2024.

²⁶ International Labour Organization. (1949). Right to organise and collective bargaining convention, 1949 (No. 98). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098. Accessed 29 August 2024.

²⁷ International Labour Organization. (1951). Equal remuneration convention, 1951 (No. 100). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C100. Accessed 29 August 2024.

²⁸ International Labour Organization. (1948). Employment service convention, 1948 (No. 88). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C088. Accessed 29 August 2024.

²⁹ Amnesty International. (2020). *Trapped: The exploitation of migrant workers in Malaysia*. Retrieved from <https://www.amnesty.org>. Accessed 29 August 2024.

³⁰ Human Rights Watch. (2019). *"They Deceived Us at Every Step": Abuse of Cambodian Domestic Workers Migrating to Malaysia*. Retrieved from <https://www.hrw.org>. Accessed 30 August 2024.

³¹ Ibid.

³² International Labour Organization (ILO). (2020). *Migrant Workers in Malaysia: Protection of Rights and Vulnerability to Exploitation*. Retrieved from <https://www.ilo.org>. Accessed 30 August 2024.

5. IMPACT OF MIGRANT WORKERS

The exploitation faced by migrant workers in Malaysia has profound and far-reaching impacts on their physical, emotional, and economic well-being. Physically, the lack of proper safety measures in workplaces, particularly in the construction and agricultural sectors,³³ leads to high rates of workplace injuries and chronic health problems.

Emotionally, the constant threat of deportation,³⁴ coupled with isolation from their families and communities, contributes to high levels of stress, anxiety, and depression among migrant workers. Economically, wage theft and exorbitant recruitment fees trap many workers in a cycle of poverty, unable to repay debts or send remittances back home.³⁵

The confiscation of passports and other forms of coercion effectively strips workers of their autonomy, making them vulnerable to further exploitation. Collectively, these impacts not only diminish the quality of life for migrant workers but also perpetuate a system of inequality and abuse that is difficult to escape.³⁶

CONCLUSION

The exploitation that migrant workers face in Malaysia is not just a legal or economic issue but a profound human rights concern. The impacts of this exploitation are severe, affecting the physical, emotional, and financial health of migrant workers and perpetuating cycles of poverty and abuse. Addressing these challenges requires a concerted effort from the Malaysian government, employers, and the international community to ensure that the rights and dignity of all workers are upheld. Moving forward, stronger enforcement of existing laws, ratifying relevant international conventions, and committing to ethical recruitment practices are essential steps in creating a safer and more equitable environment for migrant workers in Malaysia.

³³ Amnesty International. (2021). *Exploited, abused, and trapped: Migrant workers in Malaysia*. Retrieved from <https://www.amnesty.org>. Accessed 30 August 2024.

³⁴ Human Rights Watch. (2020). *"We Can't Afford to Die": Malaysia's Abuse of Migrant Workers*. Retrieved from <https://www.hrw.org>. Accessed 30 August 2024.

³⁵ Ibid.

³⁶ International Organization for Migration (IOM). (2023). *Migrant Workers and Exploitation in Malaysia*. Retrieved from <https://www.iom.int>. Accessed 30 August 2024.

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