

2g2: Migrant Workers

Preamble

The contentious handling of migrant labour issues is a long-standing problem. Malaysia has for decades relied on migrant workers as a source of cheap and pliant labour. Conservative estimates put them at approximately 15% of the labour force in 2019. Of these, 40% are irregular or undocumented, according to a 2020 World Bank report. One reason for this is the decades-long arbitrary management of migrants and entrenched corrupt practices in the labour recruitment system. Despite clear wrongdoings by the authorities, migrants continue to be blamed and made the scapegoats for irregular migration. In the past two years alone, US customs authorities have banned imports of certain Malaysian products following allegations of forced labour. Migrant rights activists have also highlighted the plight of migrant workers being overworked or given excessive overtime work, living in cramped and unhygienic conditions and being subjected to sexual harassment, among other human rights abuses. These warnings underscore an urgent need to manage our migrant labour force according to international standards.

Unfortunately, the current legislation, specifically the Anti-Trafficking In Persons and Anti-Smuggling of Migrants, is inadequate in protecting migrants from falling into the trap of forced labour and modern-day slavery.

(Firdaus Husni, MCCHR, Proposal 2G2-1)

I: Comprehensive Policy for Migrant Workers

The key issues pertaining to migrant workers are recruitment, debt bondage, arrest and detention, poor working and housing conditions, inadequate access to health treatment, sexual harassment and lack of access to redress mechanisms and unregulated domestic work. All these have resulted in forced labour and trafficking-in-persons situations, torture and deaths of migrant workers.

1. Make public the report of the Special Independent Committee on Foreign Worker Management.

(Adrian Pereira, North-South Initiative, Proposal 2G2-2)

In 2018, the Pakatan Harapan Cabinet commissioned a transparent Special Independent Committee on Foreign Worker Management to study the problems of migrant workers, and come up with recommendations to address the issue. Although the report was completed and presented to the Cabinet for deliberation, it was not publicly released, and to the best of public knowledge, none of the proposals have been implemented to date. The current government should accept its responsibility in improving the lives of migrant workers, and an immediate step is to release this report as the basis of a comprehensive policy to come.

2. Cease ad hoc policies.

(Adrian Pereira, North-South Initiative, Proposal 2G2-2)

Ad hoc policies have only given rise to more corruption while neither addressing migrant workers' woes in a systematic manner nor providing long-term solutions to the problems.

3. Establish effective procedures under the Ministry of Human Resources to manage migrant workers.

- i. The Ministry of Human Resources should be tasked with the responsibility of managing migrant workers, starting with setting up one-stop centres for them.

(Adrian Pereira, North-South Initiative, Proposal 2G2-2)

- ii. Separate labour and immigration issues, and allow migrant workers the same access to justice enjoyed by all Malaysian workers as mandated by the Manpower Department of the Ministry of Human Resources.
- iii. Set up an oversight consultation body consisting of government, private sector, trade unions, non-governmental organisations and migrant leaders to monitor and improve the system.

4. Stop arbitrary arrest and detention of undocumented migrants.

- i. Decriminalise and settle work permit issues, including any deportation of migrant workers, according to human rights standards.
- ii. Immediately cease the harsh treatment of migrant workers in overcrowded detention centres and other methods of torture.

- iii. Study, test and implement alternatives to detention.

5. Facilitate access to justice for migrant workers who file complaints against their employers.

- i. Allow migrant workers' work permits to be cancelled immediately after they have filed cases against their employers with the relevant departments. These workers should be issued special permits at minimum cost so that they can continue to work while their case is being addressed.
- ii. No migrant must face justice without representation. The National Legal Aid Foundation must allocate a quota for foreign nationals to access quality and effective legal aid services.

6. Grant migrant workers universal healthcare.

All migrant workers should have access to universal healthcare.

(Adrian Pereira, North-South Initiative, Proposal 2G2-2)

The healthcare system must not have a separate discriminatory costing tier for migrant healthcare. The levies that migrant workers pay should go towards paying for subsidised healthcare. Most migrant workers earn around the minimum wage, currently RM1,200, a sum which largely constrains their ability to save and spend on healthcare treatment.

7. Give migrant workers the right to decent work in accordance with Malaysia's labour laws.

Migrant workers should be given the freedom to exercise their rights related to labour matters, which includes collective bargaining with employers via forming and leading unions of their own sector or labour interest.

8. Amend laws to strengthen action against forced labour and modern-day slavery.

- i. Criminalise forced labour or modern slavery independent of anti-trafficking laws.
- ii. Ensure Malaysian laws also cover modern forms of exploitation, such as psychological coercion, deception, fraud and abuse of vulnerabilities.

- iii. Increase sanctions for forced labour, modern slavery, human trafficking and smuggling of migrants.
- iv. Hold corporations and supply chains accountable for any practices that support human trafficking and modern slavery.

(Firdaus Husni, MCCHR, Proposal 2G2-1)

9. Ratify all basic conventions on migrant work and workers by the ILO and the UN.

- i. It is especially urgent to ratify ILO Convention 189, which pertains to the rights of domestic workers, a grossly under-regulated sector in Malaysia.
- ii. Ensure integration of the Global Compact for Safe, Orderly and Regular Migration into national policies, laws, regulations and enforcement.

(Adrian Pereira, North-South Initiative, Proposal 2G2-2)