



Photo courtesy of JCMK

Members of the Joint Committee for Migrant Workers in Korea show their solidarity in protesting the crackdown on undocumented workers in Malaysia.

## MALAYSIA

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### Political and Economic Update

The year 2003 was a historic one for Malaysia, with the retirement of then Prime Minister Mahathir Mohammad, who had tightly held the office for 22 years. Abdullah Ahmad Badawi, Mahathir’s Deputy, took over in October 2003, and was elected Prime Minister in March 2004 in a landslide general election. In the 11th General Election held on 21 March 2004, Barisan Nasional (BN), the ruling coalition, scored a major victory by winning 63.8% of the popular vote (up from 56% in 1999). In Malaysia’s first-past-the-post (or simple majority) electoral system, this translated into 198 of the 219 parliament seats, or 90.4% of all the

seats in parliament.

The new Prime Minister, Abdullah Ahmad Badawi, was originally portrayed as “Mr. Clean” with a strong commitment to fight corruption in Malaysia. Over time, however, a different face of this new Prime Minister has become evident, and some say that corruption has increased.

Malaysia faced SARS fears early in 2003, reacting with a freeze on migrant workers’ visas and travel restrictions on those coming from high-risk SARS countries. The government implemented health checks on incoming migrant workers, while its border with Singapore was also worrying, as millions of Singaporeans crossed into Johor in the beginning of April, fleeing SARS in Singapore. Bans on incoming workers were later lifted, although some workers, such as those from Vietnam, were required to submit health certificates prior to obtaining visas, and were even quarantined for 10 days upon arrival in Malaysia.<sup>1</sup> In all, Malaysia reported 59 suspected SARS cases.<sup>2</sup>

Malaysia sees its borders as a national security

issue, and the government tried to prevent undocumented migrants from various countries from entering the country. On the Thai border, Thailand and Malaysia began joint land and air patrols as part of a new security pact, purportedly to prevent terrorist movements. Joint air and sea patrols were also launched with the Philippines in April 2003, at least in part due to military conflict in Mindanao, amidst warnings that military offensives would cause residents to flee to Malaysia.<sup>3</sup> Malaysia also increased coastal patrols aimed at warding off undocumented Acehnese migrants. Despite its efforts, evidence shows that undocumented migrants continued to pour in.

The issue of Malaysia's treatment of Acehnese migrants heated up during the year. Malaysia's refusal to grant refugee status to Acehnese displaced by the territory's conflict with the Indonesian government drew criticism from UNHCR. Amnesty International also decried the government's planned deportation of the Acehnese in the custody of immigration and police officials. On the other side, Malaysia was under pressure from the Indonesian government to deport any Acehnese asylum-seekers. Caving in to pressure, Malaysia's foreign minister stated that Malaysia would not grant political asylum to Acehnese in the country. Malaysia has been urged by UNHCR to ratify the Geneva Convention on the status of asylum-seekers; this would require Malaysia to categorize whether asylum-seekers are refugees or economic migrants, an urgent issue for many of the estimated 10,000 Burmese and 7,000 Acehnese seeking temporary asylum in Malaysia. The UNHCR has been active in registering asylum-seekers in Malaysia. In 2003, the UNHCR registered 15,000 new asylum-seekers, mostly from China and northern Rakhine states in Myanmar, as well as from Aceh.

In contrast, in April 2004 the Malaysian government announced it would give refuge to Thais displaced by the violence in Southern Thailand, although it said that it did not intend to set up long-term refugee camps. This move was due in part to Malaysia's Islamic fundamentalist opposition party, which protested the killings of suspected Muslim insurgents and urged international action to stop the violence.

Economically, Malaysia has been flourishing,

as its GDP grew 5.3% in 2003 with predictions of 7% growth in 2004. Part of this growth was attributed to rising consumer and business confidence and investments, while its political stability, developed infrastructure and diversified economy make it a competitive location for investment in Asia. Malaysia recorded a multi-billion trade surplus in 2003 due to higher export revenues as well as foreign direct investments, and trade between the US and Malaysia reached USD40 billion in 2004. Growth was led by the manufacturing sector.

## Migration Update

### *Malaysian Migrants Overseas*

Malaysia is both a sending and receiving country for migrant workers. It recorded over 250,000 Malaysians working overseas in 2003, mostly classified by the government as highly skilled. In 2001, the government started a campaign to lure these workers back to Malaysia, offering incentives such as tax exemptions on remitted income and assurances of residency for non-Malaysian spouses. The campaign was largely unsuccessful, however, with only 104 returning since January 2001; low salaries and unattractive perks were reasons cited for the overseas workers' reluctance to return.<sup>4</sup>

The government is now closely monitoring its deployment of highly skilled Malaysians overseas. For example, while the government has targeted the overseas market for nurses, the government may not permit Malaysian nurses to seek employment abroad until the local shortage in health care professionals has been filled.

### *Migrants in Malaysia*

Malaysia is one of Asia's largest importers of labor. Foreign workers, both documented and undocumented, comprise around 2.6 million of its 10.5 million workforce.<sup>5</sup> Some say that the actual number may be even as high as 3-5 million. According to Amnesty International, government statistics indicate that through 1 June 2004, there were at least 1.3 million documented migrant workers in Malaysia (an increase of about 500,000 since 2003) and between 700,000 to 1.2 million undocumented migrant workers. According to a

## Malaysia Significant Events 2003 - June 2004

### 2003

#### January

(28) Deputy Prime Minister Badawi lifts restrictions on Indonesian migrant workers, particularly in the construction and manufacturing sectors.

#### March

(1) According to a circular issued by the Immigration Department, foreign wives on social visit passes who have lived in Malaysia for three years or more can now seek employment in the country.

(10) Director-General of Immigration announces the introduction of a blacklisting system against employers found to have

abused their foreign domestic workers.

#### April

(1) Malaysia imposes a freeze on the hiring of migrant workers from designated countries as a response to SARS.

#### September

(15) Malaysia and China sign an MOU for the deployment of Chinese migrant workers to Malaysia to work in ceramics and furniture.

#### October

Mahatir Mohamad steps down as Prime Minister, after 22 years in office. Mahatir's Deputy, Abdullah Ahmad Badawi, takes his place.

### December

(1) Malaysia and Vietnam sign an MOU on the deployment of over 60,000 Vietnamese migrant workers.

### 2004

#### March

(1) New requirement takes effect whereby foreign workers in Malaysia must attend classes on Malaysian language and culture.

(21) Prime Minister Abdullah Badawi is elected Prime Minister in general election.

#### Sources:

*BBC News, Scalabrini Asian Migration News*

recent newspaper report, records show that 15,452,112 foreign nationals entered Malaysia in 2004 but only 9,599,125 people left the country during the year – meaning that about 5,852,997, or 38% of the total arrivals, overstayed.<sup>6</sup>

It has been argued that migrant workers could comprise 30% of Malaysia's workforce within the next few years, as Malaysian businesses benefit from cheaper labor from the Philippines, Indonesia, Bangladesh, Nepal and India, especially to work in the lower-paid sectors of construction, agriculture and services.<sup>7</sup>

Despite their contributions to Malaysia's economy, many migrant workers face extreme hardship in Malaysia. According to the report by Amnesty International, "many migrants work and live in inadequate conditions, without access to basic services and at risk of physical and sexual abuse. They are subject to weak recruitment regulations and limited legal protection, and vulnerable to exploitation by unscrupulous recruitment agents and employers."<sup>8</sup> Undocumented migrant workers are particularly vulnerable.

The Malaysian government continues its all-out war against undocumented migrants, despite every indication it is fighting a losing battle. Unable or unwilling to reform the systemic problems which contribute to undocumented migration, the government has taken an ad hoc approach, cracking down on undocumented migrant workers while recruiting additional migrants to take their place; meanwhile, employers, police, immigration officials and corrupt agents commit human rights abuses at all stages of the process.

The crackdowns are an integrated, multi-agency approach labeled 'Ops Nyah Bersepadu II', which was launched in February 2002 and led to the deportation of 200,000 undocumented migrant workers. 'Ops Sayang' was a raid on nightspots hunting down sex workers, while 'Ops Pintu' consisted of a full-scale door-to-door search for undocumented foreign domestic workers. 'Ops Mahir' apprehended undocumented migrant workers at their workplace. Press reports throughout the year announced periodic raids and round ups. But the futility of the crackdown was evidenced by increasing border patrols, which

focused on apprehending undocumented migrants trying to enter the country; many of these were returning after having already been deported.

During the crackdowns, police authorities also used bulldozers to demolish tens of thousands of makeshift homes in migrant workers' settlements. In 2004, a citizen's volunteer corps, Relu, was authorized to arrest undocumented migrants. With over 200 volunteers, Relu was even given the power to search travel documents, arrest, detain, and enter premises where migrants could be hiding.<sup>9</sup> Despite promises that Relu members would be closely monitored, the possibility for abuse is high.

These initiatives caused the prisons to overflow with migrant workers. In 2003, the Deputy Home Minister stated that over 25% of prisoners on Malaysian jails were foreigners; by June 2004 there were more foreign prisoners than Malaysians.<sup>10</sup> Statistics showed that migrants in the Sungai Buloh prison included those from Indonesia (174), India (75), Burma (67), Bangladeshi (47), Pakistani (24) and other countries (41) such as Iran, Cambodia, Namibia, South Africa, China, Singapore, Vietnam, Sri Lanka, Nepal, Thailand, Nigeria, Peru and France. Migrants in the Kajang Women's Prison included: Indonesians (167), Chinese (70), Filipinos (57), Thai (45), Vietnamese (27), Taiwanese (18), Burmese (17), Cambodians (17) and others (50), including migrants from Bangladesh, Columbia, Congo, Argentina, Uzbekistan and Sri Lanka.

To make matters worse, some foreigners were subjected to continued detention even after serving out their prison terms. Datuk Hamdan Adnan of the Human Rights Commission of Malaysia (Suhakam) reported that some foreigners were detained up to four months after their terms ended. In addition, immigration detention centers have been housing ever increasing numbers of migrants, exacerbating abuses and poor conditions in the detention centers.

### **Conditions In Immigration Detention Centers**

In its 2004 study, Amnesty International found that prisoners in detention centers were suffering from overcrowded conditions, poor hygiene and sanitation, health issues, inadequate nutrition, and even verbal and physical abuse.<sup>11</sup> According to the report, Suhakam commissioners visited the

detention centers in 2003, and reported specific violations; for example, in a detention center in Sik, Kedah, there were 652 detainees in the center, although the capacity was only 400. Another center had an overflowing septic tank. At Macap Umboo detention center, there had been a recent outbreak of meningitis.

Suhakam recommended that the operation of detention centers should be transferred to Malaysia's Prison Department, and that conditions in the centers should be brought in line with the UN Standard Minimum Rules for the Treatment of Prisoners. In January 2004, Malaysia's Deputy Home Minister announced that the government would take steps to improve deportation centers, and that the operation of the centers would be transferred to the Prison Department.<sup>12</sup>

In September 2004, detainees in the Semenyih Detention Center for undocumented migrants went on a hunger strike in protest of the poor conditions. Following promises by Malaysian authorities to improve access to medical care and basic conditions of the detention center, the strike ended after three days.<sup>13</sup> Conditions are reported to have since improved partly due to less overcrowding, renovation of toilets and increased access to water.

Malaysia is a signatory of the 1999 Bangkok Declaration on Irregular Migration, which states that "Irregular migrants should be granted humanitarian treatment, including appropriate health and other services, while the cases of irregular migration are being handled, according to law. Any unfair treatment towards them should be avoided." Unfortunately, Malaysia still has a long way to go in order to fulfill its declaration. In particular, NGOs have documented many abuses against migrant workers during the crackdowns. Deportees reported being rounded up, jailed and placed on board ships for repatriation without due process.

Migrant workers are extremely vulnerable to human rights abuses during the deportation process, and the occurrence of physical and sexual violence have been well reported. Even Prime Minister Badawi's report to the parliament stated that "...from 1990 till September last year [2004], a total of 1,583 deaths among prisoners were recorded in 28 prisons nationwide, with the highest number in 2003 when 279 inmates died. During the same

period, 150 detainees died in police lock-ups or custody.”<sup>14</sup>

There have also been reports of periodic incidents of physical and sexual abuse by guards at Immigration Detention Centers, as described by former Bangladeshi migrant workers testifying during the trial of human rights defender Irene Fernandez.<sup>15</sup> Two particular instances of rape made international headlines. In one case, a police officer was arrested and later charged of raping two undocumented migrant workers in a police lock-up in 2002. Although the rapes were recorded on closed circuit television, the judge acquitted them because the women voluntarily undressed, did not scream, and were not bruised.<sup>16</sup> Another incident which occurred during the 2002 deportations involved the rape of a 13-year-old girl, thought to be Filipino, while in an immigration detention center in Sabah. The Philippines filed a diplomatic protest; the girl was later discovered to be a Malaysian citizen.

### **Corporal Punishment**

Besides prison sentences and deportation, migrants faced mandatory caning. The Immigration Act 1959/63 was amended in 2002, and the amendments came into force on 1 August 2004. Whipping was introduced as a penalty for undocumented migrants and employers who employ more than five undocumented workers. Section 6 of the Act stipulates that an undocumented migrant arrested, charged and found guilty would be “liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both, and shall also be liable to whipping of not more than six strokes.” For those who employ undocumented migrants, section 55B states that they will be liable to a fine of fifty thousand ringgit or to “imprisonment for a term not exceeding twelve months or to both”; if it is found that the employer has employed more than five undocumented migrants, he or she shall be liable to imprisonment of six months to five years, and “shall also be liable to whipping of not more than six strokes.”

The Amnesty International report discloses that from around 2002 to 2004, approximately 18,000 undocumented migrants were caned in Malaysian prisons, with another 16,900 in line for the same

treatment. Employers also face prison sentences, fines and caning for harboring undocumented migrant workers. Although the Commissioner of the Human Rights Commission of Malaysia has condemned caning as a cruel and inhumane treatment,<sup>17</sup> and appealed to the government to reconsider this practice, the canings continue.

### **Migration Restrictions**

The government expanded its attention to penalizing employers as a new strategy to curb undocumented migration.<sup>18</sup> The government implemented a blacklisting system which will ban employers found guilty of abusing their foreign domestic workers from hiring new ones.<sup>19</sup> The hiring ban will last from one to two years for nonpayment of wages; two to three years for employers found guilty of verbal and emotional abuse; a lifetime ban plus up to seven years’ imprisonment and fine for employers who physically abuse their domestic worker. Employers found to have forced their domestic workers to work in other businesses such as nightclubs, restaurants and mini-markets could receive up to 12 months in jail, fines, and will also be blacklisted for life. Besides employers, the Commercial Vehicle Licensing Board warned public transport operators that anyone who assisted undocumented migrant workers would face suspension or have their license revoked.

The Malaysian government has imposed compulsory medical screening for all migrant workers entering the country.<sup>20</sup>

The government also considered religion-based restrictions on the employment of foreign domestic workers. The proposal, which would have barred non-Muslim employers from hiring Muslim domestic workers, was severely criticized as a step backward in religious integration, and would have affected over 150,000 non-Muslim employers with Muslim domestic workers.<sup>21</sup> The government ultimately discarded the idea, but did mandate a reciprocal pledge system, whereby domestic workers would sign a letter of agreement declaring their willingness to work for non-Muslim employers, while employers would also sign a letter declaring their respect for the rights of Muslim workers to practice their faith.<sup>22</sup>

Although the government is considering ways



Photo courtesy of MFA

**Migrant Forum in Asia delegation meets with the Malaysian Human Rights Commissioner to advocate for migrants' rights. Kuala Lumpur, 2005**

to reduce its dependence on foreign domestic workers, many local women shun such jobs which they consider demeaning.<sup>23</sup> Nonetheless, in 2004 the Human Resources Ministry announced plans to establish training centers to train locals to work as domestic workers. The centers are hoped to be operational by the end of the year, and aim to train around 3,000 domestic workers per year.<sup>24</sup> There was also talk of a long-term government plan to build family home complexes which would improve family support and perhaps reduce reliance on FDWs.

Throughout 2003, government deportations of undocumented migrant workers led directly to labor shortages, and in December Malaysia's Human Resources Minister said that the country needed about one million foreign workers. Shortages occurred in Malaysia's agricultural, construction, manufacturing and services sectors, costing millions of dollars in losses. The government attempted to address the problem using several approaches. One method was to lower the levy charged to employers hiring foreign construction

workers, which will apply to new hires. The government also signed MOUs to allow importation of workers from Bangladesh, China, Pakistan, Sri Lanka, Thailand and Vietnam, although these agreements won't entirely cover the manpower demand. For example, 46,000 Vietnamese workers were hired for the construction and manufacturing sectors, but 200,000 more are needed. Shortages also extended to small businesses, prompting the Human Resources Ministry to look into allowing small business owners to hire foreign workers;<sup>25</sup> this could also help reduce the incidence of employers forcing foreign domestic workers to work illegally outside the home. Employers have been reported to hire domestic workers and force them to work in the employer's commercial establishment. This abusive practice may be due in part to the lower levy rate for domestic workers, which is less than half of that imposed on employers hiring general workers.

### Tensions Among Migrant Workers

The press reported numerous violent incidents among foreign workers in 2003, prompting the government to take action. Incidents ranged from rival gang fights to riots involving hundreds of workers. The State Immigration department issued a warning that migrant workers involved in fights would be blacklisted; many of the workers arrested during such incidents are promptly deported. Employers in some areas confined migrant workers to their workplace, while others were forced to wear identification tags to restrict entry in the workplace.<sup>26</sup> The Human Resources Ministry even directed factories to house workers of different nationalities in separate living quarters.

While Malaysia's National Unity Department worried over the increasing trend of racial polarization in the workplace, the government implemented mandatory training courses for all migrant workers.<sup>27</sup> The courses cover Malay and English languages, as well as the customs and way of life in Malaysia, and is intended to reduce social problems caused by conflict and misunderstandings among the workers. Would-be migrant workers to Malaysia must complete the course in their home countries prior to receiving their work visas, while migrants already in the country will undergo a two-week course. This will affect around 700,000 foreign workers in Malaysia, who will have to pass an objective test upon completion of the course. The test will not only cover Malaysian culture and language, but will also test the workers' knowledge of local labor laws and regulations as well as methods to seek redress. The Human Resources Ministry also held talks with companies to pressure them to conduct orientation courses for migrant workers.<sup>28</sup> The new laws apply to all foreign workers except foreign domestic workers.

In 2004, retrenchments among local workers caused local labor unions to speak out against hiring foreign workers, accusing employers of preferring to hire migrant workers because their labor was cheaper. In one incident, hundreds of local workers picketed against the company Goodyear for its policy of hiring migrant workers. Employers, however, argued that they needed migrant workers in order to complete their projects on time, and that many local workers were reluctant

to take the dirty, dangerous and demeaning ("3-D") jobs.

In response to pressure from local workers as well as to increasing worries about violence amongst migrant workers, the government considered measures to limit migrant labor.<sup>30</sup> Among these were requiring ministry approval to hire migrant workers, which would be based on need; requiring employers to advertise vacancies in major local newspapers prior to hiring migrant workers; and even stopping the subcontracting system whereby contractors hire migrant workers in lieu of the company itself hiring the workers. The government intended to draw up a "Human Resource Master Plan" to reduce dependence on migrant labor. Not long after, however, came additional reports in the press of manpower shortages.

### Migrant Groups in Malaysia

#### ● Indonesians

Relations between Malaysia and Indonesia over the matter of migration have long been shaky, and 2003 was no different. Indonesia issued a moratorium on sending domestic workers to Malaysia due to various reports of cases of abuse. One report stated 149 Indonesian domestic workers sought help from the Indonesian embassy in Kuala Lumpur, fleeing mistreatment from their employers. Prime Minister Badawi was unmoved, suggesting that Malaysia could look elsewhere for domestic workers. The two governments later worked together, however, to sign an agreement regulating employment agencies whereby only employment agencies recognized by both countries are to recruit workers; Malaysian employers can no longer recruit workers directly from Indonesia.<sup>30</sup> The purported goal of the new measures will be to standardize the recruitment process, provide training to the workers, and implement a system monitoring the workers' well-being. Only 350 Indonesian agencies will be authorized to deploy domestic workers.

The effectiveness of such measures is uncertain; one study reported that over one-third of the Indonesian workers in Malaysia are recruited by unlicensed agencies. Also, studies of current practices by Indonesian recruiters in other countries (such as Hong Kong) indicate that the charging of excessive agency fees is widespread and contributes

greatly to the hardship of Indonesian migrant workers.

In a legal victory for an Indonesian migrant worker, Malaysia's Labor Department processed the case of Supaihan Eleh, who claimed abuse and nonpayment of wages. The case resulted in her receiving compensation of MMR12,250 from her employer, and charges under the Employment Act may be filed against the employer for late payment of wages.<sup>31</sup>

#### ● Indians

There is a large disparity between different groups of Indian migrant workers in Malaysia. The majority are workers in the construction industry, plantation and service sectors. Only about 40,000 Indian workers are IT professionals, many of whom work in Malaysia's IT zone. Other professional Indian migrants work as doctors, engineers, and academics. A diplomatic row involving professional migrants occurred in 2003 when Malaysian immigration officials took custody of 270 Indian IT migrant workers. They were alleged to have problems with their visas and held in detention centers; ultimately, only ten of the 270 were in fact found to have problems with their visas. India filed a diplomatic protest, and threatened repercussions if Malaysia failed to take strict action against those responsible. Malaysia ultimately issued an apology for the incident.

Other Indian migrant workers working in factories and in the construction industry faced difficulty during the year, as 39 Indian workers claimed their employer, a rubber factory, failed to pay the workers the full salary under the contract. They alleged that anyone who complained were promptly deported. The matter reached the attention of Prime Minister Badawi, who allegedly ordered a police investigation on the matter.

#### ● Bangladeshis

Malaysia's Human Resources Ministry signed an MOU with the Bangladeshi Embassy on recruitment requirements applicable to Bangladeshi migrant workers, including proficiency in Malay and English.<sup>32</sup> The MOU requirements will also apply to Pakistan, Bangladesh, Cambodia and Kyrgyzstan. It was implemented following a fight between Bangladeshi and Vietnamese workers who

did not understand Malay or English.

#### ● Filipinos

According to data from the Philippine Overseas Employment Administration, the number of documented Filipinos working in Malaysia dropped from 7,891 in 2003 to 6,319 in 2004, a decrease of almost 20%. In addition, crackdowns against undocumented migrant workers in Sabah heavily affected Filipino migrants; in October 2003 it was reported that about 9,000 undocumented Filipino migrant workers have been deported.<sup>33</sup>

#### ● Burmese

7 Burmese workers were deported after complaining to the Labor Department of appalling living conditions in the factory-provided living quarters. The Labor Department inquiry was ongoing when the retaliation was made by the employer, a Butterworth-based garment factory.

#### ● Thais

On 12 October, the Malaysian government signed an MOA with Thailand to recruit Thai workers for the manufacturing sector.

#### ● Vietnamese

In 2003 there were over 32,000 Vietnamese migrant workers in Malaysia, primarily in the construction and manufacturing industries. This will likely increase as the two countries signed an MOU on 1 December to hire 67,000 more workers.<sup>34</sup> The Vietnamese workers were exempt from the restrictions imposed on Bangladeshi and other migrant workers which required them to speak either English or Malay.

Hanoi officials expressed concern during the year over violent incidents between different groups of migrant workers. In response to a fight that broke out amongst factory workers involving 40 Vietnamese workers, the Guest Workers Management Department sent a fact-finding team to Malaysia. The team investigated recruiting agencies and ultimately suspended the operations of three firms; in 2003 there were around 46 Vietnamese labor export companies operating in Malaysia.

The Vietnamese embassy in Malaysia was also forced to deal with the issue of Vietnamese migrant workers who sought help in returning home. Migrant

workers claimed they had not been paid their wages for some months, while others were laid off with little notice when their factories closed. Some of the workers were repatriated, while those who opted to stay in Malaysia were allowed by the Immigration Department to be employed by other factories on humanitarian grounds.

### ● Chinese

China and Malaysia signed an MOU in September to bring Chinese workers to work in Malaysia in the sculpting, pottery and ceramic manufacturing industries.<sup>35</sup>

In reaction to reports of Chinese women working in the sex trade, the Malaysian government tightened visa rules for young female tourists, including those from China.<sup>36</sup> Many of these women appeared to have been trafficked; the Malaysian Chinese Association (MCA) reported receiving 173 cases of Chinese nationals being cheated in Malaysia, with most reporting they were forced into prostitution.<sup>37</sup> Statistics show an increased number of Chinese arrested for immigration violations in the past years, from 891 in 2001 to 2,382 in 2002.

Chinese migrant workers appear to be extremely vulnerable to abuse from fraudulent agents. Hundreds of Chinese workers were victims of agents, some of whom promised the workers non-existent jobs in construction sites, while others claimed they were given fake work permits or jobs different from the ones promised. Many said they were never paid. The workers, however, paid huge sums to the agents, ranging from about RMB100 – 40,000 (USD60 – 4,829).<sup>38</sup>

### ● Nepalis

This is now becoming the second largest group of migrant workers in Malaysia, and there is said to be about 300,000 Nepalese laborers in Malaysia.

### **Trafficking**

Human trafficking remains a serious problem in Malaysia, and the Human Rights Commission of Malaysia has reported growing incidents in the country. The State Immigration Department cites its 1,600 km border as a limitation, although it did make arrests in regard to a trafficking syndicate working out of the Kuala Lumpur International

Airport. Airport security was tightened as a result of the arrests, however, many critics believe more systemic changes are necessary.

Some cited Malaysia's Child Act 2001 as insufficient, lacking provisions for the rehabilitation and protection of child trafficking victims. The WAO criticized Malaysia's legal system, particularly the practice of punishing trafficking victims rather than the perpetrators, often putting victims in jails or detention centers upon their rescue. One visit to Kajang prison found 1,480 female prisoners, many of whom were ascertained by Suhakam to have been trafficked. The largest number of these were Indonesian, followed by Chinese women. It is believed that many Indonesian women are brought in under the pretense of working as domestic workers and then forced into sex work, while Chinese women are tricked by syndicates who advertise large salaries in Chinese newspapers.

## Responses

The Malaysian Trade Union Congress (MTUC), the biggest labor organization in Malaysia with around 500,000 members, has recently resolved to step up its actions to respond to migrant workers' issues and needs. Resolutions issued at the MTUC Conference on Migrant Workers on April 18-19 2005 include, among others, to organize migrant workers, disseminate information relevant to working in Malaysia, provide opportunities for skills enhancement, and work out a standard model MOU and contract for the recruitment and employment of migrant workers.

The Bar Council (Malaysian Bar) continuously speaks out against violations of the rights of migrants, and assists migrant workers through its Legal Aid Centers. For those who end up in the criminal justice system, the Bar Council Legal Aid Centers provide legal advice and legal representation as well as psychological support when needed. In September 2003, Bar Council Legal Aid Center (Kuala Lumpur) launched its Kajang Women Migrant Prison Clinic, and in May 2004 it started its Sungai Buloh Migrant Prison Clinic which houses male migrants. The program mainly focuses on remand prisoners, those who

have been charged in court and are awaiting trial and/or sentencing. From May 2004 until December 2004, the Sungai Buloh program assisted 438 migrants, while the Kajang Women's program assisted a total of 473 migrant women in 2004.

In addition to its Prisons program, the Bar Council Legal Aid Center (Kuala Lumpur), in collaboration with Tenaganita, runs a migrant complaints program, which receives and deals with complaints received from migrants. In 2004, 262 complaints were received from some 1,121 complainants. From these, about 42 cases were filed in civil, labor and industrial courts.

In response to the mass crackdown towards the end of 2004, an Urgent Arrest Task Force was set up to make quick interventions at police stations when migrants are arrested. In addition to the Bar Council Legal Aid Center in Kuala Lumpur, the Bar Council assists migrant workers through its ten other Legal Aid Centers all over the country.

Tenaganita, a prominent NGO working in Malaysia, runs a Migrants Rights & Health program, as well as a Domestic Workers program. In June 2004, Tenaganita launched a Domestic Workers Action Line to handle migrants' complaints. Tenaganita has also started a Migrant Reintegration program.

A number of NGOs are establishing programs to help foreign domestic workers in Malaysia. Sarawak Women's Society for Women Society (SWWS), which currently provides counseling for battered women, announced plans to provide services targeted to foreign domestic workers (FDWs) in Sarawak. The organization also offers information for women workers, including domestic helpers, and support women workers networks. Women's Aid Organization (WAO) runs a shelter as well as a hotline for sexual assault victims, and also offers counseling. The organization has conducted research on the growing problem of FDW abuse in Malaysia.

Several other NGOs are also doing a lot of work with migrants and refugees, although they prefer not to be identified or named. Such groups have been doing excellent work for migrants, but prefer to work quietly so that their present work and access to migrants will not be jeopardized.

In addition to specific programs designed to help migrant workers, organizations working for

human rights in Malaysia have also assisted migrant workers. Suhakam has conducted substantial research on the conditions of vulnerable groups in Malaysia, including migrant workers. Suhakam has studied conditions in prisons and detention centers and provided recommendations to the relevant authorities.

Amnesty International Malaysia has also provided in-depth reports on the conditions of migrant workers in the country, pressuring the government for reform.

Suara Rakyat Malaysia (SUARAM) and the National Human Rights Society (HAKAM), are human rights groups that do primarily advocacy work for migrant rights. The Labour Resource Center (LRC) provides education on labour rights and also is working towards greater recognition of the rights of migrant workers in Malaysia. They work in collaboration with the MTUC and other groups.

There are also many church groups that are working with migrants in the various towns.

Migrant Care, an Indonesia-based civil society organization, is also active in helping and assisting Indonesian migrants. It is involved in taking up labor cases, advocacy and support services for domestic workers.

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#### Endnotes

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