

Repression Among Foreign Workers In Malaysia

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Abstract

Hazardous, dirty and dangerous workplace; wage and safety violations; employer threats; and violating rights are among the repression condition that faced by the foreign workers in Malaysia. Similar trends can be observed in other countries as well. This paper focuses on the repression faced by foreign workers in Malaysia and suggesting that foreign workers who undergo legalization process can reduce their repression significantly. Since they can enjoy rights as a legal worker, the employer would not treat them abusively. In mid 1980s, the Malaysian government formulated policies to deal with large number of foreign workers including illegal immigrants. Among the policies are levy payment, work permit, minimum wage, i-card, legalization and amnesty. One of the most popular policies is legalization. Many developed countries such as United States, European Union and United Kingdom had implemented legalization of illegal immigrants for mostly, economic benefits. In Malaysia, there are series of legalization efforts for illegal immigrants. Legalization can be used as a tool to change the status from illegal to legal worker in Malaysia. Repression and repression related deprivations can be reduced significantly and a conducive climate of life and work is achievable.

Keywords: *repression, foreign worker, legalization, policy implementation*

INTRODUCTION

“Working 12 hours a day in a Malaysian electronics factory accompanied by broken promises on wages and working conditions, Manu dreams of returning to his poor Nepal village but is restrained by invisible restraints. His passport has been illegally confiscated by his employers at the Japanese-owned plant on Kuala Lumpur’s rough border, and he is struggling to pay off recruitment fees he owes them. He faces additional fines if he leaves the job.”

(Free Malaysia Today, 2014)

The above snapshot is one of the experiences faced by the foreign workers who work in Malaysia. Many of them came to Malaysia through arrangements of the intermediaries known as agent. To secure their business, agents are prone to use sweet promises on the wage, the employer and the type of work. Foreign workers on the other hand, need to pay for their promised occupation and stay in Malaysia. Some amounts requested by the agents are unreasonable, but they do not have any choice if they want to find a job in the country. To meet this requirement, some foreign workers borrow

money from relatives or friends. Some even sell their properties including their houses just to pay the agent and a ticket to Malaysia.

Besides the common challenges to adapt to the surroundings in foreign land, foreign workers need to confront a generally negative attitude towards them by most of the local resident. To a certain extent, Malaysians associate foreign workers with crimes, diseases, and multitude of social problems. Obviously, there are other contributors to those problems as well. Thus, in many cases, simply by calling the foreign workers are often greeted with a smile cynical and negative. Malaysian Employers Federation (MEF) executive director Datuk Shamsuddin Bardan said some even believe that the influx of foreign workers is the main reason for rising crime rates in the country. This is not true as the fact that criminal cases involving foreign workers are only less than 10% of the total number of criminal cases across the country (Teh, 2015).

FOREIGN WORKERS IN MALAYSIA

Definition of foreign worker can be varied based of focus among scholars and studies. One definition depicts that a foreign worker is a person who works in a country other than the one of which he or she is a citizen (Siti, 2014). The term foreign workers authorize a group of foreign nationals who has legal right to work in a country where they have been officially recruited (Zehadul et al., 1999). Other definition looks at foreign workers as person who comes from a mass of nationality groups, living and working with diverse legal status in a particular country (Miller, 1991). In this study, a foreign worker refers to those coming from outside the country that have legal document to work in Malaysia.

Whatever the label would be; migrant worker, guest worker, foreign labor or for the professional working class, the term 'expatriate' is still used, the term "migrant worker" has various connotations in different parts of the world. According to the United Nations, the definition is broad and it may include any persons working outside of their country of birth. In Malaysia, according to Fair Labor Association, an international non-profit collaboration promoting international labor laws migrant worker come from more than 12 countries in Asia with the majority coming from Indonesia. Bangladesh, Nepal, India, Pakistan, Vietnam, Cambodia, Thailand and the Philippines also supply a large number of the migrant workers population to Malaysia (Teh, 2015).

The flow of foreign workers from one country to another has become a global issue. The world today is flooded with foreign workers, especially illegal immigrants,

entering the country of destination to find better job opportunities. Although foreign workers are welcome to meet labour shortages, their continual arrival has created some issues and concerns (Rohani, 2012). One of them is illegal immigrants. Malaysia also is no exception in the case of illegal immigrants. According to Azizah (2012), the illegal immigrants started to enter our country and most of them are being smuggled after the independence of Tanah Melayu (Malaysia). The reason for the increase in the number of foreign workers in 1970's is to support the shortage of labour force for the economic growth in Malaysia (Azizah, 2012). Since that, the number of foreign workers keeps increasing and now has become a national issue in the country.

According to the Minister of Human Resource, until November 2015, Malaysia has approximately 6.7 million foreign workers. Apart from that, only 2.1 million have work permit and registered with the Malaysian Immigration Department. According to the Ministry of Home Affairs, until the second quarter of year 2016 (30 June 2016), the number of foreign workers with Temporary Work Visit Pass (PLKS) which are legal and active is 1,940,108 persons. The pass is issued by the Immigration Department of Malaysia. Based on the data from the Ministry of Home Affairs, Immigration Department of Malaysia and Economic Planning Unit, there are of foreign workers missing from the record. This could entail to an alarming security issue.

Table 1 presents the statistics of legal foreign workers, illegal immigrants (PATI) and non-Malaysian citizen populations in Malaysia from 2012 to 2015. Although the statistics for PATI has shown a remarkable decrease by almost a million, the number is still huge (3.1 million). The legal foreign workers maintain a steady number of 2.1 million. As stated before, the number of foreign national in our country are 6.7 million and it become a shocked to the Malaysian government because the number is increasing year by year. It is also interesting to note that the non-Malaysian citizen population is also huge, 3.1 million in 2015.

Table 1: Statistic of Foreign Workers, Illegal Immigrants and Population of Non Malaysian Citizens in Malaysia

	2012	2013	2014	2015
Legal Foreign Workers (PLKS)	1, 595, 162	2, 250, 322	2, 073, 414	2, 135, 035
Illegal Immigrants (PATI)	Not Available	1, 500, 000	4, 600, 00	3, 200, 000
Non Malaysian Citizens Population	2, 670, 000	2, 888, 000	3, 072, 000	3, 125, 000

Source: The Malaysian Economy in Figure 2016, Economic Planning Unit, Malaysian Immigration Department (2016) and i-Statistic Ministry of Human Resource 2014-2016

Due to the problem of increasing number of illegal immigrants and the problems associated with them, Malaysian government has introduced legalization initiative as a mean to register and to ensure them of becoming law abiding population and workers. Legalization programme has emerged since 25 years ago and becomes as one of the mechanisms of the state to account and manage the population of illegal immigrants in their countries, and are usually carried out together with the strengthening of internal and external migration control (Levinson, 2005). Legalization must be carried with cost effective because it is crucial and must achieve the primary purpose of reducing the number of illegal immigrants in a country. It is can be controversial because legalization must balance competing goals. Successful legalization must meet the goals of reducing the illegal immigrants' population and at the same time not creating a future illegal immigration (Rosenblum, 2010).

Many countries had implemented legalization including the United States, Italy, France, and Spain, to name a few. This measure is also used by the Malaysian government to legalize the status of illegal immigrants in this country. In the study of legalization and repression among foreign workers, legalization plays an important role to show if there is a reduction in repression among foreign workers work in Malaysia. Logically, legalization can offer legal status to the illegal immigrant to secure better job, better life and better pay. There should be no more repression, exploitation or abuse in the life of foreign workers when they go through legalization because they can get equal rights almost like local workers.

Table 2: *Policy Implementation towards Foreign Worker in Malaysia*

Year	Policy/Regulation
1981-1984	Medan Agreement with Indonesia, may 1984
1985-1990	Legalization of Indonesian workers in the plantation sector.
1991	Regularization programme.
1992	Foreign Worker Policy (Requirement & Strategy)
Jan 1996	<i>Hari Raya</i> Amnesty for Indonesian illegal workers.
Aug 1997	Second Regularization exercise for illegal migrants from Indonesia, Thailand, the Philippines, Bangladesh and Pakistan.
Mac-July 2002	Amnesty programme.
Oct 2004	Illegal workers allowed returning on nationwide Amnesty.
July 2010	Introduction of 6P – Comprehensive Legalization Programme for Illegal Foreigners or the 6P Programme
Aug 1 – 31 Aug 2011	Registration of migrants using Biometric system.
Sept 2011 to 10 April 2012	Legalization and Amnesty exercise of 6P Programme.
10 April 2012	Monitoring, Enforcement and Deportation of 6P Programme.
December 2014	6P Programme officially ended.
July-December 2014	<i>Program Serah Diri Sukarela PATI</i>
15 February-30 June 2016	Rehiring Program For Illegal Foreign Worker

Source: ILMIA – Ministry of Human Resources of Malaysia, Human Development Social Protection and Labor Unit East Asia and Pacific Region, Document of the World Bank (2013), Kanapathy (2001), Syarisa (2002), Azizah (2012) and Malaysian Immigration Department.

Based on Table 2, in Malaysia there is an evolution of foreign labor management policies. The highlights related policies implemented in Malaysia from 1980s until 2016. Besides the one portrayed in the table, there are other policies such as levy payment, work permit, *i-kad* and minimum wages for foreign worker with legal document (Kanapathy, 2001; Syarisa, 2002; ILMIA, 2013; Amarjit, 2014; Devadason & Chan, 2014).

REPRESSION AMONG FOREIGN WORKER

Among the issues faced by foreign workers, repression among them is the least mentioned and the least understood. Repression can come in many ways especially to the foreign workers because they are most vulnerable. Repression is the process of forcing thoughts into the unconscious and preventing painful or dangerous thoughts from entering consciousness; apparently unexplainable naivety, memory lapse or lack of awareness of one's own situation and condition; the emotion is conscious, but the idea behind it is absent (Furnham, 2015). In other words, repression is the act of using force to control someone or something and the action or process of suppressing a thought or desire in oneself so that it remains unconscious. This can happen to the foreign workers because they are weak and unprotected that the agent or employer can exploit them. Migrant workers in Malaysia do not have the right to change employers. Therefore, the only choice is work with the designated employer or leaves the country. Some employers take advantage of this by cheating and exploiting their migrant workers (Charles, 2014).

Cases of exploitation or repression are still happening even today. This includes wage violation, safety violation and rights violation. Foreign workers work in the sector of construction, manufacturing, plantation, services and agriculture. They have to work more than 12 hours a day without complaining to the employer. Other than that, they are not paid comparatively to local colleagues. Foreign workers who work in construction sector may face hazardous working workplace, dangerous and dirty. They also work without protective gear or even worse are asked by some employers to purchase even basic safety gear like helmets or gloves, which laborers' often do not do because they would rather save their income (Abu & Adil, 2016).

Plantation workers are routinely exposed to hazardous chemicals that can cause serious long-term damage to the respiratory system, skin, eyes and endocrine system. But they are often not given protective clothing and have little or no access to health

care facilities (Abu & Adil, 2016). As said before, they are exposed to the hazardous, dangerous and dirty workplace because willing to do anything to survive. They may also be unaware of provisions that can protect them (David, 2012). Basically, most migrant workers are protected by labor laws in force in Malaysia. In practice, however, the lack of effective enforcement and dependence of foreign workers to their employers and employment agencies could mean that they have little or no protection from persecution (Amnesty International, 2010).

In the case of exploitation and rights violation by the employer, foreign worker's passport and legal document sometimes are being held by their employers. There are cases that the passport is being held by the employer because the employers do not want their worker go far beyond the workplace area. Sometimes the foreign worker does not know it is wrong when the employers hold or confiscated the passport. They thought it is for easy management of their record in future. There also cases that when they come to Malaysia, their passport is confiscated by the employment agent and they need to pay if they want it back. They need to work there to pay the debt and threatened with violence. Because of afraid being arrest they just follow the order and accept repression. They have no choice at all.

Keeping of passports by employers or agents is another way of 'imprisoning' or 'trapping' migrant workers (Charles, 2014). A report by Verité, a non-governmental organization (NGO) concluded that debt bondage and the illegal confiscation of passports and documents are the main drivers of this "systemic" forced labor, which traps workers in low-paid jobs and prevents them from returning home. Once in the workplace, migrant workers face further exploitation and abuse due to their inability to leave. Verité's investigations found that workers were forced to live in cramped and dangerous accommodation, some female workers experienced sexual abuse by their supervisors, and migrants were forced to work excessive overtime under the threat of losing their jobs, which would leave them burdened with large debts they could not pay off (Annie, 2014).

There are cases of repression among foreign worker in Malaysia that has been reported in media such as online news, newspaper, NGO's blog and others. One of the cases reported by *Astro Awani* online news (2013) is a total of nine foreign worker (women) claiming to be abused by their employers besides believed to be victims of human trafficking results in Melaka Immigration Department raided at the restaurant in Bandar Hilir. According to the one of the victim, during working together with employers for about nine months, she has been beaten eight times in the face and head. The other victims also claimed not to know the amount of salary to be received because the employer often to cut salaries without notice. Previously all of them were promised an income of RM900 a month but while working on the premises, they rarely get full salary.

Other cases reported by *Astro Awani* online news (2014) is one incident of a strike allegedly commenced by factory foreign worker due to dissatisfaction of workers against employers who allegedly neglected of their welfare. Foreign workers at the factory were unable to endure the repression against them anymore because the management often beat them even they made a small mistake without giving prior warning or consultation. The employer also often cut their monthly salary and overtime allowances are not being paid accordingly to the exact amount. Previously, it was promised that the hostel facilities for workers are free but the employers still deduct the fee from the employees' salary. Various complaints have been submitted but repression is still continuing and they expect employers to be more caring towards them after the incident.

Last but not least, repression also happens in other countries such as Singapore and Bahrain. Foreign migrant workers in Singapore are subject to labor abuses and exploitation through debt bondage to recruitment agents, non-payment of wages, restrictions on movement, confiscation of passports, and sometimes physical and sexual abuse. In March, a Singapore couple was convicted of starving their domestic worker, who lost more than 20 kilograms during her 15 months of employment (Phil, 2017). On the small island of Bahrain, 77% of the workforce is made up of migrant workers; most of them come from South Asia and work in low-skilled, low-paid jobs. The majority are highly vulnerable temporary workers, concentrated in the construction industry and domestic service sector, where working and living conditions are harsh. Migrant workers have also been the victim of wage arrears by the State, in several sub-contracted companies. One example is the company of industrial and commercial services; where 200 migrant workers protested when they did not even have enough to eat, as a result of salary arrears of two to four months, and those who have come to the end of their contract cannot even return to their home country (ITUC, 2011).

CONCLUSION

The country's dependency on foreign labor has become fixed in the economy and cannot be resolved easily without collaborating with industry players and adopting a more holistic approach to deal with it over the medium term. Many industries will suffer badly if the significant shortage of workers (due to a significant reduction) caused production and output to drop drastically. This will interpret into a sharp slowdown in the country's economic growth. Hence, there is no short cut to deal with the issue and it needs to be addressed carefully as the impact on the industry can be significant (Lim, 2017). The dependency on foreign worker in industry especially 3D (dirty, difficult and

dangerous) jobs makes many foreign workers come to Malaysia. Some of them comes to Malaysia through a proper way but many of them misuse the work permit makes them commit immigration offence. Problems arise to those who come to Malaysia without a proper way makes them does not have proper document. This group of foreign worker is vulnerable and exposed to the repression by the employer and others.

Like Malaysia other countries particularly Bahrain, Israel, Kuwait, Jordan, Lebanon, Oman, Qatar, Syria, Saudi Arabia and the United Arab Emirates, depend on migrant labor to keep their economies going. However, these migrants are living and working in very harsh conditions and greatly lack any legal protection. The report highlights the awful living conditions experienced by the workers in camps in Kuwait. In Qatar, the living and working conditions in the construction sector led to the death of several foreign construction workers. In Oman, the police repressed a strike by Indian and Nepali workers protesting about non-payment of salaries, and many were then deported. In the United Arab Emirates, the Survey also reports the cases of deportation of Asian workers who had had the courage to demand higher wages. Domestic workers are at the bottom of the ranks of migrant labor and are shamefully exploited. In Saudi Arabia employers beat four Indonesian women so badly that two died, and police forcibly removed the other two from hospital (ITUC, 2008).

As stated earlier in the discussion, repression among foreign workers in Malaysia is real. Even though they have passport and work permit but still, they experience repression. Among the well-known reason is the debt to recruitment agents resulted in salary deduction or even worse no salary at the first three months work, levy payment for certain sector, and the status of the foreign worker. Many employers tend to misuse the work permit of foreign worker because they do not want to pay more for levy and other fee charges. The cheapest levy payment after domestic maid is agriculture sector and many of them work in other sector besides agriculture (MOHA, 2017). The most important aspects of the migrant workers to an employer are their investment and return of investment. If the migrant workers are not legalized and exposed to avenues to protect themselves, repression will continue to be a haunted episode in the life of the workers.

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