



# A Spotlight on Migrant Workers in the Pandemic

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#### **EXECUTIVE SUMMARY**

- The raids to round up migrant workers living in specific areas in KL drew sharp criticism for being abrupt and inhumane. Critics also argued that the raids seemed to be more focused on criminalising migrant workers without valid documents than as a containment effort
- Migrant workers are part of the Malaysian public health scheme in this pandemic and have to be included for Covid-19 testing; and in the event of a positive test result, are isolated and provided treatment. The cramped and unhygienic areas that migrant workers often live in remain extremely conducive to the spread of Covid-19.
- Eventual repatriation, not deportation, needs to be done in collaboration with their respective embassies in Malaysia.
- The employment of migrants must be provisioned with clear and well-balanced policies to ensure that salaries are paid promptly, unpaid wages settled and salaries not deducted to offset costs for employer. All public health services relating to Covid-19 with regards to migrant workers need to paid for by employers, medical insurance agencies or through the stimulus packages from the government to the employers.
- There is a need to review the human resource landscape in Malaysia to ensure that employees, including migrant workers, receive wage packages that are fair and accessible. This pandemic is a time to reflect on our values and recalibrate the economy in a more ethical and sustainable manner.
- Prejudices against migrant workers in Malaysia are deep-set and need to be addressed. A diverse group of people should be chosen as representatives to ensure that policies are inclusive and beneficial to everyone in Malaysia.



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#### Introduction

The Movement Control Order (MCO) that was imposed on March 18, 2020 led to an enforced economic hibernation as non-essential sectors (such as businesses, schools, childcare centres, the F&B and hospitality industries) as well as recreational facilities (such as gymnasiums, parks and gaming arcades) were ordered to halt or minimise operations. Workers, especially migrant workers, have suffered from the implications of such measures. Despite their significant contributions to the economic growth of Malaysia, migrant workers are an oft-forgotten group – an invisible workforce.

Apart from migrant workers, foreigners in Malaysia also include students, expatriates and retirees from a wide array of countries. Currently, the foreigner population in Malaysia consists of the following:

- 130,110 international students (Free Malaysia Today, 2019)
- 42,271 foreigners residing in Malaysia on the Malaysia My Second Home (MM2H) multiple-entry social visit pass visa (MM2H, 2013)
- 117,000 expatriates: (Nathan, 2019)
  - o 2,158 under Category 3 (earning below RM5,000)
  - o 26,003 under Category 2 (earning between RM5,000 and RM10,000)
  - o 13,362 under Category 1 (earning above RM10,000)

For the purpose of this paper, the term 'foreign worker' describes migrant workers (MWs) who are working in Malaysia under a Temporary Employment Pass, a work permit for semi-skilled and unskilled workers in agriculture, manufacturing, construction, mining and services sectors. They are distinguished from other groups of foreigners who also reside in Malaysia under an employment pass, dependent pass, long-term social visit pass or as foreign spouses<sup>2</sup> under a social visit pass, and who are excluded in this paper since they were not targeted in the raids.

# **Visibility through Raids**

On Labour Day, as the nation celebrated and paid tribute to the labour force for their contributions to the country, foreign workers came under the spotlight for a wholly different reason. Malaysian authorities raided specific areas in KL in an attempt to flush them out. These once ignored people were suddenly highlighted in the Malaysian media. Photographs showing long, snaking queues of foreign workers waiting in the baking sun to be tested for Covid-19 by Ministry of Health (MOH) officers and to have their documents checked by Immigration

<sup>&</sup>lt;sup>1</sup> The total numbers in the categories do not add up to the total number of expatriates in the country; Malaysia has its own definition for expatriates. The criteria can be found here: <a href="http://www.mpc.gov.my/pemudah/wp-content/uploads/sites/71/2017/01/15 Guidebook on the Employment of Expatriates Processes and Procedures pdf">http://www.mpc.gov.my/pemudah/wp-content/uploads/sites/71/2017/01/15 Guidebook on the Employment of Expatriates Processes and Procedures pdf</a>

content/uploads/sites/21/2017/01/15-Guidebook-on-the-Employment-of-Expatriates-Processes-and-Procedures.pdf <sup>2</sup> 100,000 or so are foreign spouses of Malaysian citizens, according to data from Foreign Spouses Support Group, June 5. Available at: <a href="http://fssg.com.my/an-open-letter-to-yb-ismail-sabri-on-the-issues-impacting-malaysians-and-their-non-citizen-spouses-and-children/">http://fssg.com.my/an-open-letter-to-yb-ismail-sabri-on-the-issues-impacting-malaysians-and-their-non-citizen-spouses-and-children/</a>



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Department officers were plastered across various news and social media platforms. The police, and armed and civil defence forces stood guard as these assessments were carried out.

For two weeks, these raids targeted foreigners who were then detained and grouped into the following categories:

- Documented MWs these are foreign workers who have work passes
- Undocumented MWs these foreign workers reside and work in Malaysia illegally
- Refugees
- Foreigners with social visit passes that had expired or are close to expiring
- Foreigners without any documents on them
- Students without visas
- Foreign spouses of Malaysians or foreigners residing in the country if they, inadvertently, are found living in the raided premises and do not have valid documents.

To understand why the government chose to carry out such extreme measures, several reasons serve to illuminate. Firstly, the coronavirus outbreak among Singapore's overlooked MWs had served as a cautionary tale to the Malaysian government. Despite being government-approved, the congested dormitories and poor living conditions of the more than 1 million MWs in Singapore made it impossible for them to maintain social distancing. As such, infections among MWs make up almost 90 % of the 28,038 infected persons in Singapore at the time of writing (Worldometers, 2020). The Singaporean government responded by vigorously testing its population and have so far carried out a total of 246,254 tests, amounting to a test rate of 42,133 tested cases per 1 million people. Secondly, the Malaysian government had earlier acknowledged that foreigners and MWs in Malaysia were living in conditions not unlike those experienced by the migrant community in Singapore, making the requirement of a one-metre safety distance unfeasible (Yip, 2017). Thirdly, while the Enhanced MCO (EMCO) was introduced in the early weeks of April to curtail the spread of Covid-19, the measure was feared to be insufficient as infections, especially among foreigners (Idris, 2020) living under EMCO areas were rapidly increasing and more areas needed to be cordoned off with heavily guarded entries and exits to prevent movements in or out by residents (Aziz, 2020). Fourthly, while vulnerable communities such as the homeless had already been housed in shelters and barred from moving around, foreigners remained as a gap. Fifthly, there were foreigners who had attended the *tabligh* event in February who had still not been tested for Covid-19 despite fervent appeals made to them to do so by the government, even with the assurance of clemency in the event that they did not have valid documents (The Star, 2020a). Finally, Malaysian citizens alarmed by the swift rise of cases among foreign workers in Singapore, had been sharing their concerns that the containment efforts carried out in the general community which had been successful so far, might be derailed.

The above-mentioned reasons make a compelling case against the exclusion of foreigners from strategies for curbing the infection. While the government's move to raid communities in parts of KL to detain and test foreigners was well-intentioned, the execution of the deed in Kuala Lumpur which ignored foreigners residing in other Malaysian states, drew sharp criticisms. The media, various national and international non-governmental organisations (NGOs) as well



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as trade unions expressed concerns over the abrupt and inhumane manner in which the continued raids were conducted. The effort saw frightened men, women and children waiting in long queues for extended periods of time to be tested for Covid-19 and to have their documents checked. They were then driven off, by the hundreds, in trucks to detention depots (The Straits Times, 2020a). It has been argued that the harshness of the process, which stands in sharp contrast to the earlier gentler approach, was bound to scare foreigners into hiding from authorities, jeopardising containment efforts already put in place. Critics, have argued that the raids seemed more so about locating foreigners who had overstayed their welcome or were working in Malaysia illegally rather than about virus containment. There were calls by the public and by human rights organisations to grant over-stayers and undocumented MWs, amnesty (The Star, 2020b).

In response to the criticisms, the Director-General of Health Dr Noor Hisham Abdullah clarified that 3,300 foreigners were tested three times over a period of two weeks for Covid-19 (The Star, 2020c). Those who had tested positive were sent for treatment; documented MWs who tested negative were allowed to go back to their respective homes, while 586 undocumented MWs who tested negative were taken to detention centres. The raid on May 11 led to the processing of 7,551 foreigners, out of which 1,368 undocumented migrants from Indonesia, Myanmar, Bangladesh, India and Pakistan, were detained. As many as 98 of the 1,368 were children (Palansamy, 2020). Meanwhile, the Senior Minister for Security and Minister for Defence Datuk Seri Ismail Sabri Yaakob defended the raids against undocumented migrants and argued that the operations were part of an ongoing effort called Ops PATI (translated loosely as Operation Illegal Immigrants) against those who entered the country through "unsanctioned means" (Palansamy, 2020).

To reconcile the seemingly opposing realities of containment effort, illegal immigration and human rights and compassion, we could perhaps look to Italy (Reidy, 2020) for some inspiration. Italy, initially beset with a large number of Covid-19 infections and an appalling death toll, had on May 14 offered its 560,000 undocumented migrants working in agriculture and as domestic helpers, residency permits for six months. The Italian government had also introduced a €55bil stimulus package to help companies rebuild their businesses, as well as provide re-employment and amnesty benefits. This move ensured that undocumented migrants did not have to face the dangers of deportation during the throes of the pandemic. It also allowed time to work with respective embassies so that necessary country-based measures could be implemented to address complications or infections arising from repatriation.

# **Migrant Workers: A Number Fix**

There are 1.99 million MWs in Malaysia consisting of nationals from Indonesia, Bangladesh, Myanmar and Nepal, with smaller groups from Thailand, the Philippines, Pakistan and India. Most of them work in manufacturing (706,502), construction (429,552), plantation (268,203) and agriculture (150,003) and as domestic helpers (130,450) (Tay, 2019). There are also documented and undocumented foreign domestic workers, commonly denominated as maids, whose numbers are between 300,000 and 400,000 (International Labour Organisation, 2019).



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However, what remains an unknown is the number of workers in certain sectors such as in cleaning (offices, houses, car washes, factories, transportation vehicles, electrical and plumbing, etc), in hawker and vendor stalls, in deep sea fishing or prawn/crab farms. The earlier figure cited refers only to those who are documented. Many in the 'unknown cases' are undocumented workers seeking job opportunities illegally with employers willing to wilfully break the law. These undocumented workers are a hidden population of Malaysia, as the Ministry of Human Resources (MOHR) can only tabulate figures on those with work passes. While the Immigration Department can provide an estimate if they can surmise who came in on a social visit pass but are working illegally. That can happen only during raids and tip-offs. Hence, the recent raids managed to not only act as a containment effort but also help the government keep track and round up illegal immigrants in one fell swoop.

This lack of data has been discussed in a few studies such as a 2017 study which tracked Malaysia's steady rise in dependency on foreigners as cheap labour (Ministry of Higher Education Malaysia, 2017). Malaysia's problem with illegal immigrants is facilitated and exacerbated by several factors, such as the porosity of its lengthy borders, the fragmented immigration system across the 13 states, the laxness and negligence of frontline officers, various levels of corrupt practices which undermine international travel and border controls, wily and experienced smugglers and traffickers who manage to avoid the authorities as well as unscrupulous employers who continue employing illegal MWs.

The study cited the MOHR's 2016 estimate of undocumented workers to be at 3 million. The Malaysian Employers Federation (MEF) placed the estimate at 6 million, for all MWs, documented and undocumented. The Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM) expressed that it is more likely that the ratio of documented to undocumented MWs is 1:2; that is to say, for every documented MW, there are two MWs working illegally, without papers. Based on the mandatory Foreign Workers Insurance Scheme that employers need to procure, the Institute of Labour Market Information and Analysis (ILMIA) under the MOHR estimated the number of documented MWs mainly working in Selangor, Johor, and Sarawak to be 3.429 million between 2012 and 2016. On the other hand, a Malaysian Parliament Discussion (MPD) document in 2016 proposed the ratio of Malaysian citizens to foreigners to be 2.5:1 (The World Bank, 2019). The foreigner population was recorded to be 3.2 million in 2019 (Department of Statistics Malaysia, 2019). But if we take the ratio given by the MPD to be accurate, Malaysia's 2019 population figure of 32.6 million would yield a total of 9.3 million foreigners, many of whom are likely to be undocumented MWs. Official websites do not offer figures and the Department of Statistics, in its reply to Penang Institute, said it did not compile data on migrant workers.

Pinning down data remains an evasive exercise, especially in this pandemic. Authorities can only rely on estimates on the demographics, living conditions, geographical locations, sex and diversity of people. It is disturbing to note that the current rate of 14,548 tests per million people (Worldometers, 2020) that needs to be done before MWs in essential and non-essential services can return to work, is not adequate. The chances of workers being tested will be low if the costs



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of testing are to be borne by the workers themselves. It seems obvious therefore that SOCSO,<sup>3</sup> the Social Security Organisation, should work with the government to devise a co-sharing scheme for the cost. After all, tests, efforts of containment, treatment and vaccines are core elements that the Health Ministry needs to budget for in a pandemic.

#### Covid-19 is a Public Health Concern

Both the International Labour Organisation (ILO) and SOCSO classify Covid-19 as an occupational disease (ILO, 2020); members are eligible to claim medical benefits and compensation through this scheme. Since January 1, 2019, employers who hire foreign workers are required to register their employees with SOCSO (PERKESO, n.d.a) (PERKESO, n.d.b) and contribute 1.25 % of the MW's insured monthly wages towards SOSCO's occupational diseases and employment accident scheme (PERKESO, n.d.c).

The Malaysian Medical Association and the Malaysian Pharmaceutical Society believe that the welfare of workers needs to outweigh the costs of Covid-19 tests (Lai & Tan, 2020) and testing cannot be entrusted to employers or employees. According to the Malaysian Pharmaceutical Society, there are two types of Covid-19 test kits. The polymerase chain reaction (PCR) test kit costs somewhere between RM360 and RM700, while the cheaper antigen rapid test (RTK) costs RM50.

On May 4, Ismail Sabri Yaakob announced that employers are required to test MWs working under them for Covid-19 and bear the cost of the tests, which drew much ire from employers. The Malaysian Trade Union Congress warned employers against asking employees to pay for the Covid-19 tests themselves using SOCSO, which might deplete the workers' social protection savings. It is undeniable that MWs are a group that is very vulnerable to the coronavirus. Large numbers of MWs live in conditions extremely conducive to the spread of infectious diseases as the opportunity to practise safe distancing is a problem for many. Furthermore, there is no clear indication if those in detention centres, prisons and others living across the country are being tested (see Lived Realities, below). Meanwhile, SOCSO has announced that it will provide free testing to contributors through its Prihatin Screening Programme and that it is only compulsory for foreign workers in the construction sector or those working in coronavirus red zones (CodeBlue, 2020). But bodies such as the Real Estate and Housing Developers' Association and the Master Builders Association of Malaysia estimate that up to 500,000 documented MWs registered under SOCSO need to be tested and that the wait for a testing slot was long as there were not enough testing laboratories, leading to increased costs as they need to wait for their test results before workers can start working. For a continued comprehensive approach, both in implementation and cost-bearing, it is encouraged that the government ramps up its Covid-19 testing and review its stimulus packages to offer more aid to employers.

<sup>&</sup>lt;sup>3</sup> Please refer to the link for more information regarding SOCSO: https://www.nbc.com.my/socso/about-socso.html



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In view of the cumbersome and harsh testing process as well as the reluctance of parties to bear the cost of testing, these raids will force more MWs to slip below the radar in order to avoid detection, deepening the risk of Covid-19 infections for everyone in Malaysia. A better alternative to these highly intrusive and traumatising raids is to focus on Covid-19 as an occupational hazard and provide MWs with protection as well as information on how to protect themselves against the disease by washing hands constantly, sanitising used items and wearing a mask. This would increase the confidence of many MWs who are no doubt also worried about the virus, which is non-discriminatory, invasive and resilient. Undeniably, there is also a pushback on this matter from the government as the view is that much has already been done even for the undocumented foreigners. In fact, recently, Minister of Defence Datuk Seri Ismail Sabri Yaakob took umbrage with Al Jazeera, asking for an apology over its documentary, 'Locked Up in Malaysia's Lockdown'. He said it was untrue and gave Malaysia, globally, a bad reputation. He added that 4,924 undocumented foreigners placed at the four immigration detention depots were tested, of whom 777 were positive of Covid-19, and so were treated. Another 68,829 documented migrant workers in the construction sector in Kuala Lumpur and Selangor had been screened, with 2,579 testing positive and being treated. (The Star, 2020d). Another statement came from Mr Khairul Dzaimee Daud, Director-General of Immigration, who warned "all foreigners" to be careful when making any statements at the risk of having their passes revoked, and having to leave the country immediately if the statements were inaccurate and damaged Malaysia's reputation. (Free Malaysia Today; 2020a).

The United Nations Sustainable Development Goals (SDGs) aim to achieve a better, more sustainable future for everyone. Malaysia's handling of the Covid-19 crisis is deemed satisfactory in accordance to SDG No. 3 on Good Health, which provides targets on risk reduction and management of national and health risks. However, there remains much room for improvement. The living conditions of foreigners, stateless refugees and citizens from lower income groups who live in cramped homes and who do not enjoy adequate access to clean water, soap and sanitisers need to be improved. Many have lost their jobs and more are on the verge of poverty. A large number of MWs – both documented and undocumented – are at risk of being deported as jobs become scarcer to them. These people are more prone to succumbing to the virus because of their living conditions, poverty, poor nutrition as well as their fear of seeking health care lest they be detained. Under its state obligations, international diplomacy and respect for human rights, Malaysia therefore has a duty to care for MWs working in the country until it is safe to repatriate them.

A statement was also issued by 51 national and international NGOs entreating the government to amend the Occupational Safety and Health Act 1994 so that safety, health and social protection benefits can be ensured for workers – especially for those in essential services and MWs – and employers can be legally bound to create safe environments at the workplace, on transport systems and provide accommodations (Chin, 2020).



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# **Lived Realities of Migrant Workers**

Even though a MW might have better opportunities in Malaysia compared to their home countries, their lives here are often fraught with adversity and hardships. In the process of recruiting a MW, employers usually have to pay recruitment agencies between RM12,000 and RM18,000 to secure a worker, who would also pay agents in their home countries (Beh, 2019). However, the reality is that some MWs have to also bear their employers' recruitment fees as some employers deduct their share of the recruitment fee from the workers' wages. This frequently happens with domestic workers; employers would deduct their share of the recruitment fee from the workers' wages over a period of months to pay the recruiter.

Furthermore, once MWs set foot in Malaysia, they are expected to abide by and navigate a series of complex procedures and rules set by various ministries and agencies. Within 30 days from the date of arrival, a MW must complete a medical check-up by the Foreign Workers Medical Examination Monitoring Agency (FOMEMA). The Ministry of Home Affairs (MOHA) and MOHR are tasked with implementing MW policies set out by the Cabinet Committee on Foreign Workers and Illegal Immigrants. The MOHR also oversees the Foreign Workers Compensation Scheme (FWCS) while the MOH administers the Foreign Worker Hospitalisation and Surgical Insurance (SPIKPA) scheme. In the event that a MW has abandoned employment and absconded, or if there is abuse by an employer, the Royal Malaysian Police is obliged to carry out an investigation. The Cabinet Committee, made up of representatives from 13 ministries and chaired by the Deputy Prime Minister with MOHA as the secretariat, approves their employment applications.

All this is not to say that the lives of MWs in Malaysia have not improved over the decades. MWs were not previously covered under the Employment Injury Scheme (EIS). However, from January 1, 2019, employers must contribute to the Employment Injury Scheme, which replaces the Foreign Workers Compensation Scheme (FWCS), and register their MWs under SOCSO. This health care scheme is mandatory and a prerequisite for obtaining a Visit Pass (Temporary Employment), also known as VP(TE), for all MWs except plantation workers and domestic helpers.

From January 2019, the minimum wage of MWs was fixed at RM1,100 per month. MEF's survey on the management of MWs in 2016 showed that approximately 81% of its 210 MEF member firms paid their workers an average basic monthly salary ranging from RM1,200 to RM1,758, depending on the length of employment. There is no data for undocumented MWs, who are usually a cheaper source of labour, compared to documented workers. However, NGOs working in the field recorded cases that show salary arrears owed to MWs is a common thread. This could cause unwarranted difficulties and stress in the lives of MWs as they often need to send money home to maintain their families' living expenses, pay for their children's education, clear debts incurred to recruitment agents and other such agents, pay for their rent, food, utilities, transport, etc and, in some instances, pay the employer for the costs of renewing work passes, insurance premiums and medical check-ups. The workers are often powerless as they are beholden to their employers for their work passes and are forced to accept less than ideal situations in order to continue working in Malaysia.



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Even as the invasive raids continue in specific areas with a high density of foreigners, the reality is that MWs work and reside everywhere in the country, living in crowded conditions, sharing kitchens, wash areas and sanitation facilities with their co-workers. In an initiation exercise, Malaysian doctors were very surprised to find out that 20 people were sharing a 1,000 sq ft house. The space is slightly larger than a badminton court, with 10 persons sleeping there at night and 10 in the morning, a rotation based on work shifts. There was also no running water, clean drinking water or plumbing. This method to save costs meant that infections could spread easily (Ramchandani, 2018). Many of them live in containers, decrepit and run-down sheds as well as squalid flats while some have better living spaces (M, 2020). They remain disproportionately at risk of being infected (Business & Human Rights Resource Centre, 2020). For those detained in crowded facilities such as detention centres and prisons, there can also be local transmissions. In fact, infections did occur at the detention centres of Bukit Jalil, Semenyij, Sepang and Putrajaya where 410 out of 4,908 tested detainees were infected. (Star/Asia News Network, 2020). Additionally, MWs face the threat of being repatriated with no safety procedures in place, as discussed earlier.

The situation of MWs in Malaysia is a complicated one, involving many parties. While most employers do pay their share of various fees and costs, ultimately, a MW is often caught up in a seemingly unmanageable supply chain which would leave him/her debt-riddled. Not only do MWs face bureaucratic and economic hurdles, they also have to navigate the realities of living in a foreign country and face language and cultural barriers, discrimination, racism, xenophobia and endure psychological abuse.

#### Covid-19 Bites

Malaysians and MWs working on the frontline in security, cleaning and hospital sanitary services have supported the work of others in the healthcare industry during the lockdown. Meanwhile, foreign domestic workers (FDW) from Indonesia, Myanmar, Cambodia and the Philippines have made the lives of Malaysians working, studying or carrying out caregiving at home, easier. However, the "Stay at Home" order imposed by the Prime Minister since March 18, 2020 meant that FDWs are dealing with more family members in a round the clock situation, putting them at a higher risk of infections as well as physical, mental and sexual abuse.

On top of that, there is a deep insecurity among MWs (Chia & Yong, 2020) that they may not be able to recover wages owed to them (Acharium, 2020) or seek assistance for food and finances (The Straits Times, 2020b). The media reported cases of documented MWs being left with no wages and in one case, an unpaid MW was given by his employer, a miserly RM200 as a loan. Many MWs who are not involved in the essential services are still waiting to be paid while some have been asked to take unpaid leave or to quit. The undocumented MWs are also especially reluctant to access health care if they fall ill for fear of being detected by authorities.

There is much to lose for both documented and undocumented MWs in this pandemic. Their livelihoods are being threatened: some have not and might not be paid for the work they have done; some have been dismissed and have had their work passes terminated; some are in



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desperate need of money even just to go home. Many countries are also under lockdown which translates to procedural quarantines, resulting in further income losses. There is also the fear of infecting their families with Covid-19. The raids will only cause more MWs – especially the undocumented ones and the refugees – to dodge authorities and avoid seeking medical attention even if they fall ill, as they are evading deportation until they have paid off debts and have built some semblance of a "better" life for their families back home. Meanwhile, those who have resettled in Malaysia have no other place to return to, so to speak.

The stimulus packages offered to Malaysians to help tide them through this difficult period makes no concessions for MWs, refugees and undocumented workers. The current economic standstill is costly to everyone, and has left many MWs – especially those in the hospitality, construction and manufacturing industries – in a state of limbo. According to ACCCIM's report in 2019, two-thirds of its respondents from the construction and manufacturing industries revealed that they acutely needed more MWs and have faced and will face shortages of MWs between 2019 and 2021 (ACCCIM, n.d.). Other industries, such as the hospitality and real estate industries, are also in need of more MWs. But it may no longer be the case because of Covid-19.

As it is, all MWs face unpredictable futures and many worry that their tenures could end abruptly and their work passes may get terminated.

# Malaysia's Pulse

Most Malaysians, as recorded through an ILO survey (ILO, 2020), seem to show averse attitudes towards MWs: 47% think that MWs are a drain on the economy; 83 % of those polled say the high rates of crimes are due to foreigners in the country; 44 % think that MWs have poor work ethics; and although MWs and citizens need to be treated equally at work as enshrined in international laws, 58 % of Malaysians polled say that MWs cannot expect the same pay or benefits as citizens for the same job. Interestingly though, 70 % say they would speak out against anyone saying offensive things about foreigners.

MP Charles Santiago, a former human and labour rights activist, has been quoted saying that Malaysia "is addicted to cheap labour" in the form of MWs (Mortensen, 2019a). Danwatch, a Danish investigative media and research centre reported on European companies based in Malaysia, as having taken away MWs' passports and deducting their wages to recover recruitment costs (Mortensen, 2019a; Mortensen, 2019b; Ramchandani, 2018; Business & Human Rights Resource Centre, n.d.). In May 2020, Tesco Malaysia, in a joint venture with the Sime Darby Berhad conglomerate, conducted an in-house investigation and in its own report discovered that 168 MWs had no passports, were subjected to unexplained and illegal wage reductions while working overtime, and were heavily indebted to labour brokers (Lee, 2020). At this point, it is worth noting that Sime Darby Berhad had, in April 2020, sold its 30% stake in Tesco Malaysia for RM300mil to Thailand's CP Retail Development Company Ltd (Business Today, 2020). The huge profit margin for Sime Darby Berhad and Tesco Malaysia was not reflected in being used to offset on its dismal labour practices. It was only after the report on labour abuses was circulated that Tesco Malaysia, which employs over 7,000



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employees across 60 stores and has two distribution centres in Peninsular Malaysia (Free Malaysia Today, 2020), pledged to review their labour practices, improve MW accommodations, enhance worker welfare audits, provide full remediation including the repayment of recruitment fees and recruit MWs directly instead of relying on recruitment agencies.

Nevertheless, the Malaysian government and many companies have been slowly recognising the importance of ethical business practices. This has resulted in stricter governance of supply chains for labour, raw materials and products as well as increasing corporate accountability for labour conditions and fair trade practices. In 2019, then Minister of Law Liew Vui Keong formally announced (Bahagian Hal Ehwal Undang-undang, 2019) a Cabinet decision to launch the National Action Plan on Business and Human Rights in support of a proposal submitted by the Human Rights Commission of Malaysia (SUHAKAM) four years earlier in 2015 (SUHAKAM, 2015). According to Liew, the governance gap allows human rights abuses in the corporate and business world to persist as there is no specific government body tasked to govern corporate respect of human rights (Bahagian Hal Ehwal Undang-undang, 2019). This problem can be mitigated with mandatory diligence, among other efforts.

The pandemic has also pushed to the forefront essential workers who perform irreplaceable and important work. These workers are producing masks, disposing waste, delivering supplies, taking temperatures at entry points, working in kitchens, cleaning public places, guarding residences and putting up cordons, among other menial jobs. The private sector too has suffered significant losses, and even as the economy slowly moves again, companies are still bruised by lowered profits and increased costs, especially in their efforts to preserve their employees' jobs.

Penang Institute's analysed data collected from the Department of Statistics of Malaysia has shown that 67.8% of businesses had no revenue at all during the MCO and only 30.1% might see a possible survival beyond three months. Malaysian exports have also shrunk year-on-year by 4.7% in March 2020 and imports by 2.7%. The unemployment rate in Malaysia as a whole increased from 3.6% in February 2020 to 3.9% a month later, coming close to the 4% experienced during the financial crisis in 2009 (Ooi, 2020). This indicates that about 500,000 Malaysians are currently out of work, and according to the MEF, the unemployment rate is expected to climb further to an estimated 13% with an onset of 500,000 new entrants into the job market. This would suggest that the total number of unemployed Malaysians will reach almost 2 million this year (Tan, 2020).

# Going Forward: Reflections, Remediation and Restructuring

Covid-19 has shattered lives, battered markets, devastated economies worldwide, upended lifestyles and disrupted global supply chains. However, it has also shone the spotlight on the vulnerable and marginalised communities that are often overlooked, such as the poor, the abused, the prisoner population, the disabled, the MWs and the refugees. Wealth disparities, inequalities and inequities in society have been made glaringly obvious in the way different members of society reacted to or were treated in the pandemic. In this crisis, we are given an



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opportunity to reflect on what has failed in the country and consequently what we need to rectify it.

The strategic implementations of the MCO, EMCO and Conditional MCO (CMCO) to contain the disease show that while effective, they have been highly disruptive to peoples' daily lives. Covid-19 has exposed individual needs which we may have formerly taken for granted, be these mental, economical, physical, social or political.

As such, as we move forward, remedial measures for the short- to medium-term are needed. With regards to public health, Covid-19 tests need to be ramped up with more test kits, laboratories and trained personnel to administer the tests. Cost matters need to be discussed and agreed upon among SOCSO, health insurance companies, employers and the government. Short-term shelters can be built to ensure that safe distancing can be practised for people living in overcrowded residences. Meanwhile, to avoid unnecessary transmission of the virus at detention centres and in prisons, refugees should be allowed to return to their homes for the time being while they stay in communication and cooperate with local NGOs and the United Nations High Commissioner for Refugees (UNHCR). Furthermore, protection gears and equipment such as masks, sanitisers and gloves should be provided for those who work in high risk settings. The government should also consider extending amnesty to all gainfully employed undocumented MWs and refugees through a registration process and waive punitive action or penalty fees so that their employers can support their applications. Moreover, any repatriation of undocumented MWs or foreigner needs to be done in collaboration with the respective embassies.

Other than that, the MOHR, labour unions and NGOs need to investigate and resolve issues of workers being dismissed, owed wages or subjected to reduced wages which could result in starvation of the workers and their families. The stimulus packages must also be inclusive of both documented and undocumented MWs as well as refugees. Government taxes collected could be drawn upon to support jobless MWs while companies need to be monitored to ensure that they adhere strictly to the minimum wages. Employers who wilfully have undocumented MWs in their workforce, need to face the law in due course. An example of how the government can better regulate business practices is through a Whistle Blowers Protection Act to protect workers from legal action or dismissal if they come forward with information about industry violations such as bad labour practices, unethical means of acquiring raw materials, disposing unwanted substances illegally or employing underpaid MWs. National banks should also make the process of opening a bank account for MWs less tedious, so that their salaries can be deposited directly.

Additionally, work contracts should clearly state wages, day offs, overtime pay, medical benefits, annual leaves as well as costs to be paid to employers. Simplifying the complex process of recruiting MWs will also entice more companies to use their own human resource departments instead of recruitment agencies for the sourcing of workers. This can be done by allocating all processes relating to MWs' employment to a single ministry or appointing a one-stop coordinating agency across ministries to address all issues concerning MWs. This would eliminate the need for recruitment agencies which are rife with abuses and unethical labour practices. In Malaysia's move to be recognised internationally for its commitment to human



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rights issues, the government should continue its unwavering support for the National Action Plan and stringently improve the work and living environment of MWs.

In regards to long-term plans, the government needs to review the living areas that MWs reside in and work out a model where the areas are clean, less crowded and conducive to comfortable living without incurring costs for the workers themselves. We can learn from the case of Singapore and see how a wealthy and economically-stable first-world country could be brought down by the lack of care and consideration towards its MWs. This phenomenon should not be taken to be specific to Covid-19 only, as any infectious diseases, be they measles or tuberculosis, can be easily spread by multi-stacking people into dormitories without adequate spacing and proper sanitary facilities (Hoo, 2020).

Even as the fight against Covid-19 shows promising results, Malaysians will need to brace themselves for the economic crisis that will soon follow as businesses start retrenching their employees in order to cut costs or as owners are forced to liquidate their companies. Right now there should be a focus on re-skilling people. For example, technical skills such as plumbing, electrical repairs and infrastructure maintenance are always in demand, even during pandemics, recessions and wars. On the other hand, companies that are adapting to rapidly changing conditions can look to re-skilling and up-skilling their employees to stay relevant. In this time of uncertainty and hardship, both employers and the government need to be compassionate and flexible in terms of work arrangements, and stand in solidarity with its employees and people as parties who have all been affected by this crisis. This could mean a reconfiguration of human resources, separately based on the present, mid-term and long-term goals, and protection of workers' rights to minimum wages, hours of work, leave days, rest days and core benefits. Measures must meet the principles embodied in the targets of SDG Goal No 8.5, 8.6, 8.7 and 8.8 pertaining to the employment of youths, women, men and MWs (Department of Statistics Malaysia, 2018). Meanwhile, the release and repatriation of MWs can be done in a staggered manner to ease transition and attrition, and also by collaborating with countries from where undocumented migrants came from. This has begun to happen with some 4,800 undocumented Indonesian migrants who are to be sent home in different groups once Covid-tests are done. Consular visits are being made by the Indonesian Embassy to check on its citizens as well as to help them with their travel documents. (The Jakarta Post, 2020)

In Malaysia's attempt to shed the stigma of a country "addicted to cheap labour", the government plays an important role in offering economic stimuli in the form of loans and financial offsets to employers – especially microenterprises and small-and medium-sized enterprises (SMEs) – to encourage them to prioritise hiring unemployed Malaysians over MWs. In line with these measures, banks can also complement the government's efforts by introducing financial instruments with the support of philanthropists, donors and strong investment funds to resurrect businesses and safeguard the livelihood of employees. After all, it is the onus of a country that is positioning itself as a global player to address the supply of labour and raw materials in ways that can protect workers' rights as well as the environment.

Covid-19 has brought to the surface some deep-set prejudices among Malaysians against documented and undocumented foreigners as well as refugees (ILO, 2020). During the



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pandemic, bias, misinformation and hate speech directed at groups such as migrants, minorities and LGBTI people abound on social media platforms. This resentment is perhaps in part due to the willingness of MWs to take on jobs that are often viewed by the locals as demeaning and menial. There is a need for leaders to set the tone, educate the public on ways to minimise prejudices and discrimination and work to improve the image of people who have been treated with disdain and disrespect. One such way is by improving the work and living conditions of MWs.

Perhaps in the discussion on what needs to happen, one should also look into the things that can better drive this change. Higher levels of governance and due diligence, as important as they are, will only function as a band aid if core principles such as workers' rights, protecting and preserving the environment, and public healthcare are not internalised as essential values. It is high time we re-evaluate that values which were shaped when neoliberalism took over in the 1980s to emphasise the importance of the market place, free trade and competition (Metcalf, 2017; Sitaraman, 2019). It is clear that our constant search for capital gains has led to huge social inequalities and widened inequities; the rich got richer while the poor remained stuck in poverty. The system is designed in a way that is extremely difficult for someone who was born into lower socio-economic classes to achieve success even if they worked hard. The pandemic has highlighted the deep incongruities in how people in different socio-economic classes live and the diversity in social lives. As more people are plunged into situational poverty, there is no better time than now to revise a new order that is more socially responsible and ethical, and which places importance on the effects of climate change, human rights and workers' rights.

Malaysia, like so many other countries suffering the impacts of Covid-19, has to work its way out of this recession. In some sense, Malaysia's place in this "new world" will hinge on its attitude and approach towards issues such as unemployment, on it ensuring that the rights of its people and workers are protected and fulfilled, on it re-boosting the economy, creating new industries, moving towards greater regional interconnectedness, moving away from the over-reliance of global supply chains, developing sustainable social protection and assistance as well as trade deals, negotiating for regional economic cooperation and navigating the US-China feud. To achieve this, the government will have to carefully review policies and devise plans that emphasise the well-being of the people and the preservation of the environment. In this new order, migrants who have long toiled for the benefit of the country will also fit in.

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