

**Response From Migrant Worker Communities and Migrant Rights' Civil Society
Organizations With Regards To Ongoing Raids on Undocumented Migrants in Malaysia
4 July 2018**

In response to the ongoing enforcement operations on undocumented migrant workers by the Immigration Department of Malaysia and as per press release (31 May 2018) by the Home Affairs Minister of Malaysia, YB Tan Sri Muhyiddin Haji Mohd Yassin, of the new Pakatan Harapan government, we the migrant community and CSOs concerned about migrants' rights in Malaysia are very concerned about the future of migrants in the country. The directives in the press statement fails again to address the root causes of the issues and do not provide enough time for proper discussions and analysis for just remedies which need to be holistic, comprehensive and be based on ILO Conventions and fundamental Human Rights principles. These concerns also cover refugees, asylum seekers and stateless communities, who are also at risks of being detained during this new enforcement operations.

How Migrants Become Undocumented

Many of the migrants the Malaysian Government has labelled "Illegal" (or in more humane terms "undocumented") attain that status due to no fault of their own. Some of these reasons include:

- a. **Trafficking:** Malaysia's history as a human trafficking hub is well documented by civil society and even reflected in Government data. Recent revelations regarding a large and politically well-connected trafficking syndicate, as well as Malaysia's downgrade to Tier 2 Watch List of the US State Department's Trafficking in Persons (TIP) report further reinforces our fears of the prevalent and possibly even systemic existence of trafficking networks within Malaysia. We must never punish migrants who became victims of trafficking to Malaysia, as their circumstances are beyond their control. Criminalizing victims and survivors is not the way to go; we should instead be going after the syndicates and those responsible.
- b. **Deception:** Agents have a history of giving false advice and promises regarding the process of getting permits and jobs in Malaysia. Some migrants have low literacy levels, making them susceptible to fraud and deception, and even literate migrant workers become possible victims of fraud and unjust treatment by both recruiters and employers. Recruiters promise work permits and good employment contracts with decent wages and conditions. Upon arrival, however, these workers often find that not only have their contracts, employment sites, and terms and conditions been changed, but that they may have also violated Malaysian immigration laws. For most workers there is little access to justice or right to redress mechanisms in proving the fraud and deception.
- c. **Rehiring:** The rehiring process is lengthy and non-transparent, and the subcontractors and sub-agents of rehiring face little accountability. It is a privatized process driven by profiteering motifs, fraud and deception. For example, workers are not given receipts of rehiring payments and many agents cheat workers, taking their money but not providing e-cards. There is no adequate redress mechanism that can investigate and

track these agents. While we welcome the cancellation of problematic rehiring contractors, we are afraid that workers in the midst of registration may be again victimized by this move.

- d. **Renewal:** The migrant working visa renewal process is equally riddled with cheating, a lack of transparency and little accountability by agents and employers. Most migrants have little idea of how this opaque process works. Passports are often illegally held by employers and whether their visas are renewed or not is out of the beyond the worker's control.
- e. **Employer bondage and exploitation:** The past Malaysian Government's hiring policy , which now needs to be reviewed by the new government, requires an employer's consent to for workers to change employers. This inflexibility is particularly problematic in cases of exploitation, intimidation and physical violence where workers have no choice but to abscond and become undocumented. This is exacerbated where workers' passports have been illegally retained. This system, which resembles the widely-criticised *kafala* system practiced in Gulf countries, provides little option to seek redress for workers in this situation, particularly with the overhanging threat of deportation.
- f. **Amnesty blacklisting:** The 3 + 1 amnesty program, which blacklists workers for five (5) years, further discourages them from using the amnesty system and thus forces them to become undocumented.
- g. **Accountability:** The complex commercial chains of private outsourcing companies and agents that govern migrant workers' affairs activities render them largely unaccountable. Companies and agents often deny or neglect their responsibility for their workers, and many migrant workers become undocumented because of the irresponsibility of these companies and agents.
- h. **Border enforcement:** Documented corruption and inefficiency within border enforcement agencies add to the problems faced by migrant workers, benefitting from the activities of the accountable recruitment industry and providing little relief or assistance when things go wrong.
- i. **Recruitment debt:** Many migrant workers believe the promises made to them in countries of origin by agents and employers, borrowing huge sums from syndicates and moneylenders to finance the initial migration costs. This debt bondage is exacerbated by the illegitimate substitution of contract terms, arbitrarily driving down wages and conditions and imposing unaccountable wage deductions, making repayment increasingly difficult. Sending people home in such circumstances is putting many workers at risk, and this needs to be clearly addressed.

To ensure that all labour migration matters are handled in a way that gives dignity and respect to migrant workers, we demand an holistic solution based on the following recommendations:

1. An immediate moratorium on raids/enforcement operation “Ops Mega 3.0” to ensure no workers are punished for crimes which are not of their fault. These raids and operations should be suspended while a holistic assessment of all the issues and potential comprehensive solutions are undertaken with all stakeholders with regard to labour migration.
2. That the Government makes available its Standard Operating Procedure for conducting raids and detaining undocumented migrant workers, so that human rights and civil society organisations can ensure fundamental rights are protected and due process guaranteed.
3. To decriminalize the “undocumented” status of workers (which is an administrative offence), and recognize that becoming undocumented is primarily an outcome of labour exploitation. This is especially relevant for vulnerable groups like women and child migrant workers, who face additional layers of exploitation which leads to them being undocumented and victims of forced labour and trafficking.
4. That the Committee for Institutional Reforms facilitates safe dialogue spaces between the Government of Malaysia and migrant communities and other relevant stakeholders and social actors to propose evidence-based solutions. Such solutions must be based on clear verified labour market data (for example from the Institute of Labour Market Information and Analysis, employer organizations and other sound economic analysis) and base its solutions on fundamental Human Rights and Decent Work principles. The involvement of the International Labour Organisation would be advisable in this respect.
5. To facilitate the overhaul and expansion of Government-to-Government hiring mechanisms as the primary means by which workers are recruited in Malaysia in a manner that is transparent and accountable as well as evidence- and rights-based.
6. More time must be given to migrant workers to process and secure their working visa status and make decisions on their working status in Malaysia. Unrealistic deadlines force workers to risk going underground, collaborating with exploitative actors within the labour supply chain, driving criminality and other high-risk activities.
7. The Government should stop blacklisting migrant workers who use the 3 + 1 Amnesty Program, an action which only discourages its use. The program should be conducted exclusively by the Immigration Department to avoid levying excessive charges on already-struggling workers and discourage profiteering.
8. The Government must ensure all migrants have access to justice and the right to redress, including when they are caught and detained. This due diligence must be practiced by enforcement agencies and the judiciary to ensure accused migrants have a fair trial and a chance to defend themselves. Migrants must have guaranteed access to legal aid from the National Legal Aid Foundation to achieve these goals.

Migrant workers play a huge part in securing economic growth for Malaysia and will still be needed in years to come by various industries. The Government must play a more active role in educating the Malaysian people that migrant workers are not their enemies or the cause of their own financial or employment problems.

Migrants are here because the Malaysian government, employers in formal and informal sectors and agents opened spaces for their work. So how can migrants be 'illegal'? No person is illegal. We have always been keen to discuss these matters with all appropriate authorities to find the best solutions. This is a good time for the new Government to take stock of what the real situation is and what determine what possible solutions might be, before taking any actions.

Accordingly, migrant communities and CSOs concerned about migrants' rights request an urgent meeting with the Minister of Home Affairs and Minister of Human Resource to discuss and propose comprehensive, rights-based solutions on these and related issues.

Endorsed by

1. Asosasyon ng mga Makabayang Manggagawang Pilipino Overseas(AMMPO),Philippines/Malaysia
2. Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO),Philippines
3. SERANTAU,Indonesia/Malaysia
4. Building and Wood Workers' International Asia-Pacific
5. GEFONT Support Group,Nepal/Malaysia
6. Pravasi Nepali Coordination Committee (PNCC, Nepal/Malaysia)
7. Myanmar Migrants Rights Centre (MMRC),Myanmar/Malaysia
8. Muglan-Migrants Advisor, Nepal/Malaysia
9. Serikat Buruh Migran Indonesia(SBMI) , Indonesia
10. Nepalese People Progressive Forum, Nepal/Malaysia
11. Tenaganita,Malaysia
12. Migrant 88
13. Penang Stop Human Trafficking Campaign,Malaysia
14. Persatuan Sahabat Wanita Selangor(PSWS), Malaysia
15. Committee of Asian Women (CAW)
16. North South Initiative (NSI), Malaysia
17. Suara Rakyat Malaysia, Malaysia ,Malaysia
18. Pusat Komas
19. Bangladesh Institute of Labour Studies, Bangladesh
20. Workers Hub For Change(WH4C),Malaysia
21. People Forum for Human Rights(People Forum),Kathmandu, Nepal
22. Center for Migrant Advocacy, Philippines (CMA-Phils),Philippines
23. The People's Coalition for Fisheries Justice (KIARA),Indonesia
24. SEAFish for Justice ,Indonesia
25. Health Equity Initiatives (HEI)
26. Asian Network for Social & Agricultural Development (SANSAD)
27. Coalition of Cambodian Farmers Community Association (CCFC),Cambodia
28. Community Development Services (CDS), Colombo, Sri Lanka
29. Adaleh Center for Human Rights Studies, Jordan

30. Association for Community Development (ACD), Bangladesh
31. Think Centre, Singapore
32. Dibashram (Migrant Workers Cultural Centre), Singapore
33. Burmese Worker Circle, Fort Wayne, Indiana, USA
34. Tahanang Filipino Kuala Lumpur, Malaysia
35. Institute of Education Development, Social, Religious and Cultural Studies (infest)
Yogyakarta, Indonesia
36. Migrant CARE Indonesia
37. Migrant CARE Malaysia
38. New Thessalonian Apostolate (NTA), Malaysia
39. PieceWorks International
40. Projek Dialog, Malaysia
41. Persatuan Kesedaran Komuniti Selangor (EMPOWER) ,Malaysia
42. Pertubuhan Pembangunan Kebajikan Dan Persekitaran Positif Malaysia
(SEED),Malaysia
43. Radanar Ayar Association,Myanmar
44. Asia Transnational Corporation Monitoring Network(ATNC)
45. Workers Initiative Kolkata, India
46. Asia Monitor Resources Centre (AMRC)
47. Konfederasi Serikat Nasional(KSN), Indonesia
48. Federation of Indonesian Trade Union(GSBI),Indonesia
49. Sedane Labour Resource Centre, Indonesia
50. Center for Alliance of Labour and Human Rights (CENTRAL),Cambodia
51. Parti Sosialis Malaysia(PSM), Malaysia
52. International Domestic Workers Federation(IDWF)
53. Textile Garments Workers Federation, Bangladesh
54. Australia Asia Workers Links, Australia
55. Asia Floor Wage Alliance (AFWA)
56. Serikat Buruh Kerakyatan (SERBUK),Indonesia
57. Angkatan Peduli Insan, Malaysia
58. Jaringan Rakyat Tertindas (JERIT), Malaysia
59. Seksualiti Merdeka, Malaysia
60. Arts For Grabs, Malaysia
61. Archdiocesan Office of Human Development, Kuala Lumpur, Malaysia
62. Geutanyoe Foundation
63. Bhalobashi Bangladesh, Bangladesh
64. Myanmar Ethnic Rohingya Human Rights Organization Malaysia (MERHROM),
Malaysia
65. SAVE Rivers, Malaysia
66. Harmonyworks, Malaysia
67. The Society for the Promotion of Human Rights (**Proham**), Malaysia
68. Justice For Sisters, Malaysia
69. Women's Aid Organization (WAO), Malaysia
70. Parti Murba, Malaysia
71. Kuliah Buku (KUBU), Malaysia
72. Smile Education and Development Foundation, Myanmar
73. Aliran Kesedaran Negara(ALIRAN), Malaysia

74. Community Transformation Initiative (CTI), Malaysia
75. Monitoring Sustainability of Globalisation (MSN), Malaysia
76. Hope Organization, Malaysia
77. Advocates for Non-Discrimination and Access to Knowledge (ANAK), Malaysia
78. Gusdurian Kuala Lumpur, Malaysia
79. International Planned Parenthood Federation
80. International Movement of Catholic Students (IMCS) Asia Pacific
81. Civil Rights Committee of the Kuala Lumpur and Selangor Chinese Assembly Hall, Malaysia
82. Malaysia Muda, Malaysia
83. Malaysian Progressives in Australia
84. VajraLink, Malaysia
85. Electronics Industry Employees Union Southern Region, Malaysia
86. Coordination of Action Research on AIDS and Mobility (CARAM)
87. GreenWatch, Dhaka, Malaysian
88. Human Trafficking Watch, Indonesia
89. Gabungan Serikat Buruh Indonesia(GSBI), Indonesia
90. Front Perjuangan Rakyat (FPR)
91. International League of Peoples' Struggle(ILPS) Indonesia,
92. Keluarga Buruh Migran Indonesia(KABAR BUMI), Indonesia
93. Institute for National and Democracy Studies(INDIES), Indonesia
94. People Idea Culture, Malaysia
95. The Human Lens
96. Indonesian Migrant Muslim Alliance(GAMMI-HK), Hong Kong
97. Al Jami'ayyatus Sholeha, Hong Kong
98. United Indonesian Migrant Workers Against Overcharging, Hong Kong
99. Asosiasi BMI Progresif (ABP), Hong Kong
100. Warkop Aremania, Hong Kong
101. Association of Indonesian Migrant Workers(ATKI-HK),Hong Kong
102. Jamaah Silahurohimi Blitar,(JSB-HK) , Hong Kong
103. Nurul Hidayah,Hong Kong
104. Lentera Wong Tai Sin, Hong Kong
105. Al Islami, Hong Kong
106. Indonesian Migrant Workers Union(IMWU-HK),Hong Kong
107. Asosiasi Pekerja Indonesia Timur Tengah(ASPITT),Hong Kong
108. Al Istiqomah International Muslim Society, Hong Kong
109. Indonesian Migrant Workers Union Macau(IMWUM), Macau
110. Beringin Tetap Maidenlike and Benevolent (BTM & B), Hong Kong
111. Orang Indonesia Merah Putih (OI-MP), Hong Kong
112. Migrant Resource Centre(MRC) Penang, Malaysia
113. Arakan Refugee Relief Committee (ARRC),Malaysia
114. Alliance of Chin Refugees, Malaysia
115. Kachin Refugee Committee, Malaysia
116. The Patani, Patani/Thailand
117. Tamil Nadu Land Rights Federation (TNLRF),India
118. IMA Research Foundation, Bangladesh
119. Future Watch Movement, Bangladesh

120. ASEAN Services Employees Trade Union Council (ASETUC)
121. Union Network International Asia Pacific Regional Office (UNI APRO)
122. Peoples Forum, Nepal
123. POURAKHI, Nepal
124. Transient Workers Count Too, Singapore

Individuals

1. Rev Ng Kok Kee, Pastor of Harvest Community Church Petaling Jaya, Malaysia
2. Mahi Ramakrishnan, Filmmaker/Journalist
3. Dr Chan Chee Khun, Academician
4. Anselmo Lee, Activist
5. Laurence Kwark, Activist
6. Abu Hayat, Consultant on Bangladeshi Migration Corridor