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Vicki D. Crinis

*University of Wollongong*, [vcrinis@uow.edu.au](mailto:vcrinis@uow.edu.au)

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# Overcoming Enmity Amongst the Workers? A Critical Examination of the MTUC's Stance on the Migrant Worker Question in Malaysia

Vicki Crinis

University of Wollongong

*Foreign migrant workers have been an integral part of the Malaysian economy since independence. Yet their position in the Malaysian workforce and in Malaysian society is most precarious. This paper examines public and union reactions to foreign migrant workers. It argues that government policies have resulted in uncertainty for both local and foreign workers and encouraged enmity between them. The paper concludes that Malaysian trade unions must take a more proactive stance on the migrant worker question.*

## Introduction

In Malaysia rural to urban migration of Malays has been supplemented by an influx of overseas foreign workers, including women who have gravitated toward feminized sectors of the labour market, namely, domestic work, light manufacturing and the sex industry.

The numbers of foreign workers, including those who have entered the country under the government's guest worker policies and those who have entered the country illegally, have increased in recent years to a point where, according to social scientists, trade unionists and NGOs the situation has become difficult to control.

The new labour trends of foreign contract labour combined with the government restrictions on trade union organising means the workforce is more fragmented and harder to unite against employers who exploit workers. At present only 10 percent of the 8.2 million workers are unionised, of which 750,000 are members of Malaysian Trades Union Council (MTUC) affiliates (Rashid Yusof, 2002).

This is largely the result of government restrictions on union organising in Malaysia. Since the Race Riots in 1969 and the Malaysian Airlines strike in the 1980s labour laws have hardened considerably. Under the Trades Union Ordinance Act, the Registrar has the power to deregister unions if they become involved in action considered disruptive to

the development of the country. In addition the government has placed certain restrictions on unions organising workers in the Export Processing Zones especially workers in the electronics industry.

Trade unions were developed primarily in factories to support skilled male workers; this meant that trade unions traditionally neglected unskilled female and migrant workers. Although the feminization of the workforce and the globalisation of production have transformed the Malaysian workforce, trade unions have been slow to react and one group of workers most neglected are migrant workers. Trade unions must now move beyond traditional notions of the citizen worker to include foreign workers.

## Migrant labour and development

As in the colonial period, the modern Malaysian state has encouraged foreign labour flows into Malaysia in order to enhance economic development. Since independence, migration patterns and flows have largely come from the Philippines (especially the southern islands where the peoples are Muslim) and Kalimantan, Indonesia, to Sabah and Sarawak; from Sumatra to Peninsular Malaysia and Singapore; and from Southern Thailand to the northern states in Malaysia (Lim 1996). Foreign workers also come from Bangladesh and Burma and tend to go to Penang and Kuala Lumpur.

As a number of scholars have indicated Chin (1998), Wong (1996), Kassim (1997), Pillai (1992) and Lin Lean Lim (1996), migrant labour flows into Malaysia, as within Southeast Asia more generally have become feminized in recent decades, in contrast with the largely male international migrant population of the past. According to Lim and Oishi (1996), the feminisation of international labour migration is the most striking economic and social phenomena of recent times, as women become economic migrants in their own right, rather than dependants of male migrants.

Scholars argue that the growth of female labour migration in Southeast Asia is part of the globalisation of capital and the South/South (between developing countries) international division of labour, which includes transnational labour transfers of women from poorer to more developed economies (Lim & Oishi 1996). Labour migration in Malaysia, then, is often considered to be largely the result of the push-pull factors where transfers of labour between countries occur as a natural transformation between poor and richer neighbours for economic reasons. For example, as Pillai points out, in the Philippines, many women are under-employed, as their level of education is higher than needed for the low skilled jobs available. Women in these circumstances often seek work in neighbouring countries such as Malaysia where wages are higher than in their own country (Pillai 1992).

However, Chin's work presents a strong case against the theory that contemporary labour migration "is an osmotic-type phenomenon" alone (Chin 1998). Sending countries consider the expansion of overseas female labour exports as part of their development plans, while receiving countries such as Malaysia, define their economic policy and human resources plans to include female "guest workers". This means that the government allows foreign women to work in the country for a

period. After their contracts have expired, they must return to their country of origin.

Lim (1996) argues that Malaysia allowed foreign labour into the country earlier than other industrialising countries because of its high dependency on both agriculture and manufacturing. In the 1970s to the 1980s, cheap labour was needed for developments in the lesser-developed states especially with the establishment of the new palm oil and timber industries Karus 1998; Cooke 1999).

Cheap foreign labour was also employed to replace the higher paid unionised labour in the plantations. During this period, the plantations were undergoing structural change because the rubber industry was in decline (*Malay Mail*, December 20, 1980). Employers sought to restructure their plantations by employing cheaper labour. (Lim 1996).

Both the agricultural and the manufacturing sectors were, and continue to be, labour intensive. Locals refuse to work in these low-paying jobs because they have other options; hence migrant labour dominates in these work sectors. From the 1970s and early 1980s, Malaysian agricultural labour "dried up" as many potential labourers joined the rural to urban migration. This was further complicated by the post war repatriation of a number of Indian plantation workers as well as the emigration of Malaysian Chinese workers after the race riots in 1969. In response, the recruitment of Indonesian workers has been organised through the Malaysian Migration Fund since 1979.

A short recession in the early-mid 1980s precipitated a backlash against migrant workers. It was noted in 1986, that since the 1983 recession "local construction workers were being steadily displaced by Indonesian illegal immigrants". In 1986, newspapers reported that an "invasion" of "illegal" Indonesian foreign labour, was replacing local construction workers as well as agricultural workers (*New Straits*

*Times*, July 12, 1986). It was reported that the demand for cheaper foreign labour increases because “cost cutting rules the day” (*Sunday Mail*, May 10, 1987).

When the recession eased between 1987 and 1993, government development policies, created 14 million new jobs (Lim 1996). New industries such as palm oil and timber logging in the agricultural sector increased under government development policies as well as government construction projects such as the twin towers, the new airport, Cyberjaya and other “modern” skyscrapers, along with the construction of large numbers of condominiums to house the new middle classes and resettlement housing for the working classes. These developments placed further pressure on the government from the construction and agricultural sectors to find large numbers of labourers to service the labour shortages in these sectors.

In order to fill the new jobs, the government utilised foreign labourers (Lim 1996). ILO statistics show that Malaysia has an estimated 1.8 million foreign workers by 1999, of whom less than half have travel documents (Jones 2000). Although the figures are sketchy, Edwards (1999) estimates that foreign workers make up approximately 20 per cent of all employees—the largest percentage of whom are employed in the agricultural, forestry and fishing sectors followed by construction, manufacturing, and domestic sectors.

Legal and illegal migrant workers joined Malaysian workers in the construction industry and Indian workers in the plantation industries. The state’s main interest was to gain access to labour for the agricultural and construction sectors without much thought to the social ills that accordingly come with the influx of huge numbers of people, especially with an influx of large numbers of single men and a large number of undocumented immigrants.

### **Government regulation of migrant labour in the 1980s**

The Malaysian government has treated foreign workers as an itinerant labour force (Shari 2000), who could be utilised when the demand for labour was high and discarded when demands for labour were low.

In 1980s, the government saw the immigration of foreign labour an essential part of heavy industrial development (Fourth Malaysian Plan 1981). Within its development ideology, state regulation was shaped and defined around a concept of demand-driven supply. It was assumed that the provision of large numbers of jobs would absorb local as well as “contract” foreign labour, and when the economy slowed down foreign labour could be sent back to their country of origin (Shari Ishak 2000).

In 1984, in response to the influx of undocumented foreign workers the government signed the Medan Pact with Indonesia to control foreign labour through official channels. The first landmark in the migration transition was reached when Malaysia signed the Supply of Workers Agreement with Indonesia in 1984 permitting Malaysian agricultural plantations and land schemes to recruit immigrant workers if there were no Malaysian workers available (Lim 1996).

However, this and subsequent agreements have had little impact on the situation, as Indonesians have preferred the illegal route to Malaysia since the legal route involved paperwork, visits to the embassy and other red tape which is more costly and time-consuming (Chin 1998).

During the late 1980s and early 1990s, the government also gave amnesty to many undocumented immigrants already working in Malaysia by providing them with work permits. This action was undertaken so the government would not forfeit on the levies that employers were required to pay. In 1993 alone, the

immigration department collected 276 million Malaysian dollars in levies from all categories of foreign workers and this figure doubled in 1996 to 430 million Malaysian dollars (Pillai, 1998, 270). Government measures to stop the influx of illegal labour through this and other amnesties in the 1990s was a signal that the government was not serious about stopping illegal immigration (Kassim 1997). While the Immigration Department made periodic crack-downs on undocumented foreign labour, little was done to stop large numbers of Indonesian immigrants crossing the borders into Malaysia before the Asian Economic Crisis in 1997-8 (Pillai 1998).

Changes in government policy concerning foreign labour after the crisis reflected changes in the labour market as a whole. In many sectors of the economy, large numbers of foreign labourers are no longer required. For example, in the construction industry, a traditionally important employer of migrant labour, demand for foreign labour has dramatically decreased. After the Crisis, the government announced that 700,000 foreign work permits in construction and services sector would not be renewed. The government later reduced the number, but redeployed many of these workers to the agricultural sector (Pillai 1998)

Public concerns about foreign workers in post-crisis Malaysia have led to new government practices and the introduction of new legislation. Police and immigration officials use their power to round up and expel all documented and undocumented foreign workers considered “troublemakers” (Pillai 1998). Joint operations between the Director of Security and Public Order, with the immigration department, local councils and [police] teams to catch illegal immigrants are conducted at least twice a month in every state” (*New Straits Times*, January 1, 2002). In August 2002, a new amendment to the Malaysian Immigration Act was

introduced under which illegal immigrants face a maximum five-year jail sentence, a fine of 10,000 Malaysian dollars, or both, and are also liable to be given six strokes of the *Rotan* (Kahn 1997).

The Malaysian government’s constantly changing policy on foreign labour confuses employers and contributes to the growth of illegal immigration in Malaysia (Lim 1996). It has also drawn hostile responses from both the public and the union movement.

### **Public responses to labour migration**

Public outcry concerning foreign workers was noticeable in the early 1980s, but settled somewhat until the recession in the mid-eighties. During the 1985-7 recession, public discourses concerning foreign workers became increasingly negative especially after large numbers of Malaysian workers were retrenched. Around this time, there were articles in *The Malay Mail* and the *New Straits Times* as early as 1987 concerning the large numbers of “illegals” entering Malaysia (Dawson 1987; Osman 1986).

Many commentators argued that state intervention was needed to monitor and control foreign workers because they were undermining the wages and conditions of Malaysian workers. Foreign workers are viewed as taking the local’s jobs because they work harder than the locals and for less money. Many believed the government should step in and solve these problems as local workers have citizenship rights and foreign workers do not. According to Yun’s work, employers are seen as only worrying about their profits and not caring about Malaysian workers. They argue that the government should make the employers look after Malaysian workers and stop undermining the local workforce by employing foreign workers. Local workers do not care about big buildings and the Twin Towers if Malaysian workers do not have decent wages (Yun 2000).

Since the 1990s, public discourses concerning foreign labour have become more vitriolic as foreign labourers are blamed for the increasing numbers of social problems in Malaysia. As Yun's interviews have shown unlike the locals, foreign workers are portrayed as violent and unruly men who rape local women, take drugs and steal from their employers and neighbours. Indonesians and Bangladeshi workers are viewed as worse than other ethnic groups. According to Yun, the informants got their ideas of foreign workers from the mass media. (Healy 2000; Hing Ai Yun 2000).

The emergence and expansion of squatter settlements and the disgruntled murmurings from different sectors of society should have been a warning to government officials that existing government policy on foreign labour was inadequate (Kassim 2000). The government, however, has continued to turn a blind eye to problems associated with foreign migrant workers because of constant pressure from employers concerning labour shortages (Kassim 1997)

In more recent times, public discourses have reflected Malaysian's anxieties about migrant workers. Editions of the government-controlled *New Straits Times* highlight problems concerning immigrants such as the spread of disease in the squatter settlements as well as other social problems including drugs, violence, murder, rape and prostitution. In a typical example, an editorial in a recent publication of the *New Straits Times* noted that "statistics showed that Indonesians are involved in committing a crime every other day" (*New Straits Times*, February 4, 2002).

Increased level of surveillance of migrant workers has led to riots and civil unrest, particularly amongst Indonesian workers rounded up for deportation (*New Straits Times*, January 1, 2002; *New Straits Times*, January 29, 2002). In recent times photographs in the *New Straits Times*

picture a mass of Indonesian male textile workers beside an overturned police car (*New Straits Times*, February 18, 2002). This imagery causes further problems for the immigrant population, as it encourages Malaysians to see the immigrants as a threat to social stability and development.

Embedded in these moves to control Indonesian workers are class and race issues arising from perceptions of Indonesians as a threat to Malaysian values. In this context Malaysians view Indonesians in terms of development whereby Indonesia is Malaysia's poor neighbour. According to foreign labour rhetoric Indonesian immigrants are responsible for much of Malaysia's social ills, including crime and vice.

The demonisation of Indonesian workers in the media provides the government with excuses for the introduction of draconian measures at times of labour surplus (*New Straits Times*, February 8, 2002). An example of this is the government's Indonesians Last policy, under which Indonesian foreign labour is restricted to the agricultural, manufacturing and domestic sectors. Under the Indonesians Last policy, employers have been requested by the Deputy Prime Minister to "replace the Indonesian workers with workers from eight other countries listed by the government – Thailand, the Philippines, Cambodia, Myanmar, Nepal, Vietnam, Laos and Sri Lanka".

Around the same time, the government signed an agreement with Vietnam to provide labour for the construction industry. According to the Human Resource Minister, Fong Chan Onn, the agreement with Vietnam is not about replacing other sources of foreign labour but is in line with the government's new direction of diversifying its sources of labour. The Human Resource Minister also indicated that the government was studying the prospect of taking workers from Central Asian countries such as Uzbekistan, Tajikistan, Turkmenistan,

Kazakhstan and Kyrgyzstan (*New Straits Times*, January 31, 2002).

Finally, the government encouraged Malaysian women to take up part-time work to stop the need for foreign workers (Government of Malaysia 1998). This is only possible if married women take up these jobs and, like foreign workers, accept low levels of pay. The government realises that the majority of Malaysian workers will not work for the same wages that migrants receive if they have a choice, so it has directed its attention to married working class women. Married working class women are the most vulnerable group of workers, who, in times of crises, will accept whatever work they can get and who, in times of full employment, can be pushed back into the home due to their secondary work status.

### **Foreign workers in the factories**

The Federation of Malaysian Manufacturers has asked the Government to allow female Indonesian workers employed in the manufacturing sector to remain in the country, despite the Indonesians Last policy.

Documented migrants work in the lower paid sectors of the garment industry, in cleaning and packaging sections in the factories. In 1996, it was reported in the newspaper that out of 499,565 foreign workers, mostly Indonesian, 204,614 were employed as factory workers (*New Straits Times*, January 25, 1996). A large percentage of these workers with work permits are employed in textile factories in Johor (Interview with Bosco Agustini, 2000, 2001). However, these statistics do not include the large number of undocumented workers in the country who also work in the manufacturing sector. Undocumented foreign workers are most often employed in backyard industries (Interview with Sivananthan, 1999). As Edwards (1999) argues, “the pressure on the labour market means there is pressure in the system for employers to employ “illegal” foreign workers and dodge the

levies and charges incurred in the employment of documented foreign workers”. This is supported by data from an interview with a trade union spokesperson in Kuala Lumpur who noted that backyard industries employ foreign workers according to demand (Interview with Sivananthan, 1999).

During the 1990s, the globalisation of factory production has increased labour migration in the region (Jones 2000). Local and multinational companies exploit foreign workers in their efforts to compete on a global level. Irene Fernandez, activist and director of Tenaganita (women force), a NGO in Malaysia, argues that “the whole strategy of multinationals seems to be to make workers more vulnerable and unprotected – subcontracting and migrant labour fits into that strategy” (Fernandez 1996). Fernandez argues that there is very little accountability on the part of multinationals in relation to foreign workers. The companies in question (among them a number of textile and garment companies from Taiwan) recruit workers from Indonesia, Bangladesh, the Philippines, Thailand, Burma and Pakistan to work in low paid jobs in the manufacturing industries.

Foreign workers are not given any fringe benefits, social security or health benefits. Women have no access to maternity leave or medical benefits. U.S. companies often promise to train workers in computer skills but there is very little training. They can be dismissed for any reason including pregnancy and treated as a “throwaway workforce” when the economy is depressed. Migrant workers are the most vulnerable labour group in the country. The government will not ratify the United Nations (UN) Convention on the Protection of All Migrant Workers and their Families, which would allow foreign workers the same rights as Malaysian workers. Irene Zavier and Ganambal Mosses from *Sabhat Wanita* believe foreign workers without work permits are

subjected to numerous physical and sexual abuses by their employers, harassment by the police and immigration officials, as well as wage discrimination, non-payment and poor living and working conditions (Mosses and Zavier 1997).

### **Union responses to labour migration**

The Malaysian Trade Union Council (MTUC), along with labour NGOs, has pressured the government to stop the flow of foreign labour on the grounds that foreign labour depresses the wages structure and weakens the incentives to attract Malaysian workers. The MTUC has argued that there would be no labour shortages, and therefore no need for foreign labour, if employers increase the wages and conditions of agricultural, construction and manufacturing workers (MTUC, Interview, 1999)

Unions have been raising fears of an influx of foreign labour for the past two decades, especially in the timber, plantation and construction industry, but their concerns have not gone into mainstream debate until recently. The issue that has angered the MTUC, president the most has been the trend among employers to outsource rather than employ workers on a permanent basis. Outsourcing has become the biggest threat to workers today as it undermines workers full time employment thus undermining their superannuation fund (Employees Provident Fund) and opens the door for the flood of foreign workers (*New Straits Times*, May 1, 2002).

As early as 1979, the Timber Employees Union called for the abolishment of foreign contract labour in the timber industry. About 50 percent of workers in the industry are on contract and cannot join the union. In this case they fall outside the ambit of labour laws and can be exploited by employers. The union argued employing contract labour is a way to emasculate the workers (*Malay Mail*, September 30, 1979). This did little to stop the flow of foreign labour. One month later the Migration Fund in Sabah sought

Indonesian workers to fill the labour shortages. According to the government, the urban drift was pushing wages up and it was necessary to bring in foreign labour (*Malay Mail*, October 22, 1979). Although the government had attempted to encourage employers to lift their productivity through the introduction of higher levels of technology, they have continued to encourage the use of cheap migrant labour.

In 1980, the MTUC at its 25<sup>th</sup> Biennial delegates conference objected to the presence of immigrants in the plantations in Malaysia. The resolution read “there are already thousands of illegal immigrants working in the plantations for less remuneration and in conditions far worse than what they had been”. The real reason for labour shortages according to the spokesperson, are the “colonial attitude” of plantation employers. MTUC called for a minimum wage for all workers but this had no effect on the government. (*Malay Mail*, December 20, 1980). During the 1980s the average daily rate of rubber plantation workers declined. (Jomo 1990).

Like the timber and plantation sector, large numbers of contract labour (largely foreign labour) moved into the construction industry. In 1986, the Construction Workers Union found that in one building site 500 Indonesians worked alongside 100 Malaysian workers. Union officials explained “illegal immigrants find it easier to land a job in the construction sector because they are prepared to risk their lives and work in deplorable conditions”. Sub-contractors do not have to worry about paying superannuation fund or other fringe benefits for these undocumented workers. This is where the locals lose out. And when jobs become scarce the illegal foreign workers will lower their wage just to keep their job. They can do this because compared to their pay back home they are doing quite well (*New Straits Times*, July 12, 1986).



In 2002 the MTUC asked the government to conduct a study on foreign workers that would cover issues such as payment of wages and benefits, working hours, occupational safety and health. The spokesperson argued that while the MTUC did not support the utilisation of foreign workers in the country it could not be silent when foreign workers were being exploited and abused by employers. The MTUC also pointed out that many foreign workers “are under-paid, over-worked and forced to live in sub-standard, unhygienic and overcrowded conditions thus subjecting them to high stress levels” (Ganesh 2002). The task force can come up with recruitment guidelines and improved conditions of work. He said the recent retaliation of foreign workers at Nilai in Negeri Sembilan and Denghil in Selangor (which caused a police car to be destroyed) were not isolated cases. The Nilai incident, he said, was preceded by similar problems at the factories in the Malacca branch. This showed that the labour practices of the company involved were far from satisfactory. (*New Straits Times*, February 20, 2002). According to the president of MTUC foreign workers should be limited to the plantation and construction sectors and other sectors could easily attract Malaysian workers (*New Straits Times*, February 21, 2002). He suggested that factories should employ some of the 20,000 prisoners nationwide instead of foreign workers. Prisoners would work for factories if they paid the same pay as other workers. The factories could bring work to the prisons, as was the case of the Kajang prison where prisoners were involved in electronic, piping and garment manufacturing. He said many of the prisoners could support their families and the finished product was good.

Zainal also suggested as early as May 1997 that foreign workers be allowed to join unions. He suggested that this would both protect the country’s image as there were many cases where foreign workers complained of ill treatment when they

returned home. As well as protect the workers from exploitation and ill treatment. He said by allowing foreign workers to join trade unions would also stem the influx of foreign workers into the country and also help the government maintain its good image. But more importantly the MTUC claimed that foreign workers should be able to join a trade union so unscrupulous employers would not exploit them. The MTUC through its 182 affiliates had received many complaints of ill treatment of foreign workers. In Penang for instance, the MTUC received a complaint from a group of Pakistani women working in an electronics factory claiming that they had been badly treated and threatened by the employer. The government should allow them to join a trade union on humanitarian grounds. He argued that in a way this would help the government keep tabs on the actual numbers of foreigners in the country. He also argued that once foreign workers were employed they should be accorded the same rights, wages and benefits as Malaysian workers. The government in response accused the MTUC of trying to bolster the amount of fees collected from workers to strengthen its financial standing. (*New Straits Times*, May 26, 1997)

Overall then the MTUC has had little success in persuading the government to allow them to organise foreign workers. The MTUC then must take a stronger stand in helping foreign workers improve their wages and conditions.

### **Conclusion**

The presence of so many immigrants has become a major domestic and political issue in Malaysia. On the domestic side, there is pressure from the agricultural, building and manufacturing sector especially in the state of Johor to bring in more workers to service these areas. At the same time the MTUC is pressuring the government to stop the flow of foreign workers on the grounds that migrant labour

depresses the wage structure and weakens incentives to attract Malaysian workers, as well as the "human rights" issues.

The government has ignored the MTUC requests so now it is time for the MTUC to initiate new strategies to improve the wages and conditions of all workers in Malaysia. But first the MTUC must accept the fact that the lesser-developed countries of Southeast Asia provide Malaysia with a large part of its blue collared workforce

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