Labour Constraints in the Plantation Industry

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ABSTRACT

In the case of modern Malaysian plantation scenario, there is already ample legislation in place to create conducive labour relations environment as well as to enhance industrial and economic growth. Its main functions are: protection of the economic and social interest of workers, assist in enhancing national productivity and in promoting and preserving industrial harmony in the country. It also encourages employers in the private sector to employ disabled persons, promoting activities to facilitate and improve the planting environment so as to enhance the participation of unutilized workforce into the labour market.

Certainly, the quality development of human capital will ensure continued progress for the nation. Hence, employers are duty-bound to invest in training. However, with a population of about 25 million and a vast area under cultivation of tropical crops such as oil palm, rubber, cocoa and paddy covering about 6 million hectares and a thriving manufacturing, construction and services sectors, intense competition to recruit suitable and available local workers is the norm. Today, it is evident that through the process of Malaysianization, the ownership of plantation equity is predominantly under Malaysian hands. Thus, conflicting priorities set by decision-makers, both in public and private sectors at times create a challenging situation as well, which may be one of the reasons discouraging the local population from being attracted to plantation life. Overall, there is a shortage of manpower in the plantation sector.

In order to sustain economic growth of the country, the government has been pragmatic in their approach to fulfill the manpower needs. Thus, employment of guest workers (generally known as foreign workers) from approved source countries were allowed in order to alleviate the shortage of manpower in certain sectors, including the plantation and construction industry. However, with the influx of migrant workers with various background and disposition, many challenges are encountered. There has been some tension between the local community and guest workers. Cases of abuse and mistreatment attracted the media into reporting them as sensational news and may have influenced policy-makers. Policies change frequently, employer's dependency on guest workers increases with the area under cultivation. Local workers shun the plantation sector in favour of better working environment in and around urban setting. Over reliance on one particular group of guest workers has proved to bring negative impact. Additionally, of late (05/05/05), the Prime Minister (PM) had just outlined that addiction to cheap foreign labour as being one of the three Malaysian few bad habits, If we are not serious about combating this problem, maybe it is time for us to venture into other businesses which

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is non-labour intensive. The PM also called for employers to invest into the necessary areas in order to become more labour-efficient and adopt high technology.

Despite efforts from both the government and private sectors on automation of the work processes, the nature of work in the oil palm and rubber estates has inherent limitations such as biological and geographical factors. Much R & D work must focus in the area of mechanization especially the harvesting of fresh fruit bunches. Motivation and incentives to promote innovation and automation can be intensified. The employment of special people or inmates from Pusat Serenti, for example, has been tried out by some responsible employers with some degree of success. This effort can be expanded further. The development of the National Occupational Skills Standards (NOSS) for the plantation sector by National Vocational Training Council (MLVK) under the Minister of Human Resources must be implemented. The plantation sector must grow in tandem with the rest of other business activities towards k-economy.

The productivity-linked wage system (PLWS) concept may be in practice but to go forward, can Malayan Agricultural Producers Association (MAPA) and National Union of Plantation Workers (NUPW) come up with alternative wage system rather than one solely based on collective agreement? If both conventional and creative approaches in the manner of employment in the plantation sector have proven unsustainable, perhaps we should learn from our forefathers. Migrant workers were offered Malaysian citizenship then, land ownership by private individuals or through land cooperatives were encouraged. Today, we may not have the luxury of ample land for new planting by individuals but, ownership through shares may be another option.

In the interim, the key is to enforce a clear, consistent and manageable policy on recruitment of guest workers. Adopting a constructive engagement approach such as by direct consultation of all parties involved in recruitment of guest workers rather than a unilateral action by the authorities working in isolation, perhaps can work better. As a last resort, legislation can be formulated to safeguard the interest of all stakeholders by disallowing other urbanized economic sectors such as the services industry from employing guest workers. Remember that we also have about 3.5% unemployment, untapped to consider.

OVERALL LABOUR SCENARIO OF THE OIL PALM INDUSTRY

A unique feature of the Malaysian plantation sector is the mandatory requirement of employers to provide the basic necessities (such as shelter, water, light, medical and amenities) to workers and their dependents as enshrined in the Workers' Minimum Standards of Housing and Amenities Act 1990. Jurisdiction of this statute covers land holdings up to 20 ha. Therefore individual land owners are not spared. The only other sector which has to fulfill the same requirement is the mining industry which today provides less significant contribution. Many people often overlook the cost element of compliance by employers. The implementation of the Employment Act 1955 in Peninsular Malaysia does not cover the states of Sabah and Sarawak

where their Labour Ordinances still applies thus creating another area of disparity.

The Ministry of Plantation Industries and Commodities stated that (27 June 2005), the oil palm industry, as the pillar of rural economy, provides job opportunities for more than 1.5 million people in the sector. However, as with other commodities such as rubber, cocoa and coconut, the nature of the business here is regarded as a long-term investment, land-based, labour-intensive and risky affairs. It also covers multi-discipline, complex components of trade, making it even more challenging to investors. And moreover it has been labelled as the 3Ds vocation as being *dirty, dangerous and difficult*, thus making it less attractive to many young Malaysians. The challenge to us now is to turn the sector into a dignified, disciplined and diligent lot. Despite all these limitations, we continue to pursue reverse investments in our neighboring countries such as Indonesia, Papua New Guinea and elsewhere.

We are told time and again that people are the most important asset of a company. However, in reality, this statement seem hollow in that more often than not we hear that worker's welfare is neglected by employer. For instance, in many new development areas in Sabah and Sarawak, temporary form of dwelling is tolerated and compliance to the law may be lacking. Employers are even labelled as being interested only to engage *cheap foreign worker* so as to avoid capital investment in building infrastructure for their workers. As reaffirmed by MAPA, foreign workers employed in the industry enjoy the same terms and conditions of employment as local workers as provided for in the relevant Collective Agreements.

Contrary to popular belief, this paper aims to shed some light on employing guest workers which is a highly risky, continuous in-take due to temporary tenure of employment and an expensive affair (*Table 1*). Despite this situation many employers continue to recruit them. Why? Because they have no other choice, seems to be the reasonable excuse. Perhaps more empirical studies must be carried out by competent parties such as MPOB and the newly established Institute of Plantation Studies, Universiti Putra Malaysia (UPM) to determine the reason/s why Malaysians shun the plantation sector. Local workers say that there is not much opportunity in the estate but many guest workers enjoyed the estate environment and earn high income. No employer with a right frame of mind wants to maintain a high number of workers.

Tarmizi and Daud (2004) confirmed that some employers underestimated their obligations under the requirements of the Workers' Minimum Standards of Housing and Amenities Act 1990. For instance, over 60% of employers under review in Peninsular Malaysia did not provide clean potable water supply to their workers as stipulated in the law. What is enlightening to note is that Indonesian guest workers found Malaysian employers in the plantation sector as good employers. The reason could be the free accommodation, some extent of free supply of electricity and water and the opportunity to plant vegetables around their housing which provide a stable atmosphere. But the major complain amongst male Indonesian workers in the study is their loneliness for their spouse and children left at home in their villages at source country. On a serious note, perhaps it is timely for the authorities to allow workers with family to travel together as a family unit. The fulfillment of one's biological desire and needs must never be taken for granted. One must appreciate the maxim that no matter what, no matter where, it's home if love is there and always remember that guest workers, like you and me, are also humans.

If Malaysia is to remain competitive in the business, concerted efforts by all parties including the government must work in tandem to sustain the economic development in this sector.

DEPENDENCE ON FOREIGN LABOUR AND ITS IMPLICATION

Involvement of Foreign Nationals in Crime

According to Royal Malaysian Police (PDRM), Bukit Aman, Kuala Lumpur, the involvement of foreign nationals in violent crime is worrying. For instance, the percentage of violent crime such as murder was 21.51% in the year 2002 (111 cases out of 516 cases) as compared to 21.55% for 2001 (131 cases out of 608 cases) and 18.33% in the year 2000 (101 cases out of 551 cases). The total percentage of violent crimes involving foreigners in the year 2002 was 7.95% (1656 cases out of 20 843 cases) comprising crimes like murder, attempted murder, gang robbery with firearm, gang robbery without firearm, robbery with firearm, robbery without firearm, rape and causing hurt. Likewise, the percentage for property crimes was 2.09% for the year 2002. This category includes crimes such as house breaking (day), house breaking (night), lorry/van theft, motorcar theft, motorcycle theft, snatch theft and others.

The single biggest user of guest workers by virtue of organization in Malaysia is Federal Land Development Authority (FELDA),

TABLE 1. STATUTORY PAYMENTS/FEES IMPOSED BY MALAYSIAN GOVERNMENT TO BRING-IN A FOREIGN WORKER FOR THE PLANTATION SECTOR

Type of Payments	Amount	Remarks
Levy*	RM 360* per worker per year (plantation sector).	RM 1200/worker/year for other sectors
Visit pass (temporary employment) or PL (KS)	RM 60 per worker per year (all sectors).	*Pas lawatan* (*kerja sementara*) - PL(KS)
Process	RM 10 per worker per year (plantation sector).	RM 50/worker/year - other sectors
Visa	Between gratis, RM 15 to RM 100 per worker per year, depending on nationality.	Thailand-gratis, Vietnam-RM 13, Indonesia-RM 15, Myanmar – RM 19.50, Nepal, Cambodia, Bangladesh, Pakistan – RM 20, India – RM 50 (single entry) and RM 100 (multiple entry)
Security bond deposit	Between RM 250 to RM 1500 per worker, depending on nationality.	Indonesia, Thailand, Cambodia – RM 250, Bangladesh – RM 500, Pakistan, Myanmar, India and Nepal – RM 750, Philippines – RM 1000, Vietnam – RM 1500.
Medical examination fee paid to FOMEMA Sdn Bhd or registered GP, in the case of Sarawak state	RM 180 for male per examination per year. RM 190 for female per examination per year.	General practitioner – GP
Foreign Workers Compensation Scheme under the Workmen's Compensation Act, 1952 (Workmen's Compensation) (FW Compensation Scheme - Insurance) Order 1998.	RM 86 per worker per year + 5% service charge.	Insurance companies registered with Ministry of Human Resources
Employees Provident Fund (EPF) Contribution	Stopped on August 2001	Previously, rate of contribution - 9% for employee and 5% for employer.
Cost of selection/ interviews/transportation to bring-in workers/ individual documentation	Employers spend between RM 1000 to RM 2400 per worker every time a fresh worker is recruited.	Depending on source country.

Note:* w.e.f. 1 August 2005, levy increased to RM 540 from RM 360, other sectors varies but higher than plantation sector.
Sources: Immigration Department Malaysia, Ministry of Human Resources and MPOA.

followed by the three government-linked corporations (GLC) such as Golden Hope Plantation Berhad (who employ about 7800 guest workers covering Peninsular, Sabah and Sarawak, they also reported that the ratio of local: foreign workforce is around 50:50), Kumpulan Guthrie Berhad and Consolidated Plantations Berhad. By distribution, Sabah employs the most number of guest workers; reason being the area under oil palm cultivation covers about 1.07 million hectares as compared to a population of around 2.5 million people. Even government agencies such as the MPOB employ the services of foreign workers.

We must be mindful that there are a large number of individual land owners with less than 40 ha as well as vegetable growers depending on foreign workers. However, while public perception has it that we depend highly on guest workers to harvest our crop, there are some individual small-sized companies who have the policy of employing only local workers. Perhaps a mechanism in the form of incentives from the authorities to encourage companies not to employ foreign workers should be introduced.

In the case of Peninsular Malaysia, both employers and employees interests pertaining to wages are taken care of by the once in three years collective agreement (CA) for member companies subscribing to the Malayan

Agricultural Producers Association (MAPA) and workers interest by the National Union of Plantation Workers (NUPW). However, this model does not give direct benefit to workers in Sabah and Sarawak, apart from, to some extent some of the general aspects of labour relation issues regarded as persuasive devices in maintaining industrial harmony.

Shortage of Manpower - A Perennial Affair

The subject of labour shortage in the oil palm sector in Malaysia is a perennial concern to planters; as relative to the biological nature of the palm tree itself (*Figure 1*). This predicament has been haunting the sector ever since the first large-scale undertaking of plantation tree crops that took place in this country some 130 years ago.

There is no argument to the fact that most primary agricultural production is labour intensive the world over. We have also seen tremendous progress and improvements being achieved through technological development and mechanization in many aspects of farm operations. However, there are limitations, which are inherently most challenging to some crops such as oil palm in the tropics. The oil palm sector in Malaysia has undergone many changes in many aspects in order to remain sustainable. Nonetheless, one aspect that has consistently plagued the sector is the one concerning human elements.

As an illustration not much progress has been achieved to replace manual harvesting of the fresh fruit bunch (FFB) with a mechanical harvester, despite much effort being made by the Malaysian Palm Oil Board (MPOB). Perhaps the private sectors should be given more incentive to enhance their effort in the area of mechanization. The tight domestic availability of suitable manpower has prompted the government to allow the employment of foreign workers from approved source countries in certain sectors including the plantation (*Table 2*).

Illustration of Some of the Consistent Cries from Employers

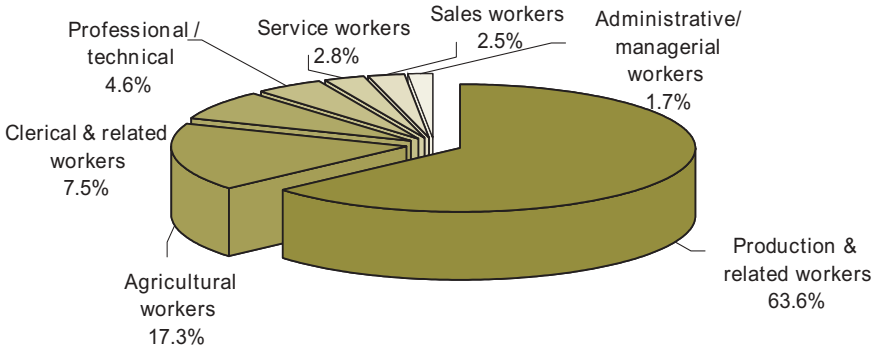
"The labour shortage in Malaysia is becoming a serious threat to the…development of the nation's economy."
Source: The Planter (1980).

"The single most pressing issue facing the plantation industry is shortage of labour."
Source: ISIS Conference (1992).

"The biggest issue facing the oil palm industry today is the shortage of workers."
Source: ISP International Planters Conference (2000).

The statements mentioned above are some common cries describing the degree of the problems as a popular issue.

Due to the lack of reliable data, one wonders which statistics to consider when it comes to determining the actual shortage of manpower in the plantation sector. You will have different quotes from various sources. This happens because unlike retrenchment where there is a mandatory requirement for employer to report, there is no legal requirement to report about job vacancy. In practice, however, member companies under Malaysian Palm Oil Association (MPOA) who represent the majority of the oil palm producers have consistently reported job



Source: Economic Report 2002/2003, Ministry of Finance, Malaysia.

Figure 1. Number of vacancies by occupation (January-June 2002).

TABLE 2.

Occupation	Number of vacancies	Percentage
Production & related workers	40 888	63.60
Agricultural workers	11 122	17.30
Clerical & related workers	4 822	7.50
Professional/technical	2 957	4.60
Service workers	1 800	2.80
Sales workers	1 607	2.50
Administrative/managerial workers	1 094	1.70
Total	64 290	100

vacancy to the Manpower Division, Ministry of Human Resources in the following categories of work (*Table 3*).

From *Table 3*, it is certain that the east Malaysian states of Sabah and Sarawak require the highest number of manpower, followed by Johor and Pahang in Peninsular Malaysia. In trying to resolve the issue here, one must appreciate the fact that there exists certain peculiarity in relation to immigration and employment with regard to legal requirements in Sabah and Sarawak. Notably, the Employment Act 1955 is not effectively enforceable there due to the existence of the Sabah and Sarawak Labour Ordinances. For example, the disparity of wages occurring in Peninsular Malaysia, Sabah and Sarawak must be urgently addressed. The practice of piece-rate payment based on productivity such as for fresh fruit bunch (FFB) harvester has been widely accepted and as an example a hard working harvester can earn up to RM 2000 per month in comparison to the monthly safety net amount of RM 325 (negotiation for revision on-going) as agreed under MAPA and NUPW agreement.

According to the Ministry of Plantation Industries and Commodities (MPIC), as at end of year 2004, the total oil palm planted area is 3.88 million hectares, natural rubber 1.28 million hectares and cocoa estimated at 44 000 ha. Pepper cultivation which is concentrated in Sarawak covers 13 830 ha which also depends on foreign workers as well.

Based on the above figures, it is clear that unless we innovate our work processes by adopting technologies and machines, more and more foreign workers will be needed to sustain our economic growth.

The other important crops such as coconut and paddy come under the purview of the Ministry of Agriculture (MOA) which also depends on foreign worker. The major consideration for the approval to bring in foreign workers is the factor of labour to land ratio. In reference to *Table 5*, it is evident that there has been improvement. This is due to the efforts of both the government and industry in their mechanization agenda.

Assessment of Government Policies and Regulation on Foreign Workers

Since the Medan Agreement (12 May 1984) on supply of workers between the Republic of Indonesia and Malaysia, many developments have taken place in both sides of the equation. It is very important that employers must keep abreast with current development both at source countries and also in Malaysia. A number of government to government (G to G) agreements or memorandum of understanding (MOU) has been concluded between source countries and Malaysia. Unfortunately employers are not privy to the details of the

TABLE 3. LABOUR SHORTAGE BY CATEGORY OF WORK AS REPORTED BY MALAYSIAN PALM OIL ASSOCIATION MEMBER COMPANIES TO DIRECTOR, MANPOWER DEPARTMENT, MINISTRY OF HUMAN RESOURCES

Category of work	End of year 2001				End of year 2002				End of year 2003			
	Male	Female	Total	%	Male	Female	Total	%	Male	Female	Total	%
Oil palm harvester	2 296	76	2 372	38.9	1 777	71	1 848	39	1 347	15	1 362	38.4
Rubber tappers	50	39	89	1.5	134	73	207	4.4	91	79	170	4.8
Coconut/cocoa harvester	58	0	58	1.1	46	0	46	0.9	13	0	13	0.4
General/field workers	2 216	787	3 003	49.3	1 666	485	2 151	45.5	1 256	393	1 649	46.5
Palm oil mill workers	149	0	149	2.4	104	8	112	2.4	59	7	66	1.9
Rubber factory workers	81	0	81	1.3	16	2	18	0.4	18	4	22	0.6
Mandore	68	13	81	1.3	82	21	103	2.2	84	20	104	2.9
Others	229	29	258	4.2	238	8	246	5.2	126	34	160	4.5
Total	5 147	944	6 091	100	4 063	668	4 731	100	2 994	552	3 546	100
	Representing 20% of membership only				Representing 20% of membership only				Representing 20% of membership only			

Source: Malaysian Palm Oil Association.

documents. An employer merely learns about information and policy changes from announcements through media reports and mainly through agents.

For instance, the Cabinet Committee on Foreign Workers under the leadership of the Deputy Prime Minister makes recommendations to the cabinet on matters pertaining to the employment of foreign workers. The Division Secretary for the National Registration and Immigration Division, Ministry of Home Affair (KDN) Putrajaya acts as secretary to the cabinet committee. It is also this Division which processes the application to bring in foreign workers (generally known as quota for employers operating in Peninsular Malaysia). Issuance of approval letters to bring in guest workers for the state of Sabah and Sarawak are determined by State authorities, thus, there is a slight variation as compared to Peninsular Malaysia. Recently the government has been proactive in implementing numerous measures to improve its administrative processes. The increase on payment of levies, announcement by Deputy Prime Minister in July 2005, caught employers by surprise. There was no prior consultation nor warning pertaining to the issue, what is certain is that it will add cost to the already hefty financial burden.

In examining the statute, employers, by virtue of the Employment Act 1955 and Regulations made there under employers must conform to the requirements of Part XIIB therein making it mandatory, amongst others, to furnish information about foreign workers, *etc*. to the Ministry of Human Resources on the prescribed forms. The bottom line is employers are duty bound to fulfill this requirement by submitting the returns to labour office. The effective enforcement of this rule is crucial so that those law abiding employers are not unfairly treated.

Recruitment of Foreign Worker - Application Processes

In the case of Peninsular Malaysia, once a decision to engage a foreign worker is made by an employer, he or she must fully understand the basic requirements and relevant laws pertaining to the processes to bring-in a foreign worker. This is to avoid action being taken against them by the authorities for non-compliance to rules and regulations.

The new Immigration Act 1959/ 1963 (Amendment 2002), which came into effect on 1 August 2002, provide for imposition of heavy fines, imprisonment and whipping of illegal immigrant, recruitment agent, employer and also occupier. The stringent penalty is summarized as follows:

Illegal immigrant
- up to RM 10 000 fine;
- up to five years jail; and
- up to six strokes whipping.

Recruitment agent
- RM 10 000-RM 50 000 fine;
- two to five years jail; and
- up to six strokes whipping.

Employer
- RM 10 000-RM 50 000 fine per worker;
- up to 12 months jail (more than five workers);
- six months-five years jail; and
- up to six strokes whipping.

Occupier (including landlord)
- RM 5000-RM 30 000 fine per person;
- up to 12 months jail (upon second conviction);
- RM 10 000-RM 60 000 fine per person; and
- up to two years jail.

The number of registered foreign workers in Malaysia according to nationality and sectoral distribution is shown in *Tables 4a* and *b*.

At the first instance, an applicant in Peninsular Malaysia must submit application for foreign workers using the official forms [Form KDN/PA2/98 (Rev. 1/2001) (for Peninsular Malaysia) Free] obtainable free of charge from the Secretary, Immigration and National Registration Division, KDN at Putrajaya. Form IMM. BPA. 229/857 (for Peninsular Malaysia only) is introduced for the purpose of application for replacement of a foreign worker who has been repatriated (*i.e.* 1:1 replacement). Normally, an applicant can obtain approval within a period of two weeks. However, this provision does not cover a foreign worker who had absconded.

Each submission must be completed in four copies and a cover letter, preferably in Bahasa Melayu must accompany the official forms. The applicant is recommended to keep the validated copy of letter by KDN as evidence of submission. Our experience reveals that failure to keep records will further delay the process especially during the follow-up exercise.

In the case of the states of Sabah and Sarawak, Form JPBA 1/98 and Form JB. SWK.20 respectively are applicable with certain peculiar administrative requirements by each state authority.

At this stage, the most common problem is with regard to Form 49, Companies Act 1965, which stipulates the name of Board of Directors, managers and secretaries of the company. It is mandatory to submit a copy of this document together with Form KDN/PA2/98 (Rev. 1/2001) and the two most senior officials of the company

must sign these application forms. In practice, it is inconvenient to expect these people to represent the company for all transactions at all occasions, both at KDN and Immigration Department. As an example, the KDN and Immigration Department expects them to personally collect the letter of approval and that letter of authorization issued by them to authorized personnel are not accepted.

MPOA has suggested that to overcome this difficulty, the name of the authorized personnel assigned to represent the company be inserted at question number four, of the Form together with the names of the two senior officials. This initiative has been found to be effective; however, there is no official acceptance by KDN.

The average time taken from the date of submission of application and collection of letter of approval from KDN is four weeks. Nonetheless, we have one extreme case extended to a period of seven months.

Therefore, it is no surprise that there are employers engaging third party service providers in order to expedite the process and also to avoid management's productive time being wasted and thus, incurring additional cost of doing business.

THE TIME TAKEN TO RECRUIT A FOREIGN WORKER

After receiving the letter of approval to employ a foreign worker, an employer will require some three to six months period to bring-in a worker, depending on the source country. The breakdown is as follows:

TABLE 4a. REGISTERED NUMBER OF FOREIGN WORKERS ACCORDING TO NATIONALITY (1999 – 2002)

Year Nationality	2002	2001	2000	1999	1998
Bangladesh	81 896	138 522	140 363	129 004	224 609
Indonesia	458 098	569 479	530 218	512 766	490 550
Thailand	20 560	7 695	2 993	2 380	7 222
Philippines	6 925	15 392	26 685	30 510	14 828
Pakistan	1 997	-	3 530	2 885	8 905
Others	187 545	38 478	22 370	19 674	28 596
Total	847 021	769 566	726 159	697 219	774 710

TABLE 4b. REGISTERED NUMBER OF FOREIGN WORKERS ACCORDING TO SECTOR OF EMPLOYMENT (1998 – 2002)

Year Nationality	2002	2001	2000	1999	1998
Bangladesh	81 896	138 522	140 363	129 004	224 609
Indonesia	458 098	569 479	530 218	512 766	490 550
Thailand	20 560	7 695	2 993	2 380	7 222
Philippines	6 925	15 392	26 685	30 510	14 828
Pakistan	1 997	-	3 530	2 885	8 905
Others	187 545	38 478	22 370	19 674	28 596
Total	847 021	769 566	726 159	697 219	774 710

Source: Immigration Department, Malaysia.

	Details/Activities	Time taken (days)
i.	Select a recruiting agent at source country and sign agreement to supply worker	7 to 14 days
ii.	Obtain attestation at respective embassy or high commission	3 to 10 days
iii.	Recruiting agent file documents with authorities at source country	7 to 10 days
iv.	Advertise and carry out initial selection of workers at source country by recruiting agent	21 to 40 days
v.	Selection and recruitment of workers by employer at source country	14 to 21 days
vi.	Arrange passports and medical reports at source country	14 to 28 days
vii.	Receive photocopies of passports, medical reports and prepare Form IMM 12. Obtain band guarantees and drafts	7 to 14 days
viii.	Submit application for *Calling Visa* and receive reply from Immigration Department Malaysia	12 to 14 days
ix.	Obtain single entry visa for worker at Malaysian Embassy at source country	1 to 14 days
x.	Arrange for flights/transportation to Malaysia and send workers to Malaysia	7 to 14 days
	Total	99 to 176 days or 3 to 6 months

Note: The above can be achieved assuming there are no other delays encountered.

EMPLOYERS EXPERIENCES ON APPROVED SOURCE COUNTRIES

To date, the government has approved nine source countries from which foreign workers can be recruited for the plantation sector; they are Indonesia, Thailand, Cambodia, Myanmar, Nepal, Laos, Vietnam, Philippines and India.

Currently, plantation companies are very cautious in their selection of foreign workers. Only the most suitable foreign workers are selected to work in the estates. Briefly, the following concerns are some of the challenges being encountered by employers with the approved source countries.

Thailand

The workers are not interested in long-term employment. They only seek seasonal employment (three to six months only) and wish to return to their country very frequently. Often they abscond for a few weeks and return later to continue employment. For this reason, they prefer to be employed only in the northern regions of Peninsular Malaysia. They do not respond well to disciplinary measures and have a tendency to quarrel among them, which disrupts work schedules quite frequently.

Cambodia

To date, almost all plantations who have employed Cambodians have reported negatively on their attitude and performance. Absconding is prevalent. Estates have reported that they are requested to pay a fee of up to RM 2500 per worker (non-recoverable) to the recruiting agency. Although Cambodia has been listed as a source country for quite a few years, only a small number of workers have been recruited by the estates.

Myanmar (Burma)

Plantation companies have yet to recruit workers from this country although the services and manufacturing sectors have employed the workers and reported well on their performance and attitude. However, they are an untested source in the plantations. In addition, before we could even try to employ them, their government has imposed a guaranteed minimum basic wage of RM 20 per day for 26 days of work per month (RM 520 per month). This cannot be acceded to by the plantations without contravening the terms and conditions of the MAPA/NUPW Wage Agreements, this being the case for Peninsular Malaysia. Although oil palm harvesters can easily earn far more than RM 20 per day, we are committed to productivity-linked wage system, which is not acceptable to the authorities in Myanmar. Furthermore, the authorities in Myanmar have imposed a unique condition whereby the employers are required to deduct 50% of the basic wages earned and another 10% of the gross wages earned by the workers. The deductions are to be remitted to their government. This requirement (deductions) is in fact in violation of our Employment Act 1955.

Nepal

The Nepalese Government appears very reluctant to approve applications from plantation companies to recruit their nationals and has placed the Malaysian plantation industry as the *least desired industry* for the employment of Nepalese. Furthermore, they have also imposed conditions on minimum wages (to be guaranteed) such as a daily pay of RM 18.30 for a minimum of 26 days per month (RM 475.80 per month) and overtime and allowances to be offered to make up a minimum take home pay of RM 700 per month. It is also reported by the recruiting agents in Nepal that generally the Nepalese are not keen to work in the plantations as they do not like the hot, humid weather in Malaysia and they are afraid of snakes and mosquitoes. Documentation of Nepalese nationals causes problems as well. To obtain travel documents, one has to go to the Nepalese Embassy in Bangkok (there is no Nepalese Embassy in Malaysia) and to obtain the Malaysian Visa, the Nepalese have to go to the Malaysian High Commission in New Delhi in India. This imposes additional restrictions and limitations.

Laos and Vietnam

Based on our experience with Cambodian nationals, we feel that we would face the same problems from these countries. Furthermore, communication will be a major hurdle.

Philippines

Although, Philippines is one of the original source country permitted by the government, the plantation industry could not recruit suitable workers for various reasons. Furthermore, the most suitable workers would be from Southern Philippines, namely from Mindanao which unfortunately of late had become a serious threat to national security.

India

Not a new source country though, previously the main

supplier of workers for the plantation sector. However, there is a condition that a guaranteed basic salary of RM 600 per month per worker be part of the employment contract.

Indonesia

With the influx of Indonesian workers especially during the last four years, they have become the dominant foreign workforce on almost all plantations. With large concentration, they tend to become organized in a gang-like fashion and demanding. They *down-tools* readily and cause industrial unrest on plantations. They have become selective; choosing to carry out only jobs that offer the highest rates of pay which in turn, creates big problems for the management to realize the completion of the work programmes. The tendency to abscond is prevalent among Indonesians, who with their excellent network of communications and movement within the country, pay scant regard to rules and regulations and often exhibit a *could not care less* towards documentation. They appear to be prepared to be illegal workers if it means earning more and not paying the levy to the government. Many of them believe that even if they were caught illegally, they would merely be detained and sent back home to Indonesia without any other punishment.

ABSCONDMENT BY FOREIGN WORKER - A SUBSTANTIVE CHALLENGE

Amongst the most substantive challenges in handling a foreign worker is the issue of those who go away secretly or illegally from the employer, commonly regarded as absconder. An employer is responsible for the well-being of their foreign workers whilst in the country.

The rule about what to do when a foreign worker absconds as it stands today is to make a police report and the employer must retain a copy of the report as evidence of his statement. It is vital to keep the report safely.

The next step is to make an official report to the Immigration Department, enclosing a copy of the police report when submitting the letter. The matter does not rest here.

Having taken the two steps mentioned above, an employer would not be entitled to fill-up the vacuum created by the absconder. The employer will also be regarded by Immigration Department as one who is unable to manage its foreign worker well and thus risk being *blacklisted*.

Apart from suffering big financial losses, the employer will not be entitled to get a replacement provision (1:1) accorded by the government to replace the foreign worker who had completed the tenure of employment and had been repatriated. In the case of an abscondment, the employer's only alternative is to make a fresh application for additional foreign worker from KDN. This will mean going back to square one and undergoing the lengthy and uncertain process.

When a foreign worker absconds, the following financial losses is incurred; cost of bringing-in workers from source country to Malaysia, payments to agents at source country, statutory fees to Malaysian Government, medical fees, advances made to foreign workers (in some cases) and the compounding of the security bond deposit. The estate had suffered cost in conditioning the workers when they first arrived, cost of placement of workers, interruption of daily work and the continued shortage of worker.

In essence, there is little an employer can do when a foreign worker absconds and from a practical point of view, to control it from happening. However, having taken the actions mentioned above, an employer can be assured that his duty to the absconder is lessened, should the absconder be found to be involved or found guilty in criminal activity while in the country. An employer is duty bound to retain the travel document of the absconder until the tenure of the work permit expires, and then to surrender it to the representative of the embassy or high commission of the source country office in Kuala Lumpur.

As a result of the above difficulties, it is no surprise that many employers choose to ignore the requirement to make the necessary reports as they feel that they are heavily penalized for being law abiding. In practice, MPOA has come to an understanding with Royal Malaysian Police, Bukit Aman to allow employers to safe-keep the original travel document of the foreign worker and to issue a certified copy of the travel document of foreign worker to the worker with a copy extended to the chief of local police, but this arrangement has not been approved by the Immigration Department Malaysia.

SUGGESTED POLICY TO REDUCE DEPENDENCY ON FOREIGN LABOUR

In essence, a comprehensive long-term national policy on recruitment of foreign workers must be designed. Clear and consistent policies on the administrative procedures and requirements must be urgently put in place to replace the knee-jerk approach currently enforced by various departments. The basis for consideration to recruit foreign workers must be defined clearly to applicants to avoid corrupt practices by all concerns.

Alternatively, employers must be encouraged to continue their efforts for innovative operations to reduce dependency on manpower utilization, both local and foreign. A review of the system of remuneration in the oil palm sector may be necessary to lure the modern Malaysian youth to take up jobs in the estate.

Mechanization - Action by the Industry

One must appreciate that the oil palm industry is already a highly efficient industry. It is unlikely that mechanization can achieve a reduction in costs in the near future. Since production at the lowest possible cost is a prime objective, mechanization is only justified if labour is not going to be available to continue doing the job it is done now.

The industry has over the past decades successfully mechanized nearly all field maintenance operations such as land preparation, fertilizer applications, in-field fruit collection and evacuation to the oil mills. This has been achieved nearly over all estates where terrain permits. Some even have an efficient rail system network.

The core challenge is how to mechanize harvesting of FFB. In practice, it is impossible to undertake this operation at a competitive cost in the same way that nobody seems to have found a viable way to mechanize rubber tapping. The problem with oil palm harvesting is that it looks very difficult to devise any harvesting activity which would work any faster than a man with a harvesting pole to cut the fruit bunches. Efforts by MPOB and private sector enterprises to develop viable mechanical devices are still on-going.

Nevertheless, mechanization and automation of many other field and mill operations have to a large extent reduced the dependency on labour and this is evident from the labour to land ratio which was at 1:5 ha in year 1990 to 1:9 ha in year 2000, as illustrated in *Table 5*.

SOME HISTORICAL BACKGROUND ON RECRUITMENT OF FOREIGN WORKERS

2005	Foreign workers induction course (FWIC), levy up.
2004	Amnesty to illegal.
2002	Tenure of employment - 3 years + 1 year + 1 year, MLVK certification nine source countries for plantation sector.
2001	Government reduces tenure of employment for foreign workers from six and seven to three years.
2000	Immigration Department allowed replacement of repatriated foreign workers from Indonesia, Thailand, Cambodia, Myanmar and Nepal. Plantation sector allowed engaging foreign worker up to seven years and eight years (one-third of the seven years).
1998	Plantation sector allowed - 3+2+1+1=7 years.
1998	Freeze on recruitment of fresh foreign workers from Indonesia, Thailand, Cambodia and Sri Lanka lifted.
1997	Plantation sector allowed - 3+2+1= 6 years.
1994	Plantation sector allowed - 3+2 = 5 years.
1996	Illegal workers from Bangladesh, Indonesia, India, Thailand, Nepal and Burma legalized.
1995	Switching of employers by foreign workers stopped.
1993	Foreign workers can switch employers.
1994	Freeze on the recruitment of semi skilled workers imposed.
1993	Freeze imposed on the recruitment of unskilled workers.
1992	Illegal Indonesian, Bangladesh, India, Pakistan, Thailand and Philippines legalized.
1984 to 1994	Foreign workers permitted to work for a maximum of three years.
1998 and 1990	Illegal Indonesian workers legalized.
1984	Medan Agreement, Indonesia and Malaysia. Recruitment from Bangladesh allowed.

TABLE 5. LABOUR TO LAND RATIO

Scenario	Year	Planted oil palm area in Peninsular Malaysia (ha)	Labour to land ratio	Total workers required
Situation	1990	1 698 498	1:5 ha	340 000
Scenario 1	2000	2 045 500	1:5 ha (status quo)	409 000 (extra 69 000 workers would have been required)
Scenario 2	2000	2 045 500	1:9 ha (improved position)	227 000 (reduction of 182 000 workers compared to Scenario 1)

CONCLUSION

Employer must accept that employment of foreign worker is a privilege and not a right. The onus is on the employer to primarily adhere to all the procedures and administrative requirements in filling and completing forms to avoid delays. There is no magic formula to deal or get things done with the numerous government departments; however a close rapport must be developed by representatives of employers with the officers from the relevant authority in order to keep abreast of the frequent changes in policy. Employers must take good care of their foreign worker for their own benefit. The government should improve the enforcement procedures on recruitment of foreign workers and to simplify application process that is to reduce cost of doing business. The government must be objective and fair to employer in accommodating demands from businesses and tackle intermittent issues without fear or favour. After all in the interest of national security, it is our collective responsibility that counts.

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