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Wage Theft to Job Theft: The Prevailing Exploitation of Bangladeshi Migrants in Malaysia

Bangladeshi workers constitute a significant portion of the migrant workforce in Malaysia, contributing to various sectors such as construction, manufacturing, and agriculture. However, a pervasive issue faced by many Bangladeshi workers in Malaysia is wage theft, which can come in many forms.



What is wage theft?

Wage theft, incorporates a range of injustices against workers, including underpayment, non-payment, illegal deductions, and manipulation of working hours. This can involve denying workers their rightful earnings, such as paying below the minimum wage, not compensating for overtime, or withholding contractual benefits. Wage theft is a significant problem, particularly affecting migrant workers in Asia, where labor exploitation remains prevalent. (Migrant Forum In Asia)



In Malaysia, wage theft among Bangladeshi workers is often rooted in exploitative practices orchestrated by recruitment agencies, intermediaries, or middlemen, and oftentimes in tandem with employers. These entities impose exorbitant fees for recruitment, visa processing, and administrative costs, pushing workers into debt bondage and unable to leave abusive work environments. Some of these costs allegedly go into paying for bribery and corrupt practices.

In order to properly understand the enormity of the issue, and ways to remediate – which should entail, at the very least, a repayment – it is critical that workers and labor advocates are trained and capacitated with the right tools to document and calculate recruitment costs and expenses, as well as deductions and wage underpayments.

In 2018-2020, Dignity in Work for All (formerly Verite Southeast Asia) conducted a study that documented the plight of migrant workers in the Malaysian electronics manufacturing sector, specifically among Indonesians, Nepalis, Burmese, and Bangladeshis. This study found that the recruitment and working conditions for Bangladeshi workers was more

precarious compared to workers from the other nationalities under study. It further confirmed the extreme and widespread exploitation and abuse, including experiencing several indicators of forced labor including wage theft.

Experiencing unethical and deceptive recruitment, and the associated debt burden from exorbitant recruitment fees, remains a common denominator among many migrants who experience wage theft and fall into situations of forced labor.

Many Bangladeshi workers in Malaysia reported being forced to work long hours, between 12 to 16 hours, in hazardous conditions for meager pay due to debt incurred from recruitment fees and other-related migration cost. This is by no means isolated to the situation of Bangladeshi migrants. Many Nepali, Indonesian, and Myanmar migrants also reported paying recruitment fees. However, Bangladeshi workers reported paying significantly higher fees. In the 2018-2020 study, 100% or 51 workers of the Bangladeshi workers interviewed in Malaysia reported paying a recruitment-related fee or expense related to the migration process. On average, workers from Bangladesh reported paying USD 4,747 in recruitment fees and related-

expenses. This was more than 17 times the monthly minimum wage earned by workers in the electronics manufacturing sector in Malaysia in 2019. It is noteworthy that the sum reported in this study roughly aligns with the sum reported by news outlets (4,957 USD) that Bangladeshi workers reportedly paid under the G2G Plus system.

Job Theft

As migration corridors reopened in 2022 after the Covid-19 pandemic, many Bangladeshi migrant workers encountered the distressing reality of paying exorbitant recruitment fees only to find themselves without employment upon arrival in Malaysia. This phenomenon, widely reported in the news as mass job scams, can also be termed job theft and is considered a form of human trafficking. These cases exemplify how unethical and deceptive recruitment not only exacerbate financial burden but also leave migrant workers in a vulnerable and precarious situation.

Even prior to the pandemic, several reports have documented the severity of this issue. Among them, Amnesty International's investigation into the plight of migrant workers in Malaysia in 2010 uncovered numerous cases of workers from Bangladesh who had paid hefty recruitment fees but were subsequently abandoned by their employers. Many of these workers were left without work permits or proper documentation, making them vulnerable to exploitation and abuse. In 2019, the Migrant Workers Rights Network also documented multiple cases of Bangladeshi migrant workers who fell victim to fraudulent recruitment practices in Bangladesh before arriving in Malaysia. These workers paid large sums of money to recruitment agents with promises of lucrative jobs in Malaysia, only to arrive and find no employment awaiting them. As a result, they were left stranded with no means of income or recourse for justice. Al Jazeera also had its own investigative report in 2017 on migrant worker exploitation in Malaysia which also highlighted the prevalence of

deceptive recruitment practices targeting Bangladeshi workers.

However, despite many reports documenting these abuses over the years, there has been little to no action to address root causes of the issue and put in place policies and procedures towards adequate remedy for victims.

North-South Initiative (NSI) is an organization focused on building a socially-just society in Malaysia, for both migrant and Malaysian workers. They aim to create awareness among the majority population to understand the struggles of minority groups, including migrants. NSI provides various tools for empowerment, such as training, platforms, legal knowledge, and facilitating dialogues between different stakeholders, including the government, trade unions and migrant communities. NSI also provides on the ground support for migrant workers communities in Malaysia including Bangladeshi workers. This includes providing temporary shelter to male migrant workers and refugees, attending to urgent situations for migrant workers including supporting victims of abuse, assisting in medical emergencies and providing strategic litigation in key cases.

Organizations like NSI not only help provide relief for workers but also play a key role in surfacing the issues and concerns of migrant workers to the forefront.

Since March 2023, NSI has been assisting more than 100 Bangladeshi migrant workers who arrived in Malaysia only to find out they were deceived into job placements which did not exist. While the government officially received workers' complaints, even facilitating the redeployment of workers, these workers are yet to be paid expected wages- wages due to them since arriving in Malaysia. Apart from the unpaid salaries, the issue of compensation for high recruitment fees and late repayment fees, associated with the job theft, remains as an exorbitant debt burden on these workers. Other damages associated with the suffering, pain, and social impact these workers may have experienced as a result of abusive practices, has likewise not been addressed. There has been no exemplary legal action taken against the employer and agents who deceived the

workers. As to date of this article, the labor court is yet to resolve this case.

While the workers were redeployed to other companies, it is yet to be known what legal framework, mandate and SOPS were followed by the labor department in facilitating the redeployment. Despite evidence of corrupt practices exposed by Malaysiakini with regards to this case, the government has yet to explain to the public what remedies and procedures are in place to prevent these cases from reoccurring. Moreover, there continues to be indicators that suggest the involvement of highly connected politicians from both sides of the border.

Current Situation

Towards the end of 2023, several civil society organizations (CSOs) participating in the FFACT project conducted interviews and spoke with more than thirty recently-arrived Bangladeshi workers in Malaysia. These interviews were conducted using tools developed under the FFACT project, and as a means to update and integrate ongoing CSO programs with relevant data.

The respondents all conformed to previous examples of job theft. They all arrived in the second half of 2023, and reported paying exorbitant amounts to recruitment agents in Bangladesh to secure a job in Malaysia which did not exist.

The survey indicates a pattern of deception and exploitation in the recruitment process. Many Bangladeshi workers reported being misled by recruitment agents who promised them well-paying jobs in Malaysia in exchange for high fees. However, upon arrival, they discovered that the job placements were fraudulent or

differed significantly from what was promised, leaving them in debt and without employment.

This pattern is well-known to NSI as a result of their work assisting migrant workers over the years.

It has been well-documented that workers from Bangladesh exhibit more vulnerability and risk of forced labor than workers from other nationalities. Several factors contribute to this vulnerability, including bloated recruitment fees, which push workers into situations of debt bondage and inability to leave a job. Forced labor is a severe violation of human rights with negative ripple effects, particularly on migrant worker families, including women and children who may be vulnerable to abuse under exorbitant debt burdens. Forced labor and labor exploitation deserve an adequate policy response, in line with the gravity of impact, to ensure that those responsible for abuses are held accountable.

Gaps in policies and regulations, as well as in implementation, exacerbate the problem.¹ Despite existing labor laws in Malaysia aimed at protecting migrant workers, enforcement remains weak. The laws are not proactive in nature. There is also a lack of clear regulations that prohibit exorbitant charging of recruitment fees and costs to workers. Similarly, clear guidelines are lacking in terms of who should bear the costs related to the recruitment of Bangladeshi workers. While there are bilateral agreements between Bangladesh and Malaysia governments to facilitate safe recruitment, it falls short on many aspects of international standards including the International Labour Organization's General principles and operational guidelines for fair recruitment and definition of recruitment fees and related cost.

Despite the absence of such regulations, there have been significant interventions from CSOs such as NSI and community leaders in filing cases of wage theft and other unlawful misappropriation of monies. Cases have been filed at the labor court, industrial court and other statutory bodies like SUHAKAM and

¹Lee HA, Pereira A. *Can Malaysia Eliminate Forced Labour by 2030?* ISEAS–Yusof Ishak Institute; 2023.

MACC who have a mandate to investigate fiduciary abuses.

Recent efforts in this space includes the decision of *Miyan Udin and Kesatuan Kebangsaan Pekerja-Pekerja Syarikat-Syarikat Pembuat Keluaran Getah v Goodyear & Rubber Co Malaysia Berhad* (Award No: 944 of 2020) in 2019 where 184 migrant workers were successful in claiming non-compliance of the industry recognized Collective Bargaining Agreement in respect of the payment of shift allowances, annual bonus, wages and salaries which were rightfully due and owing to them.

In this case, 150 worker pay slips were submitted to the court as evidence of unpaid wages, showing some migrant workers worked as many as 229 hours a month in overtime, exceeding the Malaysian limit of 104 hours.² In 2022, the court judgement awarded between RM50,000 (USD11,061.95) to RM200,000 (USD41,819.13) per worker depending on the length of their employment, confirming that migrant workers should receive the same benefits as stipulated in the Collective Agreement without discrimination.³

In another case in 2022, F&N Beverages Manufacturing faced a lawsuit brought by 47 workers mainly from Myanmar for non-compliance of collective agreement. Despite union presence, migrant workers were not invited or encouraged to join the trade union at F&N company in Malaysia. The industrial court consent judgement awarded the workers RM1,171,793.90 and the case was resolved in 2023. This amounted to each worker being compensated about RM24,931 on average, equivalent to 16 months' salary in lost wages⁴.

Conclusions, Policy Recommendations

² <https://www.reuters.com/business/sustainable-business/exclusive-goodyear-settles-labour-abuse-claims-with-workers-malaysian-factory-2022-09-14/>

There is a clear link between high recruitment fees and the vulnerability of Bangladeshi migrant workers to debt bondage and forced labor. A proper understanding of the enormity of the issue, and towards adequate mechanisms for worker remediation is necessary. While government and business action remain critical, workers and labor advocates can be trained and capacitated with the right tools to document and calculate recruitment costs and expenses, as well as deductions and wage underpayments, in order for repayment to occur and to ensure full remediation is achieved.

In order to address interrelated and complex issues, we put forward the following policy recommendations.

- Adopt and pass government regulations that will promote the adoption of the Employers Pay Principle, wherein the burden of recruitment fees shifts from the migrant workers to employers in Malaysia. Under this system, employers would bear the costs associated with recruitment, including agency fees, visa processing, and other administrative expenses. This approach aligns with international labor standards and ensures that workers are not subject to exploitative recruitment, and thereby vulnerable to debt bondage, an indicator of forced labor. Sending country governments should also consider a ceiling or ban on service fees, and strictly regulate all other recruitment costs.

While the employer-paid foreign worker levy shifts some financial burden from workers and prohibits related wage deductions, the government can provide more explicit guidelines in line with human rights in regards to the levy reimbursement should the worker pre-terminate the contract. Paying the

³ <https://www.suaram.net/human-rights-reports?pgid=kvex92wb-a7571c7d-e313-432e-9bb1-85580564bdfd>

⁴ <https://www.suaram.net/human-rights-reports?pgid=kvex92wb-a7571c7d-e313-432e-9bb1-85580564bdfd>

balance on the levy should not interfere with the rights of workers to leave abusive working environments. The position of NSI and other rights organizations has always been that workers should not be compelled to pay the balance payment of the levy should they decide to leave. Linking the levy to the workers' right to resign puts workers in a forced labor condition. NSI's proposal is to set up an insurance scheme for labor agents to cover the deficits and losses incurred by employers and industries if workers choose to return home.

- Encourage the adoption of ethical recruitment practices by incentivizing agencies, both in Bangladesh and Malaysia, that adhere to fair and transparent recruitment standards while penalizing those engaged in exploitative practices.
- Strengthen enforcement mechanisms to hold employers and recruitment agencies accountable for wage theft and other labor rights violations. This includes increasing competent inspections, blacklisting repeated violators, imposing severe penalties for non-compliance, and providing avenues for workers to report abuses anonymously and safely. Enforcement mechanisms must also be empowered to have extraterritorial reach and jurisdiction. This should include beyond conventional labor legal frameworks like anti-corruption and anti-money laundering elements.
- Develop legal, transparent, and safe mechanisms to facilitate job placement and redeployment for Bangladeshi workers who were recruited but did not secure employment upon arrival in Malaysia. Collaborate with employers and industry stakeholders to match workers with decent job opportunities. This includes developing

a comprehensive labor market based on supply and demand needs.

- Establish support services for affected workers, including temporary accommodation, comprehensive legal assistance, and access to affordable healthcare. Collaborate with CSOs and community groups including financing their efforts to provide comprehensive support tailored to the needs of Bangladeshi workers especially in mass numbers.
- Establish effective and comprehensive legal aid services and support centers (one-stop centers) for migrant workers to seek assistance in recovering unpaid wages, navigating the legal system, and accessing social services throughout the country. This includes opening up the national public aid system to support non-citizens' legal cases. As reported, the Immigration department collected RM3.3 billion in labor migration-related fees⁵, part of which can be used to incentivize legal aid providers.
- Ensure that migrant workers are fully informed of their rights, entitlements, and the recruitment process before they depart for Malaysia. There should be mandatory pre-departure orientation sessions and the dissemination of information in multiple languages with modules created and made available in a transparent manner. The principles of the right to know and freedom of information should be made legally mandatory throughout the migration cycle.
- All governments should develop national comprehensive policies on labor migration to ensure migrants obtain all rights in a dignified manner and establish mechanisms to settle disputes before workers are repatriated.

⁵<https://www.freemalaysiatoday.com/category/nation/2024/02/05/immigration-dept-rakes-in-over-rm5-5bil-revenue-in-2023>

- Educate the judiciary and prosecutors on the various forms of abuse migrant workers face, particularly wage theft and job theft. Successful prosecution of job theft would send exemplary warning and discourage future crimes.
- In cases of wage and job theft, victims should not just be awarded unpaid wages but also compensation for general damages, aggravated damages, exemplary damages, and other relief deemed appropriate by the court.

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