

A STUDY ON THE LAWS REGULATING MIGRANT WORKERS IN MALAYSIA

By

Muhammad Kasyful Azim B Shahlan (2010933109)

Rabiatul Adawiyah Bt Sulaiman (2010397451)

'Alia Nabeela Bt Amran (2010901595)

Submitted in Partial Fulfillment of the Requirements for the Degree of Bachelor of
Legal Studies (Hons)

University Teknologi MARA

Faculty of Law

June 2012

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGMENT

In the name of Allah the Most Gracious and the Most Merciful, we thank Him for giving us the strength to complete our research paper and guide us to success.

It does require a lot of supports and guidance from a lot of people in achieving success and completing this project. It was not an easy task since we had to complete it within the time given and time is our main issue. To ensure that the research gives impact, we managed to interview few people that represent the important stakeholders pertaining to the issues of migrant workers. Therefore, we would like to express our gratitude to those who had helped us so much during the completion of this research.

Firstly, we would like to announce our thankfulness to our supervisor, Pn. Nadia Omar. We could not have done it well without her help and total support. She was also very patient and understanding that she was ready to spare us some time, every week for our session. It was through that few sessions that she made known to us every existed flaw and made us do corrections because she wanted us to do this research properly.

Secondly, we would like to thank Ms. Liva Sreedharan for helping us out with her facts and information through the eyes of a non-governmental organization (NGO) on the situation endured by the migrant workers. Ms Liva Sreedharan is a program officer in Anti Trafficking Department at Tenaganita, which is a NGO that deals with the issue of women's rights as well as migrant workers. It was remarkable that she was willing to spend her time with us and she had given us tremendous help by answering every question that we were puzzled with. We are very thankful for every opinions and facts given by her.

We also owe our profound gratitude to Mr. Wan Ismail bin Wan Ibrahim for providing us with facts and figures, for instance, the current statistic on the exact number of migrant workers in Malaysia. As a Director of Foreign Workers in

ABSTRACT

It is vital for any country that has migrant workers to also have laws governing them as well as protecting their rights. In Malaysia, the rights of the migrant workers are outlined in few local statutes such as the Employment Act 1955, the Workmen's Compensation Act 1952 and others. As for the United States, most of the laws pertaining to the rights of migrant workers are provided under Title 29 of the United States Code (U.S.C), which includes Fair Labor Standards Act 1938 and the Immigration Reform and Control Act 1986. The laws provided by both countries are quite the same but there are slight dissimilarities that can be addressed. The aim of this research is to identify the flaws of the local laws and make comparisons with what the United States has. This research also will provide recommendations as one of the ways to improvise the local laws.

TABLE OF CONTENTS

ACKNOWLEDGEMENT	ii
ABSTRACT	iv
CONTENTS	v
LIST OF CASES	ix
CHAPTER ONE: INTRODUCTION	
1.0 Introduction	1
1.1 Background	2
1.2 Problem Statement	3
1.3 Research Objectives	5
1.4 Significances and Contributions of the Research	5
1.5 Scope and Limitations of Research	5
1.6 Research Methodology	6
1.7 Conclusion	7
CHAPTER TWO: Migrant Workers and the Challenges Encountered	
2.0 Introduction	8
2.1 Definition	8
2.2 The historical background of migrant workers in Malaysia	9
2.3 The historical background of migrant workers in the United States of America (USA)	12

Chapter One: Introduction

1.0 Introduction

Malaysia has a large pool of migrant workers working in various economic sectors. The growing presence of foreign workers in Malaysia can be explained by excess demand for labour together with rapid economic growth and the much lower cost of employing foreign workers when compared to local workforce. However, the fact that the issue of migrant workers especially pertaining to their rights and interest, are yet to be settled despite having laws and statutes which are supposed to govern and protect them had raise concerns.

The general stigmas surrounding migrant workers in Malaysia are that they bring plagues into the society, affecting crime rates and creating a bad image of Malaysian in the eyes of the tourists and the world citizens. This does not help to bring the issue of unfair or harsh treatment received by the migrant workers to the society attention.

Migrant workers in Malaysia faced too many problems such as being oppressed by the employers where their wages were cut down without reasonable reasons provided. Furthermore, it seemed that the employers will hold the employees' (migrant workers) passports as a way to restrict them from doing anything for them.

Nevertheless, Malaysia has several related statutes and laws that supposed to safeguard migrant workers and upholding their rights such as Employment Act 1955 and Workmen Compensation Act 1952. The laws and statutes should be able to protect the innocents and the victims. However, in terms of labour law governing the migrant workers, they lack the comprehensiveness and thus create loopholes causing violations of their rights.

Therefore, this research will help in examining the loopholes and the weaknesses that exist in our laws by looking at some of the statutes, cases and practices concerning the situations of migrant workers in Malaysia.