

## Plight of the 'modern slaves'

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What if an illegal is raped?

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KUALA LUMPUR:Foreign national Deluar Hossain loves Malaysia but he has bitter memories of the country that will haunt him for a long time. The Bangladeshi worker, who is in his late 30s, came to Malaysia with the hope of helping his debt-stricken family back home but ended up with nothing to show for it.

Deluar came here in May last year, after having paid close to RM12,000 to an agency that promised him a well-paid job at a construction company in Rawang.

When he arrived in Rawang, he found that he had to share a house with 28 other workers. His first month's pay was also withheld from him.

Then, he was moved to Johor where he worked for three months without salary, though he was given RM200 every month that was used mostly to buy food.

Deluar said he had called his family back home to see how they were and became depressed when they asked him about his salary.

He approached his employer and asked for RM750 of his salary to be sent to his family in Bangladesh.

But neither his employer nor the local employment agent paid Deluar any heed.

Frustrated, Deluar sought legal help from Tenaganita but ended up with injuries on his face after some men beat him up for seeing a lawyer.

Deluar's agent also warned him against going to the authorities and told him that he would not be receiving any pay since he had tried to "act smart".

With his visa expiring in two months' time, Deluar is bent on getting some justice and compensation for all his work and pain.

Deluar is just one of the many foreign workers being victimised by ruthless foreign and local agents that the Migration Working Group (MWG) is trying to help.

MWG, in a forum held at the Kuala Lumpur Chinese Assembly Hall yesterday, said every migrant worker, asylum seeker and refugee had the right to redress.

Through the forum entitled "The Right to Redress for Migrant Workers and Refugees" the group's co-ordinator, Alice Nah, said the right to redress for non-citizens was only possible when three rights were recognised, namely the right to be heard, the right to stay and the right to work.

Nah said Malaysia is estimated to have one to two million non-documented workers, in addition to the 2.2 million documented foreign workers.

"There are also an estimated 100,000 asylum seekers and stateless persons seeking protection but since Malaysia has no legislation on asylum and statelessness, most of these people are treated as non-documented migrants." Nah said it was difficult for non-documented migrants to get redress.

"Even those with documents find it hard to obtain redress.

"In many cases, when a migrant worker files a suit against his employer, the employer cancels the work permit and he ends up losing his right to stay and work here." Tenaga director Irene Fernandez said foreigners who had been forced into prostitution, bonded labour and were smuggled or trafficked or were foreign brides were all considered "modern day slaves".

Most had no proper documentation and were being taken advantage of, she said.

Another speaker, Bar Council human rights committee member Renuka T. Balasubramaniam, said language problems and ignorance of human rights were the main barriers for migrant workers seeking redress for injustice.

The government, she said, should also consider setting up a special court for migrants that gives them the right to be heard.

The forum also came up with several proposals, such as recognising refugees through a special card issued by the United Nations High Commissioner for Refugees.

Ivy Josiah, the executive director of Women's Aid Organisation, said her support group and MWG were hoping to meet government officials soon to discuss the status of migrant workers and forward their proposals.  
Foreign workers trapped in a 'no-win' situation

TWENTY per cent of Malaysia's workforce are foreign workers. But what happens when a foreign worker is exploited?  
Their rightful redress is the Labour Court, but in reality, this avenue is not one of justice for foreign workers.

Bar Council Legal Aid Centre chairman Ravi Nekoo said that while the law allows a foreign worker to stay in the country pending the disposal of his case, the worker is without a job.

Ravi said although foreign workers could file a case at the Labour Court or lodge police reports against their employers, this usually results in their work permits being cancelled by the employers.

"This leaves the migrant worker in a dilemma as he has no right to continue to be in the country without work and the capacity to earn a living," he said. Yes, Ravi agreed that the foreign worker could apply for a special pass while waiting for his case to be settled. However, he said, the pass did not allow a foreign worker to work in the country.

"So how is he supposed to survive?"

Tenaganita programme officer Florida Sandanasamy said not only does the pass forbid a worker from working, it is only valid for 30 days.

The application for the special pass itself takes months, during which the foreign worker's status is illegal.

The application hits a dead end if the foreign worker does not have his passport.

Sometimes, says Florida, the passport is held by the former employer, which complicates matters.

"Most of them file cases because they have not been paid, and then this," said Florida.

"How can they sustain themselves if they can't work? What is worse is that the special pass costs RM100 a month.

"As a local, I can work while my case is pending. Why shouldn't this apply to foreigners?"

"So is justice served? That is the big question."

Florida said the authorities had to stop living in denial, thinking all agents and employers are good.

Ravi said the statistics released by the Bureau of Democracy, Human Rights and Labour (United States) on March 6, last year, quotes figures given by the Internal Security Ministry as 42,483 individuals incarcerated in prisons and illegal migrant detention centres in the country.

People, said Ravi, failed to see the contribution foreign workers make to the economy.

"What is their offence? They come here to earn money for their loved ones. They should not be in this country if our economy cannot sustain them. The laws have to be more compassionate."

Immigration Department enforcement director Datuk Ishak Mohamed said they do not allow foreign workers with special passes to work in the country as this would create a loophole for illegals to work.

"I cannot allow them to use the special pass to work and stay for as long as their case is being heard because there are hundreds of thousands of illegals in the country," said Ishak.

"If we allow it, everyone would settle for that option, including refugees, because it is an easy way to get work. We have found a few cases filed in court just for them to obtain a special pass."

Ishak said a special pass is valid for 30 days and renewable up to three times.

"Our position is that 90 days is sufficient for them to file a case, engage a lawyer to represent them and then return to their homes.

"If they want, they can return anytime for their cases."

But how would they survive 90 days without working?

"As far as the Immigration Department is concerned, the 90 days is given on the understanding that the worker's family, good friends, non-governmental organisations, embassies, high commissions or any other person would support him during this period."

Harun - from legal to illegal overnight

HE sold his land for RM7,000 and bid his family goodbye, promising to support his parents and nine siblings in Bangladesh.

He received his visa and work permit before leaving his homeland in 1996.

And after contributing to the Malaysian economy for seven years, he now has sleepless nights and lives in fear of every knock on his door.

This is because 40-year-old Harun (not his real name) has become an illegal immigrant overnight. And all because of the due process of law.

Harun was employed in a plastic moulding factory along with 10 others from Bangladesh.

His salary was first paid to his agent, and after deductions were made, the agent passed what was left to him.

The workers worked for 12 hours a day, and virtually seven days a week. They were not paid overtime or bonuses, and were not allowed annual leave.

They were also deprived of company benefits that were enjoyed by local employees.

This feeling of injustice motivated the 11 employees to take their case to the Labour Court in 2002. But instead of getting what they were owed, their employer cancelled their work permits, rendering them illegal and jobless.

With the help of the Bangladesh High Commission and Tenaganita, Harun and his friends were then granted a special pass, which was renewed continuously until 2006.

Then the Immigration Department stopped renewing the pass.

Harun and his friends are now illegal immigrants, even though their case is on appeal to the High Court.

Now, Harun wants only one thing -- a temporary work permit to survive until his case is settled. But so far, there is no sign of a work permit or the money due to him.

"If I win my case today, I will return home tomorrow. I'm suffering here with no work permit and no job. I live in fear daily," he said.

"At least, when I had the permit I was not so afraid. But of what use is the special pass? To jalan-jalan (roam about)? What do I eat? Air?"

Harun, who has been in Malaysia for 13 years, said he has not done anything wrong since he arrived.

"I am not stealing. I'm just working to survive. I like Malaysia. I love working here, and I have done nothing wrong."

One of the workers in Harun's group, Muhammad, wanted to return to Bangladesh after his special pass had expired. His 80-year-old mother wanted to see him.

Muhammad went to the Immigration Department. He was detained.

They kept him for 12 days before he was deported. He was not allowed to take any of his belongings or savings and returned to Bangladesh, penniless.