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## **INDONESIAN FEMALE FACTORY WORKERS: THE GENDERED MIGRATION POLICY IN MALAYSIA**

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### **Abstract**

*Recruitment of foreign workers by Malaysian employers is subject to the requirements set by the Malaysian government. Immigration policy is one of the platforms through which the government can encourage or discourage and shape migration. The shifts at both the policy/governmental and public levels have impacted not only on the migration pathways of the Indonesian female migrants in this study (that is, who can work and where), but also on the everyday experiences of women migrants in Malaysia, both at work and in public. This paper has provided a discussion of the terms and conditions of employment contracts, recruitment policy, the general public ambivalence about foreign workers in Malaysia, and as well more local Melaka-based perceptions of Indonesian factory workers. I conducted interviews with 13 migration stakeholders. This group consisted of the following: four staff or managers of human resources departments in four factories; three outsourcing agents or staff members; three government officials (two Malaysian and an Indonesian Attaché); three representatives of civil society (an in-house union leader, an Indonesian expatriate involved in a welfare organization for female Indonesian migrants, and a Malaysian trade union organizer). In relation to female migrants, there was a dichotomized view of them either as victims or perpetrators of abuse. While the media reported very little about female factory workers specifically, the discussion demonstrated the intersection between widely circulated ideas on Indonesian women's sexual laxity and their opportunistic attitude to money. In*

*response to migrant-related issues, the government's current position on migration is ambiguous and there have been a number of restrictions imposed on recruitment, including an increase in recruitment costs and gender-related policy.*

**Keywords**

Indonesian Women, Factory Workers, Gendered Policy, Public Perception.

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**1. Introduction**

"Although the state has central control over immigration policy, the work of exercising that claimed power often begins with a limited contest between the state and interested social forces" (Sassen, 1997).

Indonesian migrants have been an important part of Malaysia's foreign migrant force for several decades and there is every indication that migrant workers will continue to play an essential role in many sectors of the Malaysian economy, including manufacturing (Kaur, 2008; Kassim, 2001). Over this time, the profile of Indonesian workers, particularly that of legal workers, has changed in response to shifts in the Malaysian government's policies and regulation of migration from Indonesia. There is also evidence of a parallel shift in public attitudes: as to what Sassen calls "interested social forces" towards foreign migration, including towards Indonesian migrants; likewise, a hardening of divisions between Malaysian and non-Malaysian citizens, and between legal and illegal foreign workers. These shifts at both the policy/governmental and public levels have impacted not only on the migration pathways of the Indonesian female migrants in this study (that is, who can work and where), but also on the everyday experiences of these migrants in Malaysia, both at work and in public.

This paper provides an overview of the Malaysian state's policies and procedures that regulate the flow of legal female Indonesian migrants into the manufacturing sectors. In considering this issue, the paper will briefly comment on changes in the policy and attitude of the Malaysian state over the past twenty years. In addition, this paper aims to hear the voices of some of the individuals involved in these processes. This includes not only government officers and policy-makers, but also human resources' personnel (as representatives of the employers) and outsourcing agents, as well as representatives of welfare organizations. These voices are important because they show the gaps that are present between policy and practice, and the contestations that exist over issues related to the management and recruitment of foreign migration in Malaysia. Many informants suggested that the state needed to tighten up

what they saw as under-developed policies, particularly those that involve female foreign workers. Their comments reflected a broader set of what we can call "public concerns" over Malaysia's dependence on foreign workers and the presence of migrants in Malaysia. The relationship between locals and migrants has not been a particularly happy one and seems to have deteriorated over the years. As this broader public discourse reveals, many Malaysians are caught in an uncomfortable paradox of both accepting the economic inevitability of migration and deeply resenting the presence of actual migrants in Malaysia.

Thus, what comes through clearly in this paper is the way constructions of gender, nationality and sexuality are both a feature of government and non-government discussions of migration in Malaysia. This is evident in the state's selective recruitment policies and the regulations relating to marriage, pregnancy and family migration. It is also evident in Malaysians' expectations and stereotypes of Indonesian female migrants. Such stereotypes and perceptions precede the individual migrant and construct Indonesian female migrants as a particular type of worker, foreigner/non-local and woman.

## **2. The Malaysian State's Migration Policy**

This section briefly traces the history of migration into Malaysia through a discussion of policy frameworks and trends, with a focus on the recruitment of foreign female workers in the manufacturing sector. This is followed by a description of the current recruitment policies, procedures and costs that relate to the employment of Indonesian migrants in Malaysia's manufacturing sector.

### **Foreign Migration**

From the 1970s, Malaysia, like many other developing countries, adopted as its major industrial development policy the promotion of -intensive, export-oriented multinational investment. Since the 1980s, Malaysia's economy has been driven largely by the export-oriented manufacturing sector. It is a highly open economy (the value of exports exceed Malaysia's gross domestic product [GDP]) and a leading exporter of electrical appliances, electronic parts and components, palm oil and natural gas<sup>1</sup>. Electronics have become Malaysia's most successful manufacturing sector, contributing around 60 per cent of total

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<sup>1</sup> The majority of electronics export factories are owned by foreign companies. Major companies investing in this sector in recent years include: (from the USA) Dell, Western Digital, Intel, Motorola, Seagate, Texas Instruments, Freescale Semiconductor, Agilent Technologies, AMD and Linear Semiconductor; (from other Asian countries) Fujitsu, Sony, BenQ, NEC, Panasonic, Hitachi, Toshiba, Sanyo, Alps, Brother, Canon, JVC, Konica-Minolta, Rohm, Samsung, Nichia, Funai, TDK, Sharp, Mitsubishi and Fuji Electric; and (from Europe) Bosch, Infineon, Osram, Siemens, Alcatel, Philips, STMicroelectronics and Marconi. Well-known brands sourcing garments from Malaysia include Adidas, Nike, Reebok, Gap and Levi Strauss.

manufactured exports and accounting for 8 per cent of the country's GDP (WoW report, 2012). Over time, the foreign investment regime has been liberalized, but the government still screens manufacturing projects particularly with regard to their requirements. The opening up of the manufacturing sector has created unprecedented employment opportunities for semi-skilled and unskilled female workers over the past few decades. The migration of large numbers of young Malay women from rural to urban industrial zones was earlier evidence of these opportunities (Daud, 1985; Ariffin, 1994). However, with Malaysia's slow population growth and local workers moving into what they see as more desirable forms of work from the 1990s, the government has encouraged the deployment of cheap foreign to enhance the country's export competitiveness. As a result, local manufacturers have recruited a steady supply of cheap foreign for the past two decades.

In tandem with the rapid growth of migration in the 1990s, Malaysia tightened up its immigration policy. In general, policies pertaining to foreign workers became more restrictive, characterized by the non-renewal of foreign worker permits, repatriations, increased foreign workers' levies and stiffer sanctions on illegal workers and their employers (Spaan et al., 2002). As part of this formalization of, the Malaysian government entered into bilateral agreements with a number of supply countries, first Indonesia and then followed by Bangladesh, India, Thailand, Philippines and Pakistan. These bilateral agreements aimed to better regulate migration to Malaysia and curb the numbers of illegal migrants (Kanapathy, 2008). These reasons reflected both a concern that foreign workers could take the jobs of local Malaysians (a fear that has been largely unfounded)<sup>2</sup> and a public disquiet over the presence of foreign workers. The first bilateral agreement was signed with Indonesia, suggesting the high number of participation of Indonesian workers. Many of these workers were illegal and a series of initiatives on the part of the Malaysian state have attempted to curb and regularize illegal migrants from Indonesia (Kaur, 2008). Documented migrant workers alone make up around 20 per cent of the force in Malaysia, but taking into account the number of undocumented migrant workers, the number of foreign workers figure is known to be much higher<sup>3</sup>.

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<sup>2</sup> For example, following the economic downturn of 1998, the government feared massive retrenchments and sought to protect local by redirecting foreign workers to the plantation sector. Subsequently, attempts were made to redeploy 60,000 construction workers to the plantation sector (Pillai 1999, p. 187), but after these plans failed, the government announced that it needed almost a quarter of a million workers, and would give highest priority to Indonesians.

<sup>3</sup> According to several sources, two-thirds of the estimated 3.1 million foreign workers in Malaysia are illegal, the majority of whom are from Indonesia (The Jakarta Post, 13 November 2013).

Since 1984, a series of bilateral agreements have been reached between Indonesia and Malaysia detailing the sectors and contractual terms of Indonesian workers. For example, the first bilateral agreement, signed in 1984 in Medan, notified Indonesia of Malaysia's anticipated force requirements across six sectors and introduced the use of two-year contracts (Gurowitz, 2000). Starting in the 1990s, the Malaysian state refined this further when it introduced a policy of gendered migrant recruitment into specific sectors, one which continues today (Kanapathy, 2006). The opening up of manufacturing and services sectors to migrants was influenced by these policies, with Bangladeshi men moving into manufacturing and services, and Indonesian and Filipino women entering non-domestic services, particularly cleaning and hotel services (Dannecker, 2005).

The current Malaysian government recruitment restrictions are presented in Table 1. Workers are profiled on the basis of nationality and gender, and then ascribed to officially endorsed employment sectors in Malaysia. As a result of these policies, in 2006, 33.3 per cent of registered migrant worked in manufacturing, with a further 26.6 per cent in agriculture, followed by 17.1 per cent in domestic services (Kanapathy, 2008, p.10). Female migrant workers constituted approximately one-third of all foreign workers in manufacturing and one-half of all workers in the service sector. As previously noted, in Malaysia's important electronics industry, there were around 300,000 migrant workers, of whom 70–80 per cent was women (Yong, 2006, p. 31).

**Table 1:** *Foreign workers' recruitment through country of origin and sectors*

<b>Sector</b>	<b>Country</b>
Construction	Philippines (male), Indonesia, Cambodia, Kazakhstan, Laos, Myanmar, Nepal, Thailand, Turkmenistan, Uzbekistan and Vietnam
Manufacturing	Philippines (male), Indonesia (female), Cambodia, Kazakhstan, Laos, Myanmar, Nepal, Thailand, Turkmenistan, Uzbekistan and Vietnam
Plantations/Agriculture	Philippines (male), Indonesia, India, Cambodia, Kazakhstan, Laos, Myanmar, Nepal, Thailand, Turkmenistan, Uzbekistan and Vietnam

Services	All source countries for general worker posts
• Restaurants	(except India – cooks only). Restaurants in major towns only.
• Laundry	All source countries except India.
• Cleaning/Sanitation	All source countries except India.
• Caddy	All source countries except India.
• Resort Islands	All source countries except India.
• Welfare Homes	All source countries except India.
• Cargo	All source countries except India.
• High Tension Cables	India only
• Domestic Maids	Sri Lanka, Indonesia, Thailand, Philippines and Cambodia

Source: Ministry of Human Resources as cited in Kanapathy (2006) and Kaur (2008).

These selective employment policies have not only directed the recruitment of female workers to particular sectors, but also account for the growing feminization of foreign migration in Malaysia. Indeed, there is a strong link between the feminization of the migrant force in Malaysia and the policy-led emergence of gender-specific employment niches in Malaysia. These gender and nationality-specific employment policies have led to unprecedented employment opportunities for semi-skilled and unskilled female workers and have consolidated the emergence of particular female migratory linkages between Indonesia and Malaysia (Kaur, 2008). The institutionalization of these migration linkages in the form of employment specific policies have in turn informed the range of migration pathways envisaged by potential migrants, in this case reinforcing the view of Malaysia as a destination country for young female Indonesian migrants.

Most of the 300,000 foreigners employed in Malaysia’s manufacturing sector work in one of Malaysia’s special economic zones (SEZs). Provincial-level governments (referred to as "states") have established such zones in order to attract foreign direct investment (FDI). Such foreign direct investment is typically justified as a means to enhance macroeconomic development and create employment opportunities and, in order to attract FDI, companies are promised tax concessions, duty-free import and export of manufactured goods, and low wages to maintain their competitiveness. For these reasons, these zones have been particularly attractive to export-oriented manufacturing companies – such as those in this study.

There has been much written on the conditions of employment in multinational firms within SEZs. In the case of female workers, there has been a long standing discussion of their status as a “reserve army” (Elson & Pearson, 1981, pp. 96-97), one that is “easily fired when

firms want to cut back on their force, and easily re-hired when firms want to expand again". In the case of foreign migrant workers on two-year contracts, this assumption of easy hire and fire is not so straightforward, nevertheless there are particular employment conditions imposed on foreign workers in Malaysia that are worth briefly mentioning here as they impacted on the working lives and rights of the women in this study.

Foreign workers in Malaysia's manufacturing sector – especially female migrant workers – are given only temporary status so as to ensure a flexible and disposable force. One way this is achieved is by restricting their family life and making them highly dependent on their employers or political organization (Damla eres & Gürboğa koraltürk, 2015). For example, unskilled or semi-skilled migrant workers, male and female, are prohibited from marrying local Malaysians; they have no pathways to permanent residency or citizenship; and they are subjected to mandatory health checks and deported if their tests are positive for HIV/AIDS, tuberculosis or pregnancy. They are also subject to street arrests and raids of their homes by the police and a national volunteer immigration control force (the People's Volunteer Corps [RELA])<sup>4</sup>. If they are found without the right documents, they can be detained and even caned in immigration "depots" under an official deterrence policy.

Moreover, many contracts explicitly prohibit migrant workers from joining a trade union or any form of association. Foreign workers are commonly fired if they file a complaint against employers or are known to be active in organizing. Once fired, a foreign worker is subject to deportation as their right to work in Malaysia is tied to their employer (see below). This is in direct violation of three laws: the *Trade Unions Act 1959*, which states that a foreign worker can become a member of a trade union; the *Employment Act 1955*, which states that a contract of employment shall not contain a clause prohibiting a worker from joining a union; and the *Industrial Relations Act 1967*, under which a worker cannot be dismissed for union activity. The Malaysian Electrical Industry Workers Union and the Malaysian Trades Union Congress (MTUC) have said that the Immigration Department is breaking trade union laws by not allowing foreign workers to join unions (Migration News, 1995).

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<sup>4</sup> *Pasukan Sukarelawan Malaysia* (RELA) was established on 11 January 1972 Under Section 2 of the (Essential Powers) Emergency Act 1964 – Essential Rules (*Ikatan Relawan Rakyat*). It is a volunteer civil defence force with a mandate to preserve and maintain the national peace and security. The Essential Rules (Amendment) (2005) that came into effect in February 2005, gave additional powers to RELA's civilian officers in identifying and reporting illegal immigrants (PATI or *Pendatang Asing Tanpa Izin*). (Ministry of Home Affairs website)

Foreign workers employed legally are entitled to the protection and benefits prescribed by Malaysia's *Law 1955*<sup>5</sup>, yet further changes to the *Employment Act* in 2011 have made it even more difficult for migrant workers to pursue their rights in the workplace. Despite protests from workers, trade unions and civil society organizations, the Malaysian government speedily passed its *Employment (Amendment) Bill 2011* through the House of Representatives at the end of 2011. The Bill sought, in effect, to consider outsourcing agents as the employers of workers who are not directly recruited by companies. (See below for further discussion of the difference between direct recruitment and recruitment through outsourcing agencies). This is consistent with the government's dismissal of migrant workers' right to participate in trade unions. In justifying this amendment, the then Minister commented on 24 September, 2011 that foreign workers are not allowed to join unions due to three factors: first, foreign workers are living in the country on a temporary basis; second, laws themselves are sufficient to protect them from exploitation; and third, this would trigger local workers' dissatisfaction (WoW Report, 2012).

There is ample evidence, however, that migrant workers do require the protection of independent unions. Just two examples from this study provide some insight into work-related issues. First, female workers' in this study had their passports held by their employer or their outsourcing agents, leaving them with only a photocopy. This is despite the fact that Malaysia's Human Resources Minister had in 2008 openly questioned the legality of foreign workers' passports being held by their employers. Second, the government announced in 2009 that the levy on foreign workers was to be paid by the employer and not deducted from workers' wages. However, most female workers interviewed in this study experienced unexplained wage deductions that they felt powerless to challenge.

There are further oppressive conditions imposed on female migrant workers. Namely, they are denied reproductive health rights and face deportation if they become pregnant. Malaysia imposes restrictive measures that require migrant women to undergo a mandatory health check and pregnancy test before entering the country; they will not be granted a work permit if they test positive. Once in Malaysia, women are again mandatorily tested (and then annually retested) and if they test positive, they are deported. Most employers dismiss pregnant women who then lose their legal status to stay in the country. The overall employment procedures for migrants will be discussed in the next section.

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<sup>5</sup> This law also outlines procedures for remedying the New Economic Policy (Second Malaysia Plan 1971-1975) methods for acts of dispute made by the employer towards workers, including migrant workers.



### **3. Perspective of different stakeholders regarding migration policies**

This section describes the responses of different stakeholders in the Malaysian immigration scene. These comments come from both inside and outside the government, and include the perspectives of human resources' personnel employed in recruiting factories, outsourcing agents, and representatives of NGOs and in-house unions. Some questioned policies and mechanisms that benefitted neither direct recruiters and outsourcing agents, nor foreign workers. Others pointed to gaps between policy pronouncement and practice. There were also some comments that broadly supported government policies while others expressed concern over Malaysia's dependence on foreign workers. Their comments can be divided into three separate issues. The first considers recruitment issues, including the effect of government policy, the difficulty in recruiting Malaysian nationals, and criticisms of the recruitment practices of some outsourcing agencies. The second concerns work-related issues, such as overtime, night shift, and the conditions at work. The third area is related to social issues associated with pregnancy and housing. This third category was discussed relentlessly by employers, NGOs and other groups, and many of their concerns had escalated into a "social problem", where the gender of these Indonesian foreign workers as women was pivotal.

My comments in this section are based on interviews with 13 informants from different organizations in Malaysia that are related to foreign migration. I interviewed three officials, one each from the Malaysian Ministry of Home Affairs (MoHA), the Embassy of the Republic of Indonesia (KBRI) and the Malaysian Department (JTK) under the Ministry of Human Resources. These organizations were selected because of their critical role in migration. In the manufacturing sector, I interviewed seven informants comprising four human resource managers (from INF, ANL, TSL and RCN)<sup>6</sup> and three outsourcing firms (MHR, ADR and CNP). I also interviewed representatives from three organizations that represent welfare and advocacy: The Malaysian Trades Union Congress (MTUC), FOKMA (*Forum Komunikasi Muslimah Indonesia di Malaysia*) and the in-house union president at INF. I found very little information available on the welfare and advocacy needs of female migrants in the manufacturing sector. Only one organization, FOKMA, had been established in response to female factory workers from Indonesia. In this case, the organization was concentrated in the Sungai Way industrial area and focused on combating the negative stereotypes about the morality of Indonesian female factory workers. By contrast, in my

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<sup>6</sup> Pseudonyms have been used when referring to individuals and companies.

interviews with the informant from MTUC and the in-house union representative, as well as in several blogs I read from the NGO, including Tenaganita, there was a lot more information and debate on how to defend the rights and combat discrimination of Indonesian female domestic workers. I have incorporated those comments on domestic workers that I found to be relevant to this study.

### **Recruitment Matters**

It seems that the recruitment of Indonesian women to the manufacturing sector was viewed by employers and outsourcing agents as inevitable. There were several reasons for this that related to both the structuring force of immigration policies and the qualities of Indonesian female workers. Two representatives from the outsourcing companies, ADR and CNP, confirmed that factories' demand for Indonesian women resulted from the gender- and sector-specific migration policy and the quota system monitored by the government. Additionally, their comments suggested that some factories preferred Indonesian women as they saw a good fit between the factory's requirements and the background and performance of Indonesian women:

We actually [just] fulfil the factory's demand. They really want Indonesian women. They prefer women because based on the feedback, women are effective compared to men and they are willing to do as much overtime as they can. So factories always come to us and ask for Indonesian women. For male workers, the demand comes from plantations and construction.

ADR Account assistant

It is really based on demand ... some factories need all Indonesians. But one of our clients, a giant microchip company only wanted people [women] from Myanmar. But again, it depends on the demand and nationality quota.

CNP Warden

The human resource manager from INF reported that almost all foreign workers in his company were Indonesian women stating, "we have got close to 7,000 employees, 3,700 operators and 900 of them are foreign operators, all from Indonesia except 28 from Nepal who are male". All employers agreed that communication with workers was important on the production floor. They argued that recruiting Indonesian workers shortened the training period compared to workers from other nationalities who were reluctant to learn Malay. However, language was not the sole criterion as attitude to work was also seen as important, as explained by one human resources manager:

Firstly, we prefer Indonesians because of the language similarity, it makes the communication easy. Secondly, the nature of the work here is suitable for women because it involves quality assurance (QA) matters. Based on our experience, women are usually conscientious; they never manipulate the record and always report with accuracy and truth about the troubleshooting procedures. In other words, women are honest rather than men because we have positioned male workers as QA but they never reported the right outcome. They always cheated the record and sometimes made things easy. During training sessions, we already told them to tell us the truth and women seem to obey us. In addition, we like hiring Indonesian women because they are efficient and fast.

TSL Human resource manager

Another factor was the difficulty of attracting Malaysian workers: Indonesians were not only qualified but willing to take on this work. The TSL human resource manager explained the effort he went to in order to get local involvement in his glove-producing factory. His disappointment with local workers' attitude is recounted below:

Last week I went to Jelai 3 [in Negeri Sembilan] to interview six people: not one of them turned up! Then I went to Menggong (the inland area of Negeri Sembilan on the border with Melaka) ... I distributed about 500 flyers, and only one guy came in. I won't simply condemn the locals but I can say that they are very choosy, that they want easy work with better pay, that they are lazy. If they don't come to work, they never tell me, instead, I always ask my clerk to call [phone] them. I take care of their needs, the salary from MYR 20 (per day) I raise to MYR 25 ... I give them very light work like packing even it is suitable for women but they refuse. I offer them [the] hostel, a better salary package but they never appreciate that. They are even asking my permission to go home early – one guy asked me to go at 3 pm – rather than ask for OT [overtime]. For those who are interested in work, I will increase their salary within a month from MYR 500–600 to MYR 700–800 if they really like the job and I also don't hesitate to give a promotion to those who perform well.

TSL Human resource manager

The above factors led to human resource managers' preference for foreign workers. In this context, there were criticisms of Malaysia's immigration policy and what they saw as trend to "freeze" the recruitment of foreign workers. The MHR director shared his experience and viewed this policy as affecting their business survival:

The foreign recruitment demographic is changing over the years. I think the government is holding the total [power] whereby they want to allow more people to come or fewer people to come: there are times like 2006–2010. At times it's easier, at times it's difficult because there were certain periods of time, I think it was end of 2008 to middle 2009. I think the government is freezing the recruitment of foreign workers. They freeze it. So, during that time you cannot [hire] but everybody is calling for workers. So it has been fast, and then freezes, and then fast and then now slow again. The decrease [foreign workers recruitment] I believe, because they've actually made it difficult recently, for the past half year they have been making it difficult and they have been slowing down the approval.

MHR Director

In addition to this dissatisfaction over shifts in policy, there was also unhappiness over the regulations applying to foreign workers. One complaint here was the shortened duration of contract renewal policy from the previous 10 years to five years. The TSL manager commented that the lack of certainty and changes in policy, including increases in fees and levies were a burden for companies and compromised their growth:

What I learned, the government policy is always changed. Those changes impact on us as employers. It is always changing until I am not sure what and why they are changing and it is ridiculous. I have to travel from Melaka, Johor and Putrajaya [just for processing the documents]. For Bangladesh migrants, all procedures I have to process in Putrajaya. Every time I go there (Putrajaya Immigration Headquarters), there must be a new memo saying changes of policy. Now they shorten the period of working for migrant workers and they have to renew permits every year. My dilemma, when the workers might decide to return home ... every year. I have less headcount of foreign workers because of this policy. One more thing when the government implements new levy increments. This really burdens us as employers to pay the levies where before this, the levies were deducted from employees' salary.

TSL Human resource manager

As noted above, the state's agenda of creating an export-based industrialized economy on the basis of a large pool of low-cost (Pillai, 1999) would seem to dovetail with factories' own self-defined interest and bottom-line. This need for a large pool of low cost to supply the

agriculture, construction and, later, the manufacturing and services sectors led the government to gradually open up to migrant. However, in this present study, the outsourcing agents have struck back at this “cheap” ideology. From their perspective, the cost of foreign workers at the placement stage, including the salary and fringe benefits, was greater than the cost of hiring local workers:

If you are treating them like cheap, I think you're exploiting them. I think foreign workers are not cheap nowadays, because of the levies we have to pay to the government. In fact, the cost of hiring the foreign workers exceeds the cost of hiring the locals. The locals can stay at their house and so on. For foreign workers, we have to pay for their hostels, transportation, as well as their lodging and air ticket and all the formalities that we need in order to hire them. So, it is not that cheap to hire them. And if it is that they are used as cheap, I think they are being exploited. So I don't think that I will agree that getting foreign workers as the cheap.

MHR Director

In my interview with FOKMA I received a different impression about the problems with changes in government policy. In this case, changes in government policy that required the use of outsourcing middlemen were seen to expose female workers in Malaysia to greater levels of exploitation and increased vulnerability. While the initial reason was to assist manufacturing companies in their search for potential workers, since its introduction in 2005, there have been a number of problems with the use of outsourcing companies and their relationships with Indonesian recruitment agency (Robertson, 2008). FOKMA is an independent welfare organization that helped KBRI to "monitor" Indonesian women in Sungai Way. Its former president shared her personal view about the way in which outsourcing arrangements between Malaysia and Indonesia lead to abuses and exploitation of workers:

To me, the culprit behind this [exploitation] was the agent [Indonesian recruitment agency] ... the most evil thing in this case is the agent. They [generally] falsified ages ... for the purpose of completing the quota. When Malaysia banned them by discarding the MoU, it assumed that no Indonesians had been delivered here at that time, but [the Indonesian recruitment agencies] used illegal routes. [migrants] came from Klang without permission from both authorities. The agencies were just initially the best medium to find skilled manpower. But they were too greedy, they just thought of the money. I am

really disappointed because both countries did not apply stern laws or punishment against this matter.

FOKMA Former president

The recruitment of unskilled and under-age workers was a matter of concern to FOKMA. The type of work and the workers' youth and lack of experience give employers greater latitude to exploit female workers, particular as the Malaysian government does not impose strict sanctions on employers who illegally or exploitatively employ foreign workers. Yet she recognized that this was one element of a broader problem: The Indonesian government's involvement in sending unskilled, young and female workers offshore:

Personally, I do not really agree with the Indonesian government when they send incapable people to work overseas. [A] long time ago, they just sent professional and capable workers such as nurses to work abroad. I was really satisfied when they set up the rules, doing an MoU (bilateral agreement) and banned importing the workers. There are many domestic issues that haven't been settled by the government, and they send many young and inexperienced female workers. This creates many opportunities for anyone to exploit them.

FOKMA Former president

### **Work-related issues**

The workplace was one of the critical sites in which to evaluate the execution of immigration policy in Malaysia. Based on the comments of some of my informants, there were problems with this policy and its deviation from the *Employment Act 1955*. For example, the attaché at KBRI urged the revision of the Malaysian regulations that set the conditions for female foreign factory workers at work. He wanted to see the *Employment Act 1955* followed, where it was claimed that the conditions it lays down is applicable to all employees, including foreign workers:

The fact is, in reality, Malaysia is very dependent on foreign workers in general and Indonesian in particular. Physically, Malaysia is ready to employ as many foreign workers as they need but based on the regulation it is condemnable. Malaysia has the *Law 1955* but none of them think about the Act for foreign workers, especially for women. There are certain conditions that I am really concerned about, which are related to female foreign workers working hours in overtime and on night shift. There is an Act saying that the employees are

allowed to work 48 hours per week. It is completely beyond women's capability. I would like to stress here that overtime is voluntary not mandatory. The companies are simply using these terms to achieve their target so they make this become compulsory. I would like to pinpoint the night shift conditions, which can create more problems. The female foreign workers are exposed to safety concerns: who will monitor their movements from home to the factory or back? To what extent can the night shift environment protect them from sexual harassment? So, these kind of matters always creates security problems for female foreign workers. Where should they go for protection and employers again always think of profits?

KBRI attaché

It may well be that the attributes of women that make them preferred employees are the very ones that suppress them on the factory floor. Docility, subordination and silence when dealing with authority and capitalist discipline may make women feel alienated and unrepresented. The KBRI attaché was concerned about the conditions of vulnerability that workers faced on the production floor. At the factory level, the employer has all the power, while the state has abandoned its responsibility to supervise and guarantee the welfare of workers.

So far, there are no specific reports from female factory workers from Indonesia [to KBRI]. In general, I can say that vulnerable conditions could be present on the production floor. We should think of women's wellbeing, physically for electronics employees. There must be air conditioning [switched on all the time] in the factory, it must be very cold ... I often found they have to stand for the whole process of production. How long? Half day? Or it might be 12 hours a day if they chose to do overtime work. I had reports that some factories prohibited the workers from going to the toilet. Can you imagine how can these female workers survive especially when they menstruate? Their reasoning is usually that the workers cannot leave the machine, therefore, they are not allowed to go to the toilet. Moreover, this is about custom and religious matters. I received information that the *muslimah* [Muslim sisters] are not allowed to join the *Eid* prayer, and I feel so touched because this is the arena of Malaysian jurisdiction and they should be aware of this particular issue. When I get this kind of report, I usually go to a factory meeting with the administration but they will deny the report and ultimately blame the workers.

KBRI attaché,

Yet this view of vulnerable, exploited female migrant workers was not accepted by representatives of employers. The INF manager below, for example, contradicted the KBRI attaché's claim:

For now, they [foreign workers] are not part of the union because they are not under our payroll [recruited under outsourcing company], so it's different ... but, of course, our employment law in Malaysia allows workers to form unions, that's their choice under certain procedures and processes, sets of rules. We don't treat them differently from the locals. There are a couple of things that we try to do to make them feel equal to each other. We introduced a *Hari Raya* (*Eid* celebration) incentive, because most of them are Muslims. We are operating a 24-hour kind of production, so we can't afford two to three days of switching off production because of *Hari Raya*. So, we need operators to work, so this is what we do to encourage them [all workers] to come to work ... this kind of incentive is also given to foreign workers. As the foreigner doesn't have family here, we can ask them to go to work, but we don't take advantage of them. Employment law is strict on this because *Hari Raya* is a public holiday: they can choose to work if they want to, it's kind of voluntary but, of course, we try not to differentiate between them to reduce the gap between locals and foreign workers.

INF Human resource

manager

### **Social Issues: Health, Pregnancy and Housing**

There were several measures that related to female migrants' social, health and housing conditions that informants commented on. While migrants have freedom of movement to a large extent, their continued stay in Malaysia is bound to their employment contract and a number of conditions. For example, foreign workers need to undergo an initial medical examination for pregnancy, HIV and tuberculosis within the first month of arrival and then on an annual basis when renewing their work permits. Health examinations were not raised as an issue in contrast to the issue of pregnancy and family migration, and housing.

Malaysian policy stipulates that unskilled contract migrants are prohibited from getting married and bringing their family to Malaysia (Malaysia Department, 2006). The



officials at MoHA explained this ruling in terms of the tremendous threat to Malaysia's socio-demographic profile and security if these measures were not in place.

So, we have to protect ourselves. If not, one day everyone who comes here wants to get married and they find locals [as spouses]. That is what they need: if they get married, they will get citizenship [for female foreign workers only]. But they cannot do that, because we have to look at the social aspects, and the security aspects of the country. Let's imagine, we have 1.2 million foreign workers in 2008: 400,000 in the domestic sector and 200,000 in the manufacturing sector. In total, there are 600,000 female foreign workers: if we permit them to get married to locals or even to other foreigners, what would happen? This affects our demography: every child born here [if marriage is allowable], they will be a Malaysian citizen. Even problems in our country itself cannot be resolved ... this creates more problems for us. So, from the beginning, we made a ban, we don't discriminate [against] them but this is about national security ... if their children are born here, in the future they will demand many things, for example, education and health facilities. There are cases when they get married without the knowledge of employers, then we have to reduce the terms of their contract or we send them back.

MoHA, Deputy director

The housing of foreign workers in Malaysia has been largely decentralized to the purview of local councils, creating significant difficulties for effective enforcement of standards for migrant worker accommodation. Despite its mandate for the preservation of public health, NGOs and trade union leaders stated that the Ministry of Public Health has done little to address overcrowding and lack of hygiene in migrant worker accommodation. As Robertson (2008) pointed out in the Fair Association (FLA)<sup>7</sup> report that the Malaysian government and the Malaysia Employers Federation (MEF) have to revise and promulgate guidelines that establish clear standards for migrant worker housing. A voluntary national agreement on guidelines could then be reinforced by FLA member companies making it compulsory for their suppliers to comply with those guidelines. In addition, active monitoring would then be required to ensure continued compliance. However, as one of the institutions

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<sup>7</sup> The Fair Labor Association (FLA) is a non-profit collaborative effort of universities, civil society organisations and socially responsible companies. It describes its mission as promoting adherence to international and national laws. The FLA was established in 1999 and evolved out of a task force created by President Bill Clinton following a series of child and other sweatshop scandals involving major apparel and footwear brands.

responsible for administering foreign workers' housing arrangements at the local level, the Melaka state government's plan is long overdue:

JTK and the Melaka state government have planned to centralize living conditions for foreign workers as we learnt from Singapore's foreign worker management. During our visit to Singapore, the trip sponsored by the Melaka state government, I was impressed with the foreign workers' hostel management over there ... it was very systematic. They cluster foreign workers' settlements into one community and provided excellent facilities including a playground and football field. They are not mixed together with the locals. The state government's intent to imitate Singapore's foreign workers' housing management is in response to a recent event. The incident happened in *Taman Prunah* and *Chantawood* [nickname for the neighborhood given by locals due to large number of Bangladeshis in that area]. These Bangladeshis acted as they would at home. They were taking baths outside ... naked! So the local neighbors were furious, they have children, teenage daughters ... so it's dangerous for them. The locals felt this scenario was threatening while these migrants felt it was their normal practice. When this issue was resolved at that time [by the state government] by explaining about our culture to the foreign workers, the plan was to build a foreign workers' settlement but this remains unrealized. It seems that up to the present, the Melaka state government is silent: maybe, they were just responding to a particular controversial issue, and they tried to implement something. But now the case is solved, the state government is not interested in enforcing any new policy... I guess.

JTK Officer

Nevertheless, housing arrangements trigger other social problems that involve female factory workers as the KBRI attaché expressed in his concern over this issue:

To me, in terms of laws and regulations, Malaysia is not yet perfect, for example, physical protection at foreign worker hostels. I learned that in their hostel, the government is supposed to ensure that they are located with the same sex [workers] ... women living with women [in one building]. They cannot be mixed ... whether different sex or different nationality. It's okay if they are same sex but different nationality but what happened was women were

located with men from different countries ... that is, socialization ... if they are not mentally strong, it will cause social problems. Whether they are women or men, living far from families' control ... "it" will happen. My concern is with the young women. They are very fragile. Thus, they are not fully informed about Malaysian laws. So, I think, the Malaysian government should be very firm in overcoming social issues. It will tarnish Malaysia's reputation if there is no strict control underlying the Malaysia immigration policy.

KBRI attaché

The final comments of the KBRI attaché hint at a much wider concern that of the social problems associated with migrants. This issue is discussed relentlessly in the media and by a number of groups and individuals. Concerns around the moral fragility of migrants had escalated into a moral panic, one in which the gender of these Indonesian foreign workers was pivotal. Whether informants were sympathetic or critical of such women, these women were nevertheless associated with social problems of various kinds.

#### **4. Conclusion**

This paper has discussed a number of important contextual factors for the women in this study. It has provided a discussion of the terms and conditions of employment contracts, labor recruitment policy, the general public ambivalence about foreign workers in Malaysia, as well more local Melaka-based perceptions of Indonesian factory workers. Obviously, immigration policy is one of the platforms through which the government can encourage or discourage and shape migration. The government's current position on migration is ambiguous and there have been a number of restrictions imposed on recruitment, including an increase in recruitment-related costs. Nevertheless, the Malaysian government is aware of Malaysia's economic dependence on migrant and knows that its attractiveness to export-oriented manufacturers is dependent on a reliable flow of low-cost migrants.

In this complex balancing of needs, there are many competing positions on the status and needs of the migrant workers themselves. There are different viewpoints from employers and outsourcing firms, from Malaysian government officials, from Indonesia's attaché, and from union representatives and groups such as FOKMA concerned for the welfare of workers. Despite their different approaches to issues in the workplace, in relation to women's housing and health, and their interactions with locals, all seemed to concur that female factory workers from Indonesia are associated with the rise of sexual and moral problems. For future study,

what this paper has not engaged with is how Indonesian factory workers perceive this context and interpret their own actions can be investigated.

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