

## Report on Identifying Major Labour Policy Issues in Malaysia

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### I. Introduction

Malaysia is a parliamentary democracy with constitutional monarchy nation, comprising of thirteen states and three Federal Territories, namely Kuala Lumpur, Labuan and Putrajaya (Figure 1). It is a multiracial country comprising of Malay, Chinese, Indian, Dayak, Kadazan and others, with a population of 31.6 million. Labour force participation rate was 67.6% and unemployment rate as of 31st December 2016 was 3.5%, thus putting Malaysia in a state of full employment.<sup>1</sup> The working age population (between 15 to 64 years) constitute 32.4% of the outside labour force who were housewives, students, retired, disabled persons and those not interested in working.



Figure 1. Malaysia at a glance

Malaysia aspires to achieve its envisioned developed and advanced nation status by year 2020. In rising to the challenges of a globalised economic environment and to steer the nation's continued positive growth path, Malaysia has set in place long term initiatives through its new high income economic model which

<sup>1</sup> Based on the definition set by the Organisation for Economic Cooperation and Development (OECD), an unemployment rate below 4% is considered full employment.

serves to guide Malaysia in realising her national development agenda towards 2020 and the years beyond. This aspiration of achieving a developed nation was initiated by the then 4th Prime Minister of Malaysia.

The present Prime Minister has set Malaysia to embark on a new 30 years transformation plan, entitled 2050 National Transformation (Transformasi Nasional 2050, TN50), which sets a new vision for the nation. TN50 aims to transform Malaysia into a calibre nation with par excellent mindset and become a top 20 country in the world by the year 2050. It will serve as a national discourse series geared towards charting the nation's direction via a new canvas, which will transform the country's economy, citizen well-being, environment, technology, social interaction, governance and public administration.

Labour market in an advanced nation is characterised by effective market clearance that matches supply with demand and a comprehensive labour market support system. The Tenth Malaysia Plan, 2011-2015, provides for short and medium term growth initiatives. The progress achieved includes increase in job creation and strengthening of the labour market institutions. In the Eleventh Malaysia Plan, 2016-2020, strategic shifts have been formulated to elevate the labour market efficiency that aims to improve the productivity, wage structure and create quality jobs, improve labour legislation and information, and effectively manage low-skilled foreign workers. The focus and emphasis will be given to fulfil the labour requirements of industry in the economy.

## **II. The changing features of industrial sectors, business organisations and business activities: The Malaysian perspectives**

Labour, in its own right, has played a critical role in contributing towards the nation's development. The country's economy has been transformed and reshaped from time to time since independence.

The pillars of the Malaysian economy then, the agricultural and mining sectors, have contributed immensely towards national growth. In the early 1970s, the main exports were primarily commodities from mining and agriculture contributing a total of 45.6% to the Gross Domestic Product (GDP). Foreign workers were brought into the country to meet the labour requirements of the two growing sectors. The ethnic population was mostly engaged in agriculture and small holdings with only a few, prepared to fill the manpower requirement of the two sectors. In the years following, with more plantations and tin mines being opened and more foreign workers entering the nation workforce, the system of labour administration in the country became more structured and prominent.

The years after the country's independence saw the growing importance of labour administration and hence the role of the Ministry of Human Resources (MOHR) Malaysia in the field of employment, labour protection and industrial relations. Complementing the realisation of the Government's development policy and objectives, the MOHR through her network of departments and agencies across the nation and working in collaboration and cooperation with other related Ministries performs vital functions in managing labour administration and maximising the nation's human resources potentials.

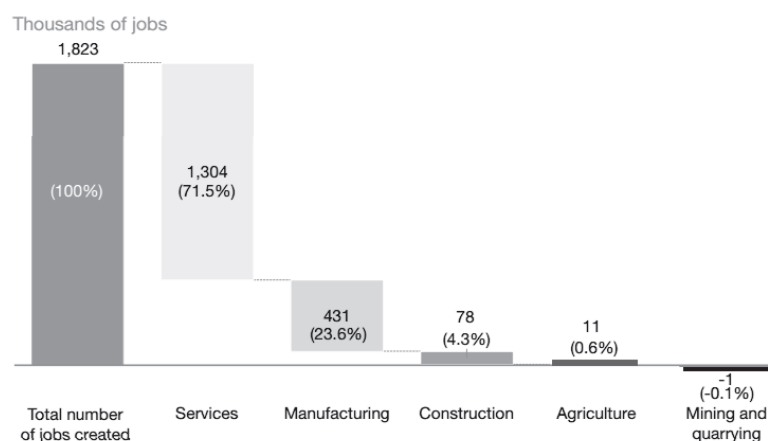
The 1980s saw the beginning of the transformation where the manufacturing sector took a strong hold on the country's economy. The GDP of the country was less than Ringgit Malaysia 60 billion with manufacturing contributing a mere 13% to GDP. The GDP per capita then stood at only Ringgit Malaysia 4,360.

The 1990s saw the beginning of a new era where the services sector gained its momentum in enhancing the national growth. In 2006, the contributions from agriculture and mining represent less than 20% with manufacturing contributing close to 30% of the total GDP at Ringgit Malaysia 297.95 billion and the GDP per capita has exceeded Ringgit Malaysia 19,600. The contribution from services output to GDP had risen significantly from 44% in 1980 to more than 50% in 2006.

Since then until 2016, services sector continued to register positive growth. The index of service expanded by 5.9% in fourth quarter of 2016 as compared to the same quarter a year earlier. Robust growth in the services sector was contributed by Information and Communication; and Transportation and Storage

(6.7%). Other major contributors to the expansion of the services sector was the Wholesale and Retail Trade; Food & Beverage and Accommodation (6.3%).

From a largely agriculture-based economy, diversification has proceeded to the extent that services is emerging as a leading sector. Now, it is a different scenario where the human capital dictates the trend for the future of economy. During the Tenth Malaysia Plan, the economy grew by 5.3% per annum and created 1.8 million new jobs, wherein 71.5% or 1.3 million jobs were in services and 23.6% or 431,000 jobs were in manufacturing, as shown in Figure 2. Research and development, and technological infusion are relatively important which can contribute to global products with enhanced productivity rate.



Source: Economic Planning Unit and Department of Statistics Malaysia.

Figure 2. Jobs creation by sector, 2011–2015

### III. The changing features of work relations, work organisations and working styles

#### 1. Work relations

Determining employer and employee relations is an important part of business, not only because it determines the obligations and responsibilities of both the employer and the employee but also because the survival of such relationship vests on employer with certain rights and duties. Employer-employee relation refers to the communication that takes place between representatives of employees and employers. More often than not, the employee relations engage employees and employers working together. It is bound by the employment contract, or popularly known as contract of service. In Malaysia a contract of service<sup>2</sup> is defined as an agreement whereby one person agrees to employ another and that other agrees to serve his employer as an employee.

The employment contract must comply with the labour legislations in force that provides terms and conditions. Benefits such as sick leave, maternity leave and annual leave are stipulated in the contract. In unionised sector, the terms and conditions are determined by collective agreement. Trade unions and employers are at the liberty to negotiate terms and conditions and draw up their collective agreement. If it is not resolved through negotiation, then it becomes a trade dispute and it will be referred to the Minister of Human Resources to the Industrial Court for arbitration.

The Government, particularly MOHR plays an important role in balancing the relationship between

<sup>2</sup> According to the Employment Act 1955, contract of service means any agreement, whether oral or in writing and whether express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee and includes an apprenticeship contract.

employer and employee, social security and safety and health of workers in the country. Among the Departments and Agencies under MOHR are:

- (a) Department of Labour — This Department enforces 11 Acts including Employment Act 1955, National Wages Consultative Council Act 2011, Minimum Retirement Age Act 2012, Children and Young Persons (Employment) Act 1966 and Workmen Compensation Act 1952.
- (b) Department of Industrial Relations — This Department's role is to enhance industrial harmony in the country. Its main objective is to resolve trade disputes between employers and trade unions.
- (c) Department of Trade Union Affairs — This Department's main function is to register trade unions and monitor their activities.
- (d) Department of Occupational Safety and Health — This Department's main function is to ensure workplaces are safe.
- (e) Manpower Department — The Department is given the responsibility to ensure continuous supply of competitive and skilled workforce to meet the demands of the industries. This Department plans and conducts training for pre-employment skills, upgrade the skills of workers to meet the technological changes and provides financial aid to support these programmes.
- (f) Department of Skills Development — The role of this Department is to coordinate and regulate the implementation of skills training to produce Knowledge-Workers for the purpose of employment and recognition at national and international levels. The Department also does research and develop job competency standards and expertise to continuously improve the quality of skilled human resources who can contribute to the economic growth of the country.
- (g) Social Security Organisation — The Social Security Organisation (SOCSSO) was established with the purpose, among others, to administer the Employment Injury Scheme and Employment Invalidity Pension Scheme as provided under the Employees' Social Security Act 1969.
- (h) Institute of Labour Market Information and Analysis (ILMIA) — The National Institute of Human Resources that created in 1997 was upgraded to the Institute of Labour Market Information and Analysis (ILMIA) under MOHR in 2012 with the mission to be the centre of excellence for the analysis of labour market trends and emerging knowledge-based economy. The Labour Market Information Data Warehouse (LMIDW) was established in 2013 to improve and share key information such as projections of workforce supply and demand by economic sectors and development corridors in a single platform. The LMIDW is key to guiding appropriate policy responses of stakeholders in understanding changes within the labour market and meeting the competitive challenges of uplifting the economic well-being of the population, which has enabled the Government to make better evidence-based policies, as well as improve dissemination of information to industries, educational entities, labour providers and other stakeholders including international organisations.

## 2. Work organisations

The Malaysian Trade Unions Congress (MTUC) being an umbrella body for trade unions and the Malaysian Employers Federations (MEF), a federation consisting of employers play a vital role in championing their rights. These organisations play important roles in the National Labour Advisory Council (NLAC), which is a tripartite body consisting of trade unions and employers' organisation and the Government.

## 3. Working styles

The landscape of working in Malaysia is currently taking a twist. There are many employers who allow their workers to work from home. Even the conventional payment for wages is now focusing on Productivity Linked Wage System (PLWS). There are some employers who staggered their work modes according to the market demand.

## IV. Background factors, such as progressing globalisation, new waves of IT, AI, IoT, demographic changes, etc.

### 1. Globalisation

As far as Malaysia is concerned, globalisation brought advantages as well as disadvantages to the country. On the advantage side, it brought new investment in the area of information technology and other new technology-based industries. This helped to create many job opportunities for the people. On the other hand, many businesses closed because they could not compete with the stiff competition by the multinational companies. The retrenchment figures for the past three years are as Table 1:

Table 1. Number of retrenched workers, 2014–2016

Year	Number of Retrenched Workers
2016	37,699
2015	44,343
2014	21,208

Source: Department of Labour .

Under the Malaysian law, employers who undertake to retrench workers must give due notice or pay indemnity in lieu to the workers and also pay retrenchment benefit as stated in the Employment Act 1955 or as per their collective agreement.

Since there have been cases reported to the authority on the non-payment of retrenchment benefit, the Government is seriously considering to enact a new Act for the payment of partial wages, temporary financial aid, provide reskilling and upskilling as well as job placement to the workers. All these benefits are to be handled by the Government.

### 2. Demographic changes

Demographic transition influences overall human capital development in terms of both supply and demand of the workforce. The Malaysian population was 28.6 million in 2010 and is expected to increase to 32.4 million in 2020. However, during the Tenth Malaysia Plan, the population growth rate declined to 1.3% per annum as compared to 1.9% per annum in the Ninth Malaysia Plan (2006-2010). This was due to the decrease in the Total Fertility Rate<sup>3</sup> to 2.1 in 2013, which is equivalent to the replacement level. This may inhibit the labour market to adjust to changing economic conditions.

The young population (0-14 years) is expected to decrease from 7.8 million in 2016 to 7.7 million in 2020, as a result of the decline in fertility rate. The working age population (15-64 years) is expected to increase from 22.0 million in 2016 to 22.4 million in 2020, contributing to demographic dividend.

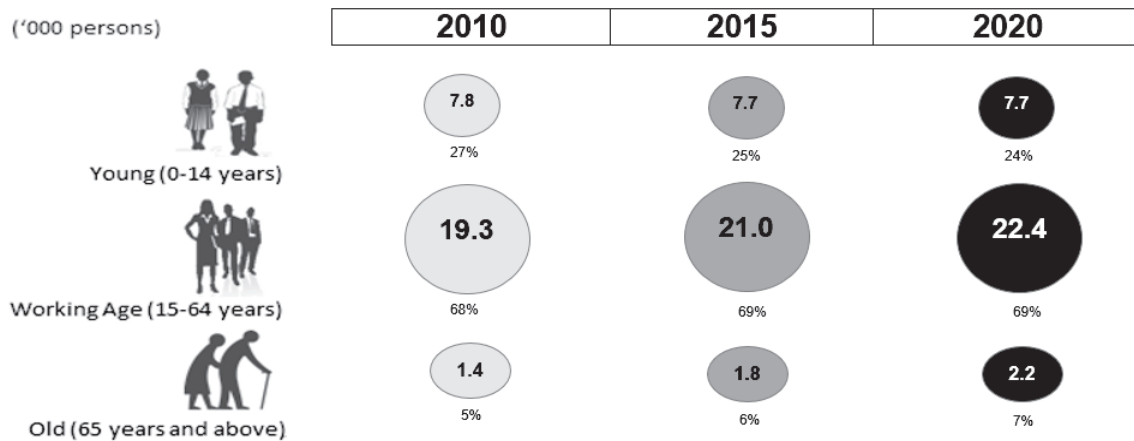
Life expectancy is expected to improve from 72 years in 2010 to 74 in 2020 for males and 77 to 79 for females. As a result, the older population (65 years and above) is expected to reach 2.2 million (7.2% of total population) in 2020, heading towards an aged nation (Figure 3). As a result, the dependency ratio is expected to increase slightly from 44% in 2016 to 44.2% in 2020.

Malaysia is expected to become an aged nation by 2035, where the composition of population aged 60 and above will be 15% of the total population.

The extent coverage of the social security schemes, labour legislations and social assistance programmes in Malaysia has obvious gap. Generally, the formal schemes cover contributors only up to

3 Total Fertility Rate refers to the average number of children borne by a woman during her child bearing age of 15-49 years old.

the age of 60 years old. Thus, the aged will have to depend on either their savings or social assistance programmes, both for daily subsistence or medical expenses. There are no formal family or child assistance social security schemes. Hence, Malaysia must prepare more hospitals and other amenities to enhance the social protection to cater for the needs of aged.



Source: Economic Planning Unit and Department of Statistics Malaysia.

Figure 3. Age structure, 2010 – 2020

## V. Major issues of labour policies arising therefrom, such as tackling widening social inequality, redefining the demarcation of labour law, reforming the labour market, reconstructing the worker representation system, controlling migrant workers, etc.

### 1. Tackling widening social inequality

Malaysia often encounters challenges in its effort to strengthen the labour market. One of them is the distortion in wage structure. The wage gaps need to be reduced to improve equality. The Government aims to increase the compensation of employees to be on the same level as other middle and high income countries. Compensation of employees is expected to increase following greater compliance with minimum wage requirements, upward revisions in minimum wages linked to improved productivity, and enhanced recognition of prior learning. The recognition of technologists as professionals through the establishment of the Malaysia Board of Technologists will also improve wages of Technical and Vocational Education and Training (TVET) graduates. MBOT will serve as a statutory body to regulate, promote and develop the technologist profession in Malaysia. These measures are expected to contribute to an increase in the monthly median wage from Ringgit Malaysia 1,600 in 2015 to Ringgit Malaysia 2,500 in 2020. The Government will establish a National Wage Index (NWI) that serve as a guide and benchmark for employers in determining the right wage level for employees that is in accordance with their qualifications, skills and productivity.

### 2. Redefining the demarcation of labour law

The Malaysian Government feels that it is time to self-regulate some of the conditions in the legislations. This is in order to ensure that employers abide to the rules and regulations of the labour legislations. This measure will assist the Department of Labour, which is facing acute shortage of labour inspectors.

### **3. Reconstructing the worker presentation system**

Trade Union Act 1959 and Industrial Relations Act 1967 provide provisions for workers and employers to carry out industrial actions such as picket and strike. But these rights are regulated by the authorities. This means that trade unions of workmen and trade union of employers must strictly follow the law in order to carry out picket or strike.

To defuse these situations, the Department of Trade Union Affairs and Department of Industrial Relations take swift action through conciliation to resolve the trade disputes and create industrial harmony in the workplace.

The Department of Trade Union Affairs and Department of Industrial Relations carried out various dialogues, workshops and seminars in order to educate trade unionists on their rights and their roles in creating industrial harmony.

### **4. Controlling migrant workers**

In Malaysia, the issues on migrant workers are managed by two Ministries, which are Ministry of Home Affairs in terms of security and MOHR for welfare and labour protection. The Government of Malaysia accords priority of employment for locals. It is compulsory for every employer to advertise vacancies through the JobsMalaysia Portal, to provide opportunity to locals to apply for the vacancies. Only vacancies that are not filled by locals, the employers are entitled to apply for hiring foreign workers.

The employers who wish to hire foreign workers shall fulfil all the criteria outlined by the Government including providing accommodation with basic amenities, complying with minimum wage policy, no records on breach of labour and immigration laws. The Government only allows legal or documented foreign workers to work in Malaysia and the duration of employment is maximum 10 years, renewable on year to year basis. The Government of Malaysia requires all employers to obtain insurance coverage for foreign workers such as the Foreign Workers Compensation Scheme and the Foreign Workers Health Insurance Protection Scheme (exclude plantation and optional for domestic workers).

Foreign workers are also required to undergo medical examination within 30 days from the date of arrival. Work permit will only be issued by the Department of Immigration if the foreign workers clear the medical examination. Those who fail the medical examination will be sent back to their country of origin.

Malaysian Government has signed Memorandum of Understanding with some source countries for formal sectors and informal sectors for the smooth and speedy recruitment, employment and repatriation.

## **VI. Conclusion**

Based on the information presented above, the main problem that Malaysia is facing currently is that the country depends too much on foreign workers. In this context, the Government has taken several measures including promoting automation and providing greater employment opportunities to local workers, with enhanced employment benefits. Local labour, however, will have to change their mindset, not to be too choosy in selecting jobs.