

FOREIGN WORKERS

The Law And Practice In Malaysia

*Ashgar Ali Ali Mohamed
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CLJ Publication

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3.1 INTRODUCTION

In the preceding chapter, it has been noted that the contract of employment is a personal or special contract that should be regulated not only by the contractual intention of the parties, but also by the principle of fairness. The influx of migrant workers into the Malay Peninsula during the British administration of the Straits Settlements and the Malay States forms the basis of this chapter. Reference is made to the introduction of the labour legislation to accord protection of these workers against exploitation and abuse by the employers. It is noteworthy that the inflow of international migrants into the Malay Peninsula is not a recent phenomenon. It started during the British colonial rule when the capitalist economic enterprises were introduced together with necessary infrastructures.¹ Apart from the above, it is also worthwhile to briefly note the abolishment of serfdom and slavery in England. The above discussion is relevant in so far as the treatment of migrant workers during the British administration of the Straits Settlements and the Malay States is concerned.

In classical Roman law, slavery was defined as an institution 'whereby someone is subject to the power of another contrary to nature.'² Slavery was one of the principal exports of England, during the Anglo-Saxon period.³ These slaves who were regarded as humans capable of being

* This Chapter is contributed by Ashgar Ali Ali Mohamed.

1 Dorall, R. F. Foreign Workers in Malaysia: Issues and Implications of Recent Illegal Economic Migration from the Malay World in *The Trade In Domestic Helpers: Causes, Mechanisms And Consequences*, (1989), p 289.

2 *International Encyclopaedia of the Social Sciences Vol. 13- 14* (New York: The Macmillan Co. and Free Press, 1972) 307.

3 C.M.Smith, *A Treatise on the Law of Master and Servant* 6th ed. (London: Sweet and Maxwell, 1906) lxxxiii.