

FOREIGN WORKERS

The Law And Practice In Malaysia

*Ashgar Ali Ali Mohamed
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CLJ Publication

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Foreign workers : the law and practice in Malaysia /

Ashgar Ali Ali Mohamed ... [et al.]

Includes index

ISBN 978-967-0379-26-5

1. Labor laws and legislation--Malaysia.
2. Foreign workers--Legal status, law, etc.--Malaysia.

I. Ashgar Ali Ali Mohamed.

344.59501

Published by

The Malaysian Current Law Journal Sdn Bhd

E1-2, Jalan Selaman 1/2,

Dataran Palma, 68000 Ampang,

Selangor Darul Ehsan, Malaysia

[Co No 51143 M]

Tel: 603-42705400 Fax: 603-42705401

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Although every effort has been made to ensure accuracy of this publication, The Malaysian Current Law Journal accepts no responsibility for errors or omissions, if any.

Edited by Baizura Abd Razak

Printed by

Printmate Sdn Bhd

No. 14 & 16, Jalan Industri P.B.P. 7,

Taman Industri Pusat Bandar Puchong,

47100 Puchong, Selangor Darul Ehsan.

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19.1 | INTRODUCTION

A person normally seeks employment for various personal reasons. However, majority of those who seek employment work for monetary considerations. Undoubtedly, the wages or salary earned would be used to provide the employee and his family the basic necessities of life such as food, clothing, education, housing, leisure activities and eventually, saving for retirement. Article 23(3) of the Universal Declaration of Human Rights, 1948 provides that the wages payable must be adequate to meet the basic needs of the worker and his or her family.¹ However, in practice, the level of wages or salary is generally set either by the market force (supply and demand) or by a collective agreement. In fact, many workers are paid substandard wages. Realising this, the International Labour Conference had, in its 54th session on 22 June 1970, adopted the Minimum Wage Fixing Convention, 1970 (No. 131) and the Minimum Wage Fixing Recommendation 1970 (No. 135), which requires the ratifying states to establish a minimum wage fixing machinery which in turn, is capable of determining and periodically reviewing and adjusting minimum wage rates. Its primary purpose is to aid the underpaid; the nation's working population and those who lack sufficient bargaining power to secure for themselves a minimum subsistence wage.

As of 15 November 2010, 51 countries had ratified the Convention No. 131.² Although Malaysia did not ratify this Convention, nevertheless, it had in 2010 requested ILO's assistance in the reformation of its national

* This chapter is contributed by Ashgar Ali Ali Mohamed.

1 The above article provides: 'everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary by other means of social protection'.

2 http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312276