



# INTERNATIONAL LABOUR ORGANIZATION (ILO) MALAYSIA



**MR. MOHD KHAIRI B MAN (EIWU) / MR. AHMAD FAISAL B MAD AYOB (CUEPACS)**  
**29<sup>th</sup> – 31<sup>st</sup> MEI, 2017**

**ILO REGIONAL ON STRENGTHENING GOVERNANCE IN EPZS/GSC THROUGH PROMOTING GFA  
AND OTHER INSTRUMENT  
ATLET CENTURY PARK HOTEL , JAKARTA , INDONESIA**

# WHERE ARE WE?



**CUEPACS**



Selangor, Subang  
**MALAYSIA**

**Electrical Industry Workers Union  
& Malaysian Trade Union Congress**

Putra Jaya,  
Wilayah Persekutuan

# MALAYSIA POPULATION

Malaysia Citizen	30.5 million (2016)
Work force	14.6 million
Unemployment	3.5%
Estimated foreign workers	5.8 million
	2.3m. <i>Documented</i>
	3.5m. <i>Undocumented</i>

# Unionization Vs MTUC Affiliation

YEAR	NUMBERS OF UNION	TOTAL	MALE	FEMALE
2012	688	799,192	481,599	317,593
2013	704	914,677	522,209	392,468
2014	730	930,512	402,877	527,635
2015	725	913,737	395,773	517,964
<b>2016 (JUN)</b>	<b>738</b>	<b>901,499</b>	<b>391,948</b>	<b>509,551</b>

SECTOR	2012	2013	2014	2015	2016
PRIVATE	441	462	480	476	485
GOVERNMENT	144	142	145	144	146
STATUTORY BODY AND LOCAL AUHORITY	103	100	105	105	107
<b>TOTAL</b>	<b>688</b>	<b>704</b>	<b>730</b>	<b>725</b>	<b>738</b>

SOURCE FROM MTUC \*\*

## NATIONAL UNION AND IN-HOUSE UNION

YEAR	2012	2013	2014	2015	2016
NATIONAL UNION	103	104	107	106	103
IN-HOUSE UNION	338	358	369	370	382
<b>TOTAL</b>	<b>441</b>	<b>462</b>	<b>480</b>	<b>476</b>	<b>485</b>

## FOREIGN WORKERS IN THE UNION

YEAR	2012	2013	2014	2015	2016
NATIONAL UNION	8	9	9	9	11

# MIGRANT WORKERS IN MALAYSIA - 30-JUN-2016

NATIONS	MAID	CONSTRUCTION	MANUFACTURING	SERVICING	PLANTATION	AGRICULTURE	TOTAL
INDONESIA	96781	213,190	125,521	40,121	299,898	80,712	786,314
NEPAL	66	13,420	306,909	93,545	4,548	14,999	433,487
BANGLADESH	147	91,100	90,187	26,574	19,185	12,411	239,604
MYAMMAR	113	18,769	100,349	15,725	1,898	5,004	141,858
INDIA	922	9,121	2,920	53,074	21,265	41,416	128,718
PAKISTAN	39,461	29,878	3,264	6,158	6,859	21,102	67,299
FILIPINA	39,461	3,776	4,537	6,014	4,487	4,530	62,805
VIETNAM	659	3,949	33,960	1,466	73	439	40,546
CHINA	183	5,707	1,090	5,943	25	28	12,976
THAILAND	324	623	401	8,917	498	1,830	12,593
COMBODIA	2,669	214	2,535	1,237	189	265	7,139
SRI LANKA	1150	134	3,976	930	210	320	6,720
LOAS	21	3	17	4	1	3	49
<b>TOTAL</b>	<b>142,564</b>	<b>389,884</b>	<b>657,666</b>	<b>259,799</b>	<b>289,136</b>	<b>183,059</b>	<b>1,940,108</b>

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# Key provision of labour laws

## The Right of Association

- By law, all workers including foreign workers have the right to form and join trade union in Malaysia but the Trade Union Act 1959, the Industrial Relations Act and the Immigration Department policy restricted these rights. There are also other Malaysian laws which restrict freedom of association. The ILO Convention 87, which had been adopted since 1948, regarding “Freedom of Association and the Right to Organize” has not been ratified by our government until today. Among the laws that curb workers’ rights are as follows:
- The Trade Union Act 1959 gave the Director General (DG) of Trade Unions extensive and arbitrary powers regarding registration, suspension, control of funds and deregistration of trade unions.



## ILO CONVENTIONS RATIFIED BY MALAYSIA 2016

NATION	C.87	C.98	C.29	C.105	C.138	C.182	C.100	C.111
INDIA	NO	NO	1954	2000	NO	NO	1958	1960
INDONESIA	1998	1957	1950	1999	1958	1999	1999	2000
<b>MALAYSIA</b>	<b>NO</b>	<b>1961</b>	<b>1957</b>	<b>NO</b>	<b>1997</b>	<b>NO</b>	<b>1997</b>	<b>2000</b>
THAILAND	NO	NO	1969	1969	2004	2001	1999	NO
VIETNAM	NO	NO	2007	NO	2003	2000	1997	1997
MYANMAR	1955	NO	1955	NO	NO	2013	NO	NO

SOURCE FROM INDUSTRIALL\*\*

# Migrant Workers and the Right to join Union

- Even though the Law allows them to Join Union but the Policy decision of the Immigration restrict the Migrant workers to join Union reason given is due to National Security. However we have been able to organize about 15,000 foreign as members of the union among our affiliates.

# The Right to Organize and CBA - Conv. 98 of 1949

- The Malaysian government has ratified the ILO Convention 98 regarding the 'right to organize and to bargain collectively' since 1961. Workers have the legal right to organize and bargain collectively where labour was organized.
- But MTUC as the national labour organization is registered under the Societies Act. As such MTUC does not have the right to conclude collective bargaining agreements nor to undertake industrial action, but only to provide technical support to affiliated members.
- It is a society of trade unions in both the private and government sectors. At the same time, the other national organization is the Congress of Unions of Employees in the Public and Civil Service (CUEPACS), a federation of public employee unions registered under the Trade Union Act. CUEPACS represents about 300,000 members out of 1.4 million civil servants but has no collective bargaining right or the right to organize strikes.
- The government also placed limits on collective bargaining agreements in companies designated as having pioneer industries.

## ISSUES

- \* Employers prefer to challenge union to court deny workers right to form union
- \* Employers out sourcing, back office service to reduce cost
- \* Employers prefer to hire foreign workers

## Cont. ISSUES #

- \* Trans Pacific Partnership Agreement ( TPPA ) (suspended now)
- \* MTUC have raise strong objection to government not to sign Introduction of GST –will increase cost
- \* Foreign workers – diseases (TB, dengue)  
health and safety on the rise

# What Efforts Are Being Made To Solve The Issues

- ❖ MTUC had make proposal to the government that we have no objection to the introduction of PLWS on condition that we have fix variable components in it.
- ❖ Many employers are not implementing it in a transparent manner & PLWS mainly to non-executive

# COLLECTIVE BARGAINING

- Collective agreement is defined under section 2 of the Act LIAISON Enterprises Act 1967 (IRA)
- Written agreement made between two parties, namely the employer or union employers and unions related to the terms and conditions of employment and the relationship between the two parties.
- Collective agreement or collective agreement (CBA) is a special commercial agreement, usually as one consultation "collectively" between the company and unions.
- Collective agreements usually set wages, hours of work, promotion, annual leave, compassionate leave, public holidays and other jobs as well as procedures for handling disputes that arise.

# COLLECTIVE BARGAINING- (Cont.)

## **Order by legislation;**

- a) Section 13 (1) of the IRA - Process Collective bargaining proposals on employers
- b) Section 13 (4) IRA - The employer must respond within 14 days. If agreed the process of negotiations commence within 30 days.
- c) Section 18 (1) IRA - If the employer refuses to negotiate or fail to give answer, a dispute exists and the union may report to the Director General of Industrial Relations Department (IRD).
- d) Pursuant to section 26 (1) of the IRA or 26 (2), the Minister of Human Resources may refer the dispute to the Industrial court for arbitration.



**THANK YOU**