



Insights Into Recruitment Costs and Practices Amongst Small-Medium Sized Companies In The Palm Oil Industry In Peninsular Malaysia

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Glossary

Contractor / Sub-Contractor	Refers to entity which is given a contract by a company (palm oil company/selected company) to undertake activities in its business operations (strictly on palm oil related activities for the purposes of this project)
Cost of Recruitment	Refers to any direct and indirect costs associated with the recruitment of foreign workers
Deployment	Refers to the activity and responsibility of employer/labour recruiter and worker between "completion of selection of workers in origin country" and "arrival in Malaysia"
Migrant Worker / Employee	Refers to the category of foreign worker under Malaysian policy, hired directly by employer
Intermediary	Refers to any person or party involved in the recruitment of migrant workers, in Malaysia or in the country of origin in addition to the company
Employers' Recruitment Cost	Refers to any recruitment cost borne by the employer. This calculated as all expenditure on recruitment by the employer, minus any deductions made by the employer to the migrant worker (or any other party) for recruitment related expenses
Indirect Cost Of Recruitment	Refers to any recruitment cost or fee that is not formally required under the laws and policies of Malaysia and/or the origin country, where there are no receipts provided
Informal Labour Recruiter / Individual	Refers to any person or party that is not registered under the law but involved in the recruitment and supply of workers in Malaysia and in origin country
Labour Recruiter / Agent	Refers to a registered entity that is involved in the recruitment and supply of migrant workers, in Malaysia and/or in the worker's country of origin
Post-Arrival	Refers to the period of time after migrant workers arrive in Malaysia (until the termination of their employment with the company)
Pre-Selection	Refers to the processes undertaken by workers, the potential employer, labour recruiter and any other third party involved in connecting, transporting and assisting workers to get to the point of an interview or recruitment session
Selection Process	Refers to the processes by the employer/labour recruiter and worker during interview process and administrative arrangement upon selection of eligible workers
Sub -Contracted / Outsourced Worker	Refers to a worker who is hired by a third party (contractor / sub-contractor/outsourcing) company to work in the company's operations/sites
Third Party	Refers to contractor, sub-contractor or any stakeholder involved, directly or indirectly in palm oil activities of the selected company
Undocumented Worker	Refers to a migrant worker who is not in possession of a valid working pass (pas lawatan kerja sementara - PLKS) in Malaysia



EXECUTIVE SUMMARY

Unethical recruitment practices and excessive charging of recruitment costs are among the major causes of forced labour and other forms of labour exploitation. Migrant workers around the world often have to pay excessive amounts of money to labour recruitment agencies and individual agents in the name of covering the costs of recruitment. Consequently, the workers are forced to sell property, borrow money from relatives and friends, or take out loans from money lenders and commercial banking institutions in hopes of finding a good job in the destination country to build a better life for themselves and their families. Globally, there are growing expectations for companies to commit to ethical recruitment practices. It is expected that employers, regardless of their size of operation and economic sector, should bear the full cost of recruitment and placement of their workers, particularly the migrant workers.

The objectives of this snapshot study are (i) to understand employer practices in small and medium sized companies with respect to the recruitment of migrant workers and the experiences of the migrant workers throughout the recruitment process, and (ii) to find out the actual costs of recruitment borne by employers and the workers, within the context of the palm oil industry in Malaysia. The study interviewed the management of 2 palm oil mills, 1 estate, and 1 contractor to an estate (collectively referred to as the “employers”); 1 labour agent in Malaysia (as the “intermediary”) who was common to both mills; and a total of 58 migrant workers comprising 48 Nepalese, 7 Indonesian and 3 Bangladeshi workers.

The key findings of the study are as follows:

A Snapshot of the Employers' Recruitment Practices	A Snapshot of the Migrant Workers' Experiences during Recruitment Process
<ul style="list-style-type: none"> While it is common practice to have policies related to social protection, occupational health and safety, and environmental protection, employers lack dedicated policies and guides for good practices to guide and monitor the recruitment of migrant workers. All employers interviewed (except the contractor to an estate) practiced direct hiring, whereby all migrant workers are directly managed and paid by their respective management body. All employers recruited their migrant workers through a labour agent in Malaysia, and (at least) another labour agent in the migrant workers' country of origin. Employers have no specific criteria in selecting their labour agents in the country of origin or destination, and heavily rely upon intermediaries to recruit migrant workers on their behalf. While employers have no specific criteria in selecting their labour agent, they have preferred attributes of migrant workers that they hire, such as the workers' nationality, language ability, physical appearance, and gender (usually male). 	<ul style="list-style-type: none"> Two key reasons to migrate to Malaysia for work among the surveyed migrant workers are (i) to financially support their family and relatives living in their country of origin, (ii) and to repay debts in their country of origin. Three key sources of information about migrant work opportunities in Malaysia include: (i) information from colleagues or relatives who are already working with the existing employer in Malaysia, (ii) information received through a labour agent (manpower agency) in the country of origin, and (iii) information received from individual recruiters or informal brokers in the country of origin. Migrant workers explained that they were provided with basic information about their prospective employment in Malaysia during the recruitment process, including their job description, salary, and the name of their employer. They were not adequately informed about their living conditions, legal rights and responsibilities, and details about workmen's compensation in Malaysia. Although most of the surveyed workers said that they had been briefed on the details of their employment, less than half of them had signed any employment contract in Malaysia.

An important finding from the survey is that both employers and migrant workers appear to have paid for overlapping items in the recruitment process. It was found that some cost items paid for by the employers (in Malaysia) such as airfare, visa, working permit, etc., were also paid for by the workers (in their country of origin). This suggests potential unethical practices by the intermediaries in the migrant workers' country of origin, in charging the workers the costs of recruitment which had already been covered by the employers in Malaysia. This situation not only increases the actual cost of recruitment, but also complicates efforts to understand and estimate the accurate cost of recruitment.

Cost of Recruitment	Recruitment Cost (in RM) by Country of Origin		
	Nepal	Indonesia	Bangladesh
Borne by the Employers	RM5096	RM2470	*N/A
Borne by the Migrant Workers	RM5500	RM1950	RM15000

* Estimate is not available due to lack of documentation

Recruitment Cost Item Borne by the Employers and the Migrant Workers	Employers	Migrant Workers
Pre-departure stage (in country of origin)		
Service fee for labour agent	✓	✓
Levy fee	✓	✓
Visa fee	✓	✓
Work permit fee	✓	✓
Security bond	✓	✓
Medical check-up fee (country of origin)	✓	✓
Insurance fee (country of origin)	✓	✓
Training / orientation cost in country of origin	✓	✗
Additional processing fee (no further explanation)	✓	✗
Airfare cost (one-way ticket)	✓	✓
Arrival stage (in Malaysia)		
Medical check-up fee in Malaysia	✓	✗
Land transportation in Malaysia	✓	✗
Training / induction cost in Malaysia	✓	✗

Apart from the lack of commitment from employers to put in policies and internal procedures to manage the recruitment of migrant workers, this study found several other challenges such as (i) the employers' heavy reliance on labour agents to manage the recruitment of their workers, (ii) lack of good practices in documentation and record-keeping, (iii) lack of awareness and knowledge among the migrant workers on the recruitment process, (iv) discrepancies in data and information with respect to the actual cost and process of recruitment, and (v) increase in the actual cost of recruitment due to unethical practices by the intermediaries in the migrant workers' country of origin.

Employers and workers face various challenges in moving towards a more reasonable recruitment cost, or rather "a zero cost of recruitment". However, the study found some opportunities for improvement that go beyond dollars and cents. These include (i) the increased awareness among employers to eliminate the legacy practice of withholding foreign workers' identity and travel documents, (ii) the interest in putting in place a post-arrival programme, (iii) the recognition that the role of

labour agents in the grievance process can be strengthened, and (iv) the possibility of doing further research with agents to bridge the gap between employers and workers.

In moving forward, the Earthworm Foundation (EF) strongly recommends that employers should play a leadership role in exercising ethical recruitment practices and undertake regular due diligence exercises on monitoring the recruitment process conducted by the intermediaries. The implementation of ethical recruitment requires close collaboration between employers and intermediaries, as well as the inclusion of workers and other stakeholders, in order to improve transparency and accountability around the recruitment process.





1



Introduction

1.1 About the Ethical Recruitment Project

In 2018, the Earthworm Foundation (EF) launched the Ethical Recruitment Project. The project included three components:

1. a multi-stakeholder Forum on Ethical Recruitment for palm oil companies (which was successfully convened on 26 June 2019 in Kuala Lumpur);
2. This study, "Insights into Recruitment Costs and Practices Amongst Small-Medium Sized Companies In The Palm Oil Industry in Peninsular Malaysia," and its related field work; and
3. the development of a due diligence tool and related resources for companies to identify risks and remedy gaps in recruitment

The palm oil industry is one of the economic sectors in Malaysia that employs the highest number of migrant workers (mainly from Indonesia, Nepal and Bangladesh). There is a growing expectation from international markets that companies in the palm oil industry should commit to ethical recruitment to prevent and address the risk of labour exploitation, avoiding practices such as forced labour and debt bondage. It was widely acknowledged during the multi-stakeholder forum held on 26 June 2019 that in moving forward, it is important to document existing practices and challenges surrounding the recruitment of migrant workers within the sector. This needs to be complemented by developing practical resources and sharing them with companies for implementation in their operations. Equally important is to understand and document current practices with respect to costs of recruitment currently borne by employers and migrant workers.

1.2 About the Cost of Recruitment Study

Existing research has confirmed that the excessive cost of recruitment charged to migrant workers leads to a range of labour exploitation situations. The recruitment charges serve as an entry point for a cycle of labour exploitation and abuse, impacting not only the workers, but also their families and the communities back home¹. Imposing the costs of recruitment on migrant workers

is essentially against ethical recruitment. The practise of charging migrant workers for recruitment is either capped (e.g., legal limit of charges in India and Nepal) or entirely prohibited in many countries (e.g., Qatar, the UAE and Saudi Arabia). Even though that is the case, it remains common for migrant workers to bear the cost of recruitment and in many cases pay excessive fees, forcing them to borrow from various sources and/or sell their valuables and assets to foot the payment.

The International Labour Organization (ILO) Governing Body at its 331st Session in November 2018 (in Geneva) adopted a comprehensive set of General Principles and Operational Guidelines for fair recruitment,

“which refers to recruitment fees or related costs as any fees or costs incurred in the recruitment process in order for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection”.²

¹ See International Labour Organization (ILO). 2018. *Findings from the global comparative study on the definition of recruitment fees and related costs. Published under the Conditions of Work and Equality Department* (November 2018). Available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/meetingdocument/wcms_646693.pdf; Also see United Nations Office on Drugs and Crime (UNODC). 2015. *The role of recruitment fees and abusive and fraudulent practices of recruitment agencies*. Available at https://www.unodc.org/documents/human-trafficking/2015/Recruitment_Fees_Report-Final-22_June_2015_AG_Final.pdf

² See International Labour Organization (ILO). November 2018. *Tripartite Meeting of Experts on defining recruitment fees and related costs*. Available at https://www.ilo.org/global/topics/labour-migration/events-training/WCMS_632651/lang-en/index.htm

The General Principles also state that employers should not charge such fees and related costs to workers or jobseekers.

In addition to the definition set by the ILO above, the Institute for Human Rights and Business (IHRB) defines recruitment fees as:-

“... any cost borne by migrant workers to secure a job. These costs may be incurred at any time during the employment relationship either at the time of recruitment, or during and after being engaged in a job”.³

Globally, industry players (e.g., Unilever, Mars Incorporated, Nestle and Nike) and expert organizations (e.g., International Labour Organization and International Organization for Migration) demand that companies across different sectors and countries commit on the “Employers Pay Principle” – where no worker should pay for a job and the cost of recruitment should be borne by the employers⁴. The “Employers Pay Principle” is key to combating exploitation and forced labour in global supply chains, and represents an important pathway towards achieving the UN Sustainable Development Goal (SDG) of decent work for all.

A previous study by the Institute for Human Rights and Business (2017) found that the total cost of recruitment might be lower if costs such as airfare ticket, visa, and medical insurance are paid for by the employers. This subsequently relieves migrant workers from having to rely on money lenders or sell their assets to get a job.⁴ This study aims to understand the employers’ practices with respect to the recruitment of migrant workers, and the actual costs of recruitment borne by employers and workers.

³ Institute for Human Rights & Business (IHRB), Employer Pays Principle. Available at <https://www.ihrb.org/employerpays/the-employer-pays-principle>

⁴ Institute for Human Rights and Business (IHRB). (2017). Responsible recruitment: Remediating worker-paid recruitment fees. Available at https://www.ihrb.org/uploads/reports/IHRB%2C_Remediating_Worker-Paid_Recruitment_Fees%2C_Nov_2017.pdf

1.3 Approach and Scope of the Cost of Recruitment Study

This study adopts a mixed-method approach, capturing both quantitative and qualitative data. It triangulates data and information from all stakeholders involved. Three methods of data collection were employed, as follows:-

- a document review (on-site);
- a stakeholders' consultation with employers and a labour agent; and
- a semi-structured interview with migrant workers.

The use of these methods was not only to elicit information but also to hear their suggestions on how the stakeholders (employers and a labour agent) can improve their recruitment management and put in place mechanisms to prevent unethical recruitment practices.

To ensure the independent nature of this study and non-bias sampling especially among migrant workers, a random sampling technique was used, where the workers were selected randomly by the interviewers from a list provided by the employers. Each semi-structured interview session with the migrant workers was conducted in a private and confidential setting using native speakers/interpreters wherever possible.

Fieldwork was undertaken between October 2018 and February 2019 in Johor, Pahang, and Melaka, involving the following stakeholders:-

- Two (2) palm oil mills in Johor and Pahang respectively;
- One (1) estate in Pahang;
- One (1) contractor to an estate in Johor;
- One (1) Malaysian labour agent in Malacca; and
- A total of 58 migrant workers of which 48 (83%) were Nepalese workers, 7 (12%) were Indonesian workers, and 3 (5%) were Bangladeshi workers.

All Nepalese respondents worked with the two palm oil mills in Johor and Pahang, while the Indonesian and Bangladeshi respondents were hired by the estate in Pahang and the contractor to the estate in Johor. The Malaysian labour agent in Malacca was the same recruitment service provider that assisted both mills (in Johor and Pahang) to bring in Nepalese migrant workers into Malaysia. The labour agent provided a wide range of labour recruitment services, such as preparing paperwork for companies to apply for foreign workers' quota, undertaking document review, translation and representing the company at scheduled meetings with relevant government agencies.

Recognising the different roles and expectations held by different stakeholders, this study broadly categorises the stakeholders into three categories: (i) employers (comprising the mills, the estate, and the contractor⁵ to the estate); (ii) labour agent; and (iii) migrant workers (comprising the Nepalese, Indonesian and Bangladeshi workers).

This study used a human rights-based approach (HRBA), and aims to advance the enjoyment of labour rights by deepening the understanding of issues and obstacles, and raising awareness and building capacity of both employers and migrant workers. The key principle in the HRBA is to ensure the respect for labour and human rights standards for all. Consistent with this approach, no details and/or affiliations of our stakeholders are disclosed to, respect their privacy. This study has provided opportunities for dialogue to build understanding among different stakeholders, and helped in paving the way for future collaborations to improve recruitment practices in the palm oil industry.

⁵ The "contractor to the estate" in this study is seen as an "employer" for two reasons. First, the surveyed "contractor to the estate" was not registered under the Private Employment Agencies Act (1981) but was registered as a normal company or employer under the Companies Act (1965). Secondly, the nature of services provided by the surveyed "contractor to estate" also covered agricultural and/or palm oil-related activities such as spraying, harvesting and transportation, going beyond "labour services".



Legislation And Policies In Malaysia



As of May 2019, there was a total of 2,059,382 migrant workers registered under the *Pas Lawatan Kerja Sementara* (PLKS, the temporary employment visa scheme) issued by the Immigration Department of Malaysia.⁶ About 81% of the workers were male and 19% were female, originating from 15 countries such as Thailand, Nepal, Bangladesh and Indonesia. In Malaysia, migrant workers are permitted to work in six selected sectors of the economy (manufacturing, construction, agriculture, plantation, services, and domestic work). About 441,000 (21.4%) of the migrant workers worked in both agriculture and plantation sectors, and 717,927 (35%) were in the manufacturing sector.⁷ The palm oil industry as a whole covers manufacturing (e.g. processing the oil in palm oil mills and refineries) and plantation / agriculture (e.g. producing fresh fruit bunches).⁸

Currently, there are several national laws and regulations governing the recruitment, hiring, and working conditions of migrant workers. They are as follows:

- Employment Act 1955
- Immigration Act 1959/63
- Passports Act 1966
- Minimum Wage Order 2018
- Anti-Trafficking in Persons and Smuggling of Migrants Act 2007
- Private Employment Agencies Act 1981
- Employees' Social Security Act 1969 (Socso)
- Workers' Minimum Standard of Housing and Amenities Act 1990
- Occupational Health and Safety Act 1994
- Industrial Relations Act 1967
- Trade Union Act 1959

The Employment Act 1955 recognises the rights of all workers, regardless of their status of citizenship. This includes the right of migrant workers to seek judicial and non-judicial remedy. Section 12(1) of the Passport Act 1966 clearly stipulates that no person should be in possession of another's travel documents, including passport and working pass. However, it is still a common practice among employers in Malaysia across different economic sectors to hold migrant workers' passports and other identity documents.

The hiring of migrant workers is governed by several government agencies in Malaysia, with the key agency being the Immigration Department of Malaysia which regulates the recruitment of migrant workers and their presence in the country. The Immigration Department stipulates general requirements and administrative processes expected to control, monitor, and oversee the recruitment process at the recruitment and post-arrival stages. Apart from limiting migrant workers to six selected economic sectors (as elaborated above) and only allowing visas for migrant workers from 15 selected countries,⁹ the Department limits the age range of migrant workers to be between 18 and 45 years old at the time of the application. All migrant workers must undertake an immigration security clearance (ISC) and medical screening, both to be done at the country of origin before travelling to Malaysia.¹⁰ The list of ISC centres and medical centres recognised by the Government of Malaysia is accessible to the public.¹¹

Any employer who wishes to recruit a migrant worker must apply for a visa with reference (VDR) in the source country. At the recruitment stage in the source country, the employer must demonstrate: - (i) a quota approval

⁶ Immigration Department of Malaysia. 2019. Data on migrant workers as of May 2019. Available at http://www.data.gov.my/data/ms_MY/dataset/statistik-pekerja-asing-terkini-mengikut-negeri-dan-sektor/resource/32198ea3-0787-443f-aec4-09942adc932b

⁷ Ibid.

⁸ See Department of Statistics of Malaysia (DOSM). 2018. Classification of selected agricultural indicators in Malaysia. Available here

⁹ Only workers from 15 countries are permitted to enter Malaysia for temporary employment. These countries include Indonesia, Bangladesh, Thailand, India, Cambodia, Nepal, Myanmar, Lao PDR, Viet Nam, the Philippines, Pakistan, Sri Lanka, Turkmenistan, Uzbekistan and Kazakhstan. For further information, see <https://www.imi.gov.my/index.php/ms/pekerja-asing.html> (as of 20 July 2019).

¹⁰ See Immigration Department of Malaysia. 2019. Foreign Workers in Malaysia (official). Available at <https://www.imi.gov.my/index.php/en/main-services/foreign-workers.html>

¹¹ The list of ISC is available here <https://www.imi.gov.my/images/pdf/2017/isc/ISC-19may2017.pdf> (as of 28 July 2019). The list of recognized medical centres at origin country is available here <https://www.imi.gov.my/images/pdf/Senarai%20Pusat%20Kesihatan%20as%20at%201Mei2015.pdf> (as of 28 July 2019).

letter from Malaysia's Ministry of Home Affairs (MOHA); (ii) paid levy fee; (iii) security bond or insurance guarantee; (iv) medical certificates from recognized medical centres at origin country; (v) foreign workers' compensation scheme; (vi) Insurance policy – Health Insurance Protection Scheme Foreign Workers (SPIKPA), which is needed by all sectors except for the plantation sector.¹² It is important to highlight that for Sabah and Sarawak, the approval for foreign worker's employment is governed by the State Governments.

Only after a migrant worker is issued the VDR at his/her country of origin is he/she allowed to enter Malaysia. Each migrant worker in Malaysia will be issued a temporary employment visa pass (PLKS), usually within 30 days upon his/her arrival. The PLKS pass is a work permit that is issued by the Immigration Department. It is valid for one year and needs to be renewed three months before the expiry date every year. The Government of Malaysia stipulates that each migrant worker can only work for a maximum period of 10 years.¹³ It is important

to note that before a migrant worker is issued with a PLKS, the worker must pass a medical examination (FOMEMA) which must be done for every worker in FOMEMA-recognised medical centres in Malaysia. Any migrant worker who fails to pass the medical screening process will not be allowed to stay and work in Malaysia, and will be immediately repatriated to his/her country of origin.¹⁴

Migrant workers holding the PLKS pass have to abide by certain rules set by the Immigration Department of Malaysia. He/she is strictly prohibited from bringing his/her family members into Malaysia. He/she is not permitted to work as a front liner (especially in the service sector) or to change his/her employer or employment sector. He/she is also not allowed to marry with a local citizen or a foreigner. Any migrant worker who absconds from his/her employer will be blacklisted by the Immigration Department.¹⁵ It is the responsibility of the employer to notify the Immigration Department of any absconded migrant worker.

¹² See "Application Procedures" – Immigration Department of Malaysia. 2019. *Foreign Workers in Malaysia (official)*. Available at <https://www.imi.gov.my/index.php/en/main-services/foreign-workers.html> (2019).

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*



3



Recruitment Practice And Experience



3.1 Recruitment Policy and Practices – Employers' Perspectives

Recruitment Policy

This study found that none of the surveyed employers had a dedicated policy on the recruitment of migrant workers. Even though that was the case, the employers claimed that they went through all administrative requirements as set by the Ministry of Home Affairs (MOHA) and Ministry of Human Resources (MOHR), which included the procedure of advertising available vacancies to local workers on the government-run jobs platform (jobs.my) before recruiting migrant workers.

It is common practice to establish and implement other policies related to social protection, safety, and health and environmental protection, especially among the mills and estates, despite the absence of a dedicated recruitment policy. However, this study found that the contractor to palm oil estate which also employs several migrant workers did not have any social and environmental policy. Instead, the contractor emphasised that it relied heavily on the palm oil estate's policies and would adhere to such policies that are already in place. Table 1 below shows different policies established by the employers surveyed.

Table 1 Employers' Policies

Employers	Available policies
Mill(1)	<ul style="list-style-type: none"> No Deforestation, No Peat and No Exploitation (NDPE) policy Occupational safety and health policy
Mill(2)	<ul style="list-style-type: none"> NDPE policy Safety and health policy Environmental conservation policy
Estate	<ul style="list-style-type: none"> Child protection policy Gender equality policy Social policy Safety and health policy
Contractor to Estate	<ul style="list-style-type: none"> Did not have any written policies

Source: Fieldwork, 2018-2019

Recruitment Practices

Migrant workers interviewed were all employed directly by their employers, which means that they were issued the working pass (or PLKS) under the name of their respective employer. However, it is important to note that in the case of the contractor to an estate (as an employer), even though migrant workers were brought into Malaysia under the name of the contractor, the workers were indirectly managed by the estate management through the implementation of the estate's standard operating procedures.

With regards to the mode of recruitment, all employers recruited their migrant workers through a third party

(or labour agent) based in Malaysia, and another labour agent based in the migrant workers' country of origin. It is important to note that mills (1) and (2) used the same labour agent in Malaysia that was headquartered in Malacca. Both mills informed that their labour agent in Malaysia worked together with its counterpart(s) in Nepal which recruited workers from various districts across the country. In addition to recruiting migrant workers through labour agents, two employers, namely the estate and contractor to estate also used a referral system where the current workers nominated their relatives or friends from the same country for recruitment by their employers (see Table 2).

Table 2 Employment Practice and Mode of Recruitment

Employers	Employment and Mode of Recruitment
Mill(1)	<ul style="list-style-type: none"> • Direct employment • Recruitment through a third party (labour agent)
Mill(2)	<ul style="list-style-type: none"> • Direct employment • Recruitment through a third party (labour agent)
Estate	<ul style="list-style-type: none"> • Direct employment • Recruitment through a third party (labour agent) • Referral system from current workers to recruit new workers
Contractor to Estate	<ul style="list-style-type: none"> • Indirect employment to estate • Recruitment through a third party (labour agent) • Referral system from current workers to recruit new workers

Source: Fieldwork, 2018-2019

Selection of labour agents

As explained previously, all employers used labour agents in Malaysia and in the workers' country of origin. It is therefore important to understand how the labour agents were selected. This study attempted to uncover the factors behind the selection of labour agents, but found that three employers (mill (1), mill (2) and estate) did not have specific criteria in selecting their labour agent. For mill (1) and mill (2), they had been using the same labour agent for the past decade or so, and relied heavily upon the labour agent to complete all the recruitment activities ranging from the application of foreign workers' quota and preparation of application documents to MOHA.

Only one interviewed employer (the contractor) had some criteria when selecting labour agents. The labour agent that he was using fulfilled the following criteria:

- Registered/authorised to recruit and supply foreign workers;
- Good reputation and track record;
- Transparent and accountable business practices; and
- Reasonable recruitment fee

In addition to that, the contractor elaborated that he had undertaken several pre-recruitment activities, as required by the Malaysian regulations, including the following:

- Advertising the vacancy for local workers through JobsMalaysia;
- Applying for foreign workers' quota at the one-stop-centre;

- Attending an interview session with relevant government agencies for the recruitment of foreign workers; and
- Other administrative requirements such as stamping, and registering an account at the flagship E-Government Solutions and Services (MyEg).

Information provided to labour agent

When asked about information provided to the labour agent to support the recruitment process, all employers except the contractor had supplied only basic information such as the company's name, nature of the business, location of the workplace, general terms and conditions of the employment, and information about the passport safe-keeping practice. As for the contractor, he informed that in addition to basic information, he supplied extra information such as the description of working conditions, safety and health requirements, disciplinary actions, and medical examination. It is important to note that at the time of the field visit, all employers except the contractor kept their foreign workers' passports, apparently for security reasons, but allowed the workers to keep their Immigration Card (I-Card). However, mill (1), mill (2), and the estate informed the interviewers that they were exploring feasible ways of returning their migrant workers' passports, such as the installation of lockers to allow the workers to keep their travel and identity documents safely. Table 3 below depicts the types of information provided by employers to their labour agents.

Table 3 Employment Information Provided to Labour Agent by Employers

Information Provided	Mill (1)	Mill (2)	Estate	Contractor to Estate
The legal name and business profile of the employer	✓	✓	✓	✓
The exact location of the working place	✓	✓	x	✓
Description of the job and working conditions	x	x	x	✓
Terms and condition of the employment (employment contract)	✓	✓	✓	✓
Occupational and safety and health requirements	x	x	x	✓
Details about disciplinary actions	x	x	x	✓
Details about medical examination	x	x	x	✓
Information about passport safe-keeping practices by the employer	✓	✓	✓	x

Source: Fieldwork, 2018-2019

Other related recruitment practices

This study found that none of the employers conducted post-arrival orientation, interviews, or any form of assessment to gather information from their new migrant workers. This is an important exercise for various reasons, such as to verify information provided to workers during the pre-departure process, as well as to provide a platform for workers to raise issues or any form of complaints during their recruitment process.

Mill (1), mill (2) and the contractor informed that they had not received any form of grievances, be it verbal or written, regarding the recruitment process from their workers. The estate however stated that the company had previously received complaints from its migrant workers pertaining to the high cost of recruitment in their country of origin, and delayed process during recruitment whereby workers had to wait several months before being sent to Malaysia.

Selection of migrant workers

While some employers (mill (1), mill (2) and the estate) had no particular preference in selecting their labour agent, all employers had preferences on the types of migrant workers that they hired. Table 4 shows the preferred criteria.

Table 4 Preferred Selection Criteria for Migrant Workers by Employers

Selection Criteria for Migrant workers	Mill (1)	Mill (2)	Estate	Contractor
Nationality	✓	✗	✗	✓
Language ability (basic English or Bahasa)	✓	✗	✓	✗
Physical appearance/ability to work in a mill setting	✓	✓	✓	✗
Gender (prefer male workers)	✗	✓	✓	✓
Age group (not more than 40 years old)	✗	✓	✓	✗
Work experience (e.g., prefer experience in agriculture)	✗	✗	✗	✓
Other: adherence to laws and regulations	✗	✗	✓	✗

Source: Fieldwork, 2018-2019

3.2 Recruitment Policy and Practices – Labour Agent's Perspectives

Labour agent's business profile

The labour agent who served as the labour recruitment service provider to mill (1) and mill (2) was a company registered under the Companies' Commission Malaysia (CCM) and not a registered private employment agency under the Private Employment Agencies (Amendment) Act (2017). The labour agent was providing labour recruitment services to many companies across Peninsular Malaysia, mainly for the palm oil industry, but also some other economic sectors. At the point of data collection, the labour agent only offered labour

recruitment services to palm oil mills and not to estates and contractors in the palm oil industry. As a labour agent based in Malaysia, it collaborated with other labour supplying agents in source countries such as India, Nepal and Bangladesh.

In terms of services provided to companies, the labour agent assisted companies to prepare paperwork, document reviews, translations, and representation to government agencies (e.g., Immigration Department of Malaysia). It also provided technical support and advice to companies on matters related to the recruitment of migrant workers (e.g. to improve working or housing conditions according to the legal and policy framework).

Recruitment policy and practices

The labour agent informed the interviewers that it did not have any form of written policy or code of conduct on the recruitment of migrant workers. However, it was aware of the requirements set by the Government of Malaysia, and regulations put forth by the source countries particularly the Nepalese government.

As of 2018, the labour agent mainly recruited and supplied Nepalese migrant workers to several palm oil mills in Peninsular Malaysia, even though the respondent was unsure about the total number of Nepalese migrant workers it supplied to palm oil mills. The labour agent mentioned that the company was exploring the possibility to recruit other nationalities, such as from Myanmar and India.

In terms of recruitment strategy, the labour agent first advertised the available vacancy to migrant workers through newspaper advertisements and social network platforms such as *WhatsApp*. After that, the labour agent would organise walk-in-interviews in the source country, with support from the partnering labour agent in the source country. With respect to recruitment procedures, the labour agent first engaged government agencies such as Ministry of Human Resources (MOHR) and Ministry of Home Affairs (MOHA) for various matters including quota approval. Once approved, the labour agent engaged its counterpart (or labour agents) in the source country. Upon arrival in Malaysia, there was no interview or other formal engagement with migrant workers, other than picking them up from the airport and provision of meals before the workers were deployed to their respective employers. The labour agent emphasised that the employers should provide a post-arrival orientation programme rather than expecting the labour agent to perform this task.

Though the labour agent had not provided any grievance platform, it still received grievances from migrant workers, sometimes after several months of being hired or deployed to their employer. Grievances received included complaints of no overtime payment for migrant workers. Upon receiving such grievances, the labour agent would contact its clients (the employers) to verify the workers'

grievances. The labour agent expressed that it often advised clients on matters concerning labour treatment to ensure that they would not be blacklisted, which would happen if there was a complaint made to the Labour Department.

Information provided by companies (employers)

The labour agent confirmed that its clients, particularly mill (1) and mill (2), provided only basic information to assist the labour agent in the sourcing and supplying of migrant workers. These included information such as the company's name and business profile, location of the working place, terms and conditions of the employment, and information about passport safe-keeping by the employer. On the passport safe-keeping practice, the labour agent was aware of the government requirement for employers to allow their migrant workers to keep their identity and travel documents. As such, the labour agent stressed that it always advised its clients to avoid keeping their workers' identity and travel documents for any reason.

3.3 Recruitment Experience – Migrant Workers' Perspective

Worker profiles

A total of 58 migrant workers comprising Nepalese workers (48), Indonesian workers (7) and Bangladeshi workers (3) were surveyed in this study. They were all male migrant workers hired by the employers in the sample, consisting of mill (1), mill (2), an estate and a contractor. For the Nepalese workers, a majority of them originated from two districts in Nepal, namely Saptari and Siraha, while all Indonesian workers came from East Lombok. The 3 Bangladeshi workers were from Dhaka, the capital city of the country. Given the nature of work in the palm oil mill and estate that is heavy and dangerous, women migrant workers are unlikely to be hired in this sector. In terms of age group, there is an almost equal distribution between those aged 18-30 and 31-45, as depicted in Table 5. For Bangladeshi workers, all 3 workers fall within the category of 31-45 years old. This study found no workers below 18 years old.

Table 5 Respondents (Workers) by Country of Origin and Age Group

Country of Origin	Respondents by age group		
	18-30 years old	31-45 years old	Total (%)
Nepal	24	24	48 (83%)
Indonesia	3	4	7 (12%)
Bangladesh	0	3	3 (5%)
Total Respondents (%)	27 (47%)	31 (53%)	58 (100%)

Source: Fieldwork, 2018-2019

The majority of workers (67%) had attained secondary level education in their country of origin. This comprises more than a half of the Nepalese migrant workers (54%), 3 (43%) of the Indonesian migrant workers and all 3 (100%) of the Bangladeshi workers. About 39% of other workers, comprising 10 Nepalese workers and 4 Indonesian workers, had attained at least primary education. Two Nepalese workers reported having basic literacy education with basic writing and reading skills, enabling them to understand simple instructions from their superiors at the workplace. One Nepalese migrant worker had attained tertiary level education in Nepal. The remaining 9 (19%) workers either declined or were unable to respond to the question relating to their level of education.

Table 6 Respondents (Workers) by Education Background and Country of Origin

Level of Education	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
Primary	10	4	0	14 (29%)
Secondary	26	3	3	32 (67%)
Tertiary	1	0	0	1 (2%)
Basic literacy	2	0	0	2 (4%)
None/declined to respond	9	0	0	9 (19%)
Total Respondents (%)	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019

Though there was an equal proportion of youth (18-30 years old) and middle aged (31-45 years old) workers (see Table 5), majority of the surveyed migrant workers (76%) were married. All Bangladeshi workers within the sample were single. One Indonesian worker had a divorce a few years ago when he was just deployed to his current workplace at the estate in Malaysia, and remitted money to his hometown at East Lombok every month to cover the daily expenses of his two sons (See Table 7).

Table 7 Respondents (Workers) by Marital Status and Country of Origin

Marital Status	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
Single	8	2	3	13 (22%)
Married	40	4	0	44 (76%)
Divorced	0	1	0	1 (2%)
Total Respondents (%)	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019

Reason for migration

This study found two main reasons for the migrant workers' migration to Malaysia. First was to financially support their family and relatives in Nepal, Indonesia and Bangladesh (71%). Second was to be able to repay debt in their home countries (66%). These two reasons were particularly applicable among the Nepalese migrant workers (See Table 8). For the Indonesian workers, all of them (7 respondents) – reported that one of the reasons for their migration to Malaysia was to gain higher income compared to what they might receive in the same sector (palm oil estate) in their country of origin. About 34% of

the respondents (from Nepal, Indonesia and Bangladesh) also reported that the lack of job opportunities in their respective country had encouraged them to migrate to Malaysia. One Nepalese worker expressed that he wanted to experience working abroad; and two Indonesian workers explained that they had decided to work in Malaysia to earn more so that they could purchase a property or build a new house in their country. The respondents were allowed to select more than one reason for their migration to Malaysia.

Table 8 Reasons to Migrate for Work in Malaysia

Reasons to Migrate	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
To gain a higher income	7	7	3	17 (29%)
Lack of job opportunities in country of origin	16	1	3	20 (34%)
To repay debt in country of origin	35	3	0	38 (66%)
To support family (financially) in country of origin	38	3	0	41 (71%)
To experience working abroad	1	0	0	1 (2%)
Others (e.g. to build a house in country of origin)	0	2	0	2 (3%)
Total Respondents	48	7	3	41 (71%)

Source: Fieldwork, 2018-2019

Note: Respondents may select more than one answer

Source of information about migration opportunity to Malaysia

Information about migration or employment opportunities is an important aspect that determines where and what type of occupation a migrant worker may take up in the destination country. This study found that the top three sources of information are 1) referrals by colleagues or relatives who are already hired by the employer in Malaysia (48%), a labour agent in their country of origin (34%), and an individual recruiter or informal broker in their country of origin (29%). Other sources of information included media advertisement (5%), through a labour agent in Malaysia (3%), or through an NGO or community group in their country of origin (3%).

Table 9 Source of Information about Migration Opportunity to Malaysia

Source of Information	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
By way of referral from another employee (same company), relative or friend	24	1	3	28 (48%)
Through the labour agent and contractor in Malaysia	2	0	0	2 (3%)
Through the labour agent at country of origin	14	6	0	20 (34%)
Through individual recruiter / broker at country of origin	14	3	0	17 (29%)
Media advertisement	0	3	0	3 (5%)
Recruitment agent/Contractor in Malaysia	1	0	0	1 (2%)
Non-government organisation (NGO)	1	0	0	1 (2%)
Total Respondents (%)	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019

Note: Respondents may select more than one answer

Information provided to migrant worker during recruitment

Information provided to migrant workers at the pre-departure stage is important to ensure that the workers fully understand their responsibility and commitment while working in the destination country. Adequate and accurate information given to them would also deter them from manipulation and coercion into labour exploitation, including forced and bonded labour situations.

This study found that three main types of information were given to majority of the respondents by their labour agent in the country of origin. 79% of the respondents reported that they had been informed about the details of their employment contract such as the number of working hours, wages, annual leave and etc. The same number of respondents (79%) also reported that they were informed about their job descriptions and conditions

in Malaysia. 78% of the respondents were informed about the name of their employer in Malaysia. These three types of information are the most basic information that must be provided to all workers during their pre-departure process. It is alarming that about 20% of the respondents were not informed of this basic information.

This study also found that information such as (i) the description of living conditions, (ii) the worker's legal rights and responsibilities in Malaysia, (iii) details about workmen's compensation and hospitalisation insurance in Malaysia, and (iv) general information about Malaysian culture and geography was not commonly provided to the migrant workers. These findings can possibly explain the common situation of migrant workers in Malaysia lacking awareness of their rights to justice and knowledge of Malaysian culture.

Table 10 Information Provided to Respondents by Labour Agent during Recruitment in Country Of Origin

Information Provided to Respondents	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
The name of the employer in Malaysia	36	6	3	45 (78%)
The exact location of the company in Malaysia	22	3	3	28 (48%)
The Company's policies on recruitment.	16	6	1	23 (40%)
Description of the job and working conditions, and skills required.	39	6	1	46 (79%)
Description of living conditions, rules relating to the accommodation and location of labour quarters.	3	6	1	10 (17%)
Details of employment contract - terms and conditions (e.g., hours, wages, annual leave, sick leave and other benefits).	41	4	1	46 (79%)
Legal rights and responsibilities of workers and employers in Malaysia.	9	3	1	13 (22%)
Details about any medical examinations required in your country and in Malaysia.	20	0	0	20 (34%)
Details about insurance and social security in Malaysia	5	4	1	10 (17%)
Details about workmen's compensation and hospitalisation insurance in Malaysia.	8	0	1	9 (16%)
Details about the next steps in the recruitment process and recruitment fees (if any).	14	0	0	14 (24%)
Safekeeping or retention of identity documents (passport or I-Kad), or any security deposit/bond for the Company or other similar conditions of employment.	16	6	1	23 (40%)
General information about Malaysia, Malaysian culture and geography.	2	3	1	6 (10%)
Total Respondents	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019

Note: Respondents may select more than one answer

Employment Contracts

Despite the fact that a majority of the surveyed migrant workers had reported that they were briefed on the details of their employment contract during the pre-departure process, less than a half of them (45%) said that they signed an employment contract in the country of origin. About 47% of the respondents informed that they did not sign an employment contract, and another 9% of respondents were unsure.

had a copy of their employment contract, and only 6 respondents could understand the language of their employment contract. None of the employment contracts were written in the native language of the migrant workers, even though most of the Indonesian workers said that they were able to understand Malay, the language used within their employment contract. The surveyed migrant workers claimed that the employment contracts were either written in English or Malay, or both.

For those who had signed an employment contract (26 respondents), only a half of them stated that they

Table 11 Provision of Employment Contract

Responses	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
Did you sign an employment contract in Malaysia?				
Yes	24	2	0	26 (45%)
No	19	5	3	27 (47%)
Unsure/declined to response	5	0	0	5 (9%)
Were you given a copy of the employment contract?				
Yes	12	1	0	13 (22%)
No	26	1	0	27 (47%)
Unsure/declined to response	10	5	3	18 (31%)
Could you understand the contract, and the language it was written in?				
Yes	5	1	0	6 (10%)
No	20	0	0	20 (34%)
Unsure/declined to response	23	6	3	32 (55%)
Total Respondents	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019





Recruitment Cost:
Pre-Departure &
Arrival

4.1 Recruitment Cost (Pre-Departure and Arrival) Covered by Employers

Based on data gathered from two palm oil mills, the employers paid about RM5,096 (on average) in recruiting one Nepalese worker. For the estate, it paid about RM2,470 to recruit an Indonesian worker, while the contractor to the estate paid about RM2,200 (see Table 12). Even though the estate also recruited several Bangladeshi migrant workers, the company was unable to provide the estimated cost it paid in recruiting them.

The cost of recruitment covered by employers in this study is defined as the estimated cost paid by employers in order to recruit one migrant worker. It is important to note that in reality, the actual cost to recruit each migrant worker (even from the same country of origin) may be different depending on the changes in administrative and other basic fees such as levy, insurance and flight ticket.

Table 12 Estimated Cost of Recruitment (Average) Covered by Employers for Each Migrant Worker at Pre-Departure and Arrival (based on their nationality)

Employers	Estimated Cost (RM) by Country of Origin		
	Nepalese	Indonesian	Bangladesh
Mil (1)	RM5340	N/A	N/A
Mil (2)	RM4853	N/A	N/A
Estate	N/A	RM2470	*Unknown
Contractor to Estate	N/A	RM2200	N/A

Source: Fieldwork, 2018-2019

Note: * unknown means that the employer was unable to provide the estimated cost

Even though most of the employers were able to provide the total estimated cost for recruiting a migrant worker (except for migrant workers from Bangladesh), they were unable to provide the breakdown. For example, mill (1) stated that it had paid about RM5,340 to recruit one Nepalese migrant worker, but was unable to break the amount down by items. However, the employers were able to identify the recruitment items they paid, which gives an indication of the composition of the estimated cost.

Table 13 shows the list of recruitment items paid by the employers, without the amount paid, at the pre-departure stage (in country of origin) and arrival stage (in Malaysia). It is important to highlight that in addition to common items covered by all employers, the estate and contractor to the estate reported to have paid for the cost of applying for identity cards and passport fees to migrant workers, especially for the Indonesian workers. Another cost item was the cost for training and/or orientation in country of

origin – only mill (2) informed that it was not asked to cover the cost item by its labour agent. Mill (2), the estate, and the contractor to estate were also asked to cover the additional processing fee to labour agents in migrant workers' country of origin, a cost item that is additional to the labour agent's service fee which all employers claimed that they had already paid for through their labour agents in Malaysia.

Upon arrival in Malaysia, all employers except the contractor covered the cost for land transportation, transferring the workers from the airport to their workplace. Mill (2) and the estate also covered the cost for training and the induction programme before the migrant workers commenced their duties. The contractor informed that even though he had no dedicated training and induction programme for migrant workers, all new workers were given on-the-job training with a full salary provided to them.

Table 13 Recruitment (Cost) Items Paid by Employers for Each Migrant Worker

Cost Item	Mill (1)	Mill (2)	Estate	Contractor
Pre-departure stage (in country of origin)				
Service fee for labour agent	✓	✓	✓	✓
Levy fee	✓	✓	✓	✓
Visa fee	✓	✓	✓	✓
Work permit fee	✓	✓	✓	✓
Application fee for identity card and passport	x	x	✓	✓
Security bond	✓	✓	✓	✓
Medical check-up fee (country of origin)	✓	✓	✓	✓
Insurance fee (country of origin)	✓	✓	✓	✓
Training / orientation cost in country of origin	x	✓	x	x
Additional processing fee (no further explanation)	✓	x	x	x
Airfare cost (one-way ticket)	✓	✓	✓	✓
Arrival stage (in Malaysia)				
Medical check-up fee in Malaysia	✓	✓	✓	✓
Land transportation in Malaysia	✓	✓	✓	x
Training / induction cost in Malaysia	x	✓	✓	x

Source: Fieldwork, 2018-2019

4.2 Recruitment Cost (Pre-Departure) Paid by Migrant Workers

Despite the fact that all employers had claimed that they paid a certain amount of recruitment cost through their labour agents (see Section 4.1), the surveyed migrant workers claimed that they too had to pay to cover recruitment costs. Based on a total sampling of 48 Nepalese migrant workers in mill (1) and mill (2), this study found that the average cost of recruitment paid by each worker is RM5,500. Even within the same

country, recruitment costs paid may vary widely. For example, in Nepal, the lowest recruitment cost paid was between RM2,001 and RM3,000, and the highest was between RM8,001 and RM9,000 (see Table 14). Among the three nationalities, Indonesian workers recorded the lowest cost of recruitment. The average recruitment cost paid across 7 Indonesian workers was RM1,950. The Bangladeshi workers paid the highest recruitment cost with an estimate consistent across three surveyed workers, of RM15,000.

Table 14 Recruitment Cost (Total) and Country of Origin

Recruitment Costs	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
RM1,000-RM2,000	-	3	-	3 (5%)
RM2,001-RM3,000	1	4	-	5 (9%)
RM3,001-RM4,000	2	-	-	2 (3%)
RM4,001-RM4,500	8	-	-	8 (14%)
RM4,501-RM5,000	10	-	-	10 (17%)
RM5,001-RM5,500	8	-	-	8 (14%)
RM5,501-RM6,000	6	-	-	6 (10%)
RM6,001-RM7,000	2	-	-	2 (3%)
RM7001-RM8,000	8	-	-	8 (14%)
RM8,001-RM9,000	3	-	-	3 (5%)
RM15,000	-	-	3	3 (5%)
Total Respondents	48	7	3	58 (100%)
Average Recruitment Cost For each worker	RM5,500	RM1,950	RM15,000	N/A

Source: Fieldwork, 2018-2019

This study also found that a majority of the surveyed respondents said that they had paid for the same recruitment cost items which their employers were also charged for by their labour agents. For example, 67% of the respondents claimed that the recruitment cost they paid in their country of origin covered their levy fee (see Table 15). Among other items that migrant workers paid for were charges for the visa (79%), for applying for the work permit (79%), for applying for the identity card and passport (16%), for the security bond (38%), for the medical check-up (52%), insurance (52%), cost of training (5%) and airfare cost (83%). None of the surveyed workers claimed that their paid recruitment cost covered any recruitment items upon arrival in Malaysia (e.g., medical check-up fee in Malaysia) (see Table 15).

Table 15 Recruitment (Cost) Items Paid by Workers, by Country of Origin

Cost Item	No. of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
Pre-departure stage (in country of origin)				
Service fee for labour agent	35	6	3	44 (76%)
Levy fee	32	4	3	39 (67%)
Visa fee	39	4	3	46 (79%)
Work permit fee	39	4	3	46 (79%)
Application fee for identity card and passport	-	6	3	9 (16%)
Security bond	19	-	3	22 (38%)
Medical check-up fee (country of origin)	23	4	3	30 (52%)
Insurance fee (country of origin)	23	4	3	30 (52%)
Training / orientation cost in country of origin	3	-	-	3 (5%)
Air fare cost (one way ticket)	39	6	3	48 (83%)
Total Respondents	48	7	3	58 (100%)

Source: Fieldwork, 2018-2019

Note: Respondents may select more than one answer

When asked about the source of financing to cover their recruitment cost, majority of the respondents (64%) said that they borrowed money from a money lender in their country of origin. Some of the workers claimed that their financing came from a combination of two or more sources. For example, one Bangladeshi worker explained that while he borrowed from a money lender, he also used his savings and sold his parents' property. Other

sources of finances included borrowing money from labour agent in country of origin (2%), borrowing money from a landlord in country of origin (2%), and borrowing money from a commercial bank (5%). 5% of the workers indicated that their financing came from other sources but did not specify what they were.

Table 16 Migrant Workers' Source of Financing to Cover Recruitment Cost, by Country of Origin

Source	Number of Respondents by Country of Origin			Total (%)
	Nepal	Indonesia	Bangladesh	
Own savings and/or family savings	15	7	1	23 (40%)
Selling real estate / jewellery / livestock / other property	2	2	2	6 (10%)
Borrowing from labour agent/ recruiter	1	-	-	1 (2%)
Borrowing from landlord	1	-	-	1 (2%)
Borrowing from a money lender in country of origin	33	1	3	37 (64%)
Borrowing from commercial bank	3	-	-	3 (5%)
Other sources of finance	3	-	-	3 (5%)
Total Respondents	48 (100%)	7 (100%)	3 (100%)	58 (100%)

Source: Fieldwork, 2018-2019

All Indonesian workers claimed that their sources of financing were not considered loans. Among the sources of financing that were considered as loans, especially for the Nepalese and the Bangladeshi workers, include: (i) borrowing from labour agent; (ii) borrowing from landlord; (iii) borrowing from money lender; (iv) borrowing from commercial banks.

It is important to highlight that not all sources of financing are considered a loan, and as such will have a certain interest rate for repayment. Of the total 58 surveyed migrant workers, 39 (67%) of them claimed that their sources of financing were considered a loan (see Table 17).

For Nepalese migrant workers (36 respondents) who identified their sources of financing as loans, the average

loan taken by each worker is RM5,900 at an interest rate of between 1% and 5% (see Table 17). This is slightly higher than the average recruitment cost paid by the workers as explained in Section 4.3. It is assumed that the loan taken was also meant to cover their migration expenditure such as meals, lodging and pocket money. Similarly, for the Bangladeshi workers (3 respondents), the average loan taken is RM12,500 for each worker – with an interest rate between 3% and 5%. The aforementioned loan, as explained by the workers during fieldwork, was in addition to other sources of financing they collected such as selling their properties and using their personal savings. It is also interesting to note that most of the respondents (95%) were able to complete the loan repayment in less than two years.

Table 17 Workers' Loan Amounts and Interest Rates, by Country of Origin

Loan (in range)	Number of Respondents by Country of Origin			Total (%)
	Nepal		Bangladesh	
	Loan Interest (in %)			
	1%-3%	Higher than 3%, Less than 5%	Higher than 3%, Less than 5%	
RM1,000-RM3,000	1	1	-	2 (5%)
RM3,001-RM5,000	5	6	-	11 (28%)
RM5,001-RM7,000	7	5	-	12 (31%)
RM7,001-RM10,000	1	9	-	10 26%)
RM10,001-RM12,000	-	-	3	3 (8%)
No response	-	1	-	1 (3%)
Total Respondents - with loan	14	22	3	39

Source: Fieldwork, 2018-2019





5



Challenges And Opportunities

5.1 Challenges

Gaps in company policy and internal procedures

- While the employers claimed that they had adhered to governmental regulations when recruiting migrant workers, none of them had any written policies and internal procedures at the company level to manage the recruitment of migrant workers.
- Some employers had established social policies on areas including child protection and gender equality, but the policies lacked emphasis on labour rights and ethical recruitment.

Heavy reliance on labour agents on the recruitment of foreign workers

- Medium-sized palm oil mills and estates in Malaysia often lack internal capacity (e.g. in the form of a human resources department) to deal with administrative requirements and documentation preparation for recruiting migrant workers, and therefore rely heavily on Malaysia-based labour agents to manage matters from workers' quota applications to the workers' deployment to the workplace.
- While this may reduce the operational cost of the employers, their management body may lose sight of the recruitment process, and risk being unknowingly complicit to unethical recruitment practices.
- From the study, the contractor to an estate was found to be less dependent on the assistance of the Malaysian-based labour agent, but still relied on labour agents in the source country to manage the pre-departure preparation and entry of the migrant workers.

Lack of good practices in documentation and record-keeping

- It is found that employers tended to keep documents related to the recruitment of workers at the headquarter office, often far away from the operation office, which made it difficult to refer to documents such as recruitment-related receipts and contract agreements with the labour agent.
- Even when the documents were available at the operation office, often they were not properly filed and arranged, leading to the misplacement

of invoices and/or receipts. Some invoices and/or receipts were issued to groups of new migrant workers without details. The lack of systematic documentation complicates efforts to estimate recruitment costs for individual migrant workers (such as this study).

- On the part of the workers, this study found that workers rarely kept their recruitment-related records and/or receipts both in the country of origin and in Malaysia. The workers claimed that such records were meaningless unless the employers were willing to reimburse them.

Increased Actual Cost of Recruitment

- The lack of proper documentation and record-keeping led to the employers' inability to track the actual cost paid for the recruitment of migrant workers. As they relied heavily on the labour agent to manage the recruitment of workers and assumed that the agent is doing the due diligence required, employers had the tendency not to monitor the recruitment process of their respective labour agent.
- In the absence of a monitoring mechanism, it appears that the intermediaries had charged certain recruitment items (e.g. airfare) to both employers and workers at the same time, hence increasing the actual cost of recruitment on the ground.

Data and Information Discrepancies

- There are discrepancies in the data and information provided by the employers (mill, estate and contractor), the labour agent, and the migrant workers. For example, the employer reported that all migrant workers had signed only one employment contract upon arrival at the workplace, during the induction programme. At the same time, the labour agent informed that all migrant workers had signed a version of the employment contract given by the employer earlier, during the workers' pre-departure process in the country of origin. The workers gave varied answers to this question. The issue concerning discrepancies in data and information (including the estimated costs) complicates efforts to address the root causes and, hence, potential solutions.

Lack of Awareness and Knowledge among Migrant Workers

- Many migrant workers lacked the awareness and knowledge about their rights and responsibilities during the recruitment process and their employment. Majority of the workers did not have a copy of their employment contract, as they did not see the value of keeping it, or other important documents.
- When asked if they knew about the contents of their contract, most workers were unable to remember. It is notable that some workers expressed that the employment contract was not important because what was written in it might not necessarily match the reality in the workplace. For them, the salary received every month was more important.

5.2 Opportunities

Employer willingness to return foreign workers' passports

- At the time of the field visit, all employers except the contractor kept the foreign workers' passports but allowed the workers to keep their Immigration Card (I-Card). The employers were aware of the legal non-compliance in keeping their workers' identity and travel documents, but cited reasons such as possible abscondment if they allowed workers to keep their own documents.
- However, there is a rising trend among palm oil companies to provide lockers for workers to safekeep their valuables including travel documents, and the employers interviewed within this study were keen to look into the possibility of doing the same for their operations.

Employer willingness to introduce post-arrival grievance mechanism

- This study found that the surveyed employers did not have a dedicated process to allow the newly-arrived workers to share their recruitment experiences, or other grievances they may want to share. While companies did have brief induction programmes for their new workers, often the programmes focused on explaining the companies' policies and allocation of work.

- The employers were aware that they should record the experiences of the migrant workers for future reference. They were keen to have a post-arrival grievance process, perhaps as part of the induction programme, but they lacked proper knowledge and guidance to initiate this.

Role of labour agent in mediating grievances

- Even though the labour agent was not the principal employer, on several occasions, the labour agent had received complaints from deployed migrant workers about their employers. This points to the potential role of the labour agent in being an independent third party to receive, mediate, or bring complaints to the attention to the employer.
- As employers relied heavily upon labour agents, they may listen to the labour agents and appreciate advice and interventions from them when it comes to worker grievances.
- In other words, there is room to explore the possibilities of labour agents to provide a proper grievance mechanism for workers that they receive and supply to employers, and to act as a mediator of labour issues between the employers and the workers.

Further research with agents to bridge gap between employers and workers

- Information gathered from the labour agent, particularly on the estimated cost of recruitment, may serve as a bridge between the employers and the workers.





6



Conclusion

This study found that the employers paid, on average, RM5,096 to recruit a Nepalese worker to work in a palm oil mill and RM2,470 for an Indonesian worker to work in an estate. Due to the lack of documentation, the cost of recruitment for a Bangladeshi worker could not be estimated. It was found that workers themselves also paid high amounts of money to cover their recruitment – on average, RM5,500 for a Nepalese worker, RM1,950 for an Indonesian worker; and RM15,000 for a Bangladeshi worker.

Some cost items paid by the employers (in Malaysia) and the workers (in their country of origin) were the same, such as costs of airfare, visa, working permit, etc. This suggests the possibility of unethical practices by the intermediaries in the home countries of migrant workers, in charging the workers recruitment costs which were already covered by employers in Malaysia. This not only increased the actual cost of recruitment, but also hindered efforts to understand and estimate the accurate cost of recruitment.

Unethical practices by intermediaries and the excessive recruitment costs paid by migrant workers were partly enabled by the lack of ethical recruitment processes by the employers in Malaysia. This study found that

surveyed employers tended to rely on labour agents in Malaysia and in countries of origin to manage the recruitment of migrant workers on their behalf. While this practice might reduce the operational cost of the employers, they also lost control of the recruitment process. Additionally, the lack of documentation and record-keeping practices by the employers complicated efforts to remedy issues associated with unethical recruitment practices. Equally important was the lack of awareness and knowledge among the migrant workers on their rights and responsibilities, who often did not see the value of keeping their own copy of important documents such as the contract of employment.

Moving forward, it is strongly recommended that employers should play a leading role in implementing ethical recruitment practices, and undertake regular monitoring and evaluation of the recruitment process managed by the intermediaries. The implementation of ethical recruitment requires close collaboration and engagement not only between the employers and the intermediaries, but also the workers. The resulting improvement in transparency and accountability around the recruitment process will eliminate unethical practices such as the practice of charging migrant workers for their recruitment.

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