
Sancroft

NHS Supply Chain Country Profile: Malaysia

May 2016

Malaysia – Labour Standards and Ethical Trade Profile



Population	30,513,848 ¹
Main Religion	Muslim (official) 61.3%, Buddhist 19.8%, Christian 9.2%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 1.3%, other 0.4%, none 0.8%, unspecified 1%
Minimum working age	14 years old* ²
Minimum wage (per hour per month)	Ranges from 3.85 – 4.33 RM Per Hour US\$ 0.93 – 1.04 Per Hour Ranges from 800 [Sabah, Sarawak, and Labuan]– 900 RM Per Month ³ US\$192.64 – 216.72 Per Month
Maximum working hours	Eight hours per day or 48 hours per week Overtime is permitted, and hours vary per sector ⁴
Working week	Work week Monday to Friday Except the states of Johor, Kelantan, Terengganu and Kedah, which have a Friday–Saturday weekend ⁵
Main exports	Electric & electronic products (35.9%), chemicals and chemical products (7.4%), petroleum products (6%), machinery, equipment & parts (5.3%), metals (4.7%) and palm oil (4.6%) ⁶

Context

Politics

The politics of Malaysia takes place in the context of a federal representative democratic constitutional monarchy⁷. Tuanku Abdul Halim was appointed paramount ruler, Malaysia's Head of State, in 2011. This post is rotated every five years among the sultans of the nine Malay kingdoms. Najib Razak, the scion of a longstanding Malaysian political dynasty, was sworn in for a second term as Prime Minister

*The law prohibits the employment of children younger than 14 years but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the government in a school or in training institutions, or work as an approved apprentice. For children between 14 and 18 years, there was no list clarifying specific occupations or sectors considered hazardous and therefore prohibited

after the National Front coalition won the 2013 elections with a weakened majority, extending its unbroken 56-year rule. Given strong opposition, allegations of major electoral fraud were widespread. Critics say this political hegemony, dating back to the country's independence from the British in 1957, has led to an arrogance and intolerance of scrutiny on the part of the government.

On coming to power, Mr Najib pledged radical reforms and a more transparent government, including dedication to closing a widening ethnic and religious divide. Malaysia's majority Muslim ethnic Malay are considered politically dominant, benefitting from positive discrimination in business, education and the civil service, but a large ethnic Chinese minority holds economic power. The communities coexist in relative harmony, although there is little racial interaction, and a religious divide persists⁸. Despite such claims Najib's rise to power has been marked by a government crackdown on the resurgent opposition. In 2015 Najib faced calls to step down after it emerged that unexplained payments of almost \$700m were made into bank accounts in his name. It has been alleged that the transactions are linked to huge debts run up by a state investment fund⁹.

Economics

Malaysia is among the richest countries in the South East Asia Pacific, and is a highly open, upper-middle income economy¹⁰. Malaysia was among 13 countries identified by the Commission on Growth and Development (2008) to have recorded average growth of more than 7 percent per year for 25 years or more. GDP growth has declined slightly over the past few years; from 6% in 2014, to 4.7% in 2015 and is forecast to be 4.5% in 2016. Malaysia's economic growth has been inclusive and resulted in widespread social development. Malaysia has succeeded in nearly eradicating poverty: the share of households living below the national poverty line (USD 8.50 per day in 2012) fell from over 50 percent in the 1960s to less than 1 percent in 2015.

Until as recently as 1970s, Malaysia's economy was dominated by the production of raw natural resource materials, such as tin and rubber. Malaysia today has a diversified economy and has become a leading exporter of electrical appliances, electronic parts and components, and natural gas. It is the world's second largest exporter of Palm Oil after Indonesia. After the Asian financial crisis, Malaysia continued to post solid growth rates, it similarly recovered rapidly from the Global Financial Crisis in 2009. Malaysia's New Economic Model, launched in 2010, aims for the country to reach high income status by 2020 whilst ensuring that growth is sustainable and inclusive. The World Bank has written that for Malaysia to secure a position among high income countries in line with its aspirations, it will need to accelerate the implementation of productivity-enhancing reforms to increase the quality of human capital and create more competition in the economy.

Demographic

Malaysia is included in the UNDP's Asia-Pacific Human Development Report entitled 'Shaping The Future: How Changing Demographics Can Power Human Development'. The report describes how nations within the Asia Pacific region are currently experiencing a demographic dividend with youthful populations nearing working age, and yet at the same time are faced with the prospect of the world's most rapidly aging population. It is estimated South Asia will reach its peak of young people around 2025.¹¹ Responding to this aging population, and the societal strain it will generate, will represent a key challenge to Malaysia in the coming years.

Malaysia and Singapore are migrant recipients from the rest of the Asia Pacific. Internal migration also represents a significant demographic trend in Malaysia, with an urban majority being reached in 2015. Malaysia has a low unemployment rate at only 3% with a young and thriving population boasting a 93% literacy rate¹².

Labour Market Profile

Malaysia's total labour force is estimated to represent 14.3 million workers¹³. In 2020, Malaysia will reach its maximum share of working population, with the total number of working population peaking at 2040¹⁴.

At 47 percent in 2014, Malaysia's female labour force participation rate is among the lowest in South-east Asia¹⁵. The Malaysian government has recently sought to encourage more women into the labour force. Critical policies to encourage female employment include ensuring equal pay and rights, safety and security, reasonable parental leave, and reliable and the cost-effective provision of childcare¹⁶.

Industry Summary:

Labour Force Occupation (2012) ¹⁷	
Agriculture	11%
Industry	36%
Services	53%

Over a third of Malaysia's population works in manufacturing. However, it is the services industry that monopolises the labour force, taking over 50% of the working population. The main industries operating in Malaysia are defined by the three distinct geographical divisions:

1. **Peninsular Malaysia:** rubber and oil palm processing and manufacturing, petroleum and natural gas, light manufacturing, pharmaceuticals, medical technology, electronics and semi-conductors, timber processing;
2. **Sarawak:** agriculture processing, petroleum and natural gas production, logging;
3. **Sabah:** logging, petroleum and natural gas production¹⁸.

Medical Technology

In Malaysia, the medical devices industry spans a wide range of industries from rubber and latex, textiles, plastics, machinery and electronics. This highly diverse industry produces a broad range of products, from medical gloves, orthopaedic devices and dialysers to diagnostic imaging equipment and minimal invasive surgery equipment¹⁹.

The medical devices industry in Malaysia has been characterised by several hundred mainly small and medium companies. More and more however, multinational corporations have made Malaysia their offshore location for the production of higher value medical devices. Brands which have investments in Malaysia include; Agilent, B. Braun, St. Jude Medical, C.R. Bard, Symmetry Medical, Teleflex, Resmed, Convatec, Ciba Vision (a subsidiary of Novartis), Accellent, Kelpac Medical, Eurocor, Criticare, Ambu, Toshiba Medical Systems and Haemonetics. The availability of supporting industries has further aided Malaysia as an ideal location for the manufacture of medical devices and global supplier of parts and components, positioning Malaysia as a potential medical device hub within Asia²⁰.

The medical devices industry has been identified as a growth area by the government. In 2015, the Association of Malaysian Medical Industries (AMMI) projected exports for the medical device industry to grow 12%²¹. Regulation around the industry has been introduced incrementally; with

requirements around the registration of devices and efforts to guard against sub-standard or unapproved medical devices.

Key Risk Areas

Companies sourcing from Malaysia will need to be aware that there is a risk of labour rights abuse within their supply chain. No global supply chain will be categorically free of issue and buyers have a responsibility to ensure that they are doing all they can to mitigate the risk of occurrence within their realm of business and, where an issue is discovered, take steps towards remediation. The below outlines the key risk areas pertinent to Malaysia and the areas in which a company sourcing from Malaysia may want to be particularly vigilant.

Migrant and Illegal Workers

“Approximately one out of three workers in Malaysia is a migrant worker. Labour policies therefore have wide reaching consequences on the rights of workers in Malaysia where a significant number of workers are open to exploitation, abuse and violence reflecting modern day forms of slavery”.
Tenaganita (2012)²²

Malaysia has a large migrant workforce - most estimates suggest that there are 3–4 million migrants currently employed in Malaysia, which would constitute approximately 20–30 per cent of the country’s workforce²³. With close to full employment since 1990 and higher educational attainment among nationals, migrant workers have for many years filled substantial shortages in the supply of low-skilled labour for key economic sectors. For instance, an influx of people from neighbouring Indonesia and the Philippines arrived seeking work during the country’s construction and palm oil boom.

It is reported that 40% of migrant workers have no formal education²⁴. This large sect of people, often working illegally in unskilled jobs for very low wages, are said to be putting extensive pressure on the country’s services, such as healthcare and education. The Malaysian Government has been under pressure to restrict the number of low skilled foreign workers allowed into the country. Beyond increasing strain upon national resources, these workers are often blamed for Malaysia’s perpetual low wages, preventing the country from achieving a high-income status economy. For many years, targets have been set and policies introduced to reduce the number the country employs in order to encourage economic restructuring. For instance, the New Economic Model of Malaysia in 2010 and other policy documents have sought to reduce dependency on migrant workers through a variety of strategies, including charging a levy for their employment, introducing a minimum wage, raising the retirement age and increasing the number of women entering paid employment.

In some cases, attempts to regulate the number of migrants has also negatively infringed upon their rights; pushback from the private sector led to an abrupt decision to allow payment of the migrant worker levy to be transferred back to workers. Moreover, January 21st 2014 marked the beginning of a mass effort to deport all illegal workers in Malaysia^{25,26}.

Attempts to cap the number of migrants employed has also contributed to a situation whereby as much as half the migrant workforce is considered undocumented²⁷. The high level of both migrant and illegal workers signifies a considerable risk to labour standards assurance for a number of reasons. With less regulatory support for illegal workers, the opportunity for their rights to be abused is substantial. Concurrently with facing increasing pressure to restrict the number of foreign workers entering Malaysia, the government is under pressure from international civil society to better protect their rights. A report by Amnesty International²⁸ found there were widespread issues of migrant exploitation across the country. Top labour rights violations included unpaid wages; arrest, detention and deportation; denial of days of rest; failure to pay overtime wages; absence of formal contracts and gender discrimination²⁹. Another issue was around the fact migrant workers were often dependent upon their employers for lodgings. These employer-supplied dormitories were commonly found to be

sub-standard in terms of safety, sanitation and quality of living offered. In a recent video exposé, the dormitories were referred to as the ‘hidden slums’ of Malaysia³⁰.

Modern Slavery and Trafficking

There is also evidence in Malaysia of official documentation such as passports being withheld, which is disproportionately the case for migrant workers. This is often indicative of situations of forced or bonded labour since it would be impossible for the worker to leave without the expressed agreement of their employer. Reflective of this, the migrant rights group, Tenaganita, commented that the treatment of migrants in the workplace was akin to "a modern form of slavery³¹". Research by a non-governmental organisation in 2014 further found that nearly one third of their sample of migrant workers employed in electronics factories were engaged in forced labour (Verité, 2014).

In its annual Trafficking in Persons (TIP) Report 2014, the U.S. State Department downgraded Malaysia to a Tier 3 country³² and in 2015 it was moved on to their Tier 2 Watchlist. The Global Slavery Index 2016 identified Malaysia as being 29th in the world in terms of the percentage of its population estimated to be in Modern Slavery³³.

Freedom of Association and the Right to Collective Bargaining:

Malaysia has not ratified Convention No. 87 on Freedom of Association and Protection of the Right to Organise, but did ratify Convention No. 98 on the Right to Organise and Collective Bargaining in 1961. With a high proportion of migrant workers and a law stating that foreign workers cannot hold trade union offices, a large proportion of the Malaysian workforce is therefore placed in a particularly vulnerable position.

The right to form trade unions is enshrined in national law, however is limited in practice. Beyond categories of workers prohibited or limited from forming or joining a union, issues include barriers to the establishment of organisations and restrictions on workers’ right to form and join organisations of their own choosing. For instance, the Director General of Trade Unions, a government appointed official who has the power to supervise and inspect trade unions, can refuse to register a trade union without being obliged to provide a reason as well as withdraw the registration of unions. The International Trade Union Confederation (ITCU) summarises that³⁴:

“Workers have the right to organise and the right to collective bargaining; however, these rights are severely restricted in scope and coverage, both in law and in practice. Large groups of workers including immigrants and certain classifications of employees in the public sector face particular restrictions on the right to organise. The right to strike is not specifically recognised and many legal restrictions to strikes exist, both in terms of workers who are excluded as well as in terms of procedures. The dispute settlement machinery remains inefficient.”

It is also worth noting that the law restricts collective bargaining in “pioneer” industries the government has identified as growth priorities, including various high tech fields.³⁵

Governance

National Legislation

Relevant legislation regarding employment in Malaysia includes³⁶:

- Anti-Trafficking in Persons (Amendment) Act 2010.
- Children And Young Persons (Employment) (Amendment) Act 2010
- Employment Act 1955 (No. 265)
- Employment Amendment Act 1984

A 2016 ILO Labour Migration Policy report highlighted a number of legislative changes implicating labour law in Malaysia, particularly in the case of migrant workers³⁷:

- **The Eleventh Malaysia Plan (2016–2020)** has stated that a comprehensive immigration and employment policy for foreign workers will be developed, with MOHR (Ministry Human Resources) assuming the lead role in policy-making.
- **A minimum wage law** has been enacted that applies to migrant workers (with the exception of domestic workers), setting a basic monthly wage of 900 ringgit (MYR) (US\$210) in Peninsular Malaysia and MYR800 (US\$185) for Sabah, Sarawak and Labuan. A rise in the minimum wage has been announced for the 2016 budget.
- **The Private Employment Agency Act** is expected to be subsumed by the Private Employment Agencies Bill, which will include regulation of recruitment for foreign workers (including domestic workers) within its scope. A policy decision has also been made to phase out the system of outsourcing agencies.

International Trade Union Confederation (ITUC) Rights Index

The ITUC rights index uses a methodology that considers the standards of fundamental rights at work, in particular the right to freedom of association, the right to collective bargaining and the right to strike. Using this methodology, countries are ranked on a scale of 1-5 with a high score suggesting a government is failing to guarantee these rights. Malaysia was awarded a score of 5 in 2014, situating it among the worst in the world for labour conditions with no guarantee of worker rights³⁸.

International Standards³⁹:

Malaysia has been a member of the ILO since 1957 and has ratified 17 ILO Conventions⁴⁰. Malaysia has ratified all but 2 of the 8 core conventions, Abolition of Forced Labour and Freedom of Association. Internally, the regional authorities determine which Conventions are in force. In Peninsular Malaysia, five Conventions are in force, Sarawak recognises nine and Sabah has five Conventions in force.

Malaysia has become a party to the Trans-Pacific Partnership, which requires states to adopt and implement laws in accordance with the ILO Declaration on Fundamental Principles and Rights at Work.⁴¹

Other Useful Resources

Further information is available on the following websites:

- ILO Labour Law Database
http://www.ilo.org/dyn/natlex/natlex4.countrySubjects?p_lang=en&p_country=MYS
- Transparency International Corruptions Perception Index
<http://www.transparency.org/country/#MYS>
- US State Department Database on Forced and Child Labour per product
<http://www.dol.gov/ilab/reports/child-labour/list-of-goods/>

- [1 https://www.cia.gov/library/publications/the-world-factbook/geos/my.html](https://www.cia.gov/library/publications/the-world-factbook/geos/my.html)
- [2 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper)
- [3 http://www.asia-pacific.undp.org/content/dam/rbap/docs/RHDR2016/RHDR2016-full-report-final-version1.pdf](http://www.asia-pacific.undp.org/content/dam/rbap/docs/RHDR2016/RHDR2016-full-report-final-version1.pdf)
- [4 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper)
- [5 https://en.wikipedia.org/wiki/Religion_in_Malaysia#cite_note-Census_2010-6](https://en.wikipedia.org/wiki/Religion_in_Malaysia#cite_note-Census_2010-6)
- [6 http://www.matrade.gov.my/en/malaysia-exporters-section/33-trade-statistics/4554-top-10-major-export-products-2016](http://www.matrade.gov.my/en/malaysia-exporters-section/33-trade-statistics/4554-top-10-major-export-products-2016)
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