

Undocumented migrants and refugees in Malaysia : Raids, detention and Discrimination

Friday 28 March 2008, by [FIDH](#), [Suaram](#) (Date first published: 21 March 2008).

International Federation for Human Rights (FIDH)

Suara Rakyat Malaysia (SUARAM)

Publication of a FIDH - SUARAM mission report

<http://www.fidh.org/spip.php?article5357>

(21 March 2008): On the occasion of the World Day for the elimination of racial discrimination, the International Federation for Human Rights (FIDH) and Suara Rakyat Malaysia (SUARAM), its member organization in Malaysia, launch a report entitled “ Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination”.

There are no publicly available statistics on the number of migrants, refugees and asylum seekers in Malaysia. Estimates refer to 1,8 million registered (or documented) migrant workers and about 5 million undocumented migrant workers. *“Migrant workers account for about 30% to 50% of the total Malaysian labour force. In spite of the important contribution that this represents to the Malaysian economy, the authorities have not put in place any consistent national immigration policy”*, said Souhayr Belhassen, President of FIDH.

Undocumented migrants usually work for the ‘3D jobs’ (Dirty, Dangerous and Difficult) and are not adequately protected against unscrupulous recruitment agencies and employers.

Domestic legislation does not provide for a specific protection for refugees, asylum seekers or trafficked persons. Only a temporary residence permit, the IMM 13 visas, can offer a *de facto* protection for refugees against *refoulement*. Domestic legislation provides for an insufficient protection of children refugees and asylum seekers, in particular as regards access to education. Detention of children for immigration purposes is common, while it should be prohibited as a principle.

The People’s Volunteer Corps-RELA, a volunteer force composed of more than 400 000 reservists, is meant to safeguard peace and security in the country. In times of peace, it contributes to the enforcement of the immigration law. The lack of training and supervision of RELA members are major concerns. *“RELA carries raids against migrants, without distinction between undocumented migrants, asylum seekers and refugees and with unnecessary use of force. The Malaysian authorities should immediately cease the use of RELA officers in the enforcement of immigration law”*, said Swee Seng Yap, Executive Director of SUARAM.

The Immigration Act raises a number of concerns with regard to the administration of justice: the length of time a migrant arrested under the Act may be held before being brought before a Magistrate is overly long (14 days); detention may even be indeterminate pending removal; the exclusion of the right to challenge decisions under the Act on a number of grounds; and the absence of specific protection for migrants in case of abuse by employers or unpaid wages.

The report documents the poor conditions of detention, particularly in the « immigration depots ». Overcrowded facilities are leading to breaches of basic standards of hygiene; insufficient diet and health care, ill treatment of detainees and a failure to adequately protect women and children in detention are of particular concern. FIDH urges the Malaysian authorities to amend the immigration Act with a view to avoiding that violations of provisions relating to migration are treated in the criminal justice system. Meanwhile and as a minimum, the sentence of whipping should be abolished as corporal punishment is prohibited under international human rights law, and the maximum term of imprisonment provided for immigration offences should be reduced.

"Up to now, the government has been adopting a punitive approach to the issue of migration: the poor conditions of detention of migrants in the immigration detention centers and the fact that they can be condemned to corporal punishments (whipping) are part of this policy. Time has come for a comprehensive policy on migration, based on international human rights standards", said Cynthia Gabriel, Vice-president of FIDH and Board member of SUARAM. "We call upon the newly elected parliamentarians to consider our recommendations, and to put aside the RELA Bill that was tabled last year for first reading", she concluded.

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