

Malaysia's labour laws need strengthening to tackle forced labour scourge

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Canada's decision this month to terminate two supply contracts with glove-maker Supermax Corp is the latest in a series of cancellations to hit Malaysian manufacturers accused of profiting from forced labour. While Malaysia's government has stepped up its enforcement efforts to tackle the issue, experts argue these efforts do not go far enough, and that the country's labour laws need to be strengthened.

Allegations of forced labour in Malaysia are not new. The palm oil and electronics industries have faced labour probes for a number of years. However, the covid-19 pandemic, which has accelerated a global demand

for personal protective equipment (PPE), has pushed Malaysia's glove manufacturers into the spotlight and unearthed systemic forced labour issues affecting mostly low-skilled migrant workers.

"The combination of mounting orders and fewer employees, owing to international travel restrictions and a government ban, made it tougher for factories to fill vacancies, which piled pressure on workers to work harder, faster and longer than they were supposed to," explained Leonard Yeoh, a partner at Tay & Partners.

As the plight of the Uighurs in China's Xinjiang Autonomous Region continues to gain international attention, it should have come as little surprise that Western nations and labour activists would act on other reports of modern slavery in Asia's supply chains.

In addition to Canada's recent decision, the US government has also imposed a ban on Supermax products and, in December, blocked the importation of gloves produced by Malaysia's Brightway Group, saying it would "not allow goods tainted with forced labour" to enter the United States. In the UK, legal action is underway over a decision by Boris Johnson's government to award Supermax an NHS PPE supply contract.

Old tools for a new problem?

Faced with mounting political pressure from abroad, Malaysia has stepped up efforts to investigate reports of forced labour. Human Resources Minister Datuk Seri M Saravanan recently described conditions at a factory in Kuala Lumpur as "modern slavery".

However, the country has no specific legislation governing forced labour. Instead, officials must rely on the labour department's general investigative power under the Employment Act regarding compliance with minimum terms on working hours and wages. The Workers' Minimum Standards of Housing, Accommodation and Amenities Act, which regulates employers providing housing and accommodation for workers, provides another enforcement tool.

Comparing these laws to those in the West demonstrates that Malaysia's regulatory environment is "glaringly lacking in terms of providing comprehensive solutions to combat forced labour across various stages of

supply chains,” said Priya Sharma, an academic at the School of Business, Monash University Malaysia.

“The ongoing presence of forced labour indicators demonstrates a need for existing legislative and policy measures to go further to address modern slavery, labour exploitation, and poor working conditions in supply chains situations.”

With support of the International Labour Organization, the Malaysian government launched a national action plan on forced labour last November. The plan aims to eliminate forced labour in Malaysia by 2030 by strengthening compliance and enforcement of existing laws.

Strengthening new laws

Critics argue, however, that Malaysia needs new, stronger legislation to tackle forced labour in the most efficient way possible, as well as to improve the country’s standing on the global stage.

“The negative impacts of forced labour are manifold. It often affects the most vulnerable and excluded groups. And, from an economic perspective, forced labour allegations against Malaysian firms project a negative image of the country and this would certainly affect foreign investors’ confidence towards Malaysia’s supply of products,” said Yeoh.

Malaysian lawmakers have introduced amendments aimed at strengthening the new Employment Bill, which will outlaw forced or bonded labour. Should the Bill pass, it will be an offence for an employer to threaten, deceive, or force a worker to do any activity, service, or work.

Amendments are also being made to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Bill that will amend the existing interpretation of human trafficking and repeal the definition of coercive control, which is inextricably linked to forced labour.

Employers’ responsibility

In a recent statement, Supermax said it “has been implementing many improvements and upgrades to improve its workers’ welfare in stages and

has taken steps to speed up the process in order to meet ILO standards in good time”.

[Gan Khong Aik](#), a partner at Gan Partnership, said employers must acknowledge concern over forced labour and take immediate steps to avoid the practice. “In cases of doubt, the employers should, at the earliest opportunity, liaise with the labour department so as to work together with the authority to manage the issue.”

“Employers should analyse the risks of forced labour by conducting periodical due diligence on workers’ rights and welfare to ensure they are not tied to forced labour practices,” advised Yeoh. “To that end, companies are encouraged to develop and implement the appropriate policy and code of conduct for their individual situations.”

Companies must remain vigilant and, where forced labour is discovered, consider the long-term actions to ensure the problem does not recur, offered Sharma. “First, how is it that forced labour is occurring in the facility in the first place, and do they exist elsewhere in the company’s supply chain? Second, what needs to be done to ensure that these problems are solved, and the company is no longer at risk?

“To answer these questions, the company will need to take a thorough look at its own systems and protocols, policies and assessment procedures, and other aspects of its social responsibility programme to determine the root causes of what went wrong and where.”

Source: International Employment Lawyer

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