



# Labour Bulletin

## ***Reduce dependency on Migrant Workers-Determine Labour market needs***

*Speaking at the National Symposium on foreign Workers Policy in Malaysia, MTUC reiterated that Government must take appropriate measures to reduce dependency on migrant workers.*

*Ten workers' representatives participated in the three days Tripartite symposium held in Kuala Lumpur from 20-22 October 2008.*

### **Foreigners gobble up 20% of new jobs created.**

*MIER executive director Dr Mohamed Arif revealed "that it was a worrying scenario, especially in the labour sector. The scenario is totally opposed to the country's mission to create more jobs for Malaysians and not foreigners".*

*MTUC highlighted the widespread unfair and abusive labour practices by most of the players involved and the Government seem to be turning a blind eye. Infact government's decision to allow labour suppliers to bring in workers have worsen the situation.*

*MTUC is convinced that Government is deliberately flooding the country with migrant workers in order to suppress and weaken unions' influence on wage negotiations. Government has put in place contradictory policies which prevent foreign workers from joining a trade union. The new provisions under the Industrial Act imposes mandatory balloting to resolve union recognition claims which will take into account migrant workers, although they are not allowed to join a union.*

**G.Rajasekaran, Secretary General**

*Price of Petrol has come down by 40 sen but price of goods especially food remain extremely high. Government approved 30% temporary increase in transportation, but now they say the increase despite fuel price cut, will remain.*

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# Landmark ruling on Socso leave

**Court of Appeal Judge, Datuk Low Hop Bing-**  
***Sec 53 Employment Act prohibited an employer to punish his employee who was temporarily disabled and the temporary disablement cannot be construed as break in service...***

A plantation company refused to compensate a tapper RM250 to replace 16 days of annual leave owed her.

Now, nine years later, K. Saraswathy will receive about RM800 from Golden Hope Plantations (Peninsular) Sdn Bhd, after a protracted court battle.

The Court of Appeal, in a landmark decision, reaffirmed the decision of the Segamat labour officer that Saraswathy, who has since retired, was entitled to the amount, plus interest at eight per cent a year.

Her counsel, Ragunath Kesavan, said the decision was an important one as the court had clarified that temporarily disabled employees on Social Security Organisation (Socso) leave were still entitled to their dues, except for their monthly wages. For example, employers must continue paying housing allowance or school bus subsidy for the affected employee's children, he said.

Socso members are paid a monthly allowance during the period of temporary disablement.

Saraswathy was temporarily unemployed after an accident at work in Ladang Sungei Senarut. She had worked for a substantial part of 1998, but did not work a single day in 1999. She received payment from Socso. Her employer paid her for 12 days of annual leave in 1998, which she was entitled to, but refused to pay for the following year.

She filed a complaint with the labour officer, who ordered the employer to pay the amount plus eight per cent interest from April 14, 2000, to the date of realisation as penalty.

The Muar High Court upheld the officer's decision. The case was taken to the Court of Appeal which heard it as a matter of public importance although the court usually only entertains appeals involving amounts of RM250,000 and above.

The question of law posed before the Court of Appeal was whether an employee covered by Socso compensation was also entitled to receive benefits under the Employment Act or under a contract of employment. Counsel A. Ramadass, who appeared for Golden Hope Plantations, submitted that an employee was not entitled to receive double benefit -- the Socso payment as well as payment in lieu of annual leave.

Ragunath said Socso and the Employment Act 1955 were works of social legislation and Saraswathy was entitled to monetary compensation. Judge Datuk Low Hop Bing, who delivered the Court of Appeal judgment last Friday, said Section 53 of the Employment Act prohibited an employer to punish his employee who was temporarily disabled.

"The temporary disablement cannot be construed as break in service," he said, adding that Saraswathy was entitled to be paid annual leave for 1999. Low, who sat with Datuk Abu Samah Nordin and Datuk Sulaiman Daud, said Golden Hope Plantations had paid Saraswathy for the 12 days balance of the annual leave for 1998.

He said since payment was made for 1998, the employer was prevented from denying the employee's entitlement for the following year.

Source: News Straits Time, Anbalagan.30 Sept 2008

# Training & Seminar

## **MTUC / ACILS – Kursus Kemahiran dan Kepimpinan Wanita bagi ahli-ahli wanita dalam kesatuan sekerja telah berlangsung di Pusat Latihan MTUC Subang Jaya.**

Seramai 35 peserta dari jawatankuasa wanita MTUC telah menyertai kursus kepimpinan bagi wanita selama tiga hari di MTUC dari 27-29 Ogos 2008. Kursus ini telah mendedahkan pelbagai subjek yang merangkumi pemahaman terhadap Akta perhubungan perusahaan 1967, Akta



kerja 1955, isu-isu kesatuan sekerja-prinsip, aktiviti kearah penubuhan kesatuan, penyediaan rundingan dalaman dan teknik berkomunikasi berkesan dan sebagainya. Kursus ini memberi pendedahan yang luas kepada peserta untuk mengetahui isu-isu yang harus dimahiri untuk menjadi seorang pemimpin yang berkaliber dalam kesatuan.

## **MTUC / SOCSO – 2 days Basic Safety & Health training program held on 8<sup>th</sup> and 9<sup>th</sup> of October 2008, at Hotel Seri Malaysia, Negeri Sembilan.**

About 34 plant level leaders attended this program. The main purpose of organizing this program was to create awareness among trade union leaders at the State level to understand the importance of OSH, Understand the salient sections of the OSH Act 1994, and to address issues concerning occupational accidents and diseases to their respective employers on how unions and employers can work together to reduce work related accidents and diseases.

A subject on SOCSO and its schemes was introduced presented by a senior official from SOCSO. Giving serious attention to commuting accidents involving workers' also presented a senior officer from Road Safety Department to make a presentation on Defensive riding and driving to the participants.







# World Day for decent work

Speaking to a 25 member MTUC delegation on the World Day for Decent Work on 7th October, Human Resources Minister Datuk S.Subramanian said the Government is committed to promote the ILO Decent work agenda. He said that the HRM plays an active role in visualising and implementing decent work agenda through their strategic plan from 2008-2010 and its focused on six priority areas:

- Creating job opportunities and ensuring workers rights;
- Solving industrial disputes with fairness and justice;
- Implementing dynamic safety and health practices at workplaces;
- Developing a competitive and skilled National workforce and
- Ensuring harmonious industrial relations;
- Providing social security protection.

Leaders and members from 230 unions affiliated with the Malaysian Trades Union Congress joined millions of workers worldwide on October 7, 2008 to highlight the impact of globalization on jobs and labour standards, its devastating effects on wages and living conditions.

Government's stand on Decent Work The Human Resources Ministry has endorsed and committed to promote the International Labour Organisation's (ILO) Decent Work Campaign.

All over the world multinational corporations use their power and influence on national governments to dismantle long established legal protection accorded to workers. Outsourcing and contract system is used as an effective tool to convert regular and permanent jobs into precarious work. In our midst even the Government Linked Company, Malaysian Airlines System (MAS) has made hundreds of long serving employees redundant by appointing private contractors to provide the core services.

In Malaysia, Government has imposed unfair and unacceptable restrictions on trade unions which obstruct workers from freely joining a trade union. Although Government has ratified ILO convention 98 on rights to collective bargaining, appropriate labour legislations are not in place to comply with convention No 98.

MTUC delegation also met with the Minister of Human Resources on 7th October 2008 at 12.30pm to present a memorandum highlighting the numerous threats faced by thousands of workers.

MTUC asked the Minister to make substantial amendments to the Employment Act to empower the Department of Labour to inquire into complaints of unfair labour practices.

MTUC is demanding that Government stipulate a RM900 minimum monthly salary under the Employment Act. Currently there is no minimum wage requirement, which leaves employees at the mercy of employers. MTUC sees Government's lax policies on importing foreign workers, as a deliberate strategy to suppress wages of Malaysian workers. MTUC is also asking the Government to abolish recruitment of foreign workers through labour suppliers.





# Decent work



*Nyanyian lagu Solidariti Jawatankuasa Wanita MTUC bersama-sama pemimpin –pemimpin MTUC*

Acara decent work diteruskan dengan penyerahan memorandum kepada Menteri Sumber Manusia, YB. Datuk S.Subramanian di pejabatnya. YB menyokong agenda decent work dan keperluan gaji minima untuk pekerja yang menerima pendapatan rendah dari garis kemiskinan. Beliau menyatakan kajian yang teliti akan dilaksanakan bagi mengenalpasti langkah yang wajar dan patut diambil bagi menangani permasalahan kepada pekerja-pekerja yang tidak dilindungi oleh sebarang skim, perjanjian atau terma kerja.



Beliau juga menyatakan skop perlindungan kepada pekerja am dan proses Majlis Penetapan Gaji akan diperluaskan. Dua industri yang terbaru yang akan mengkaji skim gaji minima ialah industri tekstil dan elektronik. Di samping itu jangka masa penelitian di bawah majlis ini akan dipendekkan kepada satu tahun dan pelaksanaan juga akan dititikberatkan.



**Majlis penyerahan memorandum kepada Menteri Sumber Manusia**





# DNA Bill –A Draconian New Act

Comments by Dr Jeyakumar, Parliament member  
for Sungai Siput

The BN Government has postponed further discussion - the committee stage - of the DNA bill to after the Budget. However the government has already got the DNA Bill through the Policy stage. There are several aspects of the DNA Bill that should worry all right minded Malaysians. Let me enumerate some of these.

1. Section 7 of the proposed bill empowers the Minister of Home Affairs to appoint a police officer not below the rank of Deputy Commissioner of Police as the Head of the Forensic DNA Databank.

***Some of us objected to this saying that there should be clear separation of powers. Collection, storing and testing of body fluids of suspects should be handled by a body that is independent of the police.***

2. Section 13 which deals with the collection of non-intimate samples such as scalp hair, buccal swabs and saliva, states under subsection 7, that "a police officer may use all means necessary for the purpose of taking of a non-intimate sample".

***Several among us brought this up. What does "all means necessary" mean in the case of a suspect who is in police custody?***

3. Section 14 of the proposed bill states that anyone who refuses to give a sample, or obstructs the taking of such sample, commits an offence and upon conviction can be fined up to RM10,000 or imprisoned for a period of up to a year!

***How will the police fail to get a sample given section 13(7)?***

4. Section 24 of the Bill states that "notwithstanding any written law to the contrary, any information from the DNA Databank shall be admissible as conclusive proof of the DNA identification in any proceedings in any court.

***This seems to mean the person being charged cannot ask for an independent review of the DNA evidence. The opinion of the DNA Bank cannot be queried in a court of law.***

5. Section 25 specifies that no action or prosecution shall be brought in any court against the Minister or any DNA Databank personnel in respect of any act, neglect, default or omission done by him in good faith.

**In addition to these, there are no sections dealing with the handling of left over samples. How they should be destroyed etc. The possibility of the police keeping some of that material to later implicate that person in another crime is something that cannot be ruled out. DNA testing is a powerful tool - too powerful to be placed in the hands of a police force that has shown that it can be swayed by the executive to go after political opponents, and I am not referring to only Anwar Ibrahim. So many of the people arrested under the ISA faced a hostile police force which concocted considerable evidence to justify their arrest and detention.**

**As the government has postponed the committee stage of the Bill's passage to the sitting in October, there is still time to make representation to the Minister. I would therefore urge public interest groups to take up these issues with the government while at the same time highlighting it to the public. Make no mistake, this is a bad law with very serious implications.**





# BEST EVER CA SIGNED IN AME HISTORY!!!

## 25% Salary Increase, 37 months arrears

We are pleased to inform that Association of Maybank Executives (AME) and Maybank has signed Collective Agreement for 25% salary adjustment. The Collective Agreement was signed on 12/9/2008 in Hotel Equatorial. Every member will be paid arrears of 37 months with an average of RM20,000 per member and an average salary increase of RM800 per month.

The Collective Agreement was signed by Datuk Johar Che Mat, Chief Operating Officer, Maybank and Puan Siti Aishah, Head, Corporate Human Resource on behalf of Maybank and Mr Rama Rao, AME President and A.Prem Kumar, General Secretary of AME. MCBA Executive Director, Mr S.Sivagnanam witnessed the signing ceremony. The ceremony was also graced by our Bro Mohamed Shafie BP Mammal, UNI-MLC President and fellow comrades from other unions.

The percentage given is subject to 1 month fixed bonus and performance related bonus (PRR). After witnessing the trend which some unions signed with full PRR and others with contractual bonus, the union felt there should be a equilibrium in augment of salary and a safety net for bonuses.

We are proud to say that this initiative which came from the innovation of our General Secretary, A.Prem Kumar which was accepted by the Bank and the members. AME General Secretary has also quoted of Women members who



has a double celebration has the Union managed to get Child Care Allowance and Delivery charges which will enlighten their cost. We also managed to get mileage of 80 cents per km which is the highest in the banking industry if not in Malaysia.

In the moment of global financial crisis and the members has to face extreme cost escalation, we believe this CA will benefit to the 3000 officers and reduce their financial hardship. *Bro. Prem Kumar, Sec. Gen*

### Inflation in Malaysia

Inflation rose to 7.7% in June (May: 3.8%) due to substantial price increases in the transport and food and non-alcoholic beverages categories. Following the restructuring of the fuel subsidy on 4 June 2008, prices in the transport category rose by 19.6% (May 08: 0.9%). Prices in the food and non-alcoholic beverages category rose by 10% (May 08: 8.2%) reflecting higher prices in both the food at home and food away from home sub-categories. (Source: Montly statistical Bulletin, Central Bank of Malaysia, Jun 2008)

### Inflation in selected countries

Negara	Perubahan Peratus			
	2006/ 2005	2007/ 2006	Mei 2008/ Mei2007	Jun 2008/ Jun 2007
Amerika Syarikat	3.2	2.9	4.2	5.0
Filipina	6.2	2.8	9.6	11.4
Indonesia	13.1	6.4	10.4	11.0
Jepun	0.2	0.1	1.3	2.0
Korea Selatan	2.2	2.5	4.9	5.5
Jerman	1.7	2.3	3.0	3.3
Negara O.E.C.D.	2.6	2.5	3.9	4.4
Kanada	2.0	2.1	2.2	3.1
Malaysia	3.6	2.0	3.8	7.7
Perancis	1.7	1.5	3.3	3.6
Singapura	1.0	2.1	7.5	7.5
Thailand	4.7	2.3	7.6	8.9
United Kingdom	2.3	2.3	3.3	3.8



# International news

## Garment and Footwear Unions Launch Living Wage Campaign on World Day for Decent Work

For unions in the textile, clothing and leather sector around the world, Tuesday's World Day for Decent Work will serve as a launch pad for a campaign to demand a living wage.

Says Neil Kearney, the General Secretary of the International Textile, Garment and Leather Workers Federation (ITGLWF) which is coordinating the campaign at global level: "Governments that apply grossly inadequate minimum wages, employers that suppress fundamental worker rights including the right to organise and bargain collectively and brands that impose cut-throat buying practices have combined to make a 'perfect storm' that is hitting workers hard".

"Over the past ten years real wages in the sector have fallen while working hours have increased. The situation has worsened over the past eighteen months as food and fuel prices have skyrocketed but wages have remained unchanged.

Source: [www.itglwf.org](http://www.itglwf.org) ; 6 Oct 2008

## Global power without making obligations

Government bailouts (i.e., taxpayers) may satisfy the markets for a while, but the appetite of these "markets," especially the elite that rules the capital markets, is insatiable. Sooner or later, they will return to their old habits unless the multi-billion dollar rescue operation curbs the irresponsible power they now have. Fundamental reforms are necessary.

Under the unregulated global freedom granted it, AIG has expanded into 130 countries and territories, with some 100,000 employees worldwide. Now AIG's expansion itself is deemed to make it "too big to fail," and somehow qualifies it to turn to American taxpayers for a two-year loan it needs to survive -- \$85,000,000,000. In return, says the September 16 AIG [press release](#), "American taxpayers will receive

a substantial majority ownership interest in AIG."

"AIG was not too big to fail, but too connected," writes the *Financial Times*. Remember that the well connected men who arranged the AIG bailout, and are still making more and more bailouts, belong to the ailing system that they are supposed to cure.

They themselves are creatures of Wall Streets. They are immersed in its culture. They may be right in warning that we are at the brink of unprecedented disaster and that we must respond as they ask. But must we be unquestioning in accepting direction from the types of Wall Street insiders who brought us to that brink?

Source: *human rights for workers*. Sept 20, 2008

## The "24/7 economy", a social step back

The Mauritian government and private sector are campaigning for an economy that works 24 hours a day, seven days a week, pushing Mauritians on a wide scale into working nights. Trade unionist Ashok Subron warns of the social and environmental perils of this trend.

### Why has the concept of a "24/7 economy" emerged?

The promoters of the "24/7" campaign, mainly the Mauritian government and private sector, maintain that the leading sectors of the economy, such as call centres, tourism and even new technologies, are having serious difficulty recruiting local workers to do nightshifts. The declared aims of the campaign, launched by the Human Resource Development Council (HRDC), is supposedly to attract investors, create jobs (\*) and improve people's quality of life. In the telesales sector, for example, major international firms are relocating their activities to low- or medium-income countries such as Mauritius. Due to the natural time difference between Europe and Mauritius, Mauritian workers are hired to work outside normal hours, (between 7/8 a.m. to 4/5 p.m.), in the evening or at night, according to a system of rotating shifts and breaks, but receive no extra pay for the overtime or the non-standard hours they work.

The trade union struggle fought in many countries over the last century had succeeded in reducing working hours, but we are now seeing a reversal of the trend. Many had hoped that new technologies, especially information and communication technologies, would contribute to reducing working time. But people are in fact working longer hours. *ITUC Online 149/190808*