

Why aren't migrant domestic workers in Malaysia getting a day off?

Executive Summary

"My employer never saw a calendar."

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Executive summary

“I feel my life is not normal like other people’s. Other people work and they have day off, but that doesn’t apply to me. I don’t have a day off no matter whether it’s Sunday or Hari Raya [Eid]. My employer never saw a calendar.” Fau

Background and methodology

In 2019, there were 129,168 registered migrant domestic workers in Malaysia, of whom 72% were from Indonesia and 25% from the Philippines.¹ However, it is estimated that the actual number of migrant domestic workers in the country is between 200,000 and 300,000, as many work irregularly.²

Migrant domestic workers play an important role in Malaysian society (nearly one in five households employs one³), but they are specifically excluded from key labour rights in Malaysia’s Employment Act, 1955 (e.g. days off, limited working hours, paid holidays, etc.). Migrant domestic workers are also required to reside at their employer’s address and are not allowed to change employers without the permission of the Immigration Department of Malaysia.

In 2023, the International Labour Organization (ILO) highlighted that migrant domestic workers are subject to disproportionately high levels of exploitation and abuse in Malaysia and that just under a third work in conditions that constitute forced labour.⁴

The current research was undertaken to look at the extent to which migrant domestic workers in Malaysia are given a full weekly rest day and to identify issues which might make it easier or more difficult for them to access this right.

The report’s findings are based on data collected from: a survey of 108 migrant domestic workers; a survey of 100 employers of migrant domestic workers and focus group discussions with 11 employers.⁵

¹ Ministry of Home Affairs. D.L. Spitzer, *et al.* “Globalization and the health and well-being of migrant domestic workers in Malaysia”, *Global Health 19*, article no.29, 2023.

[https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-023-00925-w#:~:text=Around%20the%20time%20of%20our,Philippines%20\(32%2C277\)%2C%20and%20the](https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-023-00925-w#:~:text=Around%20the%20time%20of%20our,Philippines%20(32%2C277)%2C%20and%20the)

² Ministry of Human Resources, cited by the World Bank, 2019. See: Jenna Holliday, *Skilled to care: forced to work? Recognizing the skills profiles of migrant domestic workers in ASEAN amid forced labour and exploitation*, ILO, 2023. https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms_885139.pdf

³ Based on interviews with 1,009 people. See: ILO and UN Women, *Public attitudes towards migrant workers in Japan, Malaysia, Singapore and Thailand*, 2019. https://www.ilo.org/asia/publications/WCMS_732443/lang--en/index.htm#:~:text=Women%20migrant%20workers-,Public%20attitudes%20towards%20migrant%20workers%20in%20Japan%2C%20Malaysia%2C%20Singapore%20and,and%20practices%20against%20migrant%20workers.

⁴ Based on interviews with 400 migrant domestic workers. See: Jenna Holliday, *Op. Cit.*

⁵ All data was collected between 9 September and 8 December 2023. To protect the identities of those who took part in this research, their real names have not been used. For more details on the research methodology, see the full report.

Do migrant domestic workers get a weekly rest day?

The practice of compelling migrant domestic workers to work on their rest day is endemic in Malaysia. Of the 108 domestic workers who participated in this research, 43% worked seven days a week and 41% only occasionally received a rest day. For the latter group, this usually meant a day off once a month (51%) or once a fortnight (36%):

“In 23 months, I never had a day off. I feel like I’m in prison.” Nilam

By specifically asking how often participants were given their day off, the research identified a large group of migrant domestic workers who get a weekly rest day in theory, but not in practice. This is the main reason for the disparity between the 63% of employers who stated that they provide a weekly rest day and the 17% of domestic workers who said they received one.

Of the 18 migrant domestic workers who did receive a weekly rest day, 13 either worked for some time before this happened or had a previous employer in Malaysia who did not give them one. Consequently, 103 of the 108 migrant domestic workers surveyed for this research (95%) had experience of being deprived of their weekly rest day while working in Malaysia.

Even when migrant domestic workers are permitted to take a day off, they are rarely allowed to rest for the full 24 hours. Of those who got at least an occasional day off, over three quarters (79%) were required to do some work on their rest day or sometimes had to. These women worked an average of 4.5 hours on their “day off”:

“Before I go out, I need to take care of my duties. I have to give grandma a bath, to cook and clean the house. Only then can I take time off. After I come home, I need to work again.” LS

In addition, of those who sometimes got a rest day, 22% reported that they had to work more hours on other days to compensate and 20% said they were not always free to leave their employer’s home on their day off.

The detrimental consequences of not getting a proper weekly rest day were clearly evidenced in the research with 78% of domestic workers stating that it negatively impacted their mental and physical wellbeing. Participants most commonly described feeling stressed, tired and depressed, but 18 women also reported a deterioration in their physical and/or mental health.

“I get sick easily and was admitted to hospital twice after my employer took me. They deducted the cost from my salary. We need to look after ourselves, not just work and work.” Ani

“I feel so stressed and I have lost my appetite [...] I also lost weight - from 80kg to 59kg. I don’t get enough sleep and I have to control my emotions.” AS

Issues impeding migrant domestic workers from taking their rest day

Actions of employers

Sixteen migrant domestic workers (15%) were subject to physical violence, threats and/or verbal abuse by their employer because they asked for a rest day:

“When I asked for a day off, my employer threatened me, [and said] if I go out, I will be dead. They beat me using a rattan, they stepped on my head. I almost fainted. My nose was broken.” Prihar

In addition, more than half the domestic workers (51%) reported that their employer or recruitment agency had confiscated personal property, including items, which they need to prove their entitlement to a rest day and/or that they have a right to work in Malaysia. The items most commonly taken from this group were passports (95%), contracts (56%) and mobile phones (39%).

The reason most frequently given by employers for not giving their migrant domestic workers a rest day was that they would run away if they were allowed a day off (28 employers mentioned this):⁶

“They don’t not trust me. They heard from other people that if you give a day off, the domestic worker will run away.” Mus

However, it is not in the interest of migrant domestic workers to leave their employer, as to do so without permission from the Immigration Department would violate their conditions of entry and leave them liable to deportation. In addition, those who run away and manage to work irregularly are at greater risk of exploitation and abuse.⁷

In reality, it is the denial of a rest day and other basic rights which usually drives migrant domestic workers to leave their employer and look for work elsewhere.

“I always woke up at 5am, cooking, cleaning and taking care of eight people in the house, including a child and grandma as well as four dogs. In the end, I ran away.” Dia

The other reasons most commonly cited by employers for refusing their migrant domestic workers a day off were that there would be no one else to perform their tasks while they were gone (22), and that they had no right to a rest day (19):

⁶ Where employers provided more than one reason, these were recorded separately.

⁷ For example, of the 18 respondents who did not have a work permit, 78% did not get any rest days and the remainder were only given one day off per month. The ILO also found that undocumented migrant domestic workers are more than twice as likely to be in forced labour than those with regular migration status and the Indonesian Ambassador to Malaysia reported in February 2022 that the Embassy had assisted 206 domestic workers who had been subject to forced labour. See: Jenna Holliday, *Op. Cit.*

“My employer said that in Malaysia they don’t have a day off regulation and only the employer can give it.” Martine

Attitudes towards domestic work and migrant workers

Prevailing social attitudes towards both domestic work and migrant workers may be part of the explanation for why many employers feel it is acceptable to compel their employees to work on their rest day.

In Malaysia, domestic workers are excluded from standard provisions in the Employment Act, 1955 and are often referred to as “helpers” or “servants” rather than “workers”. This is likely to contribute to a perception among some Malaysians that domestic workers are not formal employees.

Of the 100 employers who completed the survey, 4% said their migrant domestic workers were “not workers”, but rather “part of the household” and a further 15% described their relationship as “a less formal working arrangement” in which they supported the migrant domestic worker in return for help around the house.

More than a third of employers (36%) were also sympathetic to the view that migrant domestic workers should not get the same conditions as other workers because they “have poor work ethics and cannot be trusted”. This seems to reflect commonly held attitudes towards migrants in society (e.g. 59% of Malaysians agreed that migrants commit a high number of crimes), rather than personal experience (see below).⁸

While these perceptions persist, there will be little social pressure on either employers or the Government to ensure that migrant domestic workers do get a weekly rest day. It is therefore important that efforts are made to challenge misconceptions Malaysians have about migrant workers. For example, it would be beneficial to raise public awareness about the contribution migrant domestic workers make to the economy and the skilled nature of the tasks they perform (e.g. caring for children, the elderly and the sick).⁹

A lack of awareness of rights and insufficient legal safeguards

Nearly half the migrant domestic workers surveyed for this research (44%) did not know they were entitled to a weekly rest day when they first started working in Malaysia. For nearly two thirds of this group, it took more than two years before they realised this was the case.

The research found those with more knowledge and experience of working abroad were better able to obtain a weekly rest day. For example, of the women who did get a weekly day off, around three quarters had been in Malaysia for over 10 years and knew they were entitled to a rest day when they started working.

⁸ ILO and UN Women, *Op. Cit.*

⁹ The ILO found that domestic workers undertake tasks, which are at least at Skill Level 2 (i.e. requiring more technical skills, good transversal skills and a higher educational standard). See: Jenna Holliday, *Op. Cit.*

However, knowing your entitlements at work does not guarantee access to them. The absence of national legislation which protects migrant domestic workers' basic employment rights makes it difficult for them to seek redress when their contracts are broken. In addition, migrant domestic workers are extremely reluctant to report exploitation, as their work permit is tied to their employer and any dispute could lead to them being fired and having to return home.

Officials tend to rely on domestic workers to self-identify as victims of exploitation instead of taking a pro-active approach to ensuring that employers comply with their contractual obligations.¹⁰ As a result, few employers are investigated, let alone sanctioned, for violating the rights of migrant domestic workers.¹¹

Consequently, employers who deny migrant domestic workers a rest day are not compelled to act differently, as there is a lack of monitoring and enforcement of existing laws and an absence of social pressure which makes non-compliance unacceptable.

The cost of the migration process

The bulk of the costs of migration come from high recruitment fees, which can be charged by recruitment agencies in both Malaysia and the sending country. In theory, the amount agencies can charge is limited (e.g. the MOU between Malaysia and Indonesia states that the maximum charge a Malaysian recruitment agency can make is RM 15,000 or US\$3,150).¹² However, in practice costs often exceed this and are commonly around RM 20,000 (US\$4,200).¹³

Employers pay fees charged by both recruitment agencies and the Malaysian government. The high cost of hiring a migrant domestic worker is likely to contribute to some employers refusing them rest days, as they want to 'get their money's worth' and/or because they are worried their employees will run away after they have paid significant up-front costs to facilitate their migration to Malaysia:

"My employer said no day off because I'm taking care of the grandmother and they paid a lot to the agency. So I have to follow what my employer says." Diana

¹⁰ Provisions in the Employment Act 1955 and the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 allow Labour officers to enter premises where they suspect an offence is being committed. See: Jenna Holliday, *Op. Cit.*

¹¹ Just five prosecutions against employers took place for violations of the rights of domestic workers between 2014 and 2018. UN Special Rapporteur on Extreme Poverty and Human Rights, *Visit to Malaysia*, 6 April 2020. <https://www.ohchr.org/en/documents/country-reports/ahrc4440add1-visit-malaysia-report-special-rapporteur-extreme-poverty-and#:~:text=Summary,poverty%20is%20just%20not%20true>.

¹² To be eligible to work as a domestic worker in Malaysia, applicants must be: female, aged between 21 and 45 years old, and confirmed fit by an appointed medical centre. See: Immigration Department of Malaysia, *Foreign Domestic Helper*. <https://www.imi.gov.my/index.php/en/main-services/foreign-domestic-helper-fdh/>

¹³ The currency exchange rate used throughout the report is RM 1= US\$0.21 with rounded figures (taken on 1 December 2023).

However, most of the migration costs continue to be paid by migrant domestic workers themselves and many must take loans to do so.¹⁴ This makes it difficult for them to challenge exploitative work practices as they could lose their job and then have to return home without any means of repaying their debts or supporting their family.

Factors that could help secure migrant domestic workers a weekly rest day

Employers support the principle of a weekly rest day

Around three quarters of employers who took part in the survey valued the work performed by their migrant domestic worker (78%) and considered them dedicated to their job (83%) and effective (75%).

Employers also recognised the positive benefits of giving their migrant domestic workers a day off (e.g. 91% agreed it would increase their work performance, motivation and job satisfaction). Domestic worker participants also stressed that having a rest day would enable them to perform their tasks more efficiently and would encourage them to renew their contracts and stay with their employers:

“[...] if employers give a day off, it will impact positively not only for domestic workers, but also for employers.” Su

Consequently, there is strong support among employers for a weekly rest day with 89% agreeing they should have one and 70% specifically agreeing that migrant domestic workers should not have to do any work on their day off and should be free to leave the house if they want to.

There is also likely to be public support for this, as Malaysians generally have more positive attitudes towards migrant domestic workers than to other migrant workers (e.g. 68% support improved labour conditions for migrant domestic workers).¹⁵

Measures that could consolidate support for a weekly rest day

Nearly three quarters of employers (72%) said their support for a weekly rest day would increase if the Government passed a law to this effect.

As well as amending the Employment Act, 1955 to require employers to provide a full 24-hour weekly rest day, more needs to be done to ensure that both employers and domestic workers are aware of their rights and responsibilities.

Measures to do this could include setting up introductory workshops for employers and running orientation programmes for newly arrived domestic workers in Malaysia (as already takes place in Singapore). This should also help ensure that each party has realistic expectations of the other and lay the foundations for a positive working relationship.

¹⁴ The ILO found that the average amount paid by employers towards the migration costs was approximately two thirds of that paid by migrant domestic workers. See: Jenna Holliday, *Op. Cit.*

¹⁵ ILO and UN Women, *Op. Cit.*

“[...] If employers and workers understand each other, everyone will be happy.” Liezi

Including the right to a 24-hour weekly rest day in national legislation will make it easier for migrant domestic workers to seek legal redress, but it is crucial that the Malaysian authorities take responsibility for properly monitoring compliance. Employers who are not discharging their legal obligations must be prosecuted and properly sanctioned, including being barred from employing domestic workers in the future.

“The MoU is already signed, but it’s not implemented on the ground. Employers don’t follow the rules, but they [the Government] don’t take any action.” Yan

Almost three quarters of employers (72%) also said their support for a weekly rest day would increase if the costs of hiring a migrant domestic worker were reduced through action to stop corruption and the high fees charged by recruitment agencies.

Improved regulation of recruitment agencies and the fees they charge, combined with a reduction in the fees charged by the Malaysian government (e.g. for processing applications, providing visas, etc.), would lower the cost of hiring migrant domestic workers for employers.

This should be combined with measures to reduce the cost of migration for domestic workers and give them greater freedom to change employer, live outside their employer’s home and work on a part-time basis. This will remove some of the key issues which compel migrant domestic workers to stay with exploitative employers and make it easier for them to insist on their right to a day off.

These measures will also encourage more regular migration, reduce exploitation and make it easier for employers to find and recruit cover when their migrant domestic worker is taking a day off or on leave.¹⁶ This would further consolidate employers’ backing for a weekly rest day, as 52% of employers said they would be more supportive if alternative arrangements were made to ensure that a weekly rest day did not disrupt the household routine.

Recommendations for the Government of Malaysia

- Amend national legislation to specify that migrant domestic workers must be provided with a 24-hour weekly rest day. Additional labour protections provided to other workers in Malaysia should also be extended to domestic workers (e.g. limitations on their hours of work, paid holidays and sick leave).

¹⁶ This report found that live-out domestic workers are more likely to be able to take rest days: 74% of the 19 employers who had live-out domestic workers said these workers received a weekly day off. This is consistent with previous ILO research. See: ILO, *Research Brief: Migration cost survey among Indonesian and Filipina domestic workers in Malaysia*, October 2020. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_758614.pdf.

- Introduce a standard employment contract so that all migrant domestic workers, irrespective of their nationality, receive the most favourable terms and conditions of work.
- Improve regular labour migration opportunities for domestic workers by ensuring that: they do not pay recruitment fees and associated migration costs; they are not tied to a single employer; and they are free to choose whether they live with their employer or in their own accommodation.
- The cost of hiring a migrant domestic worker should be reduced for employers by lowering government-controlled fees (e.g. for processing applications) and through improved regulation of recruitment agencies and the fees they charge.
- Introduce an orientation programme for all newly arrived migrant domestic workers to help them adapt to life in Malaysia. The programme should ensure that they understand their rights and duties at work and how they can resolve any problems they encounter in the workplace.
- Introduce a compulsory workshop for all employers of migrant domestic workers which: stresses the formal nature of their employment relationship; details their obligations and responsibilities; and underlines that those performing domestic work have a professional vocation and are not “maids”, “servants” or “helpers”.
- Ensure migrant domestic workers’ rights are respected in practice, including by carrying out unannounced labour inspections of recruitment agencies and homes employing migrant domestic workers. All those who are not complying with the law should be prosecuted and employers who are found guilty should be prevented from hiring domestic workers in the future.
- Raise public awareness of the positive contribution that migrant domestic workers make to the national economy; the skilled nature of the tasks they perform (e.g. caring for children, the elderly and the sick); and of their rights and entitlements at work.

About the authors

This research was jointly undertaken by the Association of Nationalist Overseas Filipino Workers in Malaysia (AMMPO), Indonesian Migrant Domestic Workers Association (PERTIMIG), International Domestic Workers Federation (IDWF), Project Liber8 and Ratio:Cause.

AMMPO was established in 2014 and is a membership organisation for Filipino workers in Malaysia. It provides services to its members (e.g. counselling, capacity training and legal assistance), and undertakes policy and advocacy work to protect their rights and welfare in Malaysia. <https://tradeunion.org.my/ammpo/>

PERTIMIG is an Indonesian migrant domestic workers' organisation, which was set up in Malaysia in 2019. It organises and builds the capacity of its members and advocates for policy changes which will promote decent work and the welfare of Indonesian migrant domestic workers and their families in Malaysia. https://tradeunion.org.my/pertimig_en/

IDWF is a membership-based global organisation of domestic and household workers. It has 88 affiliates in 68 countries and serves 670,000 members. Since its inception in 2006, the IDWF has advocated internationally for all domestic and household workers to enjoy the same rights as other workers. <https://idwfed.org/about-us/>

Project Liber8 is a non-profit organisation dedicated to providing resources and opportunities, which empower young people to change narratives and take action against human trafficking, forced labour, exploitation and discrimination affecting trafficked people, migrant workers and refugees. <https://projectliber8.org>

Ratio:Cause is a creative agency focused on social impact which helps to cultivate creativity in social campaigns and corporate social responsibility programs in Asia.

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Porticus works to create a sustainable future where justice and human dignity flourish. It strives to bring about system-level change by developing programmes with its partners to explore and find proven solutions.

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