

MIGRANT WORKERS IN THE MALAYSIAN **MIGRATION** ELECTRONICS INDUSTRY: JABIL CIRCUIT AND FLEXTRONICS CASE STUDIES ON **IN A DIGITAL AGE**



Sarah Bormann, Pathma Krishnan, Monika E. Neuner



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Migration in a Digital Age

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on Jabil Circuit and Flextronics

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10247 Berlin
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Tel. +49-(0)30 - 275 82 163
Fax: +49-(0)30 - 275 96 928
Email: weed@weed-online.org
www.weed-online.org
www.pcglobal.org

Authors:

Sarah Bormann, Pathma Krishnan, Monika Neuner

English translation and editing:

Benjamin Rassbach, Seema Sanghi, Jan Latza

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Table of Contents

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1. Introduction	3
2. The Rise of the Silicon Island of the East.....	5
3. The Electronics Industry Today: High Output, Low Value	6
4. The Economic Crisis of 2008/09.....	8
5. Workforce and Employment Conditions	11
6. Trade Union Organisation	13
7. Case Studies on Flextronics and Jabil Circuit	16
7.1 Methodology	16
7.2 Company Profiles: Jabil Circuit and Flextronics	16
7.2.1 Jabil Circuit	16
7.2.2 Flextronics	17
7.3 Recruitment of Migrant Workers	17
7.4 Employment Contracts	19
7.5 Remuneration	21
7.5.1 Low Wages	21
7.5.2 Overtime Payments	22
7.5.3 Wage Deductions	22
7.5.4 Non-Payment and Delayed Salaries	22
7.6 Organisation of Labour	24
7.6.1 Working Schedule	24
7.6.2 Disciplining Measures	24
7.7 Trade Union Organisation	24
7.8 Freedom of Movement.....	26
7.9 Accommodation and Factory Transport.....	26
7.10 Health Issues.....	27
7.10.1 Health Care	27
7.10.2 Occupational Diseases	28
8. Key Findings and Concluding Remarks	29
9. Bibliography	30

Information Boxes and Interviews

Box 1: Major Foreign Electronics Companies in Malaysia	7
Box 2: "You alone are our only hope" – Interview with Yulia Sugandi, Female Migrant Worker from Sumatra, Indonesia.	8
Box 3: "Sorry is not enough" – Interview with Minar Mustina, Female Migrant Worker from Indonesia.	12
Box 4: "Only other women can talk to them about union" – Interview with Balakrishnan Nadeson, Senior Industrial Relations Officer of the Electrical Industry Workers' Union (EIWU), Malaysia.	14
Box 5: Nepalese Legal Recruitment Fee	18
Box 6: "The agent has my passport" – The Story of Abdul Begum, Male Migrant Worker from Bangladesh.....	19
Box 7: "We have not been given work" – Interview with Sunita Sherpa, Female Migrant Worker from Nepal.....	23
Box 8: Living on Majestic Heights	27

List of Abbreviations

EIWU – Electrical Industry Workers' Union

EIEU – Electronic Industry Employees Union

ICT – Information and Communication Technology

ILO – International Labour Organisation

IMF – International Metalworkers' Federation

NGO – Non Governmental Organisation

AFL-CIO – American Federation of Labor and Congress of Industrial Organizations

PCB – Printed Circuit Boards

Introduction

Malaysia is one of the ten largest exporters of Information and Communication Technology (ICT) products in the world (UNCTAD 2009, 64). The industry is fuelled by low wages, overtime work, and the rejection of trade union rights. Since industry players face difficulties hiring workers from Malaysia under these conditions, companies are increasingly turning to migrant workers from Indonesia, Bangladesh, Nepal, Vietnam, and Myanmar. Employment agencies and temporary work agencies play a key role in this process. Today, Malaysia is the main destination for migrant workers in Southeast Asia (Kaur 2008, 7f). Very few of these workers are members of Malaysian trade unions, neither in the electronics industry nor in other sectors. In general, unionism in the electronics industry is very low in the country. Until 2009 the government permitted for a large section of the industry, including the Contract Manufacturers¹, only the formation of in-house unions. After almost forty years of struggle, the government legalized the formation of an industrial trade union in the electronics – but only on a regional level.

Although trade unions gained experience organising young, Muslim women from rural areas in the 1970s and 1980s, organising contemporary migrant workers is a new challenge for them.

The following two case studies of *Flextronics* and *Jabil Circuit* illustrate the working and living conditions of migrant employees. The studies reveal systematic violations of national and international laws, including the freedom of association for employees, one of the International Labour Organisation (ILO) core labour standards. The core labour standards are recognised as fundamental human rights and are therefore universally applicable.²

The paper is divided into two sections: The introductory section contains a brief background of Malaysia's electronics industry, its working conditions and the state of trade unions. The second section focuses primarily on the extensive field research on migrant workers at the Contract Manufacturers *Flextronics* and *Jabil Circuit* producing for brand companies like *Apple*, *Hewlett Packard* and *Dell*, carried out by Pathma Krishnan from *Monitoring Sustainability of Globalisation* (MSN).

1 According to estimates around 70 to 75 percent of ICT production is currently outsourced to Contract Manufacturers. Also called Electronic Manufacturing Services firms, indicating the typical development that manufacturing is increasingly organized as a service industry (Hürtgen et al. 2009, 56). Contract Manufacturers design, test, manufacture, distribute and provide return and repair services for electronic components, but also assemble whole products for the brand-name owners.

2 The freedom of association principle is based on the ILO Convention No. 87 (which is not ratified by Malaysia) and the ILO Convention No. 98 (ratified by Malaysia) (ILOLEX 2006). The right of migrant workers to organise in trade unions is also fixed in the Migration for Employment Convention (No.97, Article 6), which is ratified by Malaysia.



Migrant workers waiting for the bus



Migrant workers coming home from work

The Rise of the Silicon Island of the East

.....

Since the 1970s the electronics industry has been a powerful engine for economic growth in Malaysia, a former British colony. It was the key factor in the country's transformation from an agricultural to an industrial society (Gallagher and Zarsky 2007, 109). The Malaysian government promoted the electronics-based industrialisation in order to attract large numbers of native Malays into the urban wage economy. This group have been under-represented in the urban working class as a result of the racial division of labour by the colonial British policy between the three groups of Malays, Malaysian Indians and Malaysian Chinese. Therefore, the government sought to fortify its power by improving the socio-economic status of its constituency (Bhopal 1997, 573; Bhopal and Rowley 2002, 1172).

The main instrument used to attract investments by foreign companies such as *Intel*, *AMD*, *HP*, and *Hitachi* was the creation of tax-free Export Processing Zones. The first of these was the *Bayan Lepas Free Trade Zone* on Penang Island in 1972. It is still the most important location in the electronics industry and is also known as the *Silicon Island of the East* (Hürtgen et al. 2009, 129; Rasiah 2009, 124).

In the 1980s and 1990s, this model of industrialisation succeeded in establishing Malaysia as the world's largest exporter of microchips. The production process was transformed to become 'cleaner' and more technology was used in place

of manual work (Interview Periera 2010). Nevertheless, the sector continued to focus on assembly instead of on the production of key technological components. In the 1990s, the Malaysian government initiated a number of measures encouraging technological upgrading. While this led to some innovations and to the development of more complex and capital-intensive production, these initiatives did not keep abreast with the state of the industry in Singapore or Taiwan (Rasiah 2009, 125f). This caused an elevated demand for cheap labour, which was addressed in the 1990s through the recruitment of migrants. The outcome of this strategy is reflected in diminished wage increases of only 2.6 percent per annum from 2000 to 2006, compared to increases of 8.4 percent per annum between 1990 to 1997 (Rasiah 2009, 126).

The crisis of the New Economy in 2001 also impacted on the Malaysian ICT industry. In Penang alone, around 15 percent of the workforce was dismissed, and the production of PC motherboards was almost completely relocated to China. The sector stabilised and recovered relatively quickly, but the electronics industry experienced a slow down in the following years (Hürtgen et al. 2009, 135). While Malaysia's share in global exports of electronics increased from 2.7 percent in 1990 to 5.4 percent in 2000, it fell back to 4.21 percent in 2007 (UNCTAD 2009, 64).

3

The Electronics Industry Today: High Output, Low Value



Entrance of the Free Trade Zone Baya Lepas

Today, the electronics industry is the leading division in Malaysia's manufacturing sector, contributing to nearly one third of the country's total manufacturing output (29.3 percent) and to more than half of its exports (55.9 percent) (MIDA 2010). Only the small island of Malta and the city of Hong Kong are more dependent on ICT as a percentage of total exports (UNCTAD 2009, 67). From 1970 to today the industry has grown from a handful of companies with less than 600 workers to more than 900 companies (MIDA 2007a, 1) employing 296,870 people (MIDA 2010). The industry's main focus is the assembly and testing of semiconductor devices, including memory chips, microprocessors, and integrated circuits. The semiconductor industry accounts for more than 40 percent of the exports of the entire electronics industry. Other important subsectors are computers and computer peripherals such as printers and monitors, telecommunication

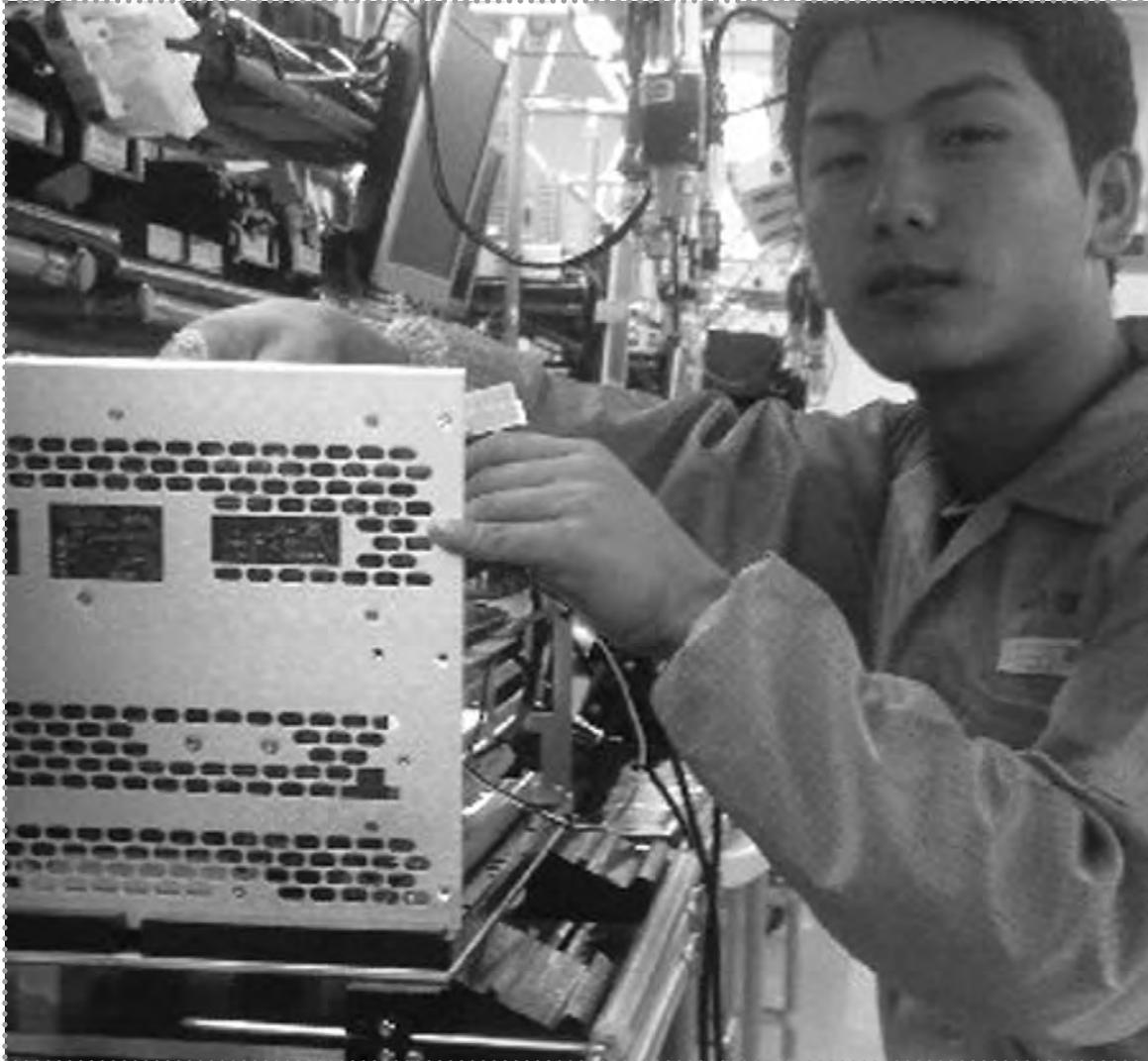
equipment, and consumer electronics (MIDA 2007a, 3ff). In the Penang region, approximately 100,000 workers are employed in the electronics sector, and there are about 200,000 employees working in other regions (Interview Periera 2010). The oldest locations are the cities of Petaling, Yaya, and Shah Alam in the area surrounding Kuala Lumpur. The southerly state of Johor profited from industrial relocations from adjoining Singapore (UNCTAD 2003, 40ff; Hürtgen et al. 2009, 129f). A smaller amount of production sites are situated in largely rural East Malaysia, which is known for its strong Islamic influences (Interview Periera 2010).

Deficiencies in technological upgrading still exist and only a few companies, such as *Motorola*, have engaged in research, design, and development projects (MIDA 2007a, 4). The country remains highly dependent on multinational companies (see Box 1) rather than local firms. For example, in the computers and computer peripherals subsector, a few local companies produce Malaysian brands for the domestic and export markets (MIDA 2007a, 5f).³ However, the majority of local businesses are small and medium-sized, low-tier suppliers producing either metal stamping or simple components, such as plastic parts (MIDA 2007a, 9; Phillips and Henderson 2009, 43f; Interview Nadeson 2010). Between January and August of 2010, foreign investments contributed to 88 percent, while domestic investments contributed to only 12 percent (MIDA 2010b).

Thus, the integration of Malaysia's electronics industry into global production networks is dependent on low-cost, labour-intensive production (Phillips and Henderson 2009, 43). As Raja Rasiah, an expert on the Malaysian electronic sector stated, the growth has been in output and not in value added.⁴

3 *Nascom, FTEC System, Gerak Mobile, Perbadanan Komputer Nasional Berhad, MIMOS and I-Berhad.*

4 Interview conducted in August 2010 in Kuala Lumpur.



Inside a
Contract
Manufacturer

Box 1: Major Foreign Electronics Companies in Malaysia

USA: Dell, Western Digital, Intel, Motorola, Seagate, Texas Instruments, Freescale Semiconductor, Agilent Technologies, AMD, Linear Semiconductor

Asia Pacific: Fujitsu, Sony, BenQ, NEC, Panasonic, Hitachi, Toshiba, Sanyo, Alps, Brother, Canon, JVC, Konica-Minolta, Rohm, Samsung, Nichia, Funai, TDK, Sharp, Mitsubishi, Fuji Electric

Europe: Bosch, Infineon, Osram, Siemens, Alcatel, Philips, STMicroelectronics, Marconi

Source: MIDA (2007b, 5)

4 The Economic Crisis of 2008/09

The global economic crisis of 2008 and 2009 dealt a severe blow to the export-oriented Malaysian electronics industry. At its nadir in the first quarter of 2009, exports of the electronics industry declined by over 40 percent (Abidin and Rasiah 2009, 12). Companies reacted with cost-cutting measures: limiting new recruitment, introducing a shorter workweek, cutting overtime pay, imposing commuting fees for workers, and shutting down operations during the holiday seasons of December 2008 and January 2009.⁵ Agency workers were temporarily shifted to other companies in the service sector and elsewhere, but dismissals were also common: *Dell* announced the dismissal of 700 workers in its Penang computer plant (Journal Staff and Wire Report 2009); *Flextronics* planned to reduce its workforce in Penang by five percent and shut down an assembly plant in Shah Alam with nearly 1,400 employees (Evertiq 2009a and Business Times 2009); and *Western Digital* announced the dismissal of 1,500 workers (Keong 2009).

According to government statistics from October 2008 to June 2009 a total of 30,000 workers lost their jobs in Malaysia – around one third of them migrants (Rajasekaran 2009). In the electronics sector an unknown number of migrants were dismissed and sent back to their home countries.

Despite these dismissals, the crisis did not result in waves of relocations. The semiconductor industry had already recovered by 2009 (Abidin and Rasiah 2009, 12) and the entire sector stabilized in 2010, though the economy remained at a level prior to 2007 (Interview Xavier 2010; Interview Nadeson 2010). Despite contending with attractive manufacturing sites for labour-intensive production in China, Vietnam and the Philippines, Malaysia remains competitive. One reason for Malaysia's edge is the China-plus-one strategy, whereby many companies retain a second manufacturing location outside China (Hürtgen et al. 2009, 136). Malaysia is often used as the plus-one as it provides an ideal alternative owing to its political stability, strong infrastructure and high number of English speakers. Furthermore, although the average wage in Malaysia is still around twice that of China's, the wage differential is decreasing. Wages are kept low in Malaysia through recruitment of migrants and agency workers as well as through limitations on trade union activism (Interview Nadeson 2010; Interview Xavier 2010). In China, the minimum wages are rising, and companies such as *Foxconn* are now forced to raise wages close to what they are in Malaysia (SACOM 2010).

5 Other operation shutdowns were announced by *Jabil Circuit*, *Agilent Technologies*, *ASE*, *Fairchild Semiconductor* (Malaysia Today 2008).

Box 2: "You alone are our only hope"

Interview with Yulia Sugandi, Female Migrant Worker from Sumatra, Indonesia.

Where do you come from?

I am 19 years old and come from Lampung on the Island Sumatra. I arrived in Penang in August of 2008. I grew up in Jakarta, but my mother's factory was closed, so we had to move to the house of my grandmother in the countryside. If she wants to get rid of us one day, we won't have a place of our own. We have no land, no rice fields, nothing.

Why did you leave Indonesia?

Actually, my mother ordered me to come here. While in Indonesia, I worked at a supermarket. One day my mother said to me:

“Yulia, you’re going to leave for Malaysia.”

“What is there?”, I asked her.

“They have good jobs and a salary of RM 700 (€ 170).”

“And who is going to take me there?”

“Someone will come here. We will go to Medan. There, we will meet someone who is looking for people to come with him.”

So we drove to Medan. They took care of all of the documents and everything. We paid 500,000 Indonesian Rupiah (€ 43).

Did you really want to go?

To be honest, I didn’t want to go to Malaysia. I had heard stories that Indonesians who come to Malaysia are sold. They become prostitutes. So I was afraid. It had been on TV as well. Then I said to my mother: “Mother, I don’t want to go. Do you really want me to become a prostitute in Malaysia?”. My mother said: “You will be working in a factory with a company. Don’t be afraid. You alone are our only hope.” I could see the situation of my parents and that they were no longer capable. After that, I told my mother: “Yes, mother, I want to go.” I wanted to be able to build a house for my parents and then pay for my little brother’s education.

Could you fulfill the expectations of your parents?

When I realized how low my salary was and that I couldn’t afford these things, it made me very sad. I would like to make my parents happy. Only after that I would like to marry. A salary of RM 700 (€ 170) was the dream of my parents. If you convert it into Indonesian Rupiah, that is really a lot. That’s why I was sent here. Yet, when I started working at the factory, my basic salary was just 481 RM (€ 117). Our first salary was around RM 500 (€ 122), but the agent kept RM 400 (€ 97), so we received only RM 100 (€ 24). All of us were crying, so the agent came and lent us another RM 100. During the first 13 months the Malaysian agency cut off RM 400 per month to pay off our recruitment debts. A basic fee of RM 100 was deducted once.

Do you like your work?

At the first factory the work was ok. In the beginning I worked eight hours per day, but with eight hours my basic salary was too low. That’s why I asked my boss to help me, and he gave me overtime work. When my group of twelve workers was brought to the new factory, we were really shocked. We know that we are subcontractors and that we can therefore be placed into another workplace. But our agent informed us only two days in advance. The new factory is really bad. The toilets are really crappy! And even the cantina...terrible! We had to do work we had never done before, but now we’ve learnt it. I’m in packing now. I’ve been working here for three years, but I send all my money home, so there is nothing left for myself. If I had the power to change something, I would stop the agents from taking so much of our money away, and I would make sure we get the promised wage of RM 700.

Why did you join the trade union?

At home, neither I nor any of my colleagues had been in touch with trade unions. Here a Malaysian colleague told me that the union also wants to help us Indonesian workers. If there is any problem, she said they will help. I went to a trade union meeting and joined the union. When I told my Indonesian colleagues about it, they didn’t believe me. If something happens and the union truly helps us, I bet my Indonesian colleagues will want to join as well.

Source: Interview August 2010, name changed for privacy.



Shift change

Workforce and Employment Conditions

From its inception, the electronics sector has attracted primarily female operators. In a society with a very strong gendered division of labour, the work on the assembly line, considered repetitive, tedious and poorly paid, is often considered suitable work for women – daughters and wives contributing to the male's income for the family (Rasiah 2010, 302). Furthermore, management deliberately seeks young women because of their apparent possession of greater dexterity than men (Interview Nadeson 2010). This trend continues today: Of the nearly 300,000 employees in the sector, 70 to 80 percent are women (Interview Nadeson 2010; Interview Xavier 2010). In Penang an estimated 80 percent of the domestic workforce commutes from rural areas (Interview Nadeson 2010). Usually, they are recruited by bus drivers and transport companies. Frequently, they cover distances of up to 120 kilometres one way: "Every day they get up at 3:00 or 3:30 in the morning. By 4:30 they are on the bus, which brings them to work. They start at 6:30 and work for twelve hours, leaving the factory at 6:30 and returning home at about nine o'clock. The basic salary, excluding allowances and bonuses, is RM 550 (€ 134)⁶ gross." (Interview Xavier 2010) The government has set the poverty line at RM 720 (€ 175)⁷ and the cost of living per household was estimated in 2004 on RM 1,750 (€ 426) (Devaraj 2004).

A female local worker living in Penang calculated her monthly expenses as follows: RM 180 (€ 44) per month was paid to own a motorbike, as transportation to the company was not provided. Rental fees for a shared room with colleagues on Penang island are RM 350 (€ 85). Thus, from a maximum of RM 900 (€ 219) income, including overtime payment, only RM 400 (€ 97) remain for financing herself and her daughter (Interview worker 2010). Like most operators she has few opportunities to build skills or advance her career. The work is extremely exhausting due to

standing for long hours and eye problems are very common. These conditions result in a high annual employee turnover rate of at least 30 to 40 percent (Hürtgen et al. 2009, 203) and a lack of local workers (Interview Xavier 2010; Interview Nadeson 2010).

In the early 1990s, Contract Manufacturers and other manufacturers heavily lobbied for the government to open up the market to migrants (Phillips and Henderson 2009, 53). Today, the share of migrant employees in different electronics companies varies between 20 and 60 percent (Interview Xavier 2010). Indonesians constitute the largest group of migrant workers in both the electronics sector (Interview Periera 2010) and the overall migrant workforce – more than 65 percent in 2004. Other electronics employees come from Nepal, Bangladesh, Burma, Philippines, Vietnam, Cambodia, and India.⁸

In the beginning, migrants were initially recruited by labour brokers, but held contracts directly with the electronics manufacturers. This changed with the new century when employment agencies began recruiting and also hiring migrants (Interview Periera 2010). The agencies are usually small or medium-sized national companies providing several hundred to several thousand employees. The employer pays an annual tax of RM 1,200 (€ 292) per migrant worker to the government. The so-called 'tax levy' is a policy instrument that officially controls the migrant labour force. It also provides an important tax income for the state (Ford 2010, 186). Today agency work is becoming more common among local workers as well. It is apparent that Contract Manufacturers utilize migrant workers and workers contracted by agencies in order to have flexibility in times of market volatility (Phillips and Henderson 2009, 54). In particular, the use of agency work reduces labour costs as the workers are excluded from most of the bonuses and allowances.

6 All changes from RM to € base on the exchange rate of 0,243 RM / € on July 15, 2010.

7 Non Governmental Organisations (NGOs) and academics criticise this calculation as too low (Nyee and Bhattacharjee 2008).

8 In 2006 to 2007 roughly two million registered migrant workers lived in Malaysia. The circulating figures for undocumented workers varied between one and two million. Therefore, as a minimum, 25 percent of the overall workforce consisted of migrants (Ford 2010, 184f; Kaur 2008, 7f).

Box 3: “Sorry is not enough”

Interview with Minar Mustina, Female Migrant Worker from Sumatra, Indonesia.

What did you do before you came to Malaysia and why did you come?

I worked in Jakarta at *Kentucky Fried Chicken* and *Dunkin’ Donuts*, but because of my grandmother’s illness I was called back home and took care of her. After my grandmother had passed away, I came to Penang in October 2005. My thoughts were filled with the hope that I could support my parents financially. Upon arrival, I learned that my salary was not on par with my output, or the energy my work required. We lodged a complaint because our salary was so low. A colleague phoned her father in Indonesia, who had contacts to the department of the employment agency. This way we managed to reach an agreeable solution. However, the main problem remained: We work as agency workers. If the companies directly employed us, we could earn as much as Malaysian employees, but because we are agency workers we don’t receive annual bonuses or allowances. In general, we are excluded from many privileges. I feel dejected, and it is painful.

What is your job like?

I worked at many different stations, for instance I performed manual soldering and integrated circuits tests. I am proud that I can do so many different jobs. In the past, I usually had to stand while working, but right now I am working in a new line soldering tiny parts under a microscope, so I have to sit. Working under a microscope is a very aggravating task for our eyes.

What are the main problems you encounter?

The main problem is that the employment agents don’t behave responsibly towards us, the contractors. That was my experience when I underwent an operation. I had a small growth in my lungs. I think it was caused by exposure at work, but I could not prove it. I had to go to the hospital for an operation. I asked the agent who was responsible to pay the hospital expenses, but he was slow to respond. I was in pain, yet he did not act. Later he came and apologized. He covered 50 percent of the costs. The other 50 percent was deducted from my salary. I thought: Sorry is not enough. You should have acted responsibly immediately. When I am healthy, my agent makes a lot of money through my work. When I fell ill, he brushed me aside.

Source: Interview August 2010.

Trade Union Organisation

Malaysia's restrictive labour legislation is a relic of Britain's colonial regime. It heavily limits collective bargaining and the right to strike. The legislation subjects the creation of new unions to strict state controls, for example, unions are forced to register at the *Ministry of Human Resources*. If registration is refused or delayed, there is no opportunity to lodge an appeal (ITUC 2010). From the beginning the government used this mechanism to prevent the formation of unions in the electronics industry. To justify this, it claimed that it was in the national interest to maintain this pioneering industry, which would otherwise be threatened by trade unions pushing for increased wages leading to companies relocating (Bhopal and Rowley 2002, 1173).

In 1973, when the *Electrical Industry Workers' Union* (EIWU) attempted to organise workers in the emergent electronics sector, the government banned it. The basis for this was the internationally unique distinction between an 'electrical sector' and an 'electronics sector'. While the electrical sector encompassed finished products such as televisions and radios, the electronics sector constitutes unfinished products – components like printed circuit boards (PCBs) and motherboards. However, in many cases no clear distinction can be made, which is something that many companies take advantage of. For example, after the takeover of a *Flextronics* plant by *Ericson* the new management challenged the legitimacy of the EIWU representation by citing this distinction (Hürtgen et al. 2009, 213f).⁹ Due to further trade union formation efforts, protests, strikes in Export Processing Zones and increasing international publicity in the 1980s¹⁰, the government changed its policy to allow unions for the whole electronics sector. However, after heavy

lobbying by multinational companies, the government limited trade union formation to in-house only (Bhopal and Rowley 2002, 1174f). Where these in-house unions were formed successfully, one of the biggest challenges for the trade union was to organise young female workers: "Young women were reluctant to join the union because they were afraid that union engagement would lead to sanctions by the management. We tried to adapt to the women's needs and made house-to-house visits, arranged meetings in the afternoon and offered them training courses. That's how we managed to [...] attract women into the trade unions at that time" (Interview Periera 2010).

Nevertheless, only a few in-house unions were formed. In some cases companies pre-empted independent trade unions by founding their own in-house unions loyal to the management; others, such as the US chip manufacturer *Harris*, directly hindered union-forming efforts (IMF 1991).¹¹

In May 2009 after strong lobbying by trade unions and labour rights organisations, the government authorized the formation of industrial trade unions in the electronics industry at a regional level – the *Electronic Industry Employees Union* (EIEU). Due to his experience in the long-lasting struggle for an in-house union at *Harris*, Bruno Periera – the representative of the newly formed EIEU in the Western region – stressed the importance of the hard-won industrial trade unions. According to him, the EIEU has a decisive asset: "Even if the company changes its registration, the industrial union can still represent the workers" (Periera, according to Zubin 2010). As of August 2010, three of the four regional trade unions were

9 One representative of the newly founded Electronic Industry Employees Union (EIEU) illustrated the problem: "You have all kind of the PCBs. Workers who produce the empty PCBs cannot join our union. It depends on the material of the PCB. If it's plastic, then you have to go to a chemical union. Only if there is a component in the PCB does it come within the scope of our union."

10 For instance, in 1988, the *American Federation of Labor and Congress of Industrial Organizations* (AFL-CIO) petitioned the US government to investigate workers' rights and human rights in Malaysia. Between 1989 and 1993, the *Malaysian Trade Union Conference* (MTUC) raised a campaign with the ILO and the *International Metalworkers' Federation* (IMF) to highlight the plight of the electronics workers (Bhopal and Rowley 2002, 1175).

11 Another case is *Hitachi* in the 1990s: About 1,100 *Hitachi* electronics workers initiated strike actions when the state rejected their membership to the EIWU. All workers were dismissed.

registered and the Western union held a general meeting and had a complete representative council (Interview Periera 2010). The main challenge now is organising more members, for example in the Penang region, where Contract Manufacturers are entirely without trade unions as of August 2010 (Interview Xavier 2010).

The majority of workers, both migrant and local, are from rural areas. Therefore, when they enter the electronics workforce, it is usually their first contact with trade unions. A new female member of the EIEU said: “My Malaysian roommate works as an organizer and now I also joined the union. Only after the set-up a union in my company I could leave it with a happy heart. But my colleagues are afraid. They told me, they will support me up from behind for now and if there will be improvements, they will join the union. At the moment we have just two members” (Interview worker 2010). It appears that most migrants are intentionally misinformed by agents in their home countries that they can not become members in Malaysian trade unions (for further

detail see Section 7.7). Yulia Sugandi, who learnt about the union from her Malaysian co-worker and roommate, is a rare case (see Box 2) because there is usually no communication between local and foreign workers (Interview Periera 2010).

Reaching out to migrants and gaining their confidence requires contact persons that are themselves migrants (see Box 4; Interview Periera 2010). Among the Indonesian workers, the biggest community of migrant workers in the electronics sector, quite a few senior workers have married locals and settled down in Malaysia. The trade unionist Bruno Periera said: “They [the senior workers] give advice to young Indonesian labour migrants. They act like a big Indonesian Mama. We approach these senior Indonesian workers and they are more than willing to help because they feel that trade unions are the only forum to protect the workers. So far they help us on a purely voluntary basis because we have no funds. Only in their spare time they can go and talk to the young Indonesian migrant workers. That’s why the process is rather slow.”

Box 4: “Only other women can talk to them about union”

Interview with Balakrishnan Nadeson, Senior Industrial Relations Officer of the Electrical Industry Workers’ Union (EIWU), Malaysia.

How many members does the EIWU have?

We had about 28,000. Now we have about 17,000. About eighty percent are women, and less than three percent are foreigners.

What are the main challenges to organising workers in this sector?

You have to know the culture and the religion. Thirty years ago I never saw a female Muslim wearing a scarf, but this changed with Islamization. Nowadays, many women stay away from men, so only other women can talk to them about union and labour rights. Moreover, Malaysia is a very paternalistic society. There is a great degree of male dominance over women, which begins at home and continues at the factories where female workers are dominated by the male supervisors. Women are not supposed to lead, but expected to follow. That’s why they are reluctant to stand up for their rights. This makes it difficult to involve them in union organising.

Does a shortage of local labour exist?

In the current system there is definitely a shortage of local labour. Nevertheless, in Penang we have an unemployment rate of around four percent. Locals are available, but the question is what are the companies offering?

What are the difficulties of organising migrants as union members?

We need to reach more than 50 percent membership within a company in order to bargain with the company. This makes it difficult if 50 percent of



the workers are migrants. For instance, we have organised *Panasonic*, *Sanyo*, *Sony* and now *Bosch*. I think that the majority of the workers in these companies are locals. Migrants are difficult to organise. First, because of language barriers. Second, like locals, most of them are from rural areas. In Indonesia there may be independent progressive unions and labour groups, but if the workers come from rural areas, they come with a very minimal understanding of labour rights or none at all. Third, they have the mentality of being here for only two or three years – why should they get involved in a trade union?

How did you organise your foreign membership?

Local workers have played a crucial role in talking to the migrant workers. They tell them: “Why don’t you join the union?” That’s one way. The other way is to contact them through the church communities. Once we’ve established a union in a company, conditions of employment are the same for all, both foreigners and locals.

What was your experience organising the German company *Robert Bosch*?

When we first stepped in, in the 1980s, there were a lot of fights. We were strong, but we failed. Now *Robert Bosch* is divided into three entities: *R. Bosch Power Tools* and *R. Bosch Malaysia* (Car Multimedia Division) and *Blaupunkt*.¹² It is more difficult to organise them separately. With the support of the US trade union AFL-CIO, we were able to recruit two ladies and three men as organisers. They went from door to door contacting the people, talking to the workers in their homes. After eight months, in November 2009, we managed to get a majority of 60 percent at *Robert Bosch Power Tools*. However, the company disputed our majority and did not recognize us as a competent union. The fact that *Bosch* had signed an *International Framework Agreement*¹³ was not sufficient by itself. The Malaysian management of *Bosch* changed its anti-union behaviour only when our German brothers from the *IG Metall* and from the *Central Works Councils* stepped in and approached them. Now, after secret balloting in November 2010, the management will have to recognise EIWU as we have garnered more than sixty percent majority. Soon we can begin to bargain for our first collective labour agreement at *R. Bosch Malaysia*.

Many companies announce free jobs for female local operators

12 *Blaupunkt* was a 100 percent subsidiary of the *Bosch* group. In 2008 a part of *Blaupunkt* was taken over by *Aurelius* and the bigger business unit *Car Multimedia* stayed inside *Bosch*.

13 The *International Framework Agreement* (IFA) was signed by *Bosch* in 2004 (Holdcroft 2006).

7

Case Studies on Flextronics and Jabil Circuit

This report contains case studies examining migrant workers' conditions in two US-owned Contract Manufacturer companies: *Jabil Circuit* (hereafter *Jabil*) in Penang and *Flextronics* in both Penang and Shah Alam in Selangor. Both companies are among the top five electronic Contract Manufacturers in the global market (Evertiq 2010a). The companies produce PCBs, routers and switchers, computer appliances, iPhone displays, and other components for well-known companies like *Apple*, *HP*, *Cisco*, and *Dell*. They were selected for analysis because of their economic significance in the Malaysian ICT industry.

The main findings of the study are: All interviewees paid high recruitment fees to employment agencies in the sending countries (Section 7.3). Working contracts were arranged via employment agencies and included several restrictions (Section 7.4). Remuneration was deficient due to low wages, inadequate payment for overtime hours, delayed payments and non-payment of salaries, and wage deductions (Section 7.5). Migrants were faced with long working hours and severe disciplinary measures (Section 7.6). Trade union activities were forbidden in migrants' contracts (Section 7.7). Passports were seized by employment agencies (Section 7.8). Workers' rights were further violated by substandard living conditions (Section 7.9), work-related health issues, and pregnancy tests mandated by law (Section 7.10).

7.1 Methodology

46 interviews were conducted with migrant workers. Due to similarities observed in the working conditions at the two companies, the interviews and findings from *Jabil* and *Flextronics* are summarised together.

The migrant workers came from Nepal, Bangladesh, Indonesia, Cambodia, and Myanmar. The interviews were performed in July and August of 2010. 26 of the interviewees were *Jabil* workers in Penang and 20 were *Flextronics* workers in both Penang and in Shah Alam. Most of the interviewees were operators working on production lines and assembling different components such as PCBs. The age of the workers ranged from 19 to

32. 15 were female and 31 were male. This gender ratio does not reflect the high proportion of migrant workers that are female in both companies – about 80 to 90 percent. The interviewees had been employed in their respective factories for four months to three years.

Interviews were performed using a questionnaire and were held either in the apartments of the workers or on the street; a few interviews were made on the phone. Most of the interviews were conducted in the language of the workers, though some were completed in English due to language constraints. The outcomes of the interviews were verified by various trade union representatives and church-based social workers. The senior management of both companies did not respond to interview requests and were also not willing to comment on the outcomes of the interviews.

7.2 Company Profiles: Jabil Circuit and Flextronics

This section provides a short introduction about the production sites of *Jabil Circuit* and *Flextronics* in Malaysia and how they were impacted by the last economic crisis.

7.2.1 Jabil Circuit

Jabil Circuit is a US-owned Contract Manufacturer that opened its first factory on Malaysia's island of Penang in 1995, thereby entering the Asia-Pacific market. The site in Penang is *Jabil's* second international location (Jabil website 2010). Today, *Jabil* runs two other facilities in the *Bayan Lepas Free Trade Zone* in Penang. As of August 2010, there are approximately 7,000 local and migrant workers assembling PCBs and manufacturing computer appliances, routers and switchers.¹⁴ *Jabil* provides warranty and repair services in its larger facility as part of the aftermarket business (US SEC 2010, 7 and 32f; Goliath website 2010). According to the workers, customers of *Jabil* Penang include *Cisco*,

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¹⁴ The figure of 7,000 workers in August 2010 is based on worker interviews and trade union information. According to Evertiq (2009b) in March 2009 about 6,000 workers were employed at *Jabil* Penang.

Hewlett Packard and *Agilent Technologies*.¹⁵ More than 50 percent of *Jabil* workers are migrants and women form approximately 90 percent of the migrant workforce. The percentage of women in the total *Jabil* workforce is only slightly lower.¹⁶

In 2009, *Jabil's* external net revenue for Malaysia was US\$ 814,425, significantly lower than in the four preceding years, as *Jabil* Malaysia was hit by the global economic crisis. As part of its cost-cutting measures, in May 2009 *Jabil* offered almost 200 of its employees voluntary redundancy packages and also reduced working hours for outsourced foreign workers (Evertiq 2009b). However, *Jabil* recovered very quickly, such that in 2010 its external net revenue increased to US\$ 1,164,255. This remains *Jabil's* highest external net revenue for Malaysia ever since its market entry in 1995.¹⁷

7.2.2 Flextronics

Flextronics is a comparable US-owned electronics Contract Manufacturer based in Singapore. It opened its first Malaysian factory in Johor in 1991 (US SEC 1996). As of November 2010, *Flextronics* employs about 15,000 workers at their three company sites in Penang, Selangor, and Johor (Evertiq 2010b). In 2010 Malaysia accounted for about ten percent of *Flextronics* net sales bringing it into fourth place after China, Mexico and the United States (Flextronics 2010, 53).

Flextronics owns two facilities in Penang with approximately 7,000 workers on the island of Penang, as well as on the mainland, where according to trade union information, PCBs are assembled. *Flextronics* Penang produces the worlds' fastest super computer, which is shipped to customers within the banking sector and universities (Evertiq 2010c). According to worker interviews, one of the plants is reserved exclusively for *Cisco*, while the other plant's customers include *IBM*, *Hewlett-Packard*, *Dell* and *Motorola* (Evertiq 2010c). Workers stated that about 50 percent of the employees are migrant workers and 80 to 90 percent are women. In March 2009, *Flextronics's* Penang facility cut working hours and planned to reduce its workforce by around five percent (Ever-

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15 *Agilent Technologies* was outsourced from *Hewlett Packard* (HP) in 1999 and is still producing for the US brand company HP (SEC Info 2010).

16 These figures come from worker interviews of July and August 2010.

17 *Jabil's* fiscal years always end on August 31st. The available data only goes back until the year 2003, but the assumption is justified that net revenue in all preceding years did not reach the peak of year 2010, since the net revenue reached in 2003 only US\$ 569,448, i.e. only half of the sum in 2010. See the company reports: US SEC (2010, 110), *Jabil* (2007, 137), *Jabil Circuit* (2005, 106).

tiq 2009a). However, in March 2010, *Flextronics* announced that it would open an additional 304 km² Clean Tech supersite for medical manufacturing services at its facility in Port of Tanjung Pelepas (Flextronics website 2010a).

In 2009, one of *Flextronics's* plants in the city of Shah Alam in Central Malaysia was shut down.¹⁸ The other *Flextronics* plant in Shah Alam changed its name to *Vista Point Technology* in 2008. It remains a business division of *Flextronics* International, providing optomechanics solutions for mobile imaging, consumer devices and gaming (Flextronics website 2010b; Vista Point Technologies website 2010). Therefore, it is subsumed in this case study as the *Flextronics* plant Shah Alam. Workers stated that iPhone displays for *Apple* are produced here. As of August 2010, of the 2,400 workers located at the *Flextronics* plant in Shah Alam, 1,700 were migrants and over 90 percent were female.

7.3 Recruitment of Migrant Workers

One major finding from the examination of recruitment practices of employment agencies in the countries of origin is that all interviewed migrant workers paid illegally high recruitment fees. Many of them were given false promises as well. Workers stated that once they paid the fee, they were under pressure to repay their families' debts, and therefore were forced to submit to violations of their human and labour rights.

The majority of the young workers were under the age of 30. They came from rural areas in Bangladesh, Nepal, Cambodia, Myanmar and Indonesia, where income and work opportunities are very limited. Their principle motivation to work in the Malaysian ICT industry was a desire to support their families' basic needs, such as medical costs, or their siblings' educational pursuits. Further common motivations included the intent to save sufficient money to start a small business upon return. A Nepali worker stated: "My sister is studying computer engineering in India. I help her pay for her university fees. After working here for three years, I would like to study myself."¹⁹ Most of the workers learned about the employment agents through newspaper ads or friends, or agents contacted them directly. In general, these employment agencies are small subsidiaries cooperating with larger Malaysian employment agencies that employ the workers for the manufacturers (see Section 5). Several interviewees reported that the agents promised them direct contracts with nota-

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18 According to the information of a former worker the facility focused on mobile phones, primarily for *Sony Ericsson*.

19 All interviews were conducted in July and August 2010. See section 7.1 on Methodology.

ble US companies. One Nepali working for *Jabil* said: “I read an advertisement in the local newspaper. At the information meeting arranged by the employment agency, they didn’t tell us exactly what kind of work we would be doing, but they showed us pictures of factories with good working conditions, where workers were sitting and packaging computers. So I looked forward to a good and manageable work.”

The agents arranged job placements in Malaysia, airplane tickets, requisite medical examinations and all official documentation. All interviewees were contracted in Malaysia by an agency and did not receive a direct contract with a manufacturer (see Section on Employment Contracts 7.4). Workers paid a fee for these services to the employment agencies in their home countries. These fees differed considerably depending on the country of origin: Cambodians and migrants from Myanmar paid the lowest sums, between € 628 and € 704; Nepalese workers paid an amount between € 1,257 and € 1,509, and Bangladesh workers paid approximately € 2,572.

In general, recruitment fees are legal, however the amount paid by the interviewees exceeded the limits imposed in official charts legislated by all of the migrant countries in question. For example, the official Nepalese recruitment fee table indicated that Nepalese workers paid almost double the admissible fee. Furthermore, interviewees indicated that they did not receive any language training as required in the official table (see Box 5).

In order to meet the high recruitment fees, migrant workers and their families had to borrow money.

Many sold their land or farm animals, mortgaged land to the bank, or borrowed money either privately from moneylenders or from financial institutions. According to interviewees, interest rates ranged from three to seven percent. Before leaving for Malaysia many interviewees planned to pay back their debts within a year based on the incomes promised by the employment agents (see Section 7.5 on remuneration).

Once the workers had paid the recruitment fees and left their villages for Malaysia, they were faced with several disappointments. One male worker who shared a small congested room with other Nepali workers travelling to Malaysia was shocked about the conditions they were subjected to waiting for the flight: “For the three days we waited in Kathmandu they gave us little food and water”, he commented. While waiting for departure at the airport, workers had to sign contracts with Malaysian employment agencies. A young female worker described her feelings when she and her colleagues, now working for *Jabil* and *Flextronics* in Penang, received their contracts at the airport: “We all wanted direct contracts as promised, but since we were already at the airport, we felt we had no choice but to accept and to sign the contracts with the employment agency.” Several interviewees revealed that their group had to wait for more than one day upon arrival at the airport in Kuala Lumpur, Malaysia. Abdul Begum, a Bangladeshi migrant working for *Flextronics* said he had to wait in the airport for two days till the employment agent arrived (see Box 7).

Box 5: Nepalese Legal Recruitment Fee²⁰

Passport Application	NPR 5,000	€ 52 ²¹
Visa Application	NPR 1,800	€ 18.70
Medical	NPR 2,000	€ 20.80
Government tax	NPR 5,000	€ 52
Language Training	NPR 1,500	€ 15.60
Airport Fees	NPR 1,130	€ 11.75
Air Ticket	NPR 30,000	€ 312
Legal Service	NPR 5,300	€ 55.12
Placement Fee (Malaysia)	NPR 5,300	€ 55.12
TOTAL	NPR 57,030	€ 593.09

20 This Nepalese recruitment fee chart is based on *Nepal's Foreign Employment Act 2064 of 2007* (Art. 24 (1)). For another example of recruitment fees see the presentation of the *Malaysian Employers Federation* (Viviekanadan 2008).

21 Based on the exchange rate of 0.0104 NPR / € on July 15, 2010.

Box 6: “The agent has my passport”

The Story of Abdul Begum, Male Migrant Worker from Bangladesh.

Abdul Begum, 19 years old, signed a pre-departure contract in Bangladesh for a job at a factory in Shah Alam, Selangor. The contract stipulated a monthly basic wage of RM 546 (€ 133) and payments for overtime and night shifts. The contract also stated that accommodation would be provided. His family mortgaged their only piece of land at an interest rate of five percent to pay the recruitment fee of RM 10,000 (€ 2,435) to his Bangladeshi agent. On arrival at Kuala Lumpur Airport, the local employment agent did not pick up Abdul Begum, as he had been promised in Bangladesh. Instead, he was forced to stay in a congested holding room for migrant workers at the airport for two days and was not given food or water.

When the employment agent finally arrived, he confiscated Abdul Begum’s passport and claimed that the sub-agent in Bangladesh had not transferred his fee. In Shah Alam he was not placed in a job for the same reason. He was then housed with ten other Bangladeshi workers in a cramped apartment without any cooking facilities. He was refused his salary, despite having a valid contract stipulating that his work and salary were to begin upon arrival in Malaysia. According to the contract, he was also bound to his employer and not allowed to look for a workplace on his own. Since the employer neither paid out his wage, nor gave him allowances for food, he had to borrow money from friends to survive.

After two months, he started working for *Flextronics*, producing displays for *Apple* iPhones. He did not receive his salary for another two months. When he asked the local employment agent about the missing salary, the agent threatened to report him to the police as an undocumented worker. Later the agent informed Abdul Begum that his salary was being withheld because the recruitment fee in Bangladesh had still not been settled. Then a friend of him, a fellow migrant worker, called the Bangladeshi sub-agent to inquire about the payment status and was told that the sub-agent had already transferred the payment to the Malaysian employment agency.

“I am in a quandary and confused as to who is lying, and all I know is that I have not been paid for four months altogether. I am in a bind because I am neither able to send money to my impoverished family, nor am I able to return home right now because I don’t have the money to pay for an air ticket. Running away from the agent is not an option. The agent has my passport, and the police and RELA corps [civil volunteer corps] are hunting undocumented migrants,” said Abdul Begum.

Source: Interview July 2010. Name changed for privacy.

7.4 Employment Contracts

In both of the investigated companies, the majority of migrants were employed as agency workers, and only a small number were employed directly by the manufacturers. In the case of *Flextronics* in Penang and Shah Alam, the only known exception is a group of migrants from Indonesia. All interviewees were contract workers, which reflects the high share of agency work among migrants. They received a contract for a period of three

years, which is the maximum time stipulated by law. However, the law allows the contract to be renewed twice for a maximum of five years. Workers are hired by several employment agencies. For instance, as of July 2010, *Flextronics* in Shah Alam has more than 30 different employment agencies hiring out migrant workers. The contracts stipulated that the migrants could be placed in different companies according to manufacturers’ demands. Most of the interview-

Majestic Heights



Apartment corridor



Living room



Sleeping room



ees were only working at one factory. However, some Nepalese workers stated that they had to rotate, working ten days at the *Jabil* plant and then ten days for another Contract Manufacturer called *Plexus*.

Beyond being denied the promised direct contracts with the manufacturers, workers faced two further issues – contract language and restrictive clauses. Only the Indonesians received contracts written in Bahasa, which both Malaysians and Indonesians speak. The contracts of all other interviewees were written in English. Thus, workers were forced to sign contracts that they could not fully understand. This violates Malaysian law, which states that contracts must be written in the native language of the signee.

Because of the language problem, the migrants were not aware of the three major restrictions in the contracts. The most severe restriction was the prohibition to join trade unions – a violation of the core labour standards of the ILO (see Section 7.7 on trade unions). The contracts also prohibited marriage with Malaysian citizens; a major infringement of personal freedom and a violation of Article 11 of the *UN Convention on the Elimination of All Forms of Discrimination* which Malaysia ratified in 1995.

Furthermore, migrants were not allowed to seek other employment:

“The Employee shall not change his employment during the contract period and shall not carry or do business without the written permission from the Employer.”

Migrant workers were therefore bound by the contract with the employment agency for the duration of their stay in Malaysia. Therefore, they were particularly dependent on the good will of their employers. Additionally, there are many grounds for termination, as defined in the workers’ contracts:

- “if the employee is absent from work for more than two consecutive working days without a reasonable cause or leave
- if a doctor certifies the employee medically unfit for employment
- if the employee „is found creating social problems and/or engaged in any illegal, subversive or criminal activities”²¹

In all these cases the employees would be dismissed immediately and repatriated at their own expense.

These kinds of working contracts thus enable employers to pass the responsibility for serious occupational health risks to the individual workers and to the health system in the sending countries (see Section 7.10). Consequently, these contracts not only violate ILO core labour standards, but

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21 Quoted from a contract of an agency worker at *Jabil*.

were also formulated so as to bind working migrants to the arbitrary whims of their employers.

7.5 Remuneration

Four main problems involving remuneration were revealed during the interviews: Workers received low wages, which were also much lower than expected; they were underpaid for overtime work; they were subject to wage deductions as well as delays in payment, and finally non-payment of salaries occurred.

7.5.1 Low Wages

In addition to the major disappointment of not receiving a direct contract with the company (see Section 7.4), migrant workers faced another set back: a lower income than originally promised in their home country. Because they did not have direct contracts, they were excluded from the bonus system; direct employees received bonuses for fulfilling the quotas in each production line. Furthermore, an agency worker of *Jabil* revealed that he received lower wages for night shifts: “We know from some migrants working directly for *Jabil* that they receive RM 15 night allowance (€ 3.65) but the agent pays us only RM 5 (€ 1.22).”

All interviewees received an average of between RM 800 and 850 (€ 195 to 207) net income, including overtime payments and other allowances – irrespective of their years of service at the companies or the positions they had qualified for. One exception was noted: Two male workers from *Jabil* received a wage increase of RM 100 (€ 24) monthly because they were training new workers at the factory. This wage between RM 800 and 850 is not sufficient for the normal costs of living in Malaysia, as it is very close to the poverty line. But while migrant workers are not required to finance accommodation or transport to their workplace with their own salary (see Section 7.9), they have to save money to pay back the recruitment fees and support their families. That’s why the interviewees tried to minimise their private expenditure on items such as food and clothing: “Whom should I shop for here in Penang? My family and friends live in Nepal. I am happy already if I can afford to call home once a month to my family. Sometimes I can only afford to call home once in two months.” The worker also said that he sent home money jointly with his colleagues in order to reduce bank charges. That’s how he was able to save a maximum of RM 400 (€ 97) per month.

7.5.2 Overtime Payments

Another major issue for migrant workers is the underpayment for overtime hours. Operators regularly work four hours per shift beyond what is stated in their contracts. However, overtime allowances were not paid to them at the rate of 150 percent of the base wage as stipulated by Malaysian labour law.²²

Analysing the pay slip of an operator assembling PCBs for *Jabil* illuminates the problem of underpayment of overtime work. The operator received a base wage of RM 590 (€ 144) for 26 working days per month. Additionally, he obtained a meal allowance²³ of RM 205 (€ 50) and a night shift allowance of RM 20 (€ 4.90) per month. He did not acquire a bonus for fulfilling the production quotas. He received only a blanket overtime payment of RM 64 monthly (€ 15.60), although he regularly worked four hours overtime per working day. His contract with the employment agency stated that his workday would consist of eight hours, not twelve. If overtime was correctly calculated according to Malaysian law, he should have earned RM 442.65 (€ 108) extra per month instead of only RM 64.²⁴ This calculation does not include any additional overtime hours worked on rest days or holidays. Thus, the much lower blanket overtime pay he was issued is incommensurate with Malaysian labour law.

Workers from both companies said that they neither understood the calculations made on their pay slips, nor did anyone from the company or agency explain how their wages and their overtime payments were actually calculated.

7.5.3 Wage Deductions

A third problem is that wage deductions are carried out in a manner unintelligible to the workers. According to Malaysian labour law, unfounded salary deductions are illegal.²⁵ Inspections of the pay slips of workers at *Jabil* and at both of the *Flextronics* factories showed ubiquitous advanced deductions ranging from RM 103 to 170 (€ 25 to

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22 See *Malaysian Employment Act 1955*, Sec 60(I) (1A) and (1B) on Rates of Pay.

23 The meal allowance can be negotiated in the contract and is considered a part of the wage.

24 The basis of this calculation is a monthly salary of RM 590 (€ 144). This results in a daily wage of RM 22.7 (€ 5.50) and a per hour wage of RM 2.83 (€ 0.70).

25 Mandated deductions are, for example, those taken for pension funds and social security; see the *Malaysian Employment Act 1955*, Section 24 (1). This Act covers both local and foreign workers and employees must give consent for any legal deductions.

41); in some cases additional unfounded medical leave deductions were found. For one group of *Jabil* workers, these deductions appeared to be used to cover their accommodation costs. This might explain why the group stated that they were asked directly by their agent to pay an advance payment of RM 170 for one month's accommodation while at the airport in their sending country (see Section 7.9 on accommodation). Workers from all three companies said that they had asked their agents about the various deductions on their pay slips and had received the same response: According to employment agents, these were "Malaysian tax requirements". Indeed, there is a tax for contracts with migrant workers called the "annual levy on foreign labour", which the Malaysian government introduced in 1992 (Ford 2010, 186). However, as of May 2009 the employers were made solely responsible for these payments, thereby making this practice of wage deduction illegal. Another issue with wage deductions was that they were also often used to discipline or punish workers. This aspect is addressed in sections 7.6.2 and 7.8.

7.5.4 Non-Payment and Delayed Salaries

Workers of *Flextronics* in Shah Alam and *Jabil* in Penang described non-payments and salary delays of up to six months. In the case of *Flextronics* in Shah Alam, six workers from Bangladesh revealed that they had not received their wages after four months of working. Another 14 workers at the same company, recent arrivals from Myanmar and Cambodia, also detailed delayed wages and unaccountable deductions. One member of this group expressed fear of repatriation if he approached the employment agent about this problem. In *Jabil* a group of 16 male Nepalese workers were confronted with delayed payments for the first two months of their work. Senior migrant workers at *Jabil* who had worked for one to three years confirmed this trend.

A particularly blatant violation is evident in the case of ten female Nepalese workers: In May 2010, upon arrival in Malaysia, they were told by the employment agent that they would have to wait until a company required their services. In July 2010 the employment agent announced that they would be placed at *Jabil* soon. By then they had already been in Malaysia for two months without salary. The Nepalese women stated that they were forced to prostitute themselves to cover their living costs and were unable to transfer money home to pay their debts. Further, because prostitution is illegal in Malaysia, this resulted in a duplicitous situation in which employment agents not only drove female workers to prostitution, but also could use this fact as legal grounds

to terminate their contracts and return them to Nepal (see Box 7).

At *Jabil* and *Flextronics* Shah Alam employment agencies felt obliged to pay the workers' salaries only once they were placed at a factory. In contrast, the contracts stated that a salary is granted regardless of work placement. Delayed salaries and non-payment of wages are violations of the ILO Convention No. 95 on the Protection of Wages²⁶ which Malaysia has ratified.

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26 All ILO Conventions are available on the ILOLEX Database: www.ilo.org/ilolex/english/convdisp1.htm [Accessed November 26, 2010].

This lack of transparency offers the employment agencies a number of opportunities to keep the wages down. It also sheds light on the four remuneration issues detailed above. Further consequences of such a system is, that workers need much more time than they initially planned to pay back their debts. For example, workers from Bangladesh needed an average of 18 months and only then could they begin to save money for their own needs.

One of the most important steps in opposing these illegal practices and progressing towards a decent wage system is to demand an explicit calculation of wages that is comprehensible to the workers.

Box 7: “We have not been given work”

Interview with Sunita Sherpa, Female Migrant Worker from Nepal.

20-year old Sunita Sherpa was recruited by an employment agent in Nepal who promised her a job in an electronics company in Penang. After she waited in Penang for two months without salary, the employment agent promised her a job at *Jabil*.

“My friends and I have been here in Penang for almost two months and we have not been given work. I have neither money, nor food to eat; and I think about my family often. They mortgaged the only piece of land we had to the bank at seven percent interest. I paid the Nepalese agent almost RM 6,000 (€ 1,461). (...) The agent promised that the job would be in a factory with a good salary and overtime pay and that we would stay in nice, safe hostels. That is why my parents allowed me to work in Malaysia.

After two months without work and food my friends and I were becoming sick and frail, and the agents still did not give us our promised salaries nor place us into jobs. Some friends helped us, but then they, too, could not keep it up. (...) Men in the area where we are living now asked us for sexual favours in exchange for food and money. We accepted it as the only choice. We were prostituting ourselves in order to survive. We cannot even send money home for the mortgage payment, and in Nepal my family is suffering. I have an aged father who is sick and a mother who works odd jobs. I also have five brothers and sisters to look after. My siblings will not be able to go to school if I do not send money. (...)

Employment agents got angry when we questioned them about our promised jobs. They threatened to call the police. Persons from some organisations tried to help us but were threatened by employment agents, too. Finally, the agent placed us in a job at *Jabil*. I hope our family never finds out what we had to do to survive for two months. It is a shame to my family and community in Nepal.”

Source: Interview in July 2010, name changed for privacy.

7.6 Organisation of Labour

According to the workers interviewed in all three facilities, the management systems are considered very authoritarian. Workers said that the high pressure and long working hours made the monotonous work especially stressful. In the following two sections the working schedule and the measures to discipline workers are detailed.

7.6.1 Working Schedule

All interviewees worked twelve-hour shifts six days per week. These were either night shifts or day shifts beginning between seven to eight a.m. or seven to eight p.m. The transport system from the central workers' accommodation (see Section 7.9) to the factories was organised solely according to the companies' demands. With the exception of a group of workers at the *Flextronics* Shah Alam plant, all migrant workers of the three factories were transported to the companies by special blue buses designated for migrants. To ensure a smooth shift change, workers often arrived half an hour before the shift started. During this time they waited in the parking lot. After their shift they had to wait again until all buses were filled up and started driving off all together. This procedure resulted in further unpaid hours which workers very often spent on the factory grounds. The twelve-hour shifts were divided by three unpaid breaks: one break of 30 minutes and two further breaks of 15 minutes. These very short breaks gave the workers little time to eat at the canteens or eat their home-prepared food. Moreover, workers in all companies commented that they were only allowed to use the toilets during these breaks and at no other times. If they had to use the toilet more frequently they were required to announce this to their supervisor. One female worker stated: "I find it very, very unpleasant to tell my supervisor that I have my menstruation and need to use the toilet more often."

Normally, workers had a six-day week. However, depending on the order situation, employment agents would occasionally call the workers in on short notice on their day off. Newly employed workers of *Jabil* and *Flextronics* in Penang reported that they worked continuously without any day off during their first six months.

7.6.2 Disciplining Measures

Most of the interviewees worked on the assembly line putting together components or doing final control work. The work in all facilities was characterised as very repetitive and monotonous. Nevertheless, maximum concentration was needed to keep up the speed and avoid mistakes.

This was required regardless of the minimal training given to new workers on the job. New workers had little knowledge of Bahasa (with the exception of Indonesians) or English, which made communication very difficult with line leaders, managers and colleagues.²⁷ Therefore, for many workers, comprehension was only possible when colleagues were present to interpret the instructions of the line leader.

Agency workers were not awarded positive incentives such as bonuses. Instead, workers commented on the use of rough tones and heavy disciplinary measures. Despite receiving no bonus, all interviewees had to fulfil demanding quotas. If they were unable to achieve their quotas as specified, they were placed at a different work location. Workers also revealed they had been shouted at by supervisors when they were apparently working too slowly, or when they had accidentally damaged components.

Flextronics and *Jabil* workers described disciplinary measures such as unpaid suspension and wage cuts, usually imposed by their employment agents. Agents were apparently either present at the worksites, or supervisors notified the agents directly; they appear to cooperate tightly. Evidence suggests that Contract Manufacturers outsource not only recruitment, payment and contract responsibilities but also elements of the system of control and disciplinary action for migrant workers. For example, two operators working for *Jabil* explained that their supervisor had complained about them to their employment agent because of some mistakes at the workplace. Consequently, the agent suspended one of the workers for a week and the other worker for a whole month without payment.

This type of authoritarian working regime goes unchallenged largely due to the restraints on trade union activism and the high dependency of the migrant workers on their employment agencies. In addition, workers' freedom of movement is restricted and they are also subjected to the rigid Malaysian immigration laws which can be misused for disciplinary measures. These issues will be elaborated in the following two sections.

7.7 Trade Union Organisation

As of August 2010, none of the researched companies had trade unions. Several interviewed workers were aware of the existence of trade unions elsewhere, but stated that friends had told them that the Malaysian electronics sector only allowed the formation of pro-management in-house unions.

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²⁷ As mentioned before they were not provided language training (see Section 7.3).



Nepalese workers sleeping in apartment corridor

The main challenge to workers obtaining their labour rights is that all interviewees were convinced that they were denied the right to join or form trade unions in Malaysia. They stated that their agents had explained this to them prior to their departure for Malaysia. This assertion was repeated in their employment contracts. There are several restrictions listed in the contract of a *Jabil* operator (see Section 7.4):

- a) That the employee shall not marry with any Malaysian and shall not participate in any political activities and activities of those connected with trade unions in Malaysia. (...)
- d) Any employee shall not organise, participate, or be involved in any kind of industrial action during his term of employment.”

Further, it states that the service contract will be terminated if “the Employee breaches any of the restrictions”. This violates the freedom of association, one of the four principles of the ILO core labour standards.

7.8 Freedom of Movement

All interviewed workers stated that the employment agents withheld their passports. This is a violation of Article 21 of the *UN International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families*, which is not ratified by Malaysia. Only those who had worked for the companies for more than two years were provided with photocopies of their passports. Migrants revealed that they were afraid they would be arrested and abused by the police or the civil volunteer corps RELA as a result of not having their passports. RELA is a group of volunteers set up by the government. They wear uniforms and assist the police in finding undocumented migrants – for every undocumented migrant they are paid RM 50 (€ 12.20) (Balasubramaniam 2007; Kaur 2008; Ford 2010). Interviewees explained that fellow migrant workers had been captured by RELA and had to pay a fine of around RM 200 (€ 49) to avoid being turned over to immigration authorities. Furthermore, all workers said that employment agents warned them that wages would be deducted should immigration authorities jail them and require bail. Employment agents used the threat of the police and RELA as an additional disciplinary measure if the interviewed migrants attempted to claim their rights. For example, in July 2010 an employment agent slapped a Bangladeshi operator working for *Flextronics* in Shah Alam when the worker asked about the salary delay. The agent threatened to throw away his passport and hand him over to the police as an undocumented worker (see Boxes 6 and 7).

The system of control does not end at the factory gate, but is extended to the workers’ leisure time. As a consequence of living in Malaysia without a passport, the interviewed migrants rarely leave the apartment area to go to a shopping mall, play volleyball, have lunch, or chat in an Internet café. Additionally, the interviewees reported that they had to adhere to a strict curfew of eleven p.m., imposed by their employment agents. If they violated the curfew the line leader living in the same apartment area would report them to the employment agent or agents also conducted random checks. According to the interviewed workers of all facilities, a breach of the rules led to a wage deduction or an unpaid suspension from work.

7.9 Accommodation and Factory Transport

The migrant workers were not controlled to the same extent as, for example, workers in China, whose dormitories are often located directly at the factory site. Visitors were usually allowed to enter the apartment complex. However, security guards observed access to the housing area and – according to local Non Governmental Organisations (NGOs) – also cooperated with the employment agents. Priests and social workers that supported migrants were subjected to intimidation.

The *Memoranda of Understanding* between Malaysia and the sending countries stipulates that employers are obliged to provide migrant workers with accommodation, free access to water and electricity as well as transportation to the factory.²⁸ In general, employment agents rent or buy low-cost housing. In the cases in this study it was normal for twelve persons, separated by gender, to be settled in one apartment with an average size of 70 to 80 square meters. The apartment contained a small kitchen, a toilet, a shower, a living room and three bedrooms. In the bedrooms operators slept in bunk beds, four to a room. In most cases, agents furnished the apartments with mattresses, a refrigerator, a stove, a ventilator and a television set. Sometimes migrant workers did not even receive a drawer to store private belongings.²⁹ If any problems occurred, workers were meant to contact the employment agents. One interviewee stated that she and her roommates

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28 The *Memoranda of Understanding* are not publicly available, but local NGOs have knowledge about them. The *Malaysian Employers Federation* also mentions these obligations (Viviekanadan 2008).

29 Some apartments were also equipped with a dining table, chairs, closets, carpets, small chest of drawers, or frames. In some cases former workers left behind their furniture. In other cases they were bought by the present inhabitants or given by their employment agency.

were left for several days without the ability to cook because the employment agent did not react to their requests.

One of the main issues with accommodation was that twelve – and in some cases at *Flextronics*, Shah Alam, twenty – workers shared one shower and one toilet. As they were afraid of missing the work buses, they left earlier than necessary for the bus stop, and therefore had to wake up extra early to avoid queues for the bathroom as well. They waited again on the factory ground for the start of their shifts (Section 7.6.1). One interviewed operator from Bangladesh calculated: “I am working in a twelve-hour shift. Additionally, I need three hours to get to the factory and back to the apartment, two hours in the bus, one hour of waiting. So I am left with just eight hours for cooking, eating, personal hygiene, other errands, and sleeping.”

In general, the housings were located in low cost areas and several workers described the neighbourhood as unsafe. A female interviewee from Cambodia working for *Flextronics* in Shah Alam and living with 19 colleagues in a shop lot³⁰ explained:

.....
30 A shop lot is located on the ground floor of some urban buildings in Southeast Asia and is usually used as a retail store.

“We are sleeping on a three-inch mattress placed on the floor. There is no security lock at the door, although the neighbourhood is regarded as quite dangerous. This really puts stress on us.”

The accommodation of the Nepalese workers (see Section 7.5.4 and Box 7 for further description of their case) was particularly scandalous because the employment agents threatened senior workers who attempted to intervene on behalf of their colleagues. The ten male operators from Nepal reported that in the summer of 2010 they had to sleep under the open air in apartment corridors. They were provided neither with their stipulated salaries, nor food nor water for an entire week. Later they were accommodated in completely overcrowded apartments. The ten Nepalese female workers who were promised jobs at *Jabil* were placed in a filthy apartment without mattresses or a fan. Senior workers informed the supervisors at *Jabil* about the bad living conditions of the newcomers but their appeal was ignored. Thus, the company was informed of the practices of the employment agencies. Employment agents were also approached to resolve the problem, but the agents only threatened to throw away the passports of the newly arrived workers and to report them to the police as undocumented workers.

Box 8: Living on Majestic Heights

In the case of *Jabil* in Penang, migrants were located in an area called Majestic Heights in Paya Terubong. After a landslide in 2003 most of the locals moved away because the housings were no longer regarded as safe. In the 20 apartment blocks, each with 30 floors, twelve apartments are situated on each floor. In August 2010 some of the apartments were empty, while others were still rented to locals, but migrant workers constituted the majority. Presently, the apartment complex functions as a self-contained “migrant city” with tens of thousands of migrant workers living in it. Employment agencies pay around RM 300 monthly (€ 73) for the rent of one apartment in which twelve persons are lodged. Thus, one migrant worker’s housing costs the employment agencies only € 6 per month.

7.10 Health Issues

Most of the interviewed workers suffered from occupational diseases as health care measures were considered inadequate.

7.10.1 Health Care

Employers are obliged to provide migrant workers with health insurance and to pay during sick leave (Vivekanadan 2008). However, if migrants fall seriously ill, their contracts stipulate that they

can be sent back to their country of origin at their own cost (see Section 7.4). Some migrants explained that upon falling sick employment agents only covered medical bills up to RM 200 (€ 49) per case. Other interviewees working at a *Jabil* facility revealed that they had to pay all medical fees exceeding RM 30 (€ 7.30). Further medical costs were usually deducted from salaries. According to the interviewees, employment agents occasionally disregarded the medical leave issued by doctors and made deductions from the salary regardless of the cause of absence. This is not only



Blue worker bus (bus pekerja) leaves the factory ground of Jabil, Penang

a violation of the employment contracts but also of the *Malaysian Labour Code*. Several workers reported that they went back to work despite being sick in order to avoid deductions. All interviewees confirmed that they could only choose panel doctors indicated by their agents or the companies. All interviewees said that they underwent annual medical examinations as mandated by Malaysian law. The workers had to pay the costs of the medical examination, which conforms to the law; however, it is not legal for employment agents to deduct the fee in advance from the workers' wages as was reported by all interviewees. The female workers had to undergo a urine test to verify a negative pregnancy status. This is a mandatory medical examination required by the immigration policy for migrant workers. Furthermore, all migrant workers were required to submit to HIV/Tuberculosis and other tests. Women who showed positive for pregnancy had their work permits revoked and were immediately repatriated at their own cost.³¹

7.10.2 Occupational Diseases

With the exception of only one interviewee, all migrant workers at the three investigated facto-

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³¹ Information based on interviews with labour right lawyers.

ries reported suffering from fatigue, as well as headaches and dizziness. Some workers also complained of severe coughing. A few female operators working for *Flextronics* in Shah Alam suffered from hallucinations and fainting spells at the work place. Interviewees believed that such symptoms were caused by the overtime work hours and the lack of sleep. Some of these problems can be traced to insufficient hydration, which is also caused by the restricted toilet use (see Section 7.6.1). No data could be ascertained about the type and quantity of toxic contaminants that the interviewed workers were exposed to at the workplace. Therefore, it is unknown to what extent these health issues could be related to workplace contamination. Moreover, all interviewed line operators at the three factories reported that they had to stand throughout the entire twelve-hour-long shifts. According to one worker, "falling asleep out of fatigue can lead to unpaid suspension from two weeks to one month if a manager sees you." Interviewees also complained of leg fatigue and numbness. As a result of the workers' repetitive and small movements on the assembly line over a twelve-hour shift, they reported about high levels of repetitive stress injuries.

Key Findings and Concluding Remarks

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These case studies of *Jabil Circuit* and *Flextronics* factories expose the precarious adverse working and living conditions of migrant workers in the Malaysian electronics industry. Furthermore, multiple egregious breaches of Malaysian labour law, the Conventions of the ILO and UN conventions were brought to light. All of the interviewed workers were contracted by employment agencies. While *Jabil* and *Flextronics* were primarily responsible for supervision at the workplace, the employment agents controlled the workers' private lives and took disciplinary action on behalf of the employers. These workers were under enormous pressure from three dependencies. First, employees had indebted their families and were responsible for lending them financial assistance as quickly as possible. Second, they were completely dependent on their employment agencies as the source of jobs and income. Moreover, the agencies not only provided work, but also exercised control over their entire life in Malaysia, including accommodation, transportation and medical care. Third, as migrant workers they were only granted a temporary residency status and were subjected to highly restrictive immigration laws such as the prohibition to marry or become pregnant. This discriminatory law affected the majority of the migrant workforce, who were female.

Institutions, such as the police and the civil volunteer corps RELA, work together to actively reinforce this system. Both companies confiscate workers' passports although this is a grave violation of Malaysian laws and the *UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. The workers are constantly terrified of being apprehended by the police or by RELA and being placed in indefinite detention until the employment agent releases them for a fee. The fear of becoming undocumented migrants grants the employment agencies an immense leverage over workers, thus forcing them to accept the poor accommodation and the absent or late remunerations.

Additionally, workers stated that they were contractually forbidden from membership in any union, which is an infringement of the ILO core labour standards.

The key findings of this report are summarised below with references to the relevant violations of national laws and international conventions:

- a. Migrant workers accrue enormous debts in their home countries in order to pay the illegally high recruitment fees of the employment agencies.
- b. With the exception of Indonesian workers, the contracts were not provided to the workers in a language that they could understand. This violates Malaysian law, which states that contracts must be written in the native language of the signee.
- c. The contracts contain numerous restrictions for the migrant workers such as prohibitions to marry or to become members of Malaysian trade unions. These are violations against the ILO core labour standards (ILO Convention No. 87 and 98) and the *UN Convention on the Elimination of All Forms of Discrimination against Women (article No.11)*.
- d. The salaries paid to the migrant workers did not qualify as a 'living wage' in Malaysia. Workers were forced to stay in overcrowded apartments often located in unsafe neighbourhoods because their salary was not sufficient to rent a room in the normal housing market. In one case, workers at *Jabil* were not provided with any accommodation at all, which is a breach of the *ILO Migration for Employment Convention No. 97*.
- e. The case studies revealed widespread illegal wage deductions. In addition, overtime was not paid in compliance with the *Malaysian Labour Code*, and in some cases salaries were delayed or not paid at all for an extended period. These wage issues are serious violations of the *ILO Protection of Wages Convention No. 95*, of which Malaysia is a signatory.
- f. The case studies also indicate regular violations against the *ILO Hours of Work (Industry) Convention No.1*, which prescribes a 60-hour workweek maximum (48 standard hours, plus twelve hours overtime).

9

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- Interview worker 2010:** local female worker (anonymized), Georgetown (Penang), interviewed on August 12, 2010.

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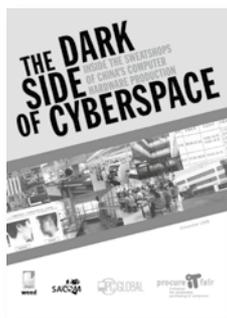
REPORT

The Dark Side of Cyberspace

Inside the Sweatshops of China's Hardware Production

The study that has been conducted by the Chinese labour rights organisation SACOM is based on 45 interviews with employees of two suppliers of well-known computer companies. It paints an alarming picture of the working conditions in this industry. It reveals massive violations of labour rights in the cases of the investigated suppliers Compeq Technology (supplier of Dell, Lenovo) and Excelsior Electronics (supplier of Fujitsu Siemens Computers).

Authors: **Jenny Chan** and **Charles Ho** (SACOM) in co-operation with **WEED**
32 Pages, Berlin 2008
Price 2 EUR (1,50 EUR for WEED members)
ISBN 978-3-937383-61-3



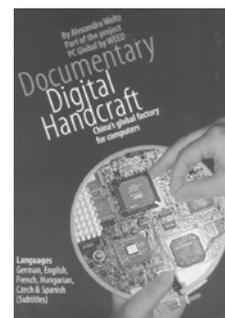
MOVIE

Digital Handcraft

China's Global Factory for Computers (DVD)

The documentary shines the spotlight on some of the darker sides of the globalized production of computers and highlights this in contrast to the "clean" image of the industry. The living and working conditions of migrant workers in southern China are of specific interest. In addition, the film looks at the problems of electronic waste materials shipped illegally from Germany.

Production: **Alexandra Weltz** in co-operation with **WEED**
Duration: 28 Minutes, Berlin 2008
Languages: German, English, French, Hungarian, Czech and Spanish
Price: 10 EUR (7 EUR for WEED members)
ISBN 978-3-937383-64-4



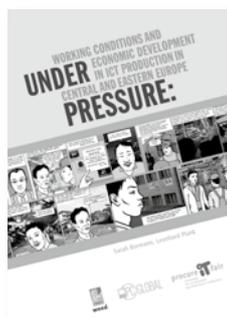
REPORT

Under Pressure

Working Conditions and Economic Development in ICT Production in Central and Eastern Europe.

The report attempts to provide a better understanding of the role of Central and Eastern Europe in the global division of labour in ICT and of how working conditions are influenced by brand companies' permanent restructuring of their global production networks. This last factor was highlighted against the background of the global economic crisis. Three countries are analysed in more detail: Hungary, Romania and the Czech Republic. The case study on the Contract Manufacturer Celecstica in Romania is based on interviews with workers and a brief analysis of the Taiwanese Contract Manufacturer Foxconn illustrates the challenges faced by outsourced migrant workers.

Authors: **Sarah Bormann**, **Leonhard Plank**
61 Pages, Berlin 2010
Price 2 EUR (1,50 EUR for WEED members)
ISBN 978-3-937383-68-2



MOVIE

Blue Elephant

Migrant workers in the Malaysian electronics industry

This short documentary shows the dire labour conditions of migrant workers in the Malaysian electronics industry. The protagonists of the documentary are a female worker from Indonesia and a male worker from Nepal, both employed at Electronic Contract Manufacturers on the island of Penang.

Production: **Moritz Siebert** in co-operation with **WEED**.
Duration: 14 Minutes, Berlin 2010
English, German, Spanish version:
<http://vimeo.com/18617196>



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