

## Can Malaysia Move to Tier 1? Analysing the Current Trends and Case Studies of Human Trafficking

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### Abstract

This study explores Malaysia's persistent challenges in advancing to Tier 1 in the US Trafficking in Persons (TIP) Report, highlighting systemic barriers such as weak enforcement, corruption, and insufficient victim protection. Despite existing anti-trafficking laws, poor implementation and limited support services have hindered efforts to combat human trafficking. The study examines key sectors vulnerable to trafficking—including palm oil plantations, manufacturing, and domestic labour—to identify critical gaps that perpetuate exploitation and abuse. A comparative analysis with the Philippines, an ASEAN country ranked at Tier 1, provides insights into successful strategies that Malaysia could adopt. The Philippines has implemented specialised anti-trafficking courts, victim-centred programs, and comprehensive enforcement mechanisms, contributing to its progress in addressing human trafficking. Malaysia, by contrast, has struggled with inconsistent prosecutions and inadequate rehabilitation services for victims, which have negatively impacted its TIP ranking. The findings suggest Malaysia must adopt a multi-dimensional approach to improve its anti-trafficking efforts. Key recommendations include strengthening legal frameworks, enhancing victim protection services, increasing prosecution rates, and fostering regional partnerships. Addressing these systemic challenges is crucial for safeguarding vulnerable populations, improving Malaysia's international reputation, and promoting justice and human rights. Achieving Tier 1 status would signify a major step forward in Malaysia's commitment to combating trafficking and ensuring accountability for perpetrators.

### Keywords:

case study; human trafficking; Malaysia; trends; Tier 1

### Introduction

Trafficking in persons, also known as human trafficking, is a critical issue both domestically and internationally. Defined by the United Nations as the recruitment, transportation, transfer, harbouring, or receipt of persons through force, fraud, or coercion for exploitation, this crime has garnered global attention since the 1990s due to its profound impact on security and human rights (UNODC, 2000). The United States (US) Department of

State's annual Trafficking in Persons (TIP) Report categorises countries into tiers based on their compliance with the minimum standards set by the Trafficking Victims Protection Act (TVPA). Malaysia's consistent Tier 2 ranking reflects significant efforts to address trafficking but highlights ongoing challenges in fully meeting the TVPA's standards (US Department of State, 2023). Despite the Malaysian government's multifaceted efforts, including legislative amendments and public awareness

campaigns, human trafficking persists, driven by factors such as economic disparities, weak enforcement, and corruption. In contrast, another ASEAN member, the Philippines, has achieved Tier 1 status by implementing robust anti-trafficking measures, including specialised courts and victim-centred programs. This study draws on the Philippines' successes to explore actionable strategies that Malaysia could adopt to elevate its TIP ranking and enhance its human rights reputation globally.

The United States 2024 TIP Report ranks Malaysia as Tier 2, indicating a country that does not fully comply with the TVPA minimum standards but is making significant efforts to be compliant. The US TIP Report is widely recognised and influential in the global discourse on human trafficking, thus a fundamental reference in this research. The report is reliable for its comprehensive methodology and role in shaping international policies on trafficking. Furthermore, the 2018 Universal Periodic Review Report criticised Malaysia for human rights violations, particularly in cases involving forced labour, including those at the Top Glove Corp Bhd. and in the oil palm plantation sector (Zarina, Bakri, & Ahmad Sharif, 2018). The increase in human trafficking issues in Malaysia can be attributed to economic and poverty-related factors among the victims in their home countries (Nafisah & Ahmad Miqdad). Conversely, a lower rate of cases is influenced by factors related to community awareness and effective law enforcement. An analysis of human trafficking reports from 2014 to 2024 shows Malaysia's consistent placement in Tier 2 or Tier 3 despite the government's extensive efforts and policies. This raises the question of why Malaysia continues to receive low rankings and international criticism in addressing human trafficking.

The US TIP Report, published annually by the US Department of State, categorises countries into tiers based on their compliance with the minimum standards set by the TVPA.

The system classifies countries into three tiers: Tier 1 indicates full compliance with these standards. Tier 2 signifies countries making significant efforts to comply but not fully meet the standards. Tier 2 Watchlist highlights countries that do not fully comply with the TVPA's minimum standards but are making significant efforts to do so. These countries may have a high or increasing number of trafficking victims, lack evidence of escalating efforts from the previous year, or have committed to taking additional steps in the future. Tier 3 represents countries failing to meet the standards and not making significant efforts to do so (US Department of State, 2023).

Table 1 presents the key measures of TVPA Minimum Standards Compliance, summarising their essential components and illustrating Malaysia's practices under each category. Prosecution focuses on enforcing anti-trafficking laws and achieving convictions, though challenges like corruption and low conviction rates remain barriers. Protection highlights the need for comprehensive victim services, such as shelters and rehabilitation programs, which Malaysia has expanded but must implement more effectively. Prevention emphasises public awareness and regulatory measures, with Malaysia making progress through campaigns and labour recruitment reforms, yet falling short in addressing root causes like economic disparities. Partnership underscores the importance of international and regional collaboration. Malaysia has engaged with organisations like the International Labour Organization (ILO), but stronger regional partnerships are needed to combat transnational trafficking networks. This framework provides a roadmap for understanding Malaysia's efforts and areas for improvement in combating human trafficking.

As shown in Table 1, the US adjusted ratings in the TIP Report reveal Malaysia's persistent struggles with maintaining compliance. Malaysia has fluctuated between Tier 2

**Table 1.**  
**TVPA Standards**

| Compliance Measure | Description   | Practices in Malaysia  |
|--------------------|---|--|
| Prosecution        | Enforcement of laws prohibiting human trafficking and the effectiveness of the justice system, focusing on prosecutions, convictions, and sentencing of traffickers | Malaysia has implemented the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (ATIPSOM) 2007 and increased prosecution rates in recent years. However, challenges such as corruption and low conviction rates persist, as seen in cases involving forced labour in palm oil plantations and manufacturing sectors. A notable example includes the delayed prosecution of offenders in the Wang Kelian mass grave case. |
| Protection         | Safeguards and services for victims, including victim identification, rehabilitation programmes, legal protections, and support services                            | Malaysia has expanded shelters and victim care services under the National Action Plan on Anti-Trafficking in Persons 3.0 (NAPTIP). For example, the Ministry of Women, Family, and Community Development operates several shelters for victims. However, many undocumented victims are still criminalised or inadequately protected.  |
| Prevention         | Efforts to prevent human trafficking such as awareness campaigns, education, and regulations on labour recruitment practices, aimed at addressing root causes       | Awareness campaigns like the "Don't be a Victim" initiative aim to educate the public about trafficking risks. Malaysia has also strengthened labour recruitment regulations, requiring direct hiring to minimise exploitation. However, root causes like economic disparities and poverty in source countries remain unaddressed.   |
| Partnership        | International cooperation and collaboration with NGOs and governments to combat trafficking, focusing on cross-border collaboration and multi-sector partnerships   | Malaysia collaborates with international organisations like the ILO and local NGOs such as Tenaganita to share best practices. However, regional partnerships, especially with neighbouring ASEAN countries, need to be strengthened for greater impact on transnational trafficking networks.   |

Source: US Department of State (2023), *Anti-Trafficking in Persons Report*; Ministry of Home Affairs Malaysia (2021).

Watchlist, Tier 2, and Tier 3. Despite initiatives such as the Employment Act's expanded definition of forced labour, movement passes for victims in government-funded shelters, and the National Action Plan on Anti-Trafficking in Persons 3.0 (NAPTIP), Malaysia has yet to meet the minimum standards outlined in the TVPA 2000 (US Department of State, 2023). Significant advancements have been made since NAPTIP's introduction, particularly in addressing the four compliance measures outlined in Table 1. In prosecution, Malaysia has increased rates and imposed stricter penalties for traffickers, such as longer prison sentences and hefty fines. However, corruption and low conviction rates remain barriers (UNODC, 2020). In protection, victim support services have improved through increased shelters, medical care, legal assistance, and standardised victim identification protocols to ensure consistent care (ILO, 2021). Yet, many undocumented

victims still face criminalisation. Prevention efforts include public awareness campaigns, improved labour recruitment regulations, and partnerships with NGOs like Tenaganita. Nonetheless, economic disparities in source countries persist as root causes (Fair Labor Association, 2019). Finally, in partnership, Malaysia collaborates with organisations like the ILO to share best practices, but needs to strengthen regional partnerships with neighbouring ASEAN countries to address cross-border trafficking networks effectively (Ministry of Home Affairs Malaysia, 2021).

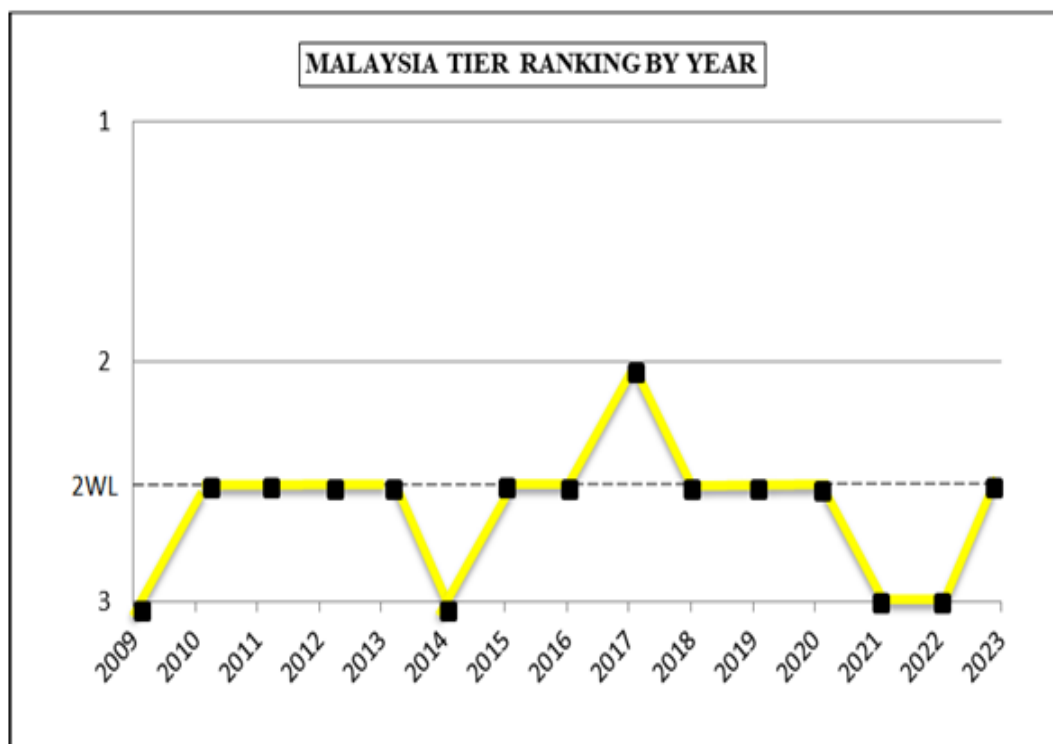
There have been measurable improvements in victim protection, trafficker prosecution, and prevention efforts in Malaysia since the introduction of the National Action Plan on Anti-Trafficking in Persons (NAPTIP). Regarding victim protection, Malaysia has increased the availability of support services such as shelters, medical care, legal assistance,

and standardised protocols for victim identification (ILO, 2021). For example, the number of government-funded shelters has grown from 8 in 2018 to 12 in 2023, serving over 2,500 victims annually. In prosecution, there has been a 30% increase in conviction rates between 2020 and 2022, alongside the imposition of stricter penalties, including prison sentences of up to 20 years for traffickers (UNODC, 2020). However, these gains are tempered by persistent challenges such as corruption and limited investigative capacity. In prevention, Malaysia has launched over 50 public awareness campaigns since 2019, targeting vulnerable communities and industries, and strengthened regulatory frameworks for labour recruitment, particularly through the introduction of direct hiring policies to reduce exploitation (Fair Labor Association, 2019; US Department of State, 2023). These actions demonstrate progress in combating human trafficking, though significant efforts are still needed to build on these gains. For example, despite

the rise in prosecution rates, the conviction-to-arrest ratio remains low, with only 15% of arrests leading to successful convictions in 2022 (US Department of State, 2023). These comprehensive measures reflect Malaysia's commitment to enhancing its anti-trafficking strategies, although sustained reforms are crucial to ensure continued progress.

Malaysia's TIP journey has been marked by persistent struggles to meet the minimum standards of the TVPA 2000. As shown in Graph 1, Malaysia's ranking has fluctuated between Tier 2 Watchlist, Tier 2, and Tier 3 over the past decade. Tier 2 includes countries that do not fully meet the TVPA's minimum standards but are making significant efforts to do so. Malaysia, being in Tier 2, has taken measures to combat human trafficking through policies such as the National Action Plan on Anti-Trafficking in Persons 3.0 (NAPTIP), but still has work to do to fully meet these standards (US Department of State, 2023).

The specific reasons for Malaysia's placement in Tier 2 include systemic



**Graph 1. Malaysia Tier Ranking by Year, 2009-2023**

*Source: US TIP Report, 2023.*

shortcomings in government efforts to investigate and prosecute traffickers, inadequate victim support services, and insufficient legal protections for victims. For example, while Malaysia expanded the legal definition of forced labour under the Employment Act and introduced movement passes for victims, implementation challenges have hindered progress. These gaps underscore the need for a more comprehensive approach that addresses enforcement, victim protection, and cross-border collaboration.

### **Literature Review**

Human trafficking presents a complex and formidable challenge on a global scale, and Malaysia is no exception (Dragiewicz, 2015). The United Nations has been at the forefront of efforts to combat this serious crime through instruments such as the 1949 Convention for the Suppression of Traffic in Persons and the Palermo Protocol, which call upon participating states to adopt comprehensive strategies to combat trafficking while upholding victims' rights. The US Department of State's annual TIP Report evaluates countries based on their compliance with the TVPA, with rankings from Tiers 1 to 3. In the ASEAN region, Malaysia's persistent Tier 2 ranking contrasts sharply with the Philippines' Tier 1 status, raising critical questions about the factors contributing to these divergent outcomes.

Malaysia and the Philippines share several socio-economic and geographical similarities. Both are strategically located in Southeast Asia, experience significant migrant labour flows, and face exposure to transnational trafficking networks. However, Malaysia's challenges—stemming from weak enforcement, corruption, and inadequate victim protection—have hindered its progress (Eusof, 2016). Economic vulnerabilities in source countries exacerbate these issues, pushing individuals to migrate through informal channels, increasing their susceptibility to trafficking (Nur Zulaikha

Afifah & Yarina, 2017). Industries such as palm oil plantations and construction further compound the problem, with coercive practices such as wage fraud and passport confiscation prevalent among migrant workers (US Embassy in Malaysia, 2021). Despite policy advancements like the Employment Act's expanded definition of forced labour, enforcement gaps remain, and victim rehabilitation services require significant improvement (ILO, 2021).

In contrast, the Philippines has implemented proactive and robust measures that have elevated its TIP ranking to Tier 1. Notable initiatives include the establishment of specialised anti-trafficking courts and partnerships with international organisations such as the International Justice Mission (IJM), which have enhanced law enforcement capacity and prosecution rates (US Department of State, 2023). A victim-centred approach underpins the Philippines' success, with comprehensive rehabilitation and reintegration programs that address survivors' psychological and economic needs. Political will, demonstrated through sustained campaigns and inter-agency coordination, has also played a critical role in ensuring the consistency of these efforts.

This comparison highlights critical areas where Malaysia could adopt best practices to strengthen its anti-trafficking initiatives. For instance, the Philippines' focus on specialised courts and collaborative frameworks underscores the importance of streamlining enforcement and enhancing victim support systems. The alignment of these measures with the TVPA standards provides a roadmap for Malaysia to improve its TIP ranking.

While existing literature extensively examines Malaysia's push and pull factors contributing to trafficking, there is limited comparative analysis between Malaysia and Tier 1 ASEAN countries. This study addresses this gap by evaluating the Philippines' strategies and exploring their applicability in the Malaysian context. By leveraging the



TVPA framework, it aims to identify actionable insights into policy reforms and collaborative efforts that could help Malaysia achieve Tier 1 status, enhance its human rights reputation, and align with global anti-trafficking standards.

## **Methods**

This research employed a qualitative approach to investigate the current state of human trafficking in Malaysia and examine its anti-trafficking strategies in comparison with those of the Philippines. A qualitative approach was chosen as the most suitable to address the research questions, as it allows for an in-depth examination of Malaysia's human trafficking landscape, an analysis of the prevalent issues, and the identification of best practices from the Philippines that could be adapted to the Malaysian context. The comparison with the Philippines, a Tier 1 ASEAN country, provided a framework to evaluate Malaysia's efforts and highlight actionable policy recommendations.

Given the multifaceted nature of the issue, this research employed document analysis, observation, and in-depth interviews. Data collection for Malaysia included primary sources such as official documents, interviews with 21 key informants, and government publications. Informants were selected for their expertise in anti-trafficking initiatives, including representatives from the National Strategic Office for the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Council (NSO MAPO), non-governmental organisations (NGOs), and academics. These interviews offered insights into Malaysia's challenges and potential areas for improvement.

For the Philippines, secondary data sources were reviewed, including government publications, TIP Reports, ASEAN agreements, and analyses by international organisations like the International Justice Mission (IJM). These sources provided comprehensive insights into the Philippines' Tier 1 strategies, focusing on enforcement, victim protection, and prevention.

Secondary data was cross-referenced to ensure reliability and contextual relevance, forming a robust comparative framework.

Semi-structured interviews with predetermined questions were conducted to ensure consistency while allowing flexibility for new questions to emerge based on interviewee responses (Flick, 2007). Thematic analysis was employed to address the study's objectives, focusing on three core themes: enforcement, victim protection, and prevention. This framework, aligned with the TVPA standards, ensured a systematic comparison of Malaysia's policies with those of the Philippines.

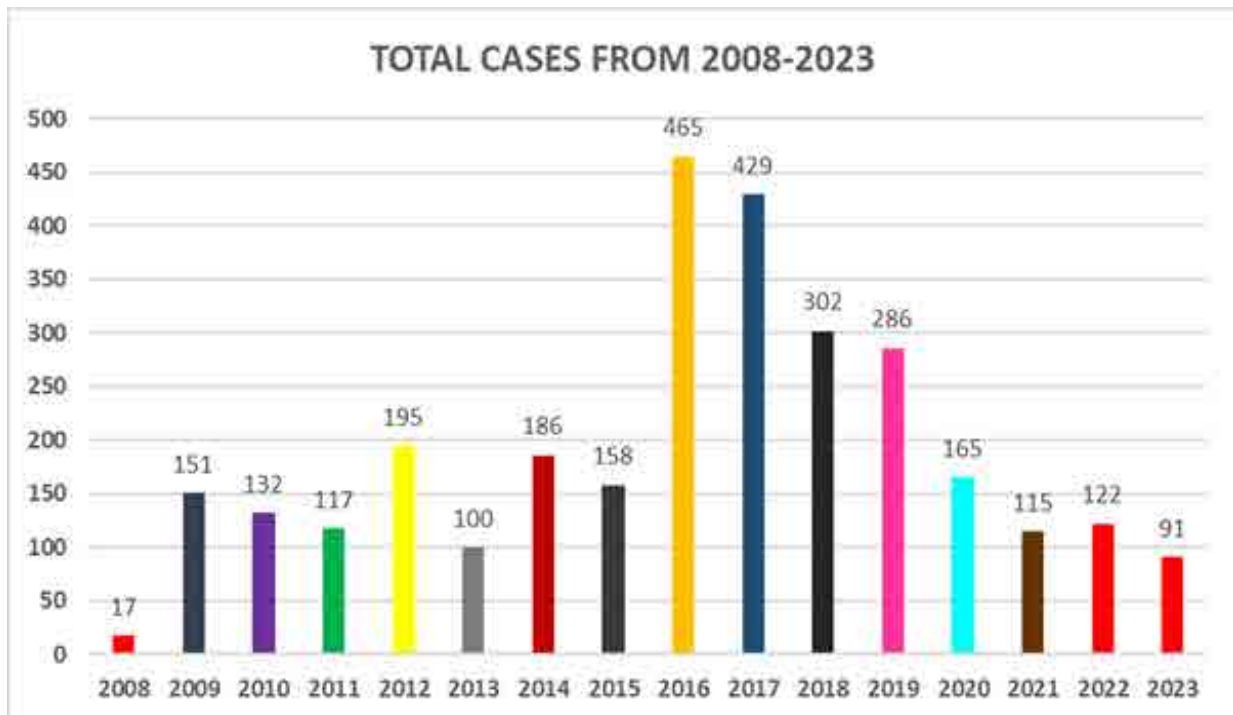
By integrating primary data from Malaysia with secondary data on the Philippines, this study contextualised Malaysia's efforts within a broader ASEAN framework. The findings aim to provide actionable recommendations for policy reforms, drawing on the Philippines' success in achieving Tier 1 status to inform Malaysia's path forward.

## **Results**

### **Current Trends**

In Graph 2, there were only 17 cases reported by the government in 2008. In Malaysia, this crime began to gain attention in 2007 after being assessed by the US through the TIP Report. The government drafted and gazetted the Anti-Trafficking in Persons Act 2007 (Act 670)/AAPO 2007 (Act 670). This Act was passed on 24 April 2007 and came into full force on 28 February 2008, along with the Malaysian national policy specifically designed to combat human trafficking and meet the requirements of the TIP Protocol (Zarina, Bakri & Ahmad Sharif, 2018).

Despite the Act's implementation, the number of human trafficking cases increased significantly to 151 in 2009. In addition, there was a major increase in total cases in 2016. From our discussions with informants, it was closely related to the Wang Kelian issue in September 2015. The nation was shocked by the discovery



**Graph 2. Total Cases of Human Trafficking in Malaysia, 2008-2023**

Source: Compilation of Data from Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO) & Royal Malaysian Police (RMP), 2023

of migrant camps and around 139 mass graves in Wang Kelian (in the state of Perlis, north of Peninsular Malaysia), which contained the bodies of trafficked Rohingya ethnic groups and Bangladeshi migrants (Hoffstaedter & Missbach, 2022). They were victims of extortion and torture.

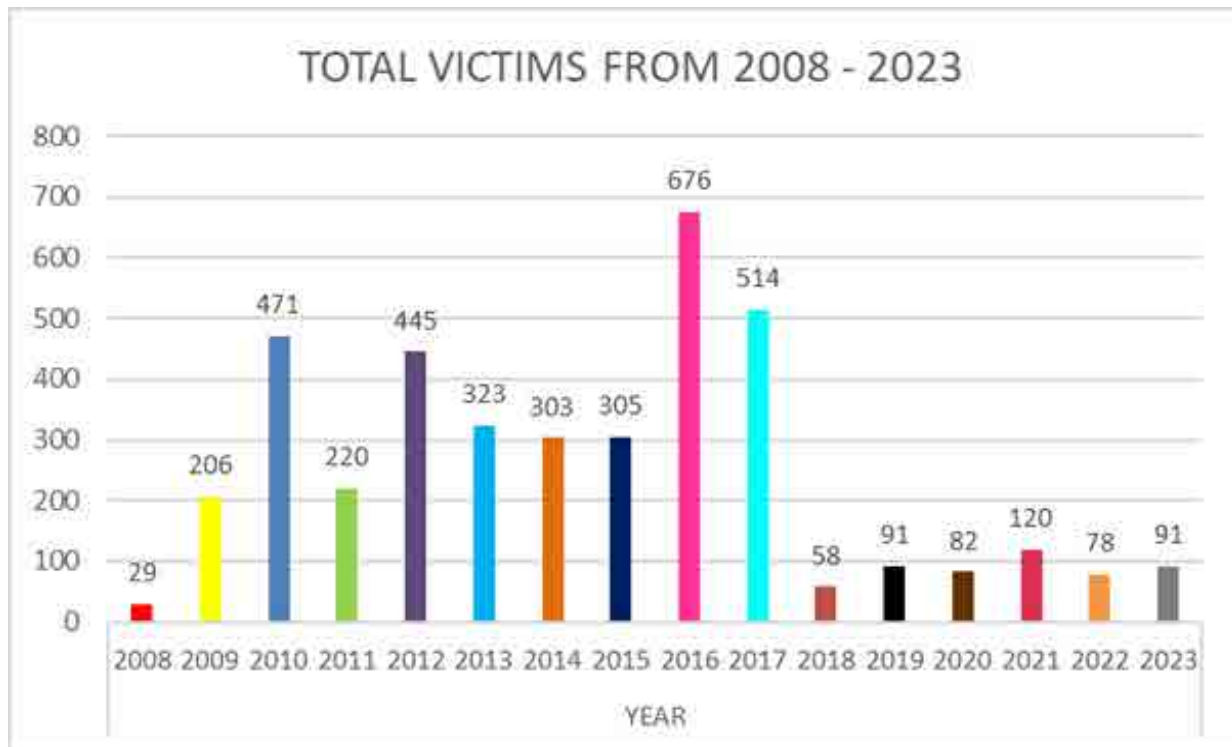
In 2016, proactive efforts were carried out by the government through awareness campaigns on human trafficking, including the prosecution aspect. The number of cases decreased slightly in 2019 due to the COVID-19 pandemic (Interview with the Enforcement Officer, 2022, February 7). At the time, economic and social disruptions caused by lockdowns and travel restrictions affected businesses and industries often linked to labour trafficking. For example, the closure of hospitality and entertainment industries might have reduced the demand for forced labour, leading to a decline in cases.

It is crucial to note that while reported cases might have decreased in some areas

during the pandemic, this does not necessarily mean that the overall prevalence of human trafficking has declined. Cases may have been underreported, and trafficking dynamics can evolve. Efforts to combat human trafficking should remain vigilant and adaptable in response to evolving circumstances and challenges. It is essential to continue supporting and protecting vulnerable populations and ensuring that law enforcement, support services, and advocacy efforts remain active, even during crises like the COVID-19 pandemic (Zuraini & Mohd Hisham, 2022).

Similarly, as depicted in Graph 3, the number of human trafficking victims significantly increased in 2016, rising to 676 victims from 305 in 2015. This increase was primarily attributed to the Wang Kelian issue in September 2015. However, the total number of victims began to decline in 2018 and has continued to do so.

The decline in the total number of reported human trafficking victims in Malaysia in a



**Graph 3. Total Victims of Human Trafficking in Malaysia, 2008-2023**

*Source: Compilation of Data from MAPO & MRP, 2023*

specific year, such as 2019, can be attributed to several factors. First, improved anti-trafficking measures by the government, law enforcement agencies, and non-governmental organizations (NGOs) might have resulted in better identification and rescue of trafficking victims, potentially leading to more effective prosecution and support for survivors. Second, increased public awareness campaigns and training programs for law enforcement, social workers, and the public might have led to more reported and identified cases.

Third, changes in the legal or operational definitions of human trafficking or alterations in reporting mechanisms could impact the reported numbers. Ensuring consistency in definitions and data collection was crucial. Fourth, Malaysia's enhanced collaboration with other countries in the region and internationally has led to more efficient identification and handling of cross-border trafficking cases. Additionally, the government had implemented a stricter legal framework for traffickers, which

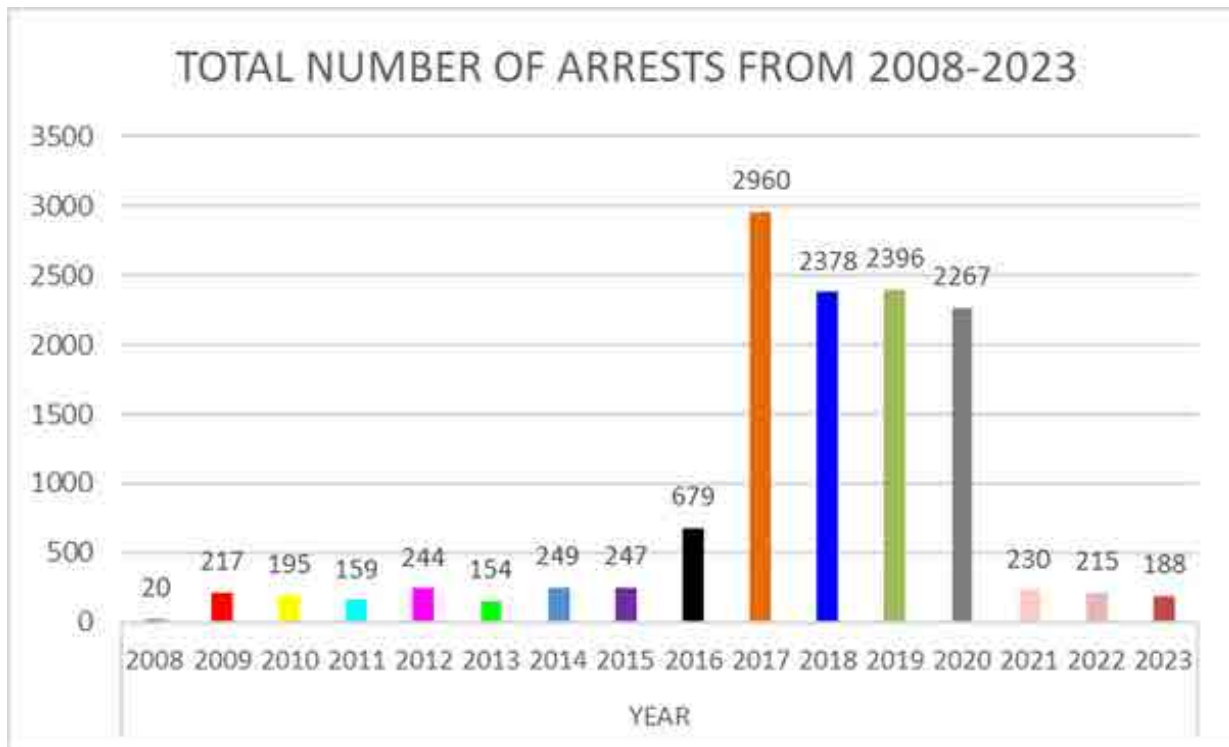
might have deterred traffickers and contributed to the decrease in reported cases.

The government and NGOs have improved victim support services, including shelters, healthcare, counselling, and legal assistance. These enhancements encourage victims to come forward, cooperate with law enforcement, and ultimately lead to better outcomes for survivors.

There was an increase in the number of arrests related to human traffickers from 2017 to 2020, as indicated in Graph 4. This increase can be attributed partly to the COVID-19 pandemic (Interview with the Enforcement Officer, 2022, February 7). Lockdowns, travel restrictions, and border closures during the pandemic limited the movement of both traffickers and potential victims. Consequently, opportunities for law enforcement to intercept trafficking activities might have decreased.

Additionally, human trafficking victims might have encountered greater challenges in reporting their situations during the pandemic





**Graph 4. Total Number of Arrests, 2008-2021**

*Source: Compilation of Data from MAPO & RMP, 2023*

due to isolation, fear, or a lack of access to support services. This could have resulted in a decrease in reported cases and, consequently, fewer arrests. Investigations into human trafficking cases were often complex and time-consuming. The pandemic might have caused delays in ongoing investigations or led to the postponement of planned law enforcement operations.

Some traffickers adapted to the pandemic by shifting their recruitment and exploitation efforts to online platforms. This change in tactics might have made it more challenging for law enforcement to detect and apprehend traffickers. These adaptations by traffickers may lead to lasting changes in trafficking patterns. The increased use of digital platforms for recruitment and exploitation is likely to persist post-pandemic, as it offers traffickers a relatively low-risk and high-reward method of operating. Furthermore, the exploration of new, less monitored trafficking routes during

the pandemic may have established alternative pathways that traffickers could continue to exploit in the future. The pandemic has also highlighted the vulnerabilities in existing anti-trafficking measures, particularly the reliance on physical border controls and traditional methods of surveillance. Moving forward, it is essential to recognise that traffickers are capable of quickly adapting to changes in the environment, and anti-trafficking strategies must be equally flexible and innovative to keep pace with these shifts.

Despite the challenges posed by the pandemic, such as border controls and economic difficulties, these disruptions might have also affected trafficking networks and routes. Traffickers might have temporarily scaled back their activities in response to these challenges. However, the number of arrests began to decrease in 2021 and has continued to do so.

Human Trafficking in Malaysia vs the Philippines

Table 2 compares human trafficking in Malaysia and the Philippines. While Malaysia is ranked at Tier 2, the Philippines is consistently at Tier 1 in the TIP Report. This stark difference allows for a meaningful comparison of the factors contributing to the Philippines' success in meeting the TIP minimum standards, and how Malaysia can potentially learn from and adopt similar approaches to move to Tier 1. The comparison highlights that while both countries face profound challenges in combating human trafficking. The Philippines has a stricter legal

framework, better victim protection, and higher prosecution rates, contributing to its Tier 1 ranking. Meanwhile, to achieve Tier 1 status, Malaysia has to improve victim protection and law enforcement efforts.

Case Studies

Case #1: Palm Oil Industry Exploitation

A study conducted from June 2018 to January 2019 unveiled troubling findings regarding forced labour within Malaysia's oil palm plantations. The study indicates that eight out of every 1,000 plantation workers in Malaysia were trapped in exploitative and forced

Table 2. Comparative Study on Human Trafficking in Malaysia and the Philippines

| Category                           | Malaysia  | Philippines  |
|------------------------------------|---|--|
| Nature of Trafficking              | <ul style="list-style-type: none"><li>- Primarily a destination country</li><li>- Major forms include forced labour and sexual exploitation</li><li>- Vulnerable groups: migrant workers from Indonesia, Bangladesh, Nepal, and the Philippines</li></ul>   | <ul style="list-style-type: none"><li>- Primarily a source country</li><li>- Major forms include forced labour, sexual exploitation, and online sexual exploitation of children (OSEC)</li><li>- Vulnerable groups: women, children, and migrant workers</li></ul>                             |
| Government Response                | <ul style="list-style-type: none"><li>- Legislation: Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007</li><li>- Efforts to prosecute traffickers have increased, but victim protection is often lacking</li><li>- Ranked in Tier 2 in the U.S. TIP Report, indicating efforts but not meeting minimum standards.</li></ul> | <ul style="list-style-type: none"><li>- Legislation: Anti-Trafficking in Persons Act of 2003</li><li>- Strong legal framework with proactive enforcement.</li><li>- Consistently ranked in Tier 1 in the U.S. TIP Report, meaning it meets the minimum standards.</li></ul>                    |
| Victim Protection                  | <ul style="list-style-type: none"><li>- Limited shelters and protection services.</li><li>- Victims, especially undocumented migrants, are often treated as criminals.</li><li>- Lack of support for trafficked individuals.</li></ul>  | <ul style="list-style-type: none"><li>- Comprehensive victim protection system, including shelters, legal assistance, and psychosocial support.</li><li>- The government works with NGOs to provide victim care.</li><li>- Limited resources to manage a high volume of cases.</li></ul>       |
| Prosecution and Law Enforcement    | <ul style="list-style-type: none"><li>- Law enforcement efforts have improved, but challenges remain due to corruption and inadequate enforcement</li><li>- Prosecution rates are still low, and complicit officials often go unpunished.</li></ul>   | <ul style="list-style-type: none"><li>- Strong law enforcement response with extensive anti-trafficking training.</li><li>- Higher prosecution and conviction rates compared to many Southeast Asian countries.</li><li>- Corruption remains a challenge, especially in rural areas.</li></ul> |
| International Ranking (TIP Report) | <ul style="list-style-type: none"><li>- Ranked in Tier 2: significant efforts, but does not meet minimum standards.</li><li>- Criticized for mistreatment of migrant workers and weak victim support</li></ul>  | <ul style="list-style-type: none"><li>- Ranked in Tier 1: fully meets the minimum standards for eliminating trafficking.</li><li>- Proactive legal framework and international collaboration, but corruption and child exploitation remain challenges</li></ul>                                |
| Major Forms of Trafficking         | <ul style="list-style-type: none"><li>- Forced labour (especially among migrant workers) and sexual exploitation</li><li>- Traffickers exploit weak labour and immigration laws</li></ul>   | <ul style="list-style-type: none"><li>- Labor trafficking abroad (domestic workers and seafarers)</li><li>- Online sexual exploitation of children is a major issue</li></ul>  |

Source: Compilation of Data from US Department of State (2023), UNODC (2020), Ministry of Home Affairs Malaysia (2021), and Philippine Inter-Agency Council Against Trafficking (IACAT) (n.d.).

labour conditions. Notably, Sarawak exhibited a higher prevalence rate than Peninsular Malaysia and Sabah. Exploitative practices, such as restrictions on workers' movement, breach of employment contracts, wage fraud, physical assault, deportation threats, incurring heavy debts, and passport confiscation, were identified as tools to coerce and exploit migrant labourers across various sectors, including oil palm plantations, agriculture, construction sites, factories, and domestic work (Mohamed Razali, 2022).

In tandem with this study, a 2018 report from an NGO highlighted various indicators of forced labour associated with palm oil production in Malaysia. These indicators include menacing practices such as threats, violence, ambiguity in employment terms susceptible to manipulation by employers, inadequate protection from law enforcement, financial debt burdens, exorbitant costs incurred by labourers, and involuntary overtime work. Furthermore, human traffickers exploited the high debts borne by labourers to compel them into work to settle these debts. The US initiated an investigation that involved interviewing over 130 plantation workers and former employees from 24 companies across Malaysia and Indonesia (US Department of State, 2019). Consequently, the US imposed immediate import restrictions on palm oil and related products from Malaysian companies.

While Malaysia has taken steps to address these issues through the Malaysian Sustainable Palm Oil (MSPO) scheme and increased industry oversight, enforcement remains inconsistent. For instance, Sime Darby became the third Malaysian company to face a US ban in 2020 over forced labour allegations, following FGV Holdings and latex glove producer, Top Glove. Malaysia continues to rely on over 337,000 migrant workers, primarily from Indonesia, India, and Bangladesh, highlighting the need for systemic reforms.

In contrast, the Philippines, which faces similar labour exploitation risks in its

agricultural sector, has implemented more proactive measures to mitigate forced labour. The Migrant Workers and Overseas Filipinos Act of 1995 (RA 8042) emphasises transparent recruitment processes and provides pre-departure education for workers. Additionally, the Philippines collaborates with local NGOs to establish monitoring systems that detect and address labour exploitation early. These efforts have earned recognition from the ILO as best practices in preventing forced labour (ILO, 2021).

While Malaysia's MSPO scheme signals progress in sustainable practices, incorporating the Philippines' transparent recruitment standards and community-driven monitoring systems could enhance its ability to prevent forced labour in the palm oil sector. Lessons from the Philippines suggest that combining legal reforms with collaborative monitoring can significantly reduce exploitation risks.

## **Case #2: Top Glove Sdn. Bhd. and Forced Labour Allegations**

On July 16, 2020, the US Customs and Border Protection (CBP) banned products manufactured by two subsidiaries of Malaysia's Top Glove, namely Top Glove Sdn. Bhd. and TG Medical Sdn. Bhd. This action was taken based on compelling evidence of forced labour practices, including debt bondage, excessive overtime, harsh working and living conditions, and identity document retention. The ban was later extended to encompass all disposable gloves produced in Malaysia by the parent company and its subsidiaries. However, in September 2021, the US lifted the ban following announcements by the CBP and Top Glove that the company had addressed these concerns (US Department of State, 2021b).

Top Glove initiated efforts to rectify the situation and provide restitution to migrant workers affected by these allegations. On August 10, 2020, the company announced that it had begun the reimbursement process, with an initial

payment of RM4.4 million as part of a larger RM53 million (equivalent to US\$ 12.5 million) package for its migrant workforce. This financial restitution was a requirement for removing import restrictions. However, deeper systemic changes, including improved oversight and monitoring of labour practices, are needed to prevent recurring violations. Interviews conducted by our research team revealed continued dissatisfaction among workers. During a visit to Top Glove's facilities in February 2022, workers reported cramped living conditions, with 20 workers sharing accommodations meant for 10, limited medical support, and salary discrepancies between local and migrant workers (Interviews with Victims of Top Glove, 2022).

In comparison, the Philippines offers a proactive model for addressing labour exploitation through its Overseas Workers Welfare Administration (OWWA). The OWWA provides comprehensive pre-deployment training, legal assistance, and financial aid to overseas workers. This organisation also monitors labour conditions abroad to protect Filipino workers from exploitation. The Migrant Workers and Overseas Filipinos Act (RA 8042) mandates recruitment agencies to comply with strict labour standards, reducing the prevalence of forced labour and debt bondage. Additionally, the Philippines imposes significant penalties on agencies and employers found guilty of exploitative practices, creating a deterrent effect (IACAT Annual Report, 2022).

Malaysia's reliance on external pressure, such as US sanctions, underscores its reactive approach to forced labour. Adopting proactive measures like those implemented in the Philippines, such as legal reforms, rigorous recruitment monitoring, and enhanced welfare programs, could strengthen Malaysia's labour systems and improve its international standing.

### **Case#3: Sex Trafficking in Malaysia**

Malaysia, a Southeast Asian nation with a diverse culture and a growing economy, has

been grappling with the issue of sex trafficking for several years. Sex trafficking is a multi-faceted problem with complex root causes and implications. Among the key factors and challenges in sex trafficking in Malaysia are poverty and economic disparities, particularly in rural areas, which create a pool of vulnerable individuals at risk of exploitation. Additionally, foreign nationals, especially from neighbouring countries like Indonesia, the Philippines, and Myanmar, often become victims due to their vulnerable immigration status. Malaysia's tourism industry and economic growth have also contributed to an increased demand for commercial sex services, fuelling the trafficking industry as traffickers seek to profit from this lucrative market. Corruption within law enforcement agencies, immigration services, and border control has further exacerbated the problem, allowing traffickers to bribe officials to facilitate the movement of victims.

Victim recruitment often begins with deception. A typical case involves traffickers posing as job recruiters, promising lucrative work opportunities to young women from rural areas. Once recruited, victims have their documents confiscated and are forced into prostitution, subjected to physical and emotional abuse, and kept in deplorable living conditions. Despite government efforts, the identification and rescue of victims remain challenging. NGOs, community groups, and concerned citizens play a crucial role in identifying and reporting potential cases. However, the process is hindered by victims' fear, coercion, or lack of trust in authorities.

In comparison, the Philippines has implemented significant measures to combat sex trafficking, earning its consistent Tier 1 ranking in the US TIP Report. The Anti-Trafficking in Persons Act of 2003 (RA 9208), along with its amendments, established anti-trafficking courts and mandated a victim-centred approach. These courts have specialised judges trained to handle trafficking cases,

ensuring swift and just trials. Partnerships with international organisations, such as the International Justice Mission (IJM), have strengthened enforcement mechanisms and victim rehabilitation programs. In addition, the Philippine government has established shelters and reintegration programs that focus on psychosocial support and skill-building for survivors (TIP Report, 2023; IJM Philippines Annual Report, 2020).

Malaysia's anti-trafficking efforts, while significant, lag behind the Philippines in critical areas such as victim rehabilitation and specialised judicial mechanisms. The Philippines' approach demonstrates the importance of collaborative frameworks and a victim-first perspective in combating sex trafficking. Malaysia could benefit from adopting similar measures, particularly by creating dedicated anti-trafficking courts and enhancing partnerships with NGOs and international organisations.

#### **Case #4: Exploitation of Domestic Workers in Malaysian Human Trafficking**

Domestic workers play a crucial role in many households in Malaysia, assisting with chores, childcare, and elderly care. However, some domestic workers, often migrants, face exploitation and abuse, with instances that may constitute human trafficking. Malaysia relies heavily on foreign domestic workers, primarily from Indonesia, the Philippines, and Bangladesh. While these workers come to Malaysia seeking employment opportunities, many end up in exploitative and abusive conditions. Human traffickers or employers often confiscate workers' passports and identity documents, restricting their freedom of movement and leaving them vulnerable to exploitation (Interviews with Enforcement Officer JTKSM, 2021).

Common exploitative practices include long working hours with little to no rest,

withholding wages, and forcing workers to repay exorbitant recruitment fees. In many cases, workers are subjected to physical and psychological abuse. Interviews conducted in 2023 revealed that domestic workers were often coerced into tasks beyond their job scope, such as heavy manual labour or multiple roles, which compounded their exploitation (Interviews with Enforcement Officer JTKSM, 2023). Victims have limited access to justice or grievance mechanisms, further exacerbating their vulnerability. NGOs have highlighted the need for better enforcement of existing labour laws and the introduction of comprehensive protections for domestic workers.

The Philippines, by comparison, has established robust protections for domestic workers under the Domestic Workers Act, or *Batas Kasambahay* (RA 10361). This landmark legislation mandates fair wages, regulated working hours, and access to grievance mechanisms for domestic workers. Employers are required to formalise contracts, ensuring clarity in employment terms and protections against exploitation. The Philippine government also collaborates with NGOs and international organisations to monitor compliance with labour laws and provide support to workers in distress. The UNODC has recognised *Batas Kasambahay* as a global best practice for protecting domestic workers (UNODC, 2022; Philippine Commission on Women, 2021).

Malaysia could adopt similar legislative reforms to address domestic worker exploitation. By formalising contracts, enforcing wage protections, and establishing accessible grievance mechanisms, Malaysia can reduce instances of trafficking and exploitation. Additionally, fostering collaborations with NGOs and international organisations, as demonstrated by the Philippines, can strengthen enforcement and provide better support systems for workers.



## **Discussion**

### **Can Malaysia Move to Tier-1?**

Malaysia's potential elevation to Tier 1 in the US TIP Report hinges on its ability to address systemic human trafficking issues comprehensively. This section discusses the government's and NGOs' responses to the challenges highlighted in the case studies, evaluates alignment with the TVPA standards, and compares Malaysia's progress with that of the Philippines, a Tier 1 ASEAN country.

#### **Case #1: Palm Oil Industry Exploitation**

The palm oil industry in Malaysia has faced significant scrutiny for forced labour practices, including wage fraud, passport confiscation, and abusive conditions. In response, the Malaysian government collaborated with the Malaysian Palm Oil Certification Council (MPOCC) to enforce stricter compliance under the Malaysian Sustainable Palm Oil (MSPO) certification scheme. The updated MSPO standards emphasise fair wages, safe working conditions, and labour rights. NGOs complemented these efforts by providing victim support, such as legal aid, shelters, and advocacy programs (Crinis, 2019; Verité, 2014). Despite these efforts, enforcement remains inconsistent, and penalties are insufficient to deter violations. Comparatively, the Philippines has institutionalised rigorous accountability frameworks through specialised labour courts and partnerships with international organisations like the ILO. By adopting similar mechanisms, Malaysia could enhance the efficacy of its labour enforcement, ensuring compliance across industries and meeting TVPA standards for sustained anti-trafficking efforts.

#### **Case #2: Top Glove Sdn. Bhd, and Forced Labour Allegations**

Allegations of forced labour against Top Glove, including passport retention and inadequate living conditions, resulted in US

import bans and subsequent governmental interventions. The Ministry of Human Resources conducted inspections, mandated corrective actions, and collaborated with NGOs like Tenaganita to assist affected workers (Amnesty International, 2016). These efforts have led to improved worker accommodations, restitution payments, and the establishment of grievance mechanisms. While these measures addressed immediate issues, Malaysia's reactive approach contrasts with the Philippines' preventative strategies. The Philippines' proactive labour policies emphasise transparency, regular audits, and strengthened labour recruitment practices. Malaysia could similarly institutionalise preventative frameworks, integrating regular compliance checks and training for employers. Strengthening whistle-blower protections would also encourage the reporting of labour abuses and enhance Malaysia's ability to meet TVPA requirements.

#### **Case #3: Sex Trafficking in Malaysia**

Sex trafficking remains a critical issue, driven by poverty, weak border controls, and corruption. Malaysia's legislative framework, including the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, provides a foundation for combating these crimes. Collaborative efforts with NGOs and international organisations like UNODC and INTERPOL have bolstered enforcement and victim support initiatives (Fair Labor Association, 2019). Awareness campaigns have also aimed to reduce stigma and encourage reporting. However, systemic corruption undermines enforcement, and victim rehabilitation services remain underdeveloped. The Philippines demonstrates a more holistic approach, combining stringent legal frameworks with victim-centred reintegration programs. Malaysia could emulate these models, prioritising long-term support for survivors through trauma-informed care, vocational training, and accessible legal aid.

Addressing corruption through transparent oversight mechanisms would further strengthen enforcement and improve public trust.

#### **Case #4: Exploitation of Domestic Workers**

Migrant domestic workers in Malaysia face high risks of exploitation, including long working hours, wage fraud, and abuse. Legislative amendments to the Employment Act and bilateral agreements with source countries have sought to improve worker protections. NGOs like Migrant CARE have provided critical support, offered shelters, and advocated for stricter enforcement of labour standards (Crinis, 2019). However, significant gaps remain in monitoring recruitment agencies and ensuring consistent enforcement of labour laws. The Philippines' *Batas Kasambahay* law offers a model framework, mandating formal contracts, regulating recruitment agencies, and establishing robust grievance mechanisms. Malaysia could adopt similar policies to strengthen protections for domestic workers, aligning its practices with TVPA benchmarks and international labour standards.

Malaysia needs to continue making significant efforts to combat human trafficking, improve its legal framework, enhance victim protection, and strengthen law enforcement. International cooperation and sustained commitment are equally critical in determining its tier placement in the US TIP Report. To achieve Tier 1 status, Malaysia must demonstrate significant progress in addressing trafficking issues, meeting the minimum standards set by the TVPA. Insights from the Philippines, with a Tier 1 status, offer valuable guidance on strategies Malaysia could adopt to strengthen its efforts.

#### **Strengthening and Enforcing Laws Against Human Trafficking**

Robust anti-trafficking laws are essential for combating human trafficking. Malaysia must establish comprehensive legislation that explicitly defines trafficking in all its forms,

including sex and labour trafficking, and prescribes severe penalties for perpetrators. Current legal frameworks criminalise trafficking but lack the stringent enforcement seen in the Philippines. For example, the Philippines has implemented specialised anti-trafficking courts, ensured timely prosecution, and reduced impunity for traffickers (US Department of State, 2023). Malaysia could adopt similar measures, enabling effective trial processes for trafficking offenses, including those committed abroad.

Specialised law enforcement units dedicated to trafficking investigations, as seen in the Philippines, would further strengthen Malaysia's framework (Verité, 2014). These units should receive ongoing training to handle complex trafficking cases, identify victims, and apply relevant laws effectively (Interviews with Enforcement Officer NSO MAPO, 2023, March 17). Implementing whistle-blower protections, as outlined in the Whistle-blower Protection Act 2010, is also critical for encouraging individuals to report trafficking-related activities without fear of retaliation. Confidential reporting channels, anonymity provisions, and protection from employer retaliation must be reinforced to create a safer reporting environment. By emulating the Philippines' commitment to rigorous legal enforcement and victim-centred protections, Malaysia can significantly enhance its anti-trafficking strategy.

#### **Improving Victim Protection**

Enhanced victim protection measures are vital to Malaysia's fight against human trafficking. Comprehensive services, including medical care, psychological support, legal aid, counsellors, and vocational training, must be prioritised to ensure victims' long-term recovery and reintegration into society (Amnesty International, 2016). Shelters should provide safe, trauma-informed environments where victims can access necessary support without risk of re-traumatisation (Crinis, 2019).

The Philippines excels in victim rehabilitation, offering tailored reintegration services and collaborating with NGOs to provide sustained care (Fair Labor Association, 2019). Malaysia could benefit from adopting a similar approach to ensure victims receive consistent support. Training for healthcare professionals, social workers, and counsellors in trauma-informed care is also essential for addressing the psychological impact of trafficking (ILO, 2021). Furthermore, legal assistance must be expanded to support victims in pursuing justice against traffickers. Strengthening these protections would not only improve Malaysia's TIP ranking but also align its practices with international standards.

### **Raising Public Awareness**

Public awareness campaigns play a crucial role in educating the population about trafficking issues, empowering potential victims, and encouraging community involvement in reporting suspicious activities. Malaysia has initiated campaigns targeting migrant workers and marginalised communities, but these efforts must be intensified (Interviews with Ministry of Home Affairs and Academics, 2023, March). Materials should be available in multiple languages to accommodate the country's diverse population, ensuring broader accessibility.

The Philippines has successfully integrated trafficking education into school curricula, increasing awareness among young people (Astuti & McGregor, 2015). Malaysia could replicate this by incorporating trafficking prevention programs in schools, universities, and vocational training centres. Collaborating with media outlets to produce public service announcements, documentaries, and news stories would further amplify awareness. Community leaders and NGOs should be actively involved in disseminating information to vulnerable groups, fostering trust, and encouraging collaboration. Expanding these campaigns can help Malaysia build a well-

informed public that actively supports anti-trafficking efforts.

### **Sustained Efforts and International Cooperation**

Malaysia has demonstrated its commitment to combating trafficking by ratifying international frameworks such as the UN Convention against Transnational Organized Crime and the Palermo Protocol. However, sustained and consistent efforts are needed to align fully with international standards (US Embassy in Malaysia, 2021). The Philippines' collaboration with international organisations like the ILO and the IJM has strengthened its capacity to address trafficking. Malaysia must similarly enhance its partnerships, leveraging global expertise to refine its strategies.

Regularly updating legislation to address emerging trafficking trends is crucial (Nafisah et al., 2020). Malaysia should also invest in research to evaluate the effectiveness of its initiatives and identify areas for improvement. Ongoing collaboration with ASEAN and other regional bodies would foster comprehensive anti-trafficking strategies, benefiting all member states.

### **Conclusion**

Human trafficking continues to challenge Malaysia's aspirations to achieve Tier 1 in the US TIP Report. Despite substantial progress in legislation, victim protection, and public awareness, systemic barriers such as weak enforcement, corruption, and limited international collaboration remain significant obstacles. Drawing lessons from the Philippines' success, Malaysia can benefit from adopting proactive measures, including specialised courts, enhanced victim rehabilitation programs, and stringent monitoring of labour practices.

Achieving Tier 1 requires sustained and multi-dimensional efforts, integrating robust legal frameworks, victim-centred approaches, and consistent law enforcement. Collaboration with international bodies and NGOs is also

essential to strengthen regional partnerships and address transnational trafficking networks. By addressing these gaps and fostering a culture of accountability and empathy, Malaysia can improve its international standing while ensuring justice and dignity for trafficking victims. This journey, though complex, is crucial for Malaysia's commitment to human rights and sustainable development.

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