Plantation Systems, Labour Regimes and the State in Malaysia, 1900–2012

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Plantation Systems, Labour Regimes and the State in Malaysia, 1900–2012

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Plantation production systems, plantation labour regimes and a foreign workforce typified European investment in the large-scale agricultural sector in colonial Malaya. Analogous structures and trends continue to be influential in Malaysia's contemporary commercial agricultural sector. Initially, the politics and organization of the East India Company and the pursuit of tropical commodities corresponded with the facilitation and channelling of Indian migrant labour for coffee and sugar cultivation in Malaya. The subsequent development of the rubber industry represented the first major transition to more highly capitalized large-scale farming for international markets. In the 1990s, oil palm replaced rubber as the premier crop in a second agrarian transition, consistent with Malaysia's economic and political imperatives, social policy and the global demand for palm oil. There are important continuities in the rubber and oil palm agricultural transitions. These include comparable plantation structures, labour systems and a continuing reliance on migrant labour, despite the growth of the national labour force. The correlation between plantation systems and Malaysia's foreign labour policy should be viewed through the prism of challenges to large-scale agricultural production and countervailing forces that might be acting on the Malaysian state.

Keywords: Malaysia, agricultural development, plantation sector, labour policy, migrant workers

INTRODUCTION: THE GLOBAL TRADE IN COMMODITIES, AGRICULTURAL TRANSFORMATION AND MIGRANT LABOUR IN MALAYSIA[1]

Malaya's broader incorporation into the international economy in the late nineteenth century and the country's development path under British rule was connected with the demand for Empire commodities and the Industrial Revolution in the West. Rubber became the leading agricultural commodity and its expansion was connected to the plantation mode of production, new agricultural techniques and capitalist ecological intervention in agriculture. The plantation system differed from previous production methods because it originated from outside the region, and was organized and managed by Western (predominantly British) enterprise. It was characterized by unified management of huge units, whose viability was dependent on substantial capital investment and mobilization of large amounts of labour. The

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[1] Malaya refers to Malaya (the Malay Peninsula and Singapore) prior to, and immediately after, Independence. The Malaysian Federation was formed in 1963 and included Malaya, Singapore, Sabah and Sarawak. Singapore became an independent state in 1965.

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colonial administration facilitated and channelled Indian labour from British India to sustain Malaya's first agrarian transition. Thus the development of the rubber industry and related plantation structures were associated with the evolution of a particular plantation labour regime, a related 'complex' of interconnected operations and a particular cultural milieu (cf. Curtin 1990). Additionally, Malay peasants also took up smallholder rubber cultivation in response to incentives and market forces. Crucially, while rubber, and later oil palm, developed under Western capitalist direction, the colonial state played a fundamental role in the nature and scale of the enterprise through the introduction of new land regulations, the mobilization of a mostly migrant labour force, the development of road and rail networks, and encouragement of agricultural research.

After Malaya became independent, the new government prioritized creation of a national economy and espoused a centralized approach to economic development. The latter entailed adoption of development plans to establish targets and set directions. Primary production continued to be a priority and the government cooperated and negotiated with foreign plantation companies. Concurrently, the government promoted industry, including industrial processing alongside agriculture. Over time, the government became the most important player in the oil palm sector and established federal land development schemes. Unlike rubber, where very little processing (essentially production of crepe rubber sheets) was carried out locally, palm oil development involved vertically and horizontally integrated conglomerates. Significantly, the government's land development schemes for Malays entailed further acceleration in oil palm expansion and enhanced state involvement. Rubber's declining fortunes and the economic and political advantages associated with the 'green economy' thus resulted in a second agricultural transformation in Malaysia. Notwithstanding increased smallholder output, the plantation production system and related labour regime continue to dominate the agricultural sector. Despite changes in commodity specialization, the geography of production and the ownership of large-scale agricultural enterprises, there are striking continuities between the earlier agrarian transition and the second agrarian transition.

Presently, the plantation sector consists of private companies, publicly listed corporate entities and land development schemes, which are managed by the Federal Land Development Authority (FELDA). These land development schemes are extensive and are normally managed like plantations. All production units including independent smallholdings (1–2 hectares) managed by family units rely on migrant workers. The government's industrialization programme accelerated rural–urban migration and labour shortages in the agricultural sector. Against this backdrop, national government and plantation companies have eschewed paying higher wages to Indian plantation workers and recruited a relatively cheaper flexible foreign workforce for plantations, government land schemes and the smallholding sector. The 'new' foreign migrant workers in Peninsular Malaysia are predominantly from Indonesia and Bangladesh and work alongside a dwindling proportion of descendants of Indian migrant workers. Bilateral intergovernmental arrangements have once again become a central instrument to facilitate and regulate recruitment of foreign workers for the plantation and other sectors. The government and plantation companies continue to depend on exploitive labour systems and manage immigration to recruit and control plantation labour. Ironically, managed immigration has bolstered a demand for unauthorized (irregular) foreign workers, rather than providing access to the labour market for unemployed Malaysian Indian workers. The government's border enforcement strategy of halting irregular migration is also unproductive and has created a thriving market for human traffickers. Essentially, while the ethnicities of plantation workers have changed, workers' living circumstances and economic and social marginalization remain largely unchanged.

The paper is divided into two sections. The first begins with a discussion of Malaya's integration into a colonial system of regional specialization, the development of the rubber industry and the first agrarian transition. This section continues by tracing commercial agriculture's situation through the post-Second World War era up to the beginning of the 1980s. It identifies how the independent Malayan government followed a 'Malaya for the Malays' policy, establishing land development schemes for Malays while halting low-skilled economic migration. The second section explores the second agrarian transformation in Malaysia connected with the expansion of the oil palm industry. It also considers the context of change in terms of national political, economic and social strategies and the politics of oil palm. The focus throughout is on Peninsular Malaysia for two reasons. Prior to Malaysia's establishment in 1963, Malaya, Sabah and Sarawak all experienced different colonial trajectories and hence differing development pathways. Second, under the Malaysian constitution, land is a state matter in the three constituent territories, as is immigration, and both have implications for the politicization of the foreign labour force issue.

AT THE OUTSKIRTS OF EMPIRE: THE RUBBER PLANTATION[2] SECTOR AND INDIAN MIGRANT WORKERS IN COLONIAL MALAYA

The Capitalization of Agriculture and the Plantation System

Prior to British rule in Malaya, the English East India Company established port settlements in the Straits of Malacca, known as the Straits Settlements and comprising Penang, Singapore and Malacca. The Company and British merchants initially depended on imported Indian slave and convict labour for sugar and coffee estates established around the same time and for government public works projects. The abolition of slavery, the collapse of the Company in 1858, the separation of the Straits Settlements from India in 1867 and the prohibition of labour migration to the Straits subsequently foreshadowed the establishment of new arrangements for recruitment of Indian labour. These allowed Indian labour migrants to travel to Malaya as 'free' individuals, and the specific colonial agenda resulted in the development of indenture and *kangani* recruitment systems. These developments were linked with world demand for rubber based mainly on the expansion of the automobile, tyre and related industries in the United States, coupled with American control of the Brazilian rubber supply. Concurrently, the increased competition from sugar and coffee competitors internationally led to local British investors shifting to rubber (Tate 1996, ch. 16).

Merchant capital in the Straits Settlements, specifically British agency or trading houses in Singapore, played a vital role in bringing together sugar and coffee planters with overseas (mainly British) financial interests to convert the estates into new limited liability joint-stock companies through flotation on the stock market in London (Drabble and Drake 1974, 108–20; Wong Lin Ken 1991, 56–62). Typically, the agency houses were appointed managing agents and/or secretaries to the Board of Directors of the new corporatized enterprises (hereafter referred to as corporations or plantation companies). Approximately 260 London-listed companies were floated for Malaya alone from 1903 and 1912. Others were registered in Australia, Ceylon (Sri Lanka) and elsewhere, and by the end of the 1909–10 boom, individually owned estates had disappeared, with their former owners often allocated shares in

[2] Plantations are defined here as large-scale, mostly foreign-owned and specialized farming systems, typically monocropping perennials for export.

Table 1. The global distribution of natural rubber production, 1910–40 (per cent of total)

Country	*1910*	*1920*	*1930*	*1940*
Malaya	6.7	51.0	53.6	38.7
Indonesia	2.9	22.1	29.2	38.4
Indochina	0.2	0.9	1.2	4.5
Sarawak	0.001	0.5	1.2	2.5
Thailand	0.001	0.1	0.5	3.1
North Borneo (Sabah)	0.03	1.2	0.9	1.2
Ceylon	1.7	8.6	9.2	6.4
India	0.2	1.9	0.2	1.2
Brazil	40.3	6.8	1.4	1.3
Africa	21.4	1.6	0.6	1.1

Note: Malaya includes Singapore, although Singapore's rubber production was very small.
Source: Adapted from Lim Chong Yah (1967, 94).

the new corporate entities as part of the purchase price. Some planters also stayed on as salaried managers in the new plantation companies (Drabble 1973, ch. 3), which subsequently 'occupied positions not unlike those of similar [industrial interests] in Britain and America, powerful combines that dealt with the government on equal terms or better' (Heussler 1981, 176).

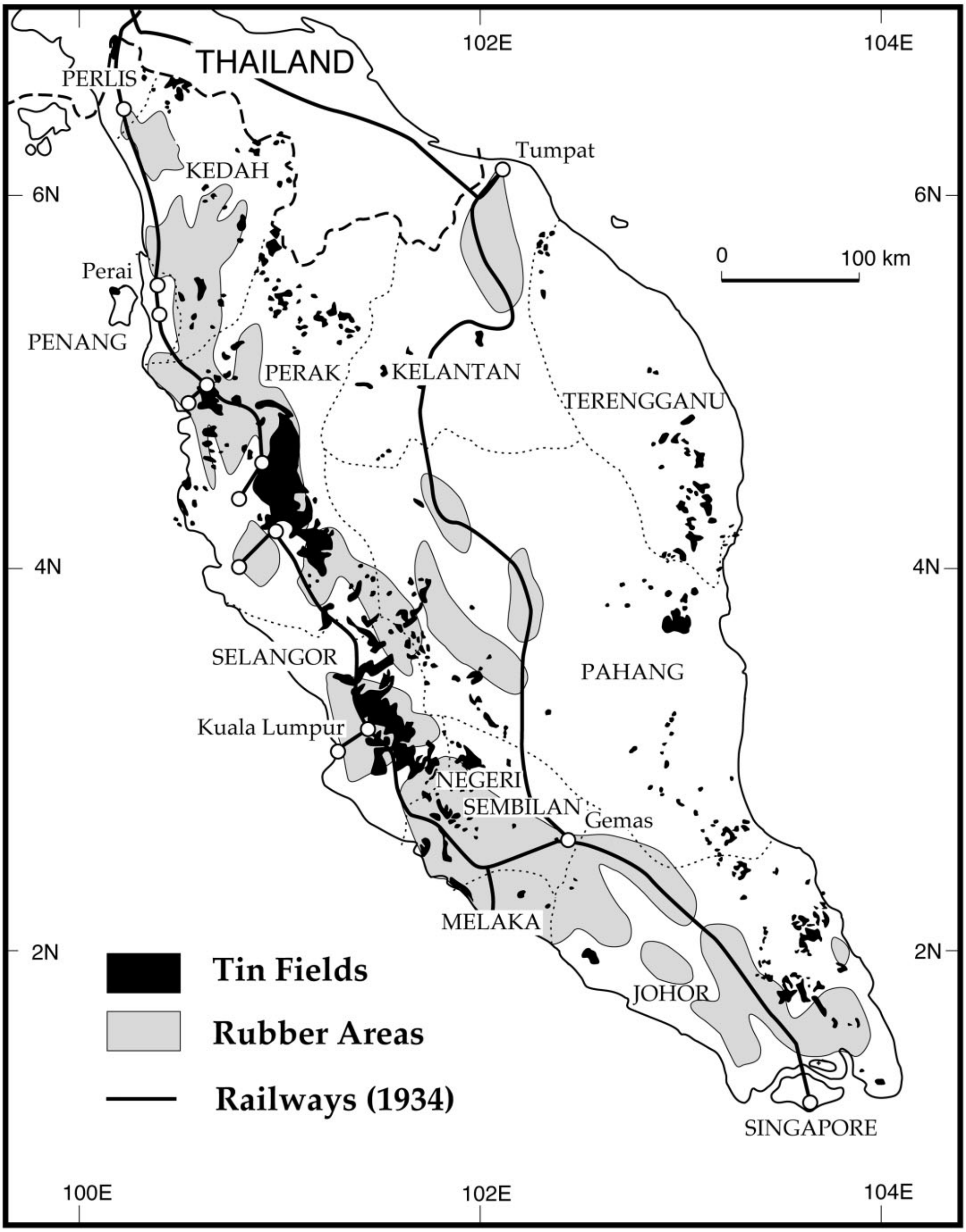
The Malayan government assisted the transition to corporate ownership by privileging plantation production, and Western (mainly British) investors obtained large land grants on very long leases at charges of 3–4 per cent per annum. The government also offered generous support by waiving land rents and duties, and plantation companies were allowed to select the most accessible, well-drained land. The construction of a unified transportation and communications infrastructure also played an important role in determining the location of rubber plantations and expanding the industry (Jackson 1968, 237; Kaur 1985). The new road and rail networks guaranteed access to ports and markets while railway branch lines connected inland plantations with the trunk railway line (Kaur 1980, 693–710; Kaur 1985). Meanwhile, government played a major role in importing labour and also subsidized recruitment costs.

From the perspective of production, Malaya and Indonesia emerged as the two largest producers in South-East Asia, followed by Indochina, Thailand and the current two East Malaysian states of Sarawak and North Borneo (Sabah), as shown in Table 1. Malayan rubber exports alone rose from 6,500 to 204,000 tonnes between 1910 and 1919 alone (Drabble 2000, 3–4). The spread of rubber plantations in Malaya is shown in Figure 1.

The Plantation Labour Regime and Labour Recruitment Policy

From a comparative perspective, South-East Asian countries may possibly be divided into 'labour-scarce' and 'labour-surplus' countries, and this situation had important implications for the growth of wage labour and colonial labour policies. There were two extremes in this categorization – Malaya and Java. In Malaya, landlessness and rural deprivation among the Malays was practically non-existent and they largely shunned wage work during the colonial period. But in Java, with its huge, poor population, non-farm employment was crucial for survival strategies, and Javanese workers moved around during the colonial period to eke out a living. Thus while Java has been a labour exporter since colonial times, Malaya/Malaysia has

Figure 1 The rail network and the distribution of rubber in Malaya, 1935



Source: Kaur (1999, 147).

been a labour importer. If the picture is broadened to Asia generally, then in the colonial era southern India and China were further labour-surplus areas.

Plantations were organized on military lines, with up to 1,000 resident workers employed on single units (Stenson 1980, 25–6) exemplifying the 'marriage of tropical production to the industrial production of the temperate zone' (Havinden and Meredith 1993, 169). From the start, the colonial government and British companies turned to India and China to recruit workers for Malayan enterprises. Long-term migration to South-East Asia was not new and Indians had earlier gone to Malaya to work in the port trading centres, although expansion of the British Empire introduced a new phase in South and East Asian migration.

It is important to identify the various mechanisms through which migrants were recruited and the comparative forms of freedom/unfreedom associated with their employment contracts. In the case of Indian labour, the sub-imperial India Office and the Federated Malay States (FMS) government jointly planned and regulated South Indian labour's employment in the FMS with the approval of the Colonial Office in London. Indian migrants were mainly low-caste men, mainly from the Tanjore, Trichinopoly and North Arcot districts in South India. These districts were particularly vulnerable to drought, while famine and landlessness was widespread. Migrant workers' travel and related costs were paid by the labour intermediaries (or prospective employers) and migrants were required to work for employers for a fixed period until they had repaid their debts.

The importance of rubber in Malaya's economy increased demand for labour and anxiety over likely Indian labour shortages subsequently led to Javanese labour recruitment. The Javanese were recruited as indentured workers, following an agreement between the Malayan and Dutch colonial governments (Jackson 1961, 127). Under the Netherlands Indian Labour Protection Enactment (1909), the Dutch stipulated written employment contracts for Javanese workers, who continued to work under indenture until 1932, long after this had been abolished for Indians and Chinese. Subsequently, attempts were made to recruit free Javanese labour with the assistance of Javanese workers resident in Malaya, but with limited success. A third migrant labour group comprised Chinese immigrants, but the Malayan government was not involved in their recruitment or employment, although it did appoint a Protector of Chinese to look after their interests. The Chinese were recruited and managed by Chinese labour contractors and regularly moved around in search of better wages. Contractors rather than estates were responsible for workers' accommodation and looked after their necessities. Given that Indians comprised between 66 and 80 per cent of the plantation workforce from 1907 to 1938 (Parmer 1960, 273; Kaur 2004, 75) and continued to dominate it for much of the remainder of the first period considered here, the paper concentrates on the Indian labour regime.

The Indenture System for Indian Workers

In the indenture system for Indian workers, Malayan planters initially used the services of one of the labour recruitment firms in Negapattinam or Madras, or sent their own agents to South India to recruit labourers directly. Agents advanced money to prospective migrants for transport and other expenses on the stipulation that they sign a contract on arrival in Malaya. The men were then considered to be under indenture to their employers for a fixed period. Initially, this ranged from 3 to 5 years, although it was fixed at 3 years following enforcement of the 1904 Labour Ordinance (Tinker 1974, 179). Workers were given the option of being re-indentured for a further period, or were released from indenture after finishing their contracts, on the condition that they had paid off their debts. Wages were fixed at the time of recruitment; they were not negotiable and only paid after deducting employers' recruitment costs. Indian workers were unfree in their binding to specific employers who penalized them to enforce labour contracts, while any violation of contract was regarded as a criminal, rather than a civil offence.

Eventually, the Straits government assumed control of indentured labour recruitment and allocation of Indian workers to plantation companies and public works departments to lessen migrants' recruitment costs. Free or complimentary tickets were offered to prospective migrants to attract 'free' migrants. Subsequently, the FMS government, the United Planters Association and the Malay Peninsula Agricultural Association also adopted a similar system to provide 'free' passages in exchange for binding to employers. As earlier, since workers were unable to settle their debts during the initial contract period, they were re-engaged on subsequent contracts until all debts had been settled (Kondapi 1951, 8–29; Kaur 2004, ch. 4).

The Kangani *System*

Kangani means 'overseer' or 'foreman' in Tamil. It was the *kangani* who recruited workers from his home area and facilitated their transition into their workplaces in Malaya. As noted above, the *kangani* system had been employed earlier in the Straits Settlements but became increasingly popular, since by using it employers could bypass commercial or independent intermediaries. Plantation companies also preferred this system since with it, the incidence of workers absconding from the plantation declined over time. Arguably, the fact that the *kangani* received 'head money' for each day worked by the workers (which he lost if workers deserted) meant he had a vested interest in ensuring that they remained (Sandhu 1969, 101; Kaur 2012, 232–4). Moreover, he also related to labourers in his roles as supervisor, plantation storekeeper and moneylender, and workers were often indebted to him. Arudsothy (1986, 75) argues that the *kangani* system was a 'variant of the indenture system, as in effect, the debt–bondage relationship between servant and master still remained, although indirectly'.

For Indian workers on the Malayan frontier, the plantation became the 'boundary of existence', where they were trapped in an unending cycle of dependency and poverty. Plantations were isolated and there were few opportunities for personal advancement. Indian workers' foreign status and inability to speak either Malay or English intensified their segregation and vulnerability. Besides vagrancy laws, both personal relations to the *kangani* and the provision of essential facilities for a basic transplanted social life promoted stabilization of the plantation population (Arasaratnam 1970, 63). According to Gamba (1955, 24), the provision of housing and other amenities by planters was a built-in mechanism for social control. Labourers living in estate housing were not charged money rent (which was deducted from their wages at source). Consequently, if they were dismissed, they faced both eviction and expulsion. Jain (1970) has described the rubber plantation system as a 'community sub-system', where the plantation functioned as a 'total institution'.

Centralized, Government-Regulated and Subsidized Indian Recruitment

Increasing demand for labour by plantation companies and the Malayan government for public works in the years immediately preceding the First World War marked a turning point in Indian labour recruitment and strengthened the position of intermediaries. In 1907, the government's Tamil Immigration Fund Ordinance established an Indian Immigration Committee (IIC) to administer a Tamil Immigration Fund to assist South Indian labour migration (*Eastern Daily Mail and Straits Morning Adviser* 1907). The Ordinance incorporated three mechanisms. First, an official system or structure was established to oversee and regulate employment of 'free' South Indian labour. Recruitment of workers continued to be assigned to licensed *kangani*. Second, a Tamil Fund (renamed the Indian Immigration Fund in 1910) was launched to provide free travel for Indian labourers to Malaya. Third, the government introduced a quarterly fee (or levy) on all employers of Indian labour to meet labourers' travel and related costs. This was based on aggregate 'man–days' worked and amounted to about M$29.39 per head in 1912 (Stenson 1980, 18). The IIC comprised representatives of the main government departments and the major plantation employer groups.[3]

The IIC monitored the number of recruiting licenses given to the *kangani* and supervised the distribution of recruiting allowance or subsidy provided to migrants. Essentially, this legislation resulted in Indian migration evolving into two distinct categories, namely, recruited and non-recruited (spontaneous) migration. However, whether migrants were recruited under the *kangani* system or travelled independently, they now arrived as persons free of debt obligations. This policy accelerated migration as prospective labour could present themselves at emigration depots in India for assisted migration to Malaya. Concurrently, the indenture system for Indians was phased out in 1910, with the last contracts ending in 1913.

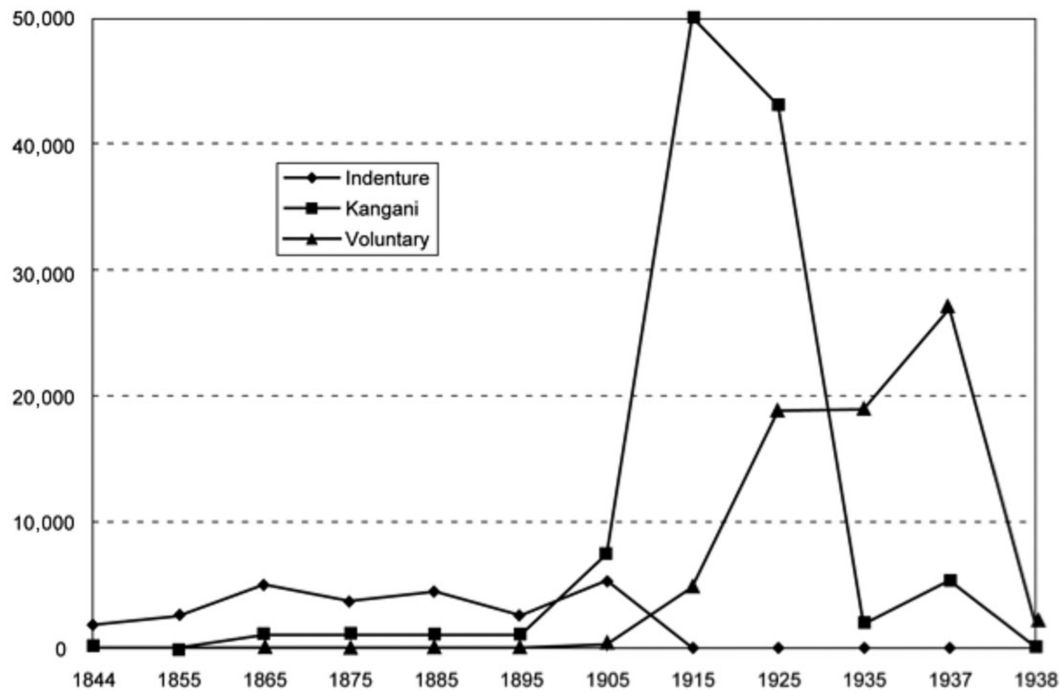
These developments reflected a paradigm shift, a move away from labour circulation to a permanently settled Indian labour force on plantations and elsewhere. Thus Indian workers recruited under the Fund's sponsorship were afterwards confined to plantations or restricted to government public works projects in emerging townships. Moreover, although arriving in Malaya without any debt obligations, they continued to be considered under contract to specific plantations and toiled under the supervision of the *kangani*. Until enforcement of the Labour Codes of 1921 and 1923, the government also maintained penal sanctions for breaches of labour contract (Orde Browne 1943). Between 1900 and 1911, the Indian population in Malaya doubled, and over the next decade doubled again. Conversely, the size of publicly financed recruitment remained contingent on the rubber industry's fortunes. Recruitment was suspended during the economic downturn of the 1920s and again during the Great Depression. Indeed in this period, since Indian plantation labour was considered a disposable commodity, the Fund was utilized to repatriate unemployed workers for whom government would otherwise have been responsible.

After the Great Depression there was reduced pressure for a central management of this system, since government-assisted migration was well publicized and most repatriated workers were able to finance their return journeys. The British were to abolish the last vestiges of *kangani* control over plantation workers in 1955, following enactment of the 1955 Employment Act. However, as will be shown later, the Malaysian government permitted a resurrection of the *kangani* role after it became the main plantation player.

Thousands of Indian migrants arrived annually in Malaya under the sponsored recruitment schemes. Between 1844 and 1910, about 250,000 indentured labourers came to Malaya (Sandhu 1969, 81). The peak of *kangani*-assisted recruitment occurred from 1910 to 1920, when about 50,000–80,000 Indian workers arrived per annum. During the entire period from 1844 to 1938, *kangani*-assisted migration accounted for 62.2 per cent of total Indian labour migration, compared with 13.0 per cent for indentured migration. Moreover, while in 1920, only 12 per cent of Indian workers present in Malaya had arrived as voluntary migrants, this

[3] On the government side, the Superintendent of Indian Immigration, Straits Settlements and Federated Malay States (chairman); the General Manager for Railways, Federated Malay States; and the State Surgeon, Perak. On the private employer side, there were plantation company representatives from Penang, Negeri Sembilan, Selangor and Johor (*Eastern Daily Mail and Straits Morning Adviser* 1907).

Figure 2 The recruitment of assisted and voluntary Indian migrants in Malaya, 1844–1938



Source: After Sandhu (1969, appendix 2, 306–9).

figure increased to over 91 per cent by the 1930s (Thompson 1943, 123). The changing recruitment method and service status of Indian workers is shown in Figure 2.

The Plantation Labour Regime, Wage Structures and Gender

The Indian plantation workforce was predominantly male. For every 100 acres under Western rubber cultivation, there were 15–20 workers, the vast majority of whom were men. According to Saw (1988, 20–1) there were probably more than 7.2 Indian males for every Indian female plantation worker in the late nineteenth century, largely due to the indenture system. Both single women and married men were discouraged from indenturing themselves.

Labour costs were split into two separate components, maintenance and renewal. Workers were paid a daily minimum wage determined both by the prevailing price of rubber and their dietary and subsistence requirements. As noted, companies also supplied basic accommodation (for single men only), subsidized provisions and occasional medical attention (Kaur 2012). Wages were low – the standard payment was for a single person – and working conditions harsh. Labour force renewal occurred traditionally largely through new hires.

By the early 1920s, Indian nationalists and social reformers had become vocal in their demands for improved working conditions for overseas Indian workers and focused on the issue of continuing Indian emigration. Hence in 1922 when the Indian Emigration Act was scheduled for enforcement in India, the question arose as to whether Indian emigration to

Malaya should continue after March 1923 (when Malaya was scheduled to fall under its provisions). Since the demand for Indian labour was still considerable, the colonial government implemented reforms with implications for the ensuing Indian sex ratio in Malaya. The colonial government conceded to pressure by adopting Rule 23 of the Indian Emigration Act (Act VII of 1922), which stipulated that there should be at least one female emigrant for every 1.5 males assisted to immigrate as labourers to Malaya. Although in line with the permanent settlement paradigm and with the increasing differentiation and specialization of plantation work (see below), the Malayan government was very slow in implementing this condition.

Generally, the ratio of Indian women to Indian men in Malaya increased at a very slow rate, from 1:5.8 in 1901 to 1:3.2 in 1911, 1:2.5 in 1921 and 1:2.1 in 1931, before eventually reaching 1:1.6 in 1947 (Ramachandran 1994, 32). The proportion of (mostly) Indian women workers employed in large-scale agriculture rose from 4.4 per cent in 1911 to 32 per cent in 1947. Eventually, employer-provided basic childcare services further facilitated Indian women's participation in the paid workforce. Additionally, a rudimentary (Tamil) school system for children was introduced at this time. Since wages in the rubber industry were insufficient for the family's requirements, almost all working-age members sought employment on the plantation.

The various Indian Emigration Acts governing Indian migration to Malaya prescribed workers' wages and working and living conditions. Plantation workers came to be categorized into three groups on the basis of tasks/skills: rubber tappers, factory workers and field workers. Tapping was regarded as skilled work, while factory and field work were considered less-skilled or unskilled. In the early 1920s the principle of a standard wage (as opposed to a minimum wage) was established, and factors such as the locality of estates and the health conditions influenced wage determination. Workers' wages were also determined on the basis of a standard budget calculation that included the cost of groceries, clothes, festival preparations and household goods. The standard wage was understood to be sufficient to maintain the plantation worker 'in a tolerable state of comfort and allow for savings, sickness and old age' (Ramasamy 1994, 32). Planters were also advised to reduce labourers' cost of living by providing basic necessities at wholesale prices through estate shops. Moreover, workers were encouraged to grow their own vegetables and raise poultry and livestock during slack periods. Women and children were invariably paid lower wages than men, since wages were established on the basis of job classification, age and gender (Kaur 2004, ch. 4).

The fact that workers' continuing employment and wages were tied to the price of rubber meant that plantation companies manipulated wages to their own advantage. For example, during the positive price trend of 1910–20, the average monthly wage rose from about M$6.00 (1910) to M$13.90 (1918) and M$12.40 in 1920. Benefits such as housing were valued at a further M$2.00 to M$2.50 per month (Thoburn 1977, 285). In 1930, daily wages were about 40 cents. However, they were reduced to between 25–30 cents at the end of 1931 and then to 20–25 cents in mid-1932. In December 1932, Indian wages ranged between 25 and 28 cents (Bauer 1948, 58). Satyanarayana (2002, 105–6) argues that the average earnings of an adult Indian male worker in Malaya in the 1930s were little more than those earned by an Indian agricultural worker in South India, since the cost of living was about 40 per cent higher in Malaya. As noted, the British preferred to repatriate Indian workers during the Depression rather than provide support for retrenched workers. Between 1930 and 1933, about 200,000 plantation workers were repatriated using Indian Immigration Fund funds (Tate 2008, 49).

When the price of rubber improved, the Indian government and the FMS Labour Department lobbied the planters' organizations[4] to raise workers' wages. The Indian government also bound granting of permission for additional labour recruitment to a wage increase. After initially resisting attempts to raise wages, planters in 1936 reluctantly agreed to daily wages of 40 cents for men and 32 cents for women (Kaur 2004, ch. 4). As demand gradually improved, wages and related issues became foci for working-class solidarity and industrial action.

Plantation Companies, Labour Activism and Solidarity

Indian and Chinese workers were not always passive or docile, nor did they readily submit to the arbitrary rules of the colonial state or plantation companies. Generally, workers avoided open confrontation with unjust supervisors and voiced dissatisfaction through actions such as destruction of property, rubber trees or equipment – actions requiring little or no planning or collaboration. In the 1920s and 1930s, while Indian workers were the most affected by repatriation and, for those who stayed behind, drastically reduced standards of living, this period also saw both reduced intervention by official bodies (e.g. the Labour Department) to protect labour's interests and a decline in authoritarianism and paternalism on the plantations.

Two other factors impacted on Indian workers' welfare and labour standards during this period. First, an important stipulation in the Indian Immigration Act of 1922 resulted in the appointment of an Agent of the Government of India to Malaya, whose duties included inspection of plantations and other worksites where Indians were employed, compilation of annual reports on workers' living and working conditions, and recommendations for improvement on plantations (Ramasamy 1994, 32–4; Kaur 2006; Kaur 2012). Additionally, the Agent served as India's representative and advocate in Malaya. Second, Indian nationalists and the Indian National Congress (INC) took up the workers' cause and emerged as an important ally *vis-à-vis* employers. Fearing a likely ban on assisted labour migration, the FMS Labour Department then invited the Indian government to send a representative to conduct an official enquiry into the working and living conditions of Indian labour in Malaya. In his report (the Sastri Report of 1937), the Representative recommended that wage levels be increased, and if this was not done, imposing a ban on assisted Indian migration to Malaya. He also recommended that the *kangani* system be abolished.

Establishment of the Central Indian Association of Malaya (CIAM) in 1936 also promoted collective action among Indians. CIAM was mainly middle-class and urban, but it expressed a feeling of common identity among Indians and resonated with social and religious reform in South India. In 1938, CIAM advised the Indian government to instigate the ban on assisted Indian labour to Malaya since further wage cuts loomed. The ban, which was approved a few months later, was as a turning point in the history of Indian labour, since it improved the negotiating position of plantation workers. Thus, CIAM served as a 'catalyst in the emergence of a militant labour movement' among South Indian workers: a small group of its members from 1939 onwards organized 'union-type associations' (Tate 2008, 52–3). Five Indian unions were formed: the Negeri Sembilan Indian Labour Union (later, the Plantation Workers Union), the Perak Estate Employees Union (later, the Malayan Estate Workers Union), the North Johor Indian Labour Union (later, the Johor State Plantation Workers Union), the Malacca Estate Workers Union and the Alor Gajah Labour Union in Malacca (Ramasamy 2001).

[4] The Rubber Growers Association (based in London), the Incorporated Society of Planters (representing other European planters) and the United Planting Association of Malaya (representing mostly local companies).

Meanwhile the Malayan Communist Party (MCP) had been established in 1930 and comprised mostly Chinese. The MCP initially recruited Chinese workers in urban areas, leading to the rise of militant left-wing trade unions. Chinese plantation workers went on strike in 1937 in the state of Selangor and the strike spread to plantations in Penang, Malacca and Johor, and also to the Malayan Collieries. A spate of labour unrest then broke out in Selangor, with Indian and Javanese workers participating in some of the strikes organized by the Malayan General Labour Union (Ramasamy 1994, 95–6).

The Klang district strikes of Selangor (1941) represented the best known example of organized Indian labour activity. These demanded higher wages and better living conditions, involved thousands of workers, and were uncharacteristically militant and violent. The government used the police and military to restore order. These strikes had a critical role in reshaping official attitudes towards workers' associations. By the end of the decade, the British had reluctantly accepted the principle of unions in Malaya '. . . because of the labour shortages caused by the turning off of the immigration tap, and under the concerted pressure of labour unrest and Colonial Office advice from London' (Morgan 1977, 153; Kaur 2004, 156–7). Next, the British approved the Trades Union Ordinance in Malaya in 1940. The Ordinance stipulated compulsory registration of unions, emphasized conciliation procedures, denied workers the right to picket, and prohibited political and sympathy strikes (Kaur 2004, 157). Unlike the unions of Indian plantation workers, the MCP-led general unions were, however, refused registration. Later, they would be banned and suppressed.

The Second World War, the power of Gandhi and the Indian National Congress, a Labour government in Britain, and Britain's desire to improve its colonial image promoted the establishment of trade unions in the colonies. The British appointed John Brazier as the Trade Union Adviser to Malaya. Brazier's role was to counsel union leaders to avoid militant unionism and create more 'responsible' unions. Thus in 1954 the five state-based unions amalgamated to form the National Union of Plantation Workers (NUPW). The NUPW was important because the rubber plantation industry was an important revenue earner for the British, and because it could serve as a model for other unions and as a building block for the Malaysian Trades Union Congress (MTUC), to which it became affiliated. Ramasamy (2001) thus asserts that the 'plantation sector provided the most convenient platform for shaping the trade union movement'.

A year later, the colonial government implemented the Employment Act (1955). This effectively ended the enduring vestiges of labour tying, signalling the demise of the *kangani* system in Malaya and, more broadly, of the master–servant relationship that had characterized the labour regime. It also established two important principles of law relating to employment contracts. The first concerned security of tenure on plantations, guaranteeing *de facto* permanence of employment. The second concerned individual employment rights. Henceforth, employers could not terminate workers' contracts, without 'just cause and excuse' and in line with due process (see Charles Hector BlogSpot 2012). However, everything changed after Malaya became independent, and successive Malay (National) governments' ethnocentric policies wiped out the gains made by plantation workers during the late colonial period.

At the Margins of Society

The National government[5] sought to accelerate economic growth, initially by promoting import-substituting industrialization, although in its development plans some expenditure was

[5] The National government in 1957 consisted of an alliance between political parties representing the three main ethnic communities, Malay, Chinese and Indian. The Malayan (later Malaysian) Indian Congress (MIC)

still directed to agriculture (Leigh 1992, 116). While agriculture no longer dominated Malaya's economy and society, it remained significant. Rubber continued to be the main commodity and the plantation companies replanted their rubber trees with high-yielding stock. They also experimented with oil palm and cocoa (Kaur 1995). Unlike in some other newly independent countries, Malaya did not embark on nationalization of plantations in the short term. Nor did it implement exchange controls that would have prevented repatriation of dividends or capital. Nevertheless, government began to buy up shares in foreign-owned corporations and made other capital acquisitions (cf. Puthucheary 1960). The main emphasis of agricultural policy was now to promote smaller-scale Malay-owned agriculture. This had represented about 39 per cent of the total area under rubber in 1940 (Drabble 2000), a figure that had barely changed by 1963. As a result of new policies, by 1973 this share had increased to 57 per cent (Courtenay 1979, table 3). Concurrently, government infrastructure projects and public and private property development schemes resulted in some fragmentation of plantations. These processes led to mass unemployment, repatriation of Indian workers and the growth of urban Indian squatter settlements and ghettos.

The Malay-dominated government's indigenization demands after independence and Malay resentment of 'foreign' Asians dominated policy relating to the establishment of Malaya's national, racial and economic borders. In the 1948 Federation of Malaya Agreement, Malays had been granted federal citizenship rights, whereas Chinese and Indians had to acquire citizenship by proving a residential qualification. Most Chinese and Indians lacked the relevant documents. Malay ethnocentricity was later sharpened by existence of differential access to citizenship rights. In 1957, the independent government instigated new legislation that effectively closed access to the labour market to Chinese and Indians. Plantation and government-sector workers, who were predominantly Indian, were denied citizenship rights despite their earlier connections and residence in the country. Although the then leader of the MIC made attempts to form plantation workers' cooperatives and purchase rubber estates for Indians,[6] these initiatives were limited and were frowned upon by the National government (Ramasamy 1994, 107–8; Kaur 2011).

The provisions of the Immigration Act 1959 and the Employment Restriction Act 1968 directly affected Indian labour. Both regulations framed what subsequently became an enduring hierarchy of eligibility principles ostensibly based on migrant workers' labour skills. Hereafter, foreigners deemed low-skilled were no longer allowed right of entry. The Malay-dominated Alliance government also made it mandatory for resident non-citizens to apply for employment permits for 2,000 job categories. These covered the plantation industry, railways and municipal services, all of which had been dominated by Indians. In the case of Indians, work permits were made non-renewable, precipitating a further Indian exodus (Stenson 1980, 206). Indians who remained in the country were denied citizenship rights, since their applications were considered as related to employment privileges (Arasaratnam 1970, 207; Kaur 2013). The state's racist and exclusionist policies hence discriminated against Indians, denied them economic and political rights, and transformed them into 'orphans of empire'. Significantly, the government further amended the nationality classification system in Malaya. From an earlier race-based categorization, Indians were subsequently designated non-citizen aliens and transformed into 'stateless' and illegal immigrants (Kaur 2013). Finally, declining demand

Party was the weakest of these. Indians formed about 10 per cent of the population and were also the most fragmented communal group.

6 The Indian National Finance Land Cooperative Society had purchased about 18 estates (12,000 ha) by 1979 (Kaur 2001).

for natural rubber and growth of oil palm cultivation, which replaced rubber as the principal agricultural export in the 1980s, also impacted on Indian plantation workers' employment prospects. Oil palm cultivation was less labour-intensive than rubber and harvesting operations were seasonal.

MALAYSIA'S NATIONAL DEVELOPMENT STRATEGY, OIL PALM, MIGRANT LABOUR AND THE SECOND AGRARIAN TRANSITION

Economic Nationalism: An Instrument for Agricultural Sector Management?

In 1971 the government's New Economic Policy further strengthened the position of the Malays *vis-à-vis* Chinese and Indian Malaysians by subsuming poverty reduction and income redistribution programmes anchored in positive discrimination for Malays. Government also envisioned transfer of knowledge and capital to Malays to enable them to become entrepreneurs, managers, producers (in what would be outgrower enterprises) and government bureaucrats in the brave new Malaysia. Since the Malaysian constitution protected customary tenure alongside state ownership of all land, a major strategy centred on promotion of commercial Malay agriculture, linked to the opening up of large areas of new land for commercial crop production.[7] Correspondingly, the agriculture portfolio was reorganized and two different ministries created. The first, the Ministry of Plantation Industries and Commodities, was charged with management of oil palm, rubber, cocoa, pepper, tobacco and timber.[8] The second, the Ministry of Agriculture and Agro-Based Industry, was responsible for food self-sufficiency and security. Malaya's shifting agricultural policy and second agricultural transformation also coincided with conversion of large tracts of rainforest to plantations (Kaur 1998, ch. 7), especially in Sarawak, and land expansion on peat land and native land by rapacious state governments in both Sabah and Sarawak (Global Witness 2013). As plantation agriculture now entered a new phase of expansion, labour shortages in agriculture and other low-wage sectors led to a reinstatement of the foreign labour recruitment policy.

The renewed importance of the plantation-sector agriculture in Malaysia's economy correlated with changes in the international trade in commodities. It was an increase in consumption of dietary oils and fats, especially in China and India, that led to increased demand for crude palm oil and kernel oil. This was to accelerate after 2000 with, *inter alia*, the European Union's biofuel mandate. Most features of the rubber industry's large-scale agricultural and labour recruitment systems were adopted and adapted in the new plantations system. On the production side these features comprised a centrally managed organization; standardization and grading of products; government-sponsored crop research and utilization of research improvements; and the provision of extension services to plantations and smallholdings (Courtenay 1979, 131–5).

In announcing the New Economic Policy in 1970, the then Prime Minster, Tun Abdul Razak (1970–6) made a commitment to support Malays and other indigenous people in buying substantial shareholdings in European rubber and oil palm plantations. This was done through purchases on the London and other Stock Exchanges. A parallel initiative was the Federal Land Development Authority (FELDA) block land schemes to open up large areas of

[7] Nevertheless, the Orang Asli or indigenous people in Peninsular Malaysia were granted reserves in very small parts of their customary land. In the Borneo states of Sabah and Sarawak, the state governments 'protected' custom but limited extension of native customary rights.
[8] As well as initially of tin.

land, which were then subdivided for distribution to Malay and other indigenous farmers. The government created land banks, provided financial assistance, assisted with planting of rubber and oil palm, and supervised production. FELDA subsequently became a central plank of government policy and its main investment instrument, *Koperasi Permodalan*, launched subsidiaries dedicated to processing and manufacturing as well as transportation and marketing of palm fruits and rubber (See Barlow 2012).

Three different organizational units subsequently dominated the government-coordinated agricultural sector in Malaysia: settler schemes, independent smallholdings (1–2 hectares) and FELDA-managed estates. By the early 1990s, there was a general consensus that rural poverty had been contained and interest in new settlements declined; thereafter, new intakes of settlers were thus halted.

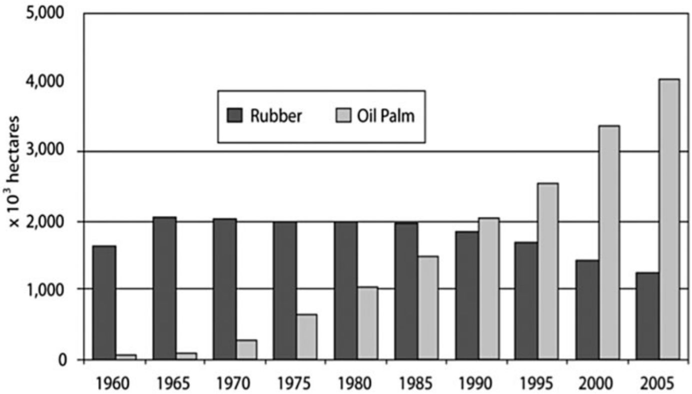
Razak's successor, Tun Hussein bin Dato' Onn (1976–81), also promoted purchase of the stock of British agency houses on the London and other Stock Exchanges. It was mainly the agency houses and other foreign companies that had expanded plantation production of oil palm up until the 1980s,[9] alongside United Plantations and KL-Kepong Amalgamated Ltd (a Malaysian-Chinese corporation). Initially, these corporations purchased and converted smaller rubber plantations – Harrison and Crosfield, for example, amalgamated their holdings into Golden Hope Rubber Estate (Tate 1996, ch. 40). Sime Darby moved its headquarters to Malaysia in 1979. These conglomerates subsequently moved into downstream industries, which, in the case of palm oil, involved oleo chemicals and other palm products.

Further major changes occurred during Tun Dr Mahathir Mohamad's term as Prime Minister (1981–2003). In addition to continuing to privilege Malays and other indigenous people through positive discrimination, he encouraged the spread of patronage politics and cronyism, and created powerful oligarchs in Malaysia. He organized the takeover of the Guthrie, Sime Darby and Golden Hope plantations using funds from the government's investment arm, *Permodalan Nasional Berhad* (PNB).[10] The tale of the Malaysian government's acquisition of the powerful British companies is well known and need not detain us here (see, e.g., Martin 2006). In 1995, FELDA set up FELDA Holdings to manage its business deals and oversee its own plantations.[11] Corporate consolidation and privatization of the three state-owned plantation companies then occurred in 2007, when they were merged (with smaller companies) in a Government Linked Company (GLC) known as Synergy Drive – which was afterwards renamed Sime Darby Berhad and went on to become the largest listed plantation company on the basis of its aggregate holdings. In the meantime Wilmar, owned by Malaysian-born Chinese entrepreneur Robert Kuok (listed in Singapore), became the world's biggest processor of palm oil. The changing status of oil palm *vis-à-vis* rubber cultivation is shown in Figure 3. By 2012, 64 per cent of agricultural land in Malaysia was under oil palm plantations.

The equity of FELDA Holdings remains under public ownership; the two largest investors are PNB and the Employees Provident Fund (EPF). Both have further substantial holdings in plantation companies listed on the Bursa Malaysia (the Malaysian Stock Exchange). Besides FELDA, there are a number of other public agencies holding or administering land: the Federal Land Consolidation and Rehabilitation Authority (FELCRA), the Rubber Industry Smallholders Development Authority (RISDA), the Sarawak Land Consolidation

[9] The best-known of these were Sime Darby, Harrison and Crosfield (Harrison Malaysian Estates), Barlow Holdings, Guthrie Corporation, Boustead-Buttery and REA-Cumberbatch.
[10] PNB was used to promote Malay ownership in the corporate sector.
[11] *Reuters*, 23 February 2012. In 2009 FELDA Global Holdings was launched, with FELDA owning a 100 per cent stake, and was publicly listed in 2012. Sime Darby's holdings totaled 880,000 ha in 2012.

Figure 3 Land under oil palm and rubber in Malaysia, 1960–2005



Source: Basiron (2007, 290).

and Rehabilitation Authority (SALCRA), the Sarawak Land Custody and Development Authority (LCDA) and the Sabah Land Development Board (SLDB). FELDA itself controls 355,864 hectares of plantations in Malaysia, as well as land in Indonesia (*Bloomberg News*, 13 June 2012). FELDA Global Ventures was launched in 2012 to enable FELDA to become 'a global agro-based multinational corporation'. While its ownership is mainly *de facto* public, private investors are also present. According to the *Financial Times* (14 June 2012), 72 per cent of the shares were allocated to a 'mixture of pension funds, ethnic Malays, state governments and selected (Malay) domestic investors'.

Expansion of publicly owned schemes has coincided with land rights conflicts, since as part of its strategy to establish vast plantation-type systems, central and individual state governments have seized native customary land for the 'greater good' of Malays and indigenous people (Chao 2013, 64). Malaysian oligarchs and the GLCs also expanded their move into downstream investment operations to 11 countries, including China, India and Pakistan, their traditional market for palm oil exports (see Chao 2013, 65).

Oil Palm Plantations and the Genesis of Malaysia's Guest Worker Programmes

The expansion of the oil palm industry since the 1980s provides a backdrop to Malaysia's shifting agenda on migrant labour and the country's current reliance on the regional South-East Asian and wider Asian labour market. This has been articulated in 'new' foreign labour recruitment strategies and labour management regimes.

The roughly 70 per cent expansion of the plantation sector since 1980 shown in Figure 2 took place in the context of a tight national labour market and was consistent with sustained fertility decline and restrictive immigration policies. According to a World Bank Report (1995, 58), 14 million new jobs were created during the period from 1987 to 1993, equivalent to an annual labour market growth rate of 3.9 per cent. The annual domestic labour force growth rate during this period was 3.1 per cent. Moreover, most Malays and Malaysians were disinclined to accept monotonous work with little or no prospects of advancement (cf. Nayagam 1992). As noted, rural poverty had been controlled and large numbers of Malays had moved to urban areas to seek employment in the expanding public sector or in the expanding manufacturing sector. The New Economic Policy was also designed to enhance the economic position of Malays relative to other ethnic groups, implying that it should mainly be the latter who carried out agricultural labour (Kaur 1998).

Arguably, the absence of a minimum wage system in the plantation sector was a further barrier to Malay recruitment. The government preferred to side with the powerful Malaysian Agricultural Producers' Association (MAPA), whose members insisted on piecework systems, as had been the case during the colonial period. An Estate Workers Support Group was formed in 1996 to lobby the government on behalf of the oil palm workers, and subsequent negotiations between the NUPW and MAPA finally resulted in the implementation of a monthly wage system whereby workers' pay rose to M$325 per month. But by this time, labour shortages in the plantation sector had led to rising levels of irregular workers in the sector. Thus, introduction of the new pay scheme corresponded with an expansion of pre-existing channels for informal Indonesian immigration flows and new influxes of irregular migrants.[12] According to an IOM (1998, 56) estimate, there were already about 500,000 irregular migrant workers working in the plantation sector in Peninsular Malaysia and in Sabah and Sarawak in 1984.

During the first half of the 1980s, the government had developed a new migration policy framework distinguishing (*inter alia*) regular from irregular economic migrants. In so doing, it modified the earlier policy of excluding less-skilled foreign labour by espousing temporary or guest worker programmes providing for restricted official migration. The guest worker programme integrated two basic principles. Workers would be admitted under a work permit system and would then be bound to particular employers and localities (Kaur 2010a,b). Importantly, this policy change coincided not only with labour shortages but also with considerable fragmentation in the Malaysian labour market. A range of 'non-standard' or 'atypical' forms of employment had appeared on plantations, alongside the earlier model of the long-term relationship between employer and employee (with settled workforces provided with housing and other facilities, and enjoying some labour protection: see ILO 1996, 15). Chief among the new employment practices was contract labour. Contract workers were recruited through labour brokers and employers also transferred some labour management tasks to contractors (see, e.g., Rema Devi 1996).

A legal framework for contract labour for plantations had been provided by the Private Employment Agencies Act of 1981, authorizing licensed private labour brokers and intermediaries and laying down a schedule of recruitment fees. It was also mandatory for foreign workers to possess work permits and visas. Then in 1982, the government formed a Committee for the Recruitment of Foreign Workers that was tasked with the allocation of work permits for plantations in order to provide additional workers through legal channels. Nevertheless, no explicit public recruitment strategy to attract economic migrants was launched until the mid-1980s.

When this did materialize, it was selectively restricted to Indonesian, Thai and Bangladeshi nationals. From 1984, the government signed individual binational labour accords with the three countries for recruitment of less-skilled workers, which included assisted passages for workers, worker repayment of travel and recruitment advances through salary deductions, employment with a specified employer for a fixed term and obligatory return to the country of origin upon completion of the contract (Kaur 2006). Employers were required to obtain

[12] Javanese recruitment had increased before the Second World War, after the Indian government's 1938 ban on emigration of unskilled workers to Malaya, and also in the 1960s and 1970s, and subsequently large Javanese communities became established in the country.

the work permits and were responsible for their possible renewal. Migrant workers were provided with visit passes for temporary employment in Malaysia distinguished by employment category, and these were used to regulate their admission and place of residence. Migrant workers were not allowed to bring dependents with them and the overall objective was to ensure that their employment remained temporary (Kanapathy 2008, 4; Kaur 2010a,b).

The first labour accord, the Medan Agreement, was signed between Malaysia and Indonesia in 1984,[13] and permitted recruitment of (male) Indonesian workers for plantations and FELDA land settlement schemes. Interestingly, the 'new' Indonesian foreign workers included undocumented Indonesians from the Indonesian squatter settlements in Kuala Lumpur. Subsequently, labour accords were signed with Bangladesh and Thailand in 1985–6, authorizing employers to recruit workers for plantations through approved labour brokers.

Labour migration then became a structural feature of the Malaysian economy, persisting beyond cyclical fluctuations.[14] Crucially, since wages were relatively flexible in the plantation sector, continuous temporary foreign labour recruitment was consistent with the government's strategy of depressing wages of workers on state plantations. This correlated with a new regional geography of migration and the changing Malaysian labour market (Kanapathy 2006, 2008; Kaur 2009; Devadason and Chan 2011). As for irregular migration, weak controls over Indonesian entry facilitated an ever-increasing presence of irregular migrants, whose numbers were also swollen by desertions from frontier government plantations because of harsh working conditions and poor housing. About 30 per cent of workers 'disappeared' after a few months of their contracts and in early 1986 Malaysia revoked the 1984 Medan Agreement (Rema Devi 1996, 87). The Malaysian government then resorted to the regularization of undocumented workers already in the country by announcing an amnesty.

The government's preference for Indonesian workers, especially in the plantation sector, was due to several factors. First, it preferred to recruit workers deemed to be of the same racial stock as Malays. Indonesians spoke Malay/Indonesian and the government also emphasized cultural and religious homogeneity issues. The poverty faced by Indonesians in their own country also may have been a deciding factor, since they would be less likely to abscond. Demographic disparity between Malaysia and Indonesia (similar to Malaysia and India during the colonial period) was another factor, as was dissemination of information and chain migration within family, extended kinship or close-knit village-based groups.

On the Indonesian side, a growing dependence on migrant workers' remittances to fund development projects encouraged the emergence of a labour-brokerage state. The Indonesian government began to include targets for numbers of workers that it intended to send overseas in its 5-year economic development plans. These rose over time: in the plan for 1979–84, it was 100,000 workers; for 1994–9, it was 1.25 million workers, and for 1999–2003, 2.8 million workers (Hugo 2000, 3; Kaur 2004, ch. 9).

A common land border between the two countries and the dynamics of uneven demography and development between Sarawak (where plantations were developed by the Sarawak government) and Kalimantan led to the two governments cooperating in the establishment of a number of large projects in the Entikong–Tebedu border post area (Agustiar 2000, 235). These are an important component of the 'growth triangle' promoted in a subregional economic zone arrangement involving Indonesia, Malaysia and the southern Philippines

[13] The signatories were the Indonesian Manpower Minister and the Malaysian Home Affairs Minister (Rema Devi 1996, 85).

[14] Discussion on the new plantation labour regime is confined mainly to Peninsular Malaysia. All three of Malaysia's component political entities, Peninsular Malaysia, Sabah and Sarawak, have independent immigration policies and structures, since immigration in Malaysia is a 'state' (i.e. component entity) matter.

(Mindanao). All documented workers have to meet hefty costs in both countries – labour agency fees (including the cost of a one-way air ticket); insurance fees and a bank guarantee – but they cannot stay in the receiving countries on completion of their contracts. Consequently, the excessive costs involved and the insertion of quotas especially for unskilled contract labour have resulted in increased irregular migration.

Generally, Malaysia's foreign labour recruitment strategy highlights a migration management paradox: highly restrictive policies diluted or accompanied by the continuity of *de facto* reliance on Indonesian labour and toleration of unofficial residence. Subsequently, this has resulted in dependence upon regularization exercises as a policy tool. The foreign labour policy ground rules continue to include prescribed channels for official migration, crackdowns followed by detention of undocumented migrants in specially built Immigrant Detention Centres,[15] and irregular migrants' later legalization. Finally, despite Malaysia's border enforcement strategy and provisions for employer sanctions, Malaysian legislation has failed to curtail irregular migration. Conversely, legalization or regularization programmes guarantee a continuous relatively cheap flexible workforce, and the Malaysian government and plantation companies appear to support this route. Notably, there has been no permanent fix and the issue remains highly politicized.

Rethinking Foreign Labour Recruitment Policy after 1990

In 1991, following a second regularization exercise, Malaysia appointed a special Cabinet Committee on Foreign Labour to develop a 'Comprehensive Policy for the Recruitment of Foreign Workers'. The Committee comprised relevant Ministries and agencies associated with oversight of foreign labour recruitment. It established an inter-ministerial division of labour on labour recruitment, according to which the latter's overall management was allocated to the Immigration Department, which is positioned both in the Home Affairs Ministry (which issues work permits), and the Human Resources Ministry (which oversees labour laws). A third Ministry (Health) was entrusted with new health-related responsibilities.

The policy has two main components. First, sector-level criteria were established for determining permissible recruitment levels. On oil palm plantations, employers are allowed to recruit one foreign worker for every 8 hectares, whereas on rubber plantations, employers are allowed one foreign worker for every 4 hectares. Second, and retaining traditional distinctions between labour skill categories, a levy or tax on employment of migrant workers was introduced in the 1991–2 national budget, meant to cover surveillance and other costs. The levy varied according to migrants' skill category (general, semi-skilled and unskilled – designated according to economic sector), and has been raised successively over the years (*The Star online*, 27 August 2011). The employer or the worker can pay the levy.[16] The surveillance regime established concurrently with the policy, and updated subsequently, includes biometric registration and health checks on entry and then on an annual basis.

Subsequent policy has continued to combine restrictions on official migration, often of a very tough kind, with a more ambiguous and flexible position on unofficial migration from Indonesia. Tightening of official migration policies and enhanced border control-cum-law enforcement efforts coincided with the Asian Financial Crisis of 1997–8, and culminated in

[15] There are currently 16 Immigration Detention Centres in Malaysia.
[16] Inevitably, between 1992 (when the levy system was implemented) and 2009, employers deducted levy payments from workers' pay. In 2009, the government insisted that employers alone were responsible for payment. Nonetheless, following lobbying by employers, government again allowed employers to levy from workers' salaries from 2013.

2002 in increased penalties for both employers and workers in breach of immigration regulations (Sreenevasan 2006). The latter year also saw a crossover of this arrangement into the sphere of unofficial migration, when an officially estimated 600,000 undocumented migrants (the actual figure was reported to be between 600,000 and 1.5 million) were required to 'leave without penalty' under the amended 2002 Immigration Act. Malaysia's deportation programme unfortunately caused a humanitarian crisis at Nunukan, a tiny Indonesian island off Tawau in East Kalimantan (see *New York Times*, 15 August 2002).

This episode foreshadowed important changes in Indonesian–Malaysian relations on management of Indonesian labour migration to Malaysia, although these have all ostensibly concerned official rather than unofficial migration. First, it led to greater advocacy and action concerning the human rights of overseas Indonesian workers by Indonesian and international non-governmental organizations. Second, in response to growing criticism by Indonesian civil society groups, the Indonesian government demanded better working conditions and pay for documented migrants. The Indonesian government also insisted that authorized Indonesian labour-exporting companies alone handle recruitment of Indonesian workers, and that the earlier practice of recruiting through Malaysian recruitment companies be discontinued. Subsequent negotiations resulted in a bilateral Memorandum of Understanding (MOU) in 2004. The MOU is inspired by the ILO Model Agreement on Temporary (and Permanent) Migration for Employment. It not only provides a new legal foundation for recruiting workers, but also specifies the responsibilities of employers, recruitment agencies and workers themselves.

Concurrently, the Indonesian government passed new legislation in 2004 (the Overseas Placement and Protection for Indonesian Workers Law), designating authorized Indonesian recruitment agencies. These are charged with not only recruitment and deployment, but also 'protection' of Indonesian male migrant workers abroad. On the Malaysian side, government also recognized an enhanced Indonesian role in Malaysian migration management. Malaysian firms/employers requiring Indonesian workers could recruit workers through Indonesian labour agencies, or they could utilize the services of local labour brokers to deal with the Indonesian agencies (Tirtosudarmo 2011).

The 2004 arrangements are noteworthy since for the first time they gave Indonesia a say (however limited) in the recruitment of Indonesian labour migrants. The demand for better wages was realized when, on 1 January 2013, the Malaysian government raised the minimum wage of foreign workers to RM900 a month for Peninsular Malaysia and RM800 for Sabah and Sarawak (*Migration News*, January 2013, 20 (1)). All these developments point to the special relationship between Malaysia and Indonesia, or – perhaps more accurately – between Malaysian employers and Indonesians. As stated in the *Washington Post*, Malaysia could never have 'succeeded in keeping Indonesians out', since 'migration from Indonesia to Malaysia is less a trend than an industry, creating an entrenched subculture of migrants, labour brokers, prostitutes and corrupt immigration authorities who have created a massive cross-border network' (*Washington Post* 1998; see also Kaur 2005).

CONCLUSION

Divided by an interregnum during the quarter of a century immediately succeeding independence, Malaya/Malaysia's colonial and contemporary plantation labour recruitment systems can arguably be seen as following two almost identical cycles. Both of these cycles rest on two factors: an overwhelming reliance on foreign migrant labour, as local labour is either considered absent in sufficient numbers (the colonial period) or deemed deserving of higher economic status (the contemporary period); and a general coincidence between the interests of plantation owners and government.

The cycles begin in periods of rapid expansion of labour demand, and with the hope that this will be satisfied consistent with a minimum of disruption to the political order through temporary labour circulation arrangements. This emphasis is in turn bound up with the forging of bilateral agreements between the governments of sending and receiving countries and with a practical day-to-day dependence on intermediaries for recruitment – private agencies, *kanganis* and contractors. At least some labour management responsibilities are also decentralized to these intermediaries, leading to delegated systems of labour supervision on the one hand and multiple points of worker dependency on the other. Nevertheless, the current intermediaries/contractors play a more restricted role compared to the *kangani* of the colonial period. During the colonial period, the *kangani* was not only a labour recruiter and supervisor; he also operated the estate shop, acted as a counsellor and arranged marriages.

As time passes these trends are, however, tempered by countervailing ones towards labour stabilization, which emerge gradually but comprehensively in colonial rubber production, with support from a tailing-off in the demand curve for the product, but rather more spasmodically in contemporary oil palm production, where production continues to expand. At the same time, as the cycles pass through the stage of heavy dependence on temporary labour, the wretched conditions that tend be associated with such arrangements attract the concern of civil society groups and eventually therefore the governments of the main sending countries. The latter then undertake 'protection-centred' interventions on behalf of 'their' citizens – interventions that, after some prevarication by the receiving country government, result in mitigation of some of the more serious abuses suffered by migrant workers.

Naturally, there are also differences between the two cycles described in this paper. Principally, these concern the commodity cultivated and the human subjects and objects of the processes described. Oil palm replaces rubber; the Malaysian government and Malaysians replace Britain and British plantation owners; and Indonesians replace Indian workers, while contractors replace *kanganis*.

If this interpretation is accepted, then two questions remain – what explains the interregnum, when these processes were suspended and, more centrally, what accounts for the degree of similarity of the cycles experienced? The first question is perhaps easier to answer – the main expression of the Malay nationalism of 1957–80 was not only based on hostility to foreign residents (especially, but not only Indians) but also a hope – supported by the 'international development community' – that Malay small-scale agriculture could replace foreign plantations as a dynamo for export growth. Hence, at least for an interlude, a future entirely without foreign labour could be imagined. At present at least, any answer to the second question must be more provisional. It might be, for example, that there are imperatives concerning labour recruitment, positive and countervailing, which go together with the plantation model as such – and with 'governing' in relation to it.

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