

## LABOR MIGRATION POLICY IN MALAYSIA: ISSUES AND PROSPECTS

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### Abstract

The inflow of foreign workers into Malaysia over the past two decades has made immigration and immigration policy a major public issue in Malaysia. The main reason for general concern is that the immigrants are unskilled workers. The foreign workers in Malaysia originated from many countries in Asia, Africa and Eastern Europe. The majority of these workers came from Indonesia, Bangladesh, Thailand and Philippines. This paper is an attempt to assess the development of migration labor policy in Malaysia by focusing on the various issues and problems faced by the Malaysian authorities. The policy on labor migration in Malaysia has evolved from a liberal response to amore stringent stance on the illegal workers in the last three decades of national development. The latest development is also in response to the in-flow of foreign migrants both legal and illegal workers during the economic recession whereby some of the locals were deprived jobs by the foreign workers. We should also recognize that these workers had contributed to the rapid growth in urban and industrial development of the country in the last three decades. This has led to the recognition that the foreign workers have contributed in providing the necessary manpower to spearhead Malaysia's Vision 2020 to become an advanced nation by the year 2020.

**Key words:** Workers, foreign workers, Labor Migration Policy, Socioeconomic Conditions, Malaysia.

### Introduction

The inflow of foreign workers into Malaysia over the past two decades has made immigration and immigration policy a major public issue in Malaysia. The main reason for general concern is that the immigrants are unskilled workers. People fear that these individuals and their families would reduce the employment opportunities for the existing workforce, depress wage rates in already low-wage labour markets, and financially strain Malaysian taxpayers via their usage social service in the country.

The foreign workers in Malaysia originated from many countries in Asia, Africa and Eastern Europe. The majority of these workers came from Indonesia, Bangladesh, Thailand and Philippines. They either entered with valid travel documents or have entered illegally in high demand for labor which could not be met locally. The shortage of workers especially in agriculture, construction, manufacturing and services sectors prompted the Malaysian government to introduce the policy on the employment of foreign workers as early as 1981. It



was a short-term measure and it was very inadequate to deal with the problem of high demand for labor. Various writers had documented the ad-hoc approach of the Malaysian authorities in dealing with foreign labor. At the beginning of the 1990's it was realized that a large pool of migrant labor have been created in the country. The presence of a large number of foreign migrants has brought some concern as it was felt that such a situation has serious implications on the local economy, politics and social development.

This paper is an attempt to assess the development of migration labor policy in Malaysia by focusing on the various issues and problems faced by the Malaysian authorities. It also touches on the conditions and implications of these on the labor migrants and local population. The last part deals with the media's coverage on the labor migration in Malaysia.

### **Development of Labor Migration Policy**

Various authors (Azizah Kassim, 1994; 1990; 1995; 1997; Pillai, 1992; Abdul Rashid Abdul Aziz, et al, 2000) criticized the Malaysian government on the lack of clear policy on foreign workers in the last three decades. The main criticisms is that there were no effective mechanisms to reverse the uninterrupted inflow of illegal workers which had festered to levels of unmanageable proportions. In fact, some writers (Abdul Rashid Abdul Aziz, et al, 2000:11) emphasized on the need to review migrant labor policies and strategies so that they would be more consistent and transparent as well as for a more effective enforcement of legislative provisions.

In this section, we review the migration labor policy formulated by the Malaysian government in the last two decades.

### **1. Legal Framework on Labour Migration, 1981**

When the Economic Policy (1971-1990) was introduced in 1871, the Malaysian government through various federal and state agencies were given a greater role in meeting the economic, social and political development of its population (Agus, 2000). The main objectives of the NEP was to foster national unity and nation-building through the eradication of poverty, irrespective of race, and to restructure the society by eliminating the identification of race with economic function and geographical location (Malaysia, 1971). Housing, urban and industrial development programs and Malay participation form a central strategy of the NEP (Agus, 1989;1996). The Malaysian government encouraged the Malays to migrate to urban centers as part of the NEP strategy to change the character of the urban populations which was dominated by the Chinese and also as part of the strategy to create a new Malay commercial community in urban areas (Agus, 1990; Agus and Fashbir, 2000).

During the 1971-1980 period, migrant workers were recruited to fill up vacancies in the agricultural sector vacated by the local workers (Zulkifli, 1995). Towards the end of the 1970's, foreign workers too were caught up in the rural-urban migration. Studies done by Dorall and Paramasivan (1992) showed that a large number of foreign workers began penetrating urban sectors such as construction and manufacturing sectors.



cepat dan biaya murah bagi para pelaku usaha di daerah.

- c. Memudahkan aparat daerah untuk melakukan monitoring perkembangan ekonomi di daerah.

### 3. Aspek Sosial;

- a. Sebagai salah satu wahana dan sarana penting proses rekayasa sosial (*social re-engineering*)
- b. Membangun sumberdaya manusia daerah yang sadar akan pentingnya teknologi informasi.

### Penutup

Bergulirnya otonomi daerah mengisyaratkan adanya nilai demokratisasi, pemberdayaan dan pelayanan publik yang prima. Untuk mewujudkan nilai-nilai tersebut salah satunya adalah dengan memanfaatkan kemajuan dibidang Teknologi Informasi. Otonomi daerah berbasis teknologi informasi merupakan pesan sekaligus surat terbuka yang ingin disampaikan melalui tulisan ini kepada birokrat dan pemerhati masalah Sistem Informasi Manajemen di daerah khususnya di Riau untuk direnungkan keberadaannya dalam upaya menghadapi tantangan masa depan yang penuh dengan ketidakpastian.

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sectors in urban areas. Azizah Kassim (1997:17) mentioned that between November 1991 and June 1992, the federal government's amnesty program provided the opportunities of the illegal workers to be registered and also to be legalized. This exercise was later followed by the more effective mechanisms to get rid the illegal workers from the country under the enforcement exercise called Ops Nyah I (Get Rid Operational). Under this exercise, the enforcement agencies managed to detained illegals from entering the country at the border or coastal areas. At the end of June 1992, the registration of illegal workers coordinated by the Home Ministry had reached 442,276. Very few employers and illegal workers cooperated with the Ministry of Home Affairs. About 200,000 illegal workers did not register with the Department of Immigration and they continued maintaining their illegal status. From 1993 to July 2000 and nearly 90,000 illegal workers were detained under Ops Nyah I in Peninsula Malaysia (Azizah Kassim, 2000:5).

#### **6. Ops Nyah II (Get Rid Operation II), 1992**

In order to weed the illegal workers out, the federal government launched the second get rid operation of the Ops Nyah II in early 1993 (Azizah Kassim, 1997:17). At the sametime, the Malaysian government froze the intake of foreign labor from overseas. More importantly, the new operation introduced new legal measures by launching periodic raids in selected places suspected of harboring illegal workers. The arrested illegal workers were sent to immigration depots before they were deported to their respective countries. From 1993 to July

2000, the Ops Nyah II had detained slightly more than 300,000 illegal migrants in Peninsula Malaysia (Azizah Kassim, 2000:5).

#### **7. Formation of Foreign Workers Task Force, 1994**

The recruitment of foreign workers was later undertaken by the Task Force on Foreign Workers. This agency, which was set up on 16 October 1994 following the approval of the Parliament, was placed under the aegis of the Ministry of Home Affairs. Its existence was to actually replace the 169 local employment agencies which were previously held responsible for undertaking the recruitments of foreign workers. The Task Force was supposed to act as a one-stop-agency for the recruitment of foreign workers.

However, the Task Force was also constrained with limited scope, manpower and enforcement capabilities. The Task Force was supposed to be upgraded to reflect a real one-stop-agency. The administrative set-up had been upgraded with various capacities and provisions, such as more manpower for management of the various divisions, in particular, the Enforcement Division. The Task Force was restructured so that it could be a self-financing and self-regulating body, drawing sufficient especially from the fees and levies collected from each foreign worker. The Task Force had reduced redtapes and bureaucratic procedures significantly, hence cut waiting cost and avoided unnecessary delays in granting final approval to the employers.

#### **8. General Amnesty, 1996 (Ops Pemutihan I)**

Another amnesty exercise took



Azizah Kassim (1986) highlighted the local response regarding the foreign workers' encroachment into their urban settings. As a result the federal government established a legal framework for the importation of foreign worker in 1981.

## **2. Formulation of Committee on Labor Migrant, 1982**

In 1982, the Malaysian government formed a committee on labor migrants known as *Jawatankuasa Pengambilan Pekerja Asing* (JPPA). The committee's role is to take steps to curb illegal inflow of foreign migrants, regularize the position of the illegal workers already in the country and to establish a regulations to facilitate the legal importation of migrant labor.

## **3. Bilateral Agreement and MOUs, 1984-1987**

During the 1984-1987 period, several bilateral agreements and memoranda of understandings with Asian countries such as Indonesia, Thailand, Philippines and Bangladesh were signed so that importation of migration labor could be legalized. Majority of migrant labors were recruited in responding to the need of two main economic sectors namely, the agriculture and service sectors. However, two equally important sectors: the manufacturing and construction sectors were excluded from the agreement and MOUs. However, both the construction and manufacturing sectors continued to accept illegal migrants who were willing to accept low pay. These two sectors had experienced surplus of labor in the midst of declining economy in the country during this period. Since there were no effective mechanisms to stop illegal workers from

coming to Malaysia, the employment of illegal migrants continued unabated. As a result more foreign laborers entered the country illegally.

## **4. Regularization of Foreign Migrants, 1989-1991**

Between January 1989 to May 1991, the Malaysian government allowed the illegal migrants to be regularized. Most of these workers were Indonesian laborers who had to register with the Department of Immigration, Malaysia and the Indonesian Embassy provided the relevant travel documents. The regularization of Indonesian plantation workers during this period is also known as the Program Pemutihan Pendatang Tanpa Izin. According to Azizah Kassim (1997:17), Between January 4 th, 1989 and July 3 rd, 1989 only a few of the plantation owners complied with the government directive. The federal government had to extend the legalization processes twice, initially from July 4 th, 1989 to May 11, 1990 and later extended to May 11 th, 1991. With the regularization period, the Malaysian government stopped legal importation of workers from agriculture sector I January 1990. With all the available resources in the federal enforcement agencies, the regularization exercise was quite effective in legalizing the foreign workers, especially in the agriculture sector.

## **5. Ops Nyah I (Get Rid Operation I), 1991-1992**

The experience of legalization of agricultural workers in the 1989-1991 period had prompted the Malaysian government to extend their exercise in legalizing the migrant workers in other

Between January and April 2000, the Immigration Department had detained 11,629 foreigners for various immigration offences. These included 6,713 who were caught or entering the country without valid travel document, 2,850 for overstaying, 1,367 for flouting pass regulations and 699 for offences related to forged work passes.

### **Socioeconomic Conditions of International Migrants**

There is considerable uncertainty about the number of foreign workers in Malaysia. Estimates of various parties on the number of foreign workers vary greatly ranging from about 1 million to 4 million workers. However, that most widely cited estimate is slightly more than 1 million workers. Pillai (1992) estimated that foreign workers in Malaysia was about 1.14 million in 1991. The Department of Immigration reported that, by March 1995, the Department has approved 599,793 temporary passes to foreign workers. We believe that the number provided by the Immigration Department is far below the actual number of foreign workers in Malaysia.

The Department of Statistics estimated that foreign citizens in Malaysia in 1994 totalled to 862,000 (Monthly Statistical Bulletin, August 1995). These figures include expatriate and those that fall under the non-working age category. However, the number that belongs to this group is relatively very small compared to that of the illegal foreign citizen in the country. For example, the number of expatriate and skilled workers in 1994 was only 3,456 (Pillai, 1995). For this reason, it would seem most appropriate, as a first step, to assume that the number of foreign citizens

in Malaysia equals the number of foreign workers.

Since there is uncertainty about the number of foreign workers in the country, it also seems appropriate to generate several scenarios. Foreign workers in Malaysia can be classified as legal and illegal workers. Assuming that 25 per cent of the foreign workers are illegal, this means that the number of foreign workers in Malaysia in 1994 has totalled to 1.149 million. This indicates that foreign workers are about 15 per cent of the 7.6 million workers employed in Malaysia.

#### **1. Housing**

Generally the workers in construction and plantation sectors are provided with living quarters by their employers. The construction workers usually stay in 'kongsi' houses on construction sites. These are simple structures with plywood walls and zinc roof to provide shelter to the workers for the duration of the job. Both water supply and electricity are available.

The living quarters provided by the employers in the plantation sector appear to be of better quality, with more permanent structures, and are supplied with piped water and electricity. Of those in the service sector, the domestic servants are usually given a room in the employer's houses. The assistants in restaurants or stores sometimes are given housing too.

The workers who are not given living quarters usually rent houses or rooms in the existing neighborhood. Sungai Kayu Ara and Kampung Sungai Pencala are two favourite areas in the Klang Valley. Some found accommodation in the many squatter



effect between August 15 and December 31, 1996 code named *Ops Pemutihan*. According to *Ops Nyah* secretariat at the Bukit Aman Police Headquarters, 554,941 illegal workers registered during the Amnesty exercise in 1996 (see Azizah Kassim, 2000:5). Under this exercise, labor-deficient employers were allowed to source workers from among apprehended illegal workers in depots or detention centers in Peninsula Malaysia. It is clearly shown that attempts by the Malaysian government to regulate the entry of migrant workers and regularize the illegal workers already in the country have met with limited success. More importantly, the federal government continued to adopt a more liberal policy on the employment of foreign workers after the employers and recruitment and agencies made several appeals to recruit these workers.

#### **9. Re-registration and termination of Contract Workers, 1997-1998 (*Ops Pemutihan II*).**

In 1997, another amnesty exercise, *Ops Pemutihan II* was conducted by the Ministry of Home Affairs. About 413,812 illegal workers were involved in the registration process. In the same year, 8,547 illegal migrants were detained under *Ops Nyah I* and 35,521 illegal workers were detained by the Malaysian authorities. In 1998, 14,670 illegal migrants were detained under the *Ops Nyah I* and 42,574 illegal workers were detained under the *Ops Nyah II* exercise. In addition, 187,486 illegal workers left the country voluntarily between October 1 and November 15, 1998. This has reduced a large number of illegal workers in Peninsular Malaysia.

#### **10. Termination of the Task Force, 1997**

In March 1997, the Task Force was dissolved by the Cabinet as a result of many complaints from employers, recruitment agencies and foreign embassies on its ineffectiveness. One of the main weaknesses of the Task Force was the manpower shortage and also constrained by enforcement capabilities.

#### **11. Amendments to the Immigration Act, 1998**

In 1998, the Malaysian government amended the Immigration Act by including Section 55A, 55B and 55C. Section 55A enables the Department of Immigration to charge anyone who brought illegal migrant to the country without the necessary travel documents and work permits and they could be penalized with a minimum penalty of RM 30,000 and maximum penalty of RM 100,000; jailed up to two to years and given not more than six strokes of lashes. Section 55B deals with the employers who flouted the immigration laws and they could be penalized between RM 10,000 and RM 50,000 for each illegal workers caught by the authorities. Section 55C relates to the forging of travel documents and they could be penalized up to RM 30,000, jailed between five to ten years and given not more than six strokes of lashes.

Recently, the federal government has approved a RM 10 million budget and recruitment of 300 officers to beef up the Immigration Department's enforcement division (New Straits Times, June 30, 2000:17). In addition the Immigration Department was also seeking additional enforcement powers to enable it to act with greater authority in booking those who flouted immigration regulations.



eliminates or, at least, reduces the problem of unsettled hospital bills.

### **Media and Labor Migrant in Malaysia**

Media coverage on the foreign workwrs ranges from legal judgements to road accidents. News on local employers who harbored illegal worker were given prominence in the local newspapers. Recently, a manager was fined RM 938,000 for harboring 134 illegal immigrant at a furniture factory in Sungai Buloh (New Starits Times, August 2, 2000:1). The illegal workers comprised 12 Myanmars, one Indonesian and 121 Bangladeshis. Local newspaperes also focused on the illegal migrants who did not possessed any travel document (The Borneo Post, July 16, 2000:A2; July 29, 2000:A2). News reported on the forgeries of travel documents are also well documented (Berita Harian, August 2, 2000:6; The Borneo Post, August 12, 2000:A3). Another aspect of media reporting is also related to the illegal housing or squatter houses being demolished by the local authorities (Berita Harian: Sabah/Serawak, August 11, 2000:19).

However, recent highlights on several cases of abuses had prompted the Malaysian authorities to work together with the relevant embassies. In a recent case, an Indonesian maid was rescued by police after allegedly suffering from abuse including beatings from her employer's wife (New Strauts Times, August 2, 2000:9). In other instances, some maids were not only abused but they also had not been paid by their employers. In short, media's coverage on labor migrants is still confined to cases reported either from judicial departement or police's reports, The need to highlight

investigative reports on various aspect of life on the foreign migrants should be looked into by local media. Very little was written or reported on the contributions of these illegal workers on the national economy. More importantly, the remittances sent homes by thousands of migrants have not been given prominence in the local media.

### **Conclusions**

The foregoing discussion has shown that policy on labor migration in Malaysia has evolved from a liberal response to amore stringent stance on the illegal workers in the last three decades of national development. The latest development is also in response to the in-flow of foreign migrants both legal and illegal workers during the economic recession whereby some of the locals were deprived jobs by the foreign workers. The Malaysian government through its agencies has reduced the number of illegal migrants from entering this country. The employers in malaysia are still dependence on foreign workers. The need to provide the basic facilities and amenities to these workers should be welcomed. We should also recognize that these workers had contributed to the rapid growth in urban and industrial development of the country in the last three decades. This has led to the recognition that the foreign workers have contributed in providing the necessary manpower to spearhead Malaysia's Vision 2020 to become an advanced nation by the year 2020. Foreign workers are here to stay as long the country needs them.



areas in various part of the cities. Rental in these areas are quite within their means. Some of them even start their own colony, building houses on state or any vacant land. Klang valley sees several of such colonies, filled with houses haphazardly built and lacking in sanitation.

By regulation, housing constitutes an important component of the work contract. But it had been observed that there had been instances when the employers do not adhere to the regulation. Even in cases of adherence, it had also been observed that there have been instances of employers providing living quarters that do not meet the standards set out in minimum Standards of Housing and Amenities Act 1990. The foreign workers should be provided with satisfactory amenities and proper living conditions, and that appropriate actions be taken in cases of contravention of any clause of the Act.

## **2. Safety at Workplace**

Of late, the media has been reporting cases of accident at workplace especially in the construction industry. Many of these accidents cause the loss of limbs and lives. Invariably, since they form a significant proportion of the workers in the construction industry now, several of these accidents at workplace involve foreign workers as well.

The Occupational Safety and Health Act 1994 stipulates that employers take measures to ensure that safety standards are adhered to. For example, Section 30 of the Act requires that every employer with 40 or more workers establish a safety and health committee at workplace. However, very few employers in country adhere to the regulation.

## **3. Healthcare**

Just as housing medical benefit also constitute an important element in the work contract between the foreign workwrs and their employers. It must be noted that not all foreign workers in the country receive medical benefits from their employers. Some of the legal and illegal workers claimed that medical benefit had not been extended to them. These workers have to pay their own medical bills if and when they go for medical treatment. Being foreigners, they are charged first class rate if they are warded in government hospitals. For out-patient treatment, however they are charged RM2, the same rate as applied to local.

Considering the fact that many foreign workwrs seek treatment in government hospitals and clinics whenever they fall asick, they government is indirectly extending medical benefits to them. If a person were to seek out-patient treatment in private clinics, he/she has to pay a fee eight to ten times more than the amount charged by the government. According to Ministry of Health, up to end of 1995, foreign nationals including foreign workwrs owed the government about RM3 million in terms of unpaid medical bills.

At the moment, there already exists a health provision in the contract agreement between the foreign workers and the employers. But unfortunately, some employers choose not to adhere strictly to the provision of the contract. Therefore, it is recommended that a medical insurance scheme, whereby the premium is a joint responsibility between the workers and their employers, be instituted, such a scheme will ensure medical benefits to the workers and at the



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