NeoLiberalism and the Challenges of Managing Labour Migration in Urban Malaysia

Peter Aning Tedong*, Abdul Rahim Abdul Kadir*, Kazimah Roslan* and Linda A. Lumayag*

ABSTRACT

Labour migration into Malaysia has increased rapidly in recent decades and this has affected Malaysia’s government policy in managing migrants’ movement. Interestingly, Malaysia has attracted a high degree of unskilled labour, accompanied by unabated rise of undocumented migrant workers. Mitigating undocumented migration is the main aim of Malaysia’s labour migration policy and therefore the focus of Malaysian government. This has impacted on how enforcement agencies work out strategies. These agencies are the forefront of Malaysia’s labour migration policy but they faced a number of challenges, such as documentation, finance and manpower capability, and political intervention, which impede their ability to optimize their capabilities in enforcing the Malaysian government labour migration policy. Resolving these challenges and moving towards a long-term labour migration policy will benefit the Malaysian state, its citizens and the labour migrants.

INTRODUCTION

Neoliberalism and globalization has fundamentally changed the pattern of labour migration in the world (Overbeek, 2002; Shipper, 2010; Ullah, 2013), in the sense that countries that were once net exporters have also become importers of migrants, or at the least participate as transit territories in the business of sending people, or a combination of all three (Bob-Milliar and Bob-Milliar, 2013; Ullah, 2013; Lewandowska-Gwarda, 2014; Acharya et al., 2016). In line with this, a growing body of research has begun to examine the ways neoliberalism has influenced the movement of people across the world, as Frank (2014) argued that states’ involvement in migration should be kept in minimum and people should be able to move freely across borders if there is demand for their labour. Some researchers defined neoliberalism as a philosophy that privileges market over government intervention (Hayek, 1971; Friedman, 2009; Poole, 2017).

Previous scholars have argued that neoliberalism and the increased economic and political interdependence across borders have resulted in more identical push and pull factors in different migration streams (Cissé, 2013; Nawyn, 2016). For instance, neoliberal policy has impacted labour migration patterns around the world (Overbeek, 2002; Otero, 2011; Tobias, 2012) from the concept of sovereignty to citizenship and governance of countries (Shipper, 2010; Nah, 2012). The effect of neoliberalism towards migration policies and citizen perception towards migrant labour has also evolved in recent decades (IOM, 2015). We see some evidence that economic prosperity coupled
by an increase in demand for foreign labour in the global South has facilitated the South-South migration movement (Cissé, 2013; Nawyn, 2016) such as between Southeast Asian countries (Shipper, 2010; Kaur, 2010; Hugo, 2012).

The globalization and neoliberal era also closely relate the concept of national sovereignty (Brinkman and Brinkman, 2008; Ku and Yoo, 2013) where state borders no longer function as traditionally envisioned; and state power is perceived to be diminishing due to outside forces, as the world economy facilitates direct and indirect integration (Michele, 2017). However, although its power is perceived to be diminishing, the state plays a major role in managing labour migration within its borders (McGovern, 2012) where a complex set of interests exists. Hence, these complexities of a state’s control over its borders in the neoliberal era play a role in how labour migration policy is conceptualized, viewed and implemented. This involves us, for instance, in the contrasting interest between the Malaysia state and individuals such as employers, on the issue of flexible labour force and border control (Chin and Mokhtar, 2017). It is important to note that the two main stakeholders in Malaysia, as far as labour migration policy is concerned are, interestingly, the enforcement agencies represented by the Department of Immigration Malaysia and the Royal Malaysian Police. They are at the forefront of enforcing Malaysia’s labour migration policy where they are responsible for mitigating the number of undocumented migrants.

In recent decades, Malaysia has experienced considerable economic growth and modernization. Although rapid urbanization ensued as rural residents migrated to take advantage of new opportunities, labour migration policy evolved as an ad-hoc necessity and not a pre-planned policy (Kassim et al., 2014). This policy persists to this day where the response of the migration policy is always a response towards solving the problem of undocumented migrants within the country (Nah, 2012; Devadason and Meng, 2014; Chin and Mokhtar, 2017). Tight migration control through the freezing of new migrant labour recruitment, increasing levies to encourage local citizen recruitment and recurring amnesty program to reduce the number of undocumented migrants are just some of the responses towards managing labour migration in Malaysia (Killias, 2010; Kassim et al., 2014; Kaur, 2014a). However, the steps taken to reduce undocumented migrants and encourage the hiring of local labours have not been very successful and have been unable to mitigate the number of undocumented migrants in Malaysia (Liow, 2003; Rajah, 2011; Devadason and Meng, 2014; Kassim et al., 2014). Instead, these steps have caused an increase in the number of undocumented migrants as the incentive for hiring documented migrants diminishes due to its high cost (Kassim et al., 2014; Tedong et al., 2018). Locals are less interested in working within migrant dominated sectors due to wage stagnation and employers have the alternative of hiring readily available cheap migrant labour (Rasiah et al., 2015).

Like many countries in the world, Malaysia has an extensive number of undocumented migrants. Kaur (2010) argues that Malaysia is one of the largest importers of migrant labour in Southeast Asia. A superficial analysis might gloss such a phenomenon as clear evidence of neoliberalism and globalization. We argue, however, that a detailed examination of the governance process in managing migration in Malaysia differs from those documented elsewhere. Therefore, this article tries to theorize the neoliberal concept of a “world without borders” in order to understand the complex articulations of governance mechanisms facilitating migration in Malaysia and the way they are governed within the globalization era. Understanding the nature and prevalence of migration in Malaysia requires insights into the governance and political processes whereby decisions are made. We will focus our discussion on the various challenges faced by the enforcement agencies within the backdrop of Malaysia as an importer of labour migrants from sending countries in the region.

This article is divided into three sections. The first section deals with the concept of transnational migration and how globalization impacts transnational migration. The second section focuses on Malaysia’s labour migration policy and its current migration control method. The third section discusses the findings of this investigation, followed by the conclusion of the article.
TRANSNATIONAL MIGRATION

Transnational migration is considered one of the important aspects of globalization together with market expansion, free movement of goods and services and the ease of capital movement within the international system (Overbeek, 2002; Tobias, 2012; Burgmann, 2016). Ironically, the mobility of people is hindered by the political, economic and security factors that nation-states employ. In other words, while there is a neoliberal embrace of free movement of goods, capital and services (Overbeek, 2002), the corresponding free movement of citizens of nations is often met with many restrictions, as seen in the ambiguous immigration/migration policies. Within the context of neoliberal policy, however, maximization of capital accumulation is also one of the drivers of transnational migration, where a cheap supply of labour for profit maximization has facilitated the movement of and people across borders (Devadason and Subramaniam, 2016).

Polyani (2007) succinctly argued that within the free market economy, skilled and unskilled labour is sold as a commodity necessary for one’s survival. The institutionalization of labour as a commodity has increased the movement of migrant labour in industrialized and industrializing countries. Migrants bring with them their own culture, traditions and belief systems which have influenced the social and cultural landscape of the host country. In some cases, migrants who express and live within different cultural norms and expectations have created tension with local labourers (Igonin, 2016). The intensity of the clash increases during times of high local unemployment due to economic downturn. The results are the increase of migration control policies by governments around the world and the perception that governments need to decrease the inflow of migrants into their country (IOM, 2015).

For example, being a country that is both a sending and transit for labour migrants moving to North America, Mexico has been securitizing its southern and northern border (Treviño-Rangel, 2016). The discourse of migrants posing a security threat to the United States (Slack et al., 2016) affected Mexico’s internal migration control to curb the transit of migrants from Central America through Mexico and into the United States (Treviño-Rangel, 2016). Some of these migrants then move to sanctuary cities around the United States and provide a source of cheap labour for American businesses (Bacon, 2008; Lasch, 2016). The huge wage disparity between Latin America and the United States and Canada is one of the main push factors for migrants to take the decision to move towards the United States (Bacon, 2008; Sanderson, 2014). Therefore, a migrant flow from Latin America to North America was created when the dominant movement of South to North migration increased on the American continent. Such movements are also reflected in the case of Southeast Asia, especially in Malaysia where a South-South migration movement occurs due to the labour and wage situation of its neighbouring countries.

MALAYSIAN LABOUR MARKET

Malaysia’s history as a labour importing country began due to the abundance of resources available in its land and the need for labour to exploit these resources. The large-scale increasing pace of rubber and mining industries since the 19th century by the British administration has facilitated the importation of labour from the Qing Empire (China), the British Empire (India) and the Dutch East Indies (Java) (Kratoska, 1982; Postgate, 1992; Kaur, 2014b). The labourers mostly worked in the plantation and mining sector and their number increased dramatically in the 19th century due to the boom in the demand for rubber (Kratoska, 1982; Postgate, 1992; Kaur, 2014b; Cheong et al., 2015). However, during the great depression in the 1930s, a large number of migrant labourers become unemployed and some were repatriated to their country of origin.
Considering that ethnic segregation was a key management strategy by the British colonial government (Kratoska, 1982; Tedong et al., 2014), fear of being overwhelmed by foreigners became part of Malaysia’s negative discourse towards foreigners, especially among the Bumiputeras (‘sons of the soil’). This was reinforced during the Malayan Emergency situation where hundreds of thousands Malayan peasants, predominantly of Chinese descent (Tedong et al., 2014), were relocated to “new villages” and were labelled as communist sympathizers (Dixon, 2009; Hack, 2015). The impact of ethnic segregation and the Malayan emergency left a lasting impact on Malaysian labour migration control policy (Garcés-Mascareñas, 2012). However, unlike permanent migration, the increase in temporary labour migration that started in the 1970s continues unabated (Ananta and Arifin, 2004; Garcés-Mascareñas, 2012; Kassim, 2014).

Nowadays, Malaysia is both a labour-sending and destination country with most of the movement of migrants going into the country, and not out (Kaur, 2010; Kassim, 2014). For instance, in 2016, the total number of documented migrants working in Malaysia was approximately 1.95 million which constitutes 13.43 per cent of the total Malaysian labour workforce in 2016 (MOHR, 2016). The demography of this inward movement of migration consists mostly of unskilled migrant labour whose objective is to fill in the sectoral need for employment within Malaysia (Kassim et al., 2014; Rajah et al., 2015; MOHR, 2016). This trend started in the 1970s when Malaysia was rapidly industrializing its economy and more foreign labourers were needed in the Malaysian labour market, especially in the ‘3D’ sectors deemed “difficult”, “dangerous” and “dirty” (Devadason and Meng, 2014; Kassim et al., 2014).

With significant labour shortages in manufacturing production in the 1970s, the Malaysian government turned to recruiting foreign labour (Rasiah et al., 2015), especially for low-to-medium skilled work. Local Malaysians labour recruitment within the 3D sectors is low because of the education level of Malaysians who prefer better paying jobs (Devadason and Meng, 2014; Kassim et al., 2014). The education profile of migrant workers shows a large disparity in terms of educational qualification compared to Malaysian workers. In 2010, up to 60 per cent of foreign workers had primary schooling or less compared to 16 per cent of the local Malaysian workers (Rajah et al., 2015). This educational disparity and lack of local interest in working in the 3D sectors increased the demand for migrant labour in Malaysia, which became one of the main pull factors for migrants deciding to migrate to Malaysia.

In order to encourage employers to hire locals, the Malaysian government took steps such as freezing the recruitment of migrants and increasing levies for migrant labour (Devadason and Meng, 2014; Yin, 2016). Both steps usually failed as repeated freezing and unfreezing of migrant recruitment happened due to pressures by the public and employers (Devadason and Meng, 2014; Yin, 2016; Chin and Mokhtar, 2017). The increase in the levies increased undocumented migrant labour recruitment by employers directly and indirectly, as the cost of hiring documented migrant labour is more expensive than hiring undocumented migrant labour (Kassim et al., 2014; Yin, 2016). Levy increases also caused repeated amnesty programmes by the government, which in itself gives the wrong message towards undocumented migrants and employers – that they can wait till the next amnesty programme (Devadason and Meng, 2014).

Malaysia has diversified the origin of its labour migrants after the “Hire Indonesians Last” policy in 2002 as a response to riots by Indonesian migrants (Chin, 2008). Currently, Malaysia has 15 recognized origin countries for its migrants, with specific sectors according to their nationality. The majority of the migrant labour comes from Association of Southeast Asian Nations (ASEAN) countries and South Asia countries (MOHR, 2016). The largest number of documented labour migrants in August 2016 comes from Indonesia with 798,496 individuals followed by Nepal at 427,440 individuals from a total of 1.9 million documented migrants (MOHR, 2016).

Table 1 shows that labour migrants from different countries of origin dominate certain sectors of the economy. For example, Nepalese migrant labourers dominate the manufacturing sector whilst Indonesian migrant labourers dominate both farming and construction sectors in Malaysia. This indicates labour market stratification, ideas that McGovern (2007) suggested which conforms to...
<table>
<thead>
<tr>
<th>No.</th>
<th>COUNTRY OF ORIGIN</th>
<th>Domestic Service</th>
<th>Construction</th>
<th>Manufacturing</th>
<th>Services</th>
<th>Farming</th>
<th>Agriculture</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Indonesia</td>
<td>96,531</td>
<td>206,416</td>
<td>125,091</td>
<td>40,146</td>
<td>249,216</td>
<td>81,096</td>
<td>798,496</td>
</tr>
<tr>
<td>2</td>
<td>Nepal</td>
<td>63</td>
<td>12,591</td>
<td>301,694</td>
<td>94,239</td>
<td>4,117</td>
<td>14,739</td>
<td>427,440</td>
</tr>
<tr>
<td>3</td>
<td>Bangladesh</td>
<td>137</td>
<td>94,111</td>
<td>98,418</td>
<td>26,845</td>
<td>19,951</td>
<td>12,378</td>
<td>251,840</td>
</tr>
<tr>
<td>4</td>
<td>Myanmar</td>
<td>102</td>
<td>18,117</td>
<td>101,727</td>
<td>15,688</td>
<td>1,873</td>
<td>4,829</td>
<td>142,336</td>
</tr>
<tr>
<td>5</td>
<td>India</td>
<td>909</td>
<td>8,941</td>
<td>2,830</td>
<td>51,874</td>
<td>20,734</td>
<td>40,090</td>
<td>125,378</td>
</tr>
<tr>
<td>6</td>
<td>Pakistan</td>
<td>38</td>
<td>28,194</td>
<td>3,581</td>
<td>6,182</td>
<td>6,714</td>
<td>21,320</td>
<td>66,029</td>
</tr>
<tr>
<td>7</td>
<td>Philippines</td>
<td>38,860</td>
<td>3,621</td>
<td>4,458</td>
<td>5,858</td>
<td>4,421</td>
<td>4,756</td>
<td>61,974</td>
</tr>
<tr>
<td>8</td>
<td>Vietnam</td>
<td>621</td>
<td>3,744</td>
<td>31,354</td>
<td>1,525</td>
<td>63</td>
<td>411</td>
<td>37,718</td>
</tr>
<tr>
<td>9</td>
<td>China</td>
<td>155</td>
<td>5,813</td>
<td>1,079</td>
<td>5,812</td>
<td>25</td>
<td>17</td>
<td>12,901</td>
</tr>
<tr>
<td>10</td>
<td>Thailand</td>
<td>333</td>
<td>602</td>
<td>382</td>
<td>8,634</td>
<td>439</td>
<td>1,932</td>
<td>12,322</td>
</tr>
<tr>
<td>11</td>
<td>Cambodia</td>
<td>3,147</td>
<td>217</td>
<td>2,312</td>
<td>1,196</td>
<td>177</td>
<td>260</td>
<td>7,309</td>
</tr>
<tr>
<td>12</td>
<td>Sri Lanka</td>
<td>1,053</td>
<td>135</td>
<td>3,883</td>
<td>961</td>
<td>199</td>
<td>307</td>
<td>6,538</td>
</tr>
<tr>
<td>13</td>
<td>Laos</td>
<td>20</td>
<td>2</td>
<td>16</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>46</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>141,969</td>
<td>382,504</td>
<td>676,825</td>
<td>258,964</td>
<td>307,930</td>
<td>182,135</td>
<td>1,950,327</td>
</tr>
</tbody>
</table>

Source: Ministry of Human Resources Malaysia, 2016
Tilly’s categorical inequality. Categorical inequality exists when there is a systematic inequality in life chances due to socially defined categories such as citizen or foreigner when it comes to migration (McGovern, 2012). This problem of categorical inequality does play a role in the discourse of migration in Malaysia where the concept of “they” the foreigners versus “us” the citizens, usually plays out in the context of foreigners invading local space such as labour, and bringing in crime (Chin, 2008; Kassim, 2014). This discourse has a widespread effect upon government decisions when it comes to labour migration, such as freezing migrant recruitment due to the public outcry or unfreezing migrant recruitment due to employers’ pressure (Devadason and Meng, 2014; Chin and Mokhtar, 2017).

To regulate the flow of migrants, there are several legal requirements implemented by the Malaysian government. The rules concerning admission and stay of migrant workers in Malaysia is provided under the Immigration Act 1959 which was amended in August 2002 to cater to the increasing number of undocumented migrants entering Malaysia (Devadason and Meng, 2014; Kassim et al., 2014; ILO, 2016). The enforcement of this act falls under the supervision of the Immigration Department of the Ministry of Home Affairs. Employment and conditions of work for the migrants are regulated by the Employment Act 1955 through the Ministry of Human Resources Malaysia (Garcés-Mascareñas, 2012; ILO, 2016). Other labour laws that are also applicable to migrants are the Occupational Safety and Health Act, Workmen’s Compensation Act, Industrial Relations Act and Trade Union Act (ILO, 2016). All these legal instruments in principle provide equal treatment for documented migrant labourers and locals in many respects such as wage, work hours, holidays, terminations, non-discrimination, freedom of association and others (Garcés-Mascareñas, 2012; ILO, 2016).

The policy implementation for different types of migrants radically differs when it comes to the type of migrants. The first types of migrants who are welcomed in the country are highly skilled migrants and expatriates, students and Malaysia My Second Home (MM2H) participants (Kassim, 2014). The other less welcomed migrant inflow consists of low skilled migrant labourer, undocumented migrants, asylum seekers and refugees (Kassim, 2014). As the majority of migrant inflows in Malaysia are unskilled documented migrants and undocumented migrants, the discourse on migrant issue in Malaysia is mostly negative (Kassim, 2000; Liow 2003; Chin and Mokhtar, 2017; Sadiq, 2005).

MIGRATION CONTROL IN MALAYSIA

Malaysia practises migration control through both external and internal enforcement (Garcés-Mascareñas, 2012; Chin and Mokhtar, 2017). Internal control consists of identification, surveillance and employer inspections while external enforcement is focused upon militarizing border crossings and criminalizing irregular migrants through raids, detention and deportation (Garcés-Mascareñas, 2012; Chin and Mokhtar, 2017). According to Chin and Mokhtar, Malaysia relies heavily upon external migration control and neglected internal migration control (Chin and Mokhtar, 2017). When compared with the findings by Devadason et al. (2014), the pattern of Malaysia’s labour migration policy decision proves this point. There are many repeated freezing and unfreezing of migrant recruitment by the government throughout the years such as in 1992, 2002 (Devadason and Meng, 2014) and more recently 2016 (Ghazali, 2016). The decision to freeze or unfreeze recruitment depends on ad-hoc policymaking following the current event pertaining to the decision to freeze or unfreeze migrant recruitment. An example is the decision to freeze recruitment of Indonesia migrants following Malaysia’s “Hire Indonesians Last” policy (Chin, 2008; Devadason and Meng, 2014).

To illustrate the focus on external-internal control of migration in Malaysia, this section will discuss the 6-stage “Pemutihan” or whitening programme also known as 6P programme (Chin and Mokhtar, 2017). The 6P programme – “Pendaftaran” (registration), “Pemutihan” (regularisation),

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“Pengampunan” (amnesty), “Pemantauan” (monitoring), “Penguatkuasaan” (enforcement) and “Pengusiran” (deportation) – is aimed at reducing the number of undocumented migrants in Malaysia (Kassim, 2014). This programme manages to reduce the number of undocumented migrants by registering them in the migrants’ database, where up to 1.3 million undocumented migrants were registered during the first stage of the programme (Kassim, 2014; Chin and Mokhtar, 2017). This programme has both an internal and an external migration control rationale. Only the fourth stage of the 6P programme, however, which is “Pemantauan” (monitoring) has managed to show the involvement of internal control. But the focus and public discourse on the 6P programme is on the statistics of how many people are registered and deported in the country, not on the internal control which would show how many work sites were inspected and how many employers were caught employing undocumented migrants.

Incidentally, neoliberalism is contextualized in the globalization of higher education, where countries compete to attract as many international students as possible. Malaysia is one of these that aims to be put on the map as an education hub, especially in Southeast Asia. This began in the early 1990s, when privatization of higher education came into vogue at the same time as it became globalized. This coincides with the then Prime Minister Mahathir’s strategy to open the path for private businesses to establish private colleges and universities in cahoots with the government authorities, with an unregulated flow of students from other countries. While it is true that student visas are widely abused, the question that begs a credible answer is whether the government has any way of monitoring and auditing more than 300 private schools and colleges that welcome international students. Thousands of undocumented international students from other countries have intensified the issue and made it more complicated in the sense that undocumented people are not only those coming to work; they also include those who enter Malaysia in the guise of continuing their undergraduate and postgraduate studies. Table 2 shows a wide discrepancy between foreign students who entered Malaysia using the student pass and those who enrolled in various private institutions of higher learning; almost half of these students entered Malaysia on visas other than a student pass. The unaccounted percentages across institutions are definitely categorised as undocumented based on the current immigration policy of the country. In fact, in 2011 alone, about 1,303,126 were classified as undocumented based on the 6P Programme introduced by the government (Kassim, 2014) but this data excluded who entered the country for education purposes.

RESEARCH METHODOLOGY

This research was derived from three sets of data: focus group discussion, in-depth interviews and quantitative survey. However, for the purpose of this present article, we present the data from our

<table>
<thead>
<tr>
<th>Type of HEI</th>
<th>Intake</th>
<th>Enrolment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private HEIs With University Status</td>
<td>16,349</td>
<td>40,760</td>
<td>40.11%</td>
</tr>
<tr>
<td>Private HEIs With University Status</td>
<td>2,243</td>
<td>4,567</td>
<td>49.11%</td>
</tr>
<tr>
<td>(Branch Campus of Foreign University)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private HEIs With University College Status</td>
<td>1,686</td>
<td>6,866</td>
<td>24.55%</td>
</tr>
<tr>
<td>Private HEIs With College Status</td>
<td>33,066</td>
<td>47,486</td>
<td>69.63%</td>
</tr>
<tr>
<td>Total</td>
<td>53,344</td>
<td>99,679</td>
<td>53.51%</td>
</tr>
</tbody>
</table>

Source: Adapted from the Ministry of Higher Education, Malaysia, 2016
focus group discussion. Hence, the main data collection method used in this study primarily came from a focus group discussion (FGD) conducted in December 2016, in the University of Malaya, Kuala Lumpur, (the capital city of Malaysia). There were more than 30 informants from various agencies that are directly involved in governing migration in Malaysia, such as the Immigration Department of Malaysia, Royal Malaysian Police, Ministry of Women, Family and Community Development, Ministry of Higher Education, Ministry of Human Resources, and also from the National Institute of Population and Family Development. However, for the purpose of this article we only report findings from two main enforcement agencies: the Immigration Department of Malaysia and the Royal Malaysian Police. For the Immigration Department of Malaysia, we specifically invited officers from visa, passport and permit unit and also officers from the Expatriate Service Unit. For the Royal Malaysian Police, we invited officers from Anti-People Smuggling Unit that focused on operations and forgery documents.

The focus group discussion was conducted to better understand the challenges faced by enforcement agencies in managing labour migration in Malaysia. The focus group discussion lasted for two hours and was recorded on audio and video, transcribed and coded. Questions for the informants included: (1) the current trend in migration control, (2) the challenges faced by the enforcement agencies in the pursuit of managing labour migration; and, (3) suggestions to improve migration control. The findings of the study are discussed in the next section where informants’ narratives on their experience as enforcement officers are thematically identified and analysed.

FINDINGS

Managing migration has its own sets of challenges based on the informants’ observations from the two government enforcement agencies. In this section, these challenges are analysed. The informants from the Immigration Department of Malaysia and the Royal Malaysian Police provide a telling scenario of the kind of work they do to understand the complexity of labour migration. There are three themes to these challenges: documentation, finance and manpower, and political intervention.

Documentation

Documentation is the main method for differentiating between a documented and undocumented migrant. Documented migrants are those who have proper documentation. An example of proper documentation would be the social visit pass for tourists and the student pass for international students. Improper documentation, such as using a social visit pass while working, will classify the migrant as undocumented. Visa overstay by migrants will also categorise the migrant as undocumented. Officers from the Immigration Department we interviewed explained documentation as one of the biggest challenges they faced. For instance, one informant from visa, passport and permit unit commented on this issue:

‘For us since we oversee visa and passes, our biggest challenge is the improper use of visa and passes. As an example, a migrant who works in the country but he/she enters the country using a student or social visit pass is considered as using his/her visa improperly. Hence this is the biggest problem we face.’

Most of the informants agreed that documentation is one of the biggest problems faced by enforcement agencies in managing migration in Malaysia. For instance, officers from the Royal Malaysian Police explained that the misuse of documents – i.e. entry visa, passes, and etc. – provides an
avenue for migrants to enter Malaysia legally and enter the workforce illegally. One police officer we interviewed explained that:

‘From our operation experience, we found many cases of documents misused, such as students registering into a private college but never attended the college as they have disappeared. When we refer to the college authorities, the response was these students do fulfill all requirements and have proper documentation. However, they only come to the day of registration and then go missing’

Another police officer remarked that, based on their investigation, some of the colleges have up to 80 missing students and further found that students are either working or are waiting to go to a third country. Evidently, there were 252 abuses of holders of student visas in 2015 and that increased to 777 in 2016 (MOHR, 2016). All informants we interviewed also agreed that the problem of students misusing their documentation and entering the workforce illegally has been a long-standing problem in Malaysia. The immigration officer added, in response to cases of international students who became undocumented through the abuse of their student visa, and said:

‘In 2016, it was reported that more than 30 students were deported back to their countries as they abused their student visa because they are found guilty of various criminal and immoral activities or have been working illegally in various sectors such as customer service in Malaysia. It is common for us to hear that international students deal on drug dealing activities, monetary scam activities or working in prostitution industry’

One informant from the Royal Malaysian police explained that the problem of abuses of student visas has increased since the government has been allowing and supporting the establishment of private education institutions as part of the government effort to make Malaysia as an education hub. In talking about the visa application process, one informant from the Immigration Department of Malaysia further explained that the government has imposed a new regulation which reduces processing time for visa application. This has affected the credibility of enforcement agencies due to time constraints for verifying the application. One informant criticized this regulation:

‘To attract more foreign students, the government has ordered agencies to ensure the processing time of visa application to be within 14 days of application. The 14-day application period is not sufficient to ensure proper screening of an application. However, even though there is not enough time to screen the applications, we had to follow the order from above to make sure we achieve the target by the top management. Personally, I think this is the big loophole in the policy.’

The above remark is also related to another aspect of the challenge, the capacity to follow through government policies. In the case of insufficient time to ensure proper documentation screening, such targets will be achieved if there are enough resources to increase manpower and funding. However, when it comes to documentation, it can be concluded that it is surely one of the main problems faced by both enforcement agencies. Ensuring proper documentation is the main task of the immigration department and enforcing the law on those who misuse or do not have proper documentation is the task of both agencies. Considering the number of individuals who enter the country both legally and illegally are in the millions every year, ensuring proper documentation is a daunting task which requires both a proper capacity for enforcement agencies and political will by the government.

**Finance and Manpower**

In order to ensure the smooth implementation of migration policy in Malaysia, the relevant agencies must have proper resources and manpower. This is particularly true when informants we
Interviewed strongly suggested that the government should provide sufficient resources – i.e. financial and manpower – to ensure smooth and effective policy implementation. For instance, one informant explained that due to financial constraints his department had to reduce the number of operations and patrols. Our interview data also revealed that lack of financial capacity due to economic slowdown has impacted both government policy and enforcement agencies’ capacity to enforce. One informant explained further:

‘Considering the current economic condition, economic demands outweigh security demands compounded with the lack of government income in recent years. Thus, government policy tends to favour economic demands such as to increase foreign student enrolment and tourists into the country. One example is the free visa policy for tourists, which we do know of the risks involved… and we do not think the free visa is the way to go. But as implementers we had to follow orders.’

By this point we speculate that the migration policy solution in Malaysia is highly dependent on the current economic condition, where the economic needs are more important than security needs. For instance, one informant shared that, to increase the ease of access and the interest of foreigners in entering Malaysia, the process for visa application must be shortened and it must be made easier for business owners and investors to open businesses. However, another informant expressed that:

‘I am fully aware that an increase in security screening will make it harder to attract more people to enter Malaysia, which is not in line with the government economic needs. However, reducing process time will increase the number of applicants and this will also create more pressure for us (enforcement agencies) to process a larger number of applicants at a shorter time using the same resources that we have before [...] let me give you one good example of this situation [...] long queues at the airport has been debated at the cabinet recently. Therefore, the ministry decided to shorten the time for visa processing to 10 minutes only [...] So, within 10 minutes how do you want to do proper screening? The policy really gives pressure to us and we need to process the visa very quickly.’

While the government decided to shorten the visa processing time, it did not provide enough manpower and financial resources. Most of the informants we interviewed agreed that if the capacity for processing is increased by strengthening resources and manpower, the 10 minutes’ policy and proper screening could be done by the relevant agencies. However, the ad-hoc policy of placing a 10-minutes deadline is due to the lack of political will in making security the top priority. It impacted the immigration department activities in the airport which has created loopholes in the system. Hence, the problem of capacity is another challenge faced by the enforcement agencies in enforcing labour migration policies. Our document analysis also revealed that until now there has not been any record to show the national revenue from migration via visa fees and levies. Even assuming that documented workers comprises two million, it would be a surprise if the government does not have sufficient resources to improve government services.

**Political Intervention (ad-hoc decision)**

The majority of our informants believed that there is a lack of political will towards putting security interest as the top priority. Informants also explained that their main focus is to ensure national security as a main priority in their department, despite ad-hoc decision implemented by the government. One commented about this issue:

‘I would like to add that many of our policies are very much influenced by our political will. If we were to focus on security, then most of the decisions will consider the security needs of the country as top priority. Given the example of the 10 minutes processing time of the airport, as an example of the government political will, then it shows there is a lack of political will by the government.'
We as enforcers do not compromise when it comes to security, however, when the political will at
the top is not in favour of security, then we do comply but we also see the danger of it.'

Interestingly, our document analysis also revealed that the Deputy Prime Minister, who happens to
be the head of the Ministry of Domestic Affairs, had approved the recruitment of 1.5 million Ban-
gladeshis. One of the informants criticised the ad-hoc decision by the government to bring more
unskilled foreign workers into the country by saying that:

'We have a number of source countries for labour migration and one of these is Bangladesh. How-
ever, before this, most of the recruitment is done based on case-to-case basis. Due to the increasing
demand for Bangladeshi migrants and the increasing number of them being recruited, a new mecha-
nism is needed hence a Memorandum of Understanding (MoU) was made with the Bangladesh
government. This is also done as part of the government decision to protect migrants, as we do not
want them to be victims of trafficking. However, this MoU has caused a public uproar due to the
large number of Bangladeshi migrants to be recruited and then the government had to intervene.
One day after the MoU, the recruitment of Bangladeshis was frozen.'

Ad-hoc policy decisions done by the Malaysian government and what has been shared above is an
example of ad-hoc decision when it comes to migration policy. Public pressure and economic needs
are some of the rationale of the ad-hoc decision-making. However, this also shows that there is no
long-term migration policy decision by the Malaysian government, since the recruitment strategy is
based upon current industry demand such as in the case of Bangladeshi labour migrant recruitment.
Informants believed that this situation has become a problem akin to smuggling and trafficking of
labour migrants to fill sectoral needs. An informant discussed the issue of Bangladeshi migrants’
smuggling where he remarked that:

'From our investigation, we found that there are Bangladeshis entering the country through several
transit countries such as from Singapore, then transit to Jakarta and from there they go through
Pontianak and then enter through our Sarawak border. From our latest operation, we found out that
they have entry stamp through Jakarta but no entry stamp into Sarawak. Then some of them also
use domestic flight from Sarawak to enter Peninsular Malaysia as the security checks through
domestic flight is more relaxed compared to international flights'

All of the informants agreed that the lack of political will in prioritizing security is one of the prob-
lems that they consider as a challenge. They also agree that ad-hoc policy decisions have directly
impacted their effectiveness in enforcing migration policy, such as the freezing of Bangladeshi
migrants one day after the MoU was signed by both governments of Malaysia and Bangladesh,
and the issue of how demand for migrant labour increases the complexity of organized crime in
smuggling migrants into Malaysia.

CONCLUSION

This article discusses the challenges faced by enforcement agencies in managing labour migration
in Malaysia according to a thematic analysis of (1) documentation; (2) finance and organization
manpower; and, last but not least, (3) political intervention. We discovered that in terms of docu-
tmentation, there are several issues such as document fraud, document misuse and processing time.
Document fraud and document misuse are the most common problems faced by enforcement agen-
cies and are linked with the issue of organized crime and visa overstay. The problem of processing
time is a problem that is related to the second and third theme of the findings, finance and organi-
zation manpower and political intervention.
In the first theme, we focused our discussion on the internal capacity of both enforcement agencies to exercise their duties and responsibilities as they implement the labour policy. These concerns, however, are the oft-repeated question raised by civil society organizations in Malaysia. They pertain to why the Royal Malaysian Police is involved in the management of labour migration as well as the Department of Immigration, the Department of Human Resources, and the Department of Labour. Different departments who have a stake in the management of migration could not reconcile the difference between migration as an economic need and migration as a security problem. For as long as Malaysia cannot reconcile this difference, there will always be issues of prioritization as far as resources are concerned.

Finance and organizational manpower is the second theme of the findings. This has a close relationship with the economic condition of the country. In times of economic uncertainty, the government needs to source out additional revenue by increasing the number of tourists through visa-free visits and reducing the visa processing time for entering the country. However, this has impacted on enforcement agencies, as these measures have created loopholes where reducing processing time does not include an increase in manpower within the enforcement agency to optimally operate the new directive. For the enforcement agencies, document misuse is already a common problem. The probability that the entry of visa-free tourists will directly increase the number of undocumented migrants is a risk that the enforcement agencies consider as a loophole.

Political intervention is the third theme where our analysis of informants’ comments points to the problem of security as a priority and ad-hoc policymaking as a challenge. For instance, the recruitment of 1.5m Bangladeshis is incidentally a lucrative business for some people. The uproar over the recruitment was timely but it did not stop. Later, the plan was also pushed through but recruitment was on a staggered basis. Another question that needs to be reflected upon is, why the policy of recruiting new workers when Malaysia is already home to millions of undocumented? A new policy to convert and regularise these undocumented workers would have been a better option than recruiting new ones.

The complex structure and organization of the human smuggling network is a challenge faced by the enforcement agency. Considering the number of transit countries involved, this also shows that there are multiple parties who benefit from the smuggling of migrants; the demand for Bangladeshi migrants in Malaysia is one scenario. The increasing complexity means that a new paradigm of managing migration is needed. This new paradigm needs to be able to eliminate the involvement of organized crime and at the same time ensure that being a documented migrant is appealing. The experience of the enforcement agencies shows that there are several interrelated challenges that they encounter. Understanding the perspective of the enforcement agencies will also help in finding the middle ground in the interest of the migrants, the state and its citizens. Further research might be able to understand specifically the challenges faced by the enforcement agencies and the underlying factors behind these challenges.

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