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Malaysia's Policy on Immigration Issues (2000-2015)

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ABSTRACT (10 PT)

Malaysia is a developing country known for its peaceful multi-ethnic society, and English is widely used as a second language (ESL). These factors have attracted many immigrants seeking better economic opportunities and an improved quality of life. However, as immigration increased, concerns about national security also grew. It has been argued that the rise in the number of immigrants contributed to an increase in crime rates in the country. In the 20th century, Malaysia established institutions and implemented laws and policies to regulate and control immigration flows. These measures have continued to be enforced up to the present day. As a result of stricter immigration control and law enforcement, crime rates in Malaysia have declined. This thesis will primarily examine the strategies and policies implemented by Malaysia to reduce crime rates.

Keywords : *Malaysia, immigrant, multi-ethnic, crimes by immigrant, foreign workers, security*



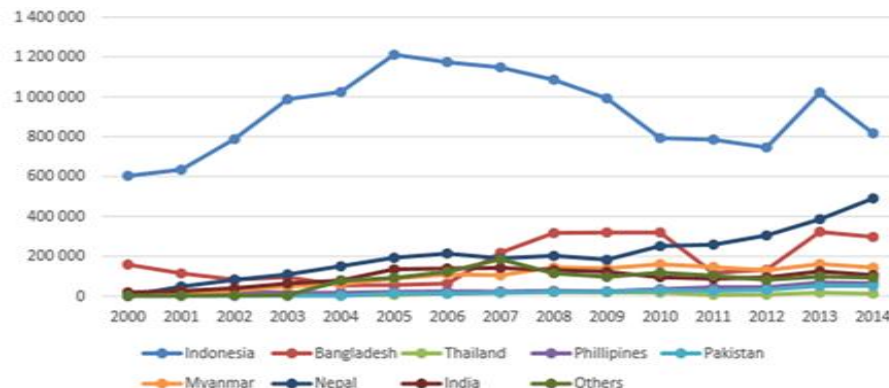
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INTRODUCTION

Malaysia is multi-ethnic nation consist of three main races living together namely Malays, Chinese and India (Richburg, Malaysia's Ethnic Chinese, Indians Fear Cultural Domination by Malays, 1987). Despite the fact that Malaysia has many ethnic and different cultures, they also have diversity in religion. Islam is the major religion with almost 60.4 percent of the population, Buddhism about 19.2, Christianity about 9.1, Hinduism about 6.3 percent, and 2.6 percent is traditional Chinese religions other or unknown 1.5 percent, and none 0.8 percent of the total population of Malaysia (Hays, Religion in Malaysia, 2015).

Immigration is the movement of people from one country to another country, through land, sea and air. Immigration also can be refers to the place where authorities check the documents of people entering a country. Malaysia is one of the destinations to migrant because a lot of ethnics there can live among each other peacefully and use English as Second Language (ESL) that make immigrant easy to communicate with Malaysian people. This multiculturalism of Malaysia can accept anybody those who want to migrate to Malaysia. They try to improve and get better life, as well as better job. Generally the migrants are refugees, however non-refugee also interest to come although through legal or illegal ways. The majority of immigrants in Malaysia are from neighboring countries particularly based on ethnic and religion similarity with Malaysia culture.



Source: Ministry of Home Affairs (2015).

Figure 1 : Number of migrant workers in Malaysia by country of origin (2000-2014)

From the above figure depicts, mostly the migration flow in Malaysia from 2000 to 2014 was from Indonesia followed by Bangladesh, Nepal, Myanmar, India, Philippines, Pakistan and Thailand. Indonesia migrant workers since 2000 always increase, but in 2005 - 2012 the migrations flow slightly decreased, but regularly increase in 2013 and decrease in 2014. The most unstable trend of migrant workers is Bangladesh and Nepal followed by, Thailand, the Philippines, Pakistan, Myanmar, and India since 2011 both of them always increase except in 2014 Bangladesh slightly decrease (Harkins, 2016).

Sector	Year				
	1999	2002	2005	2008	2011
Maid	94,192 (23.0)	232,282 (22.0)	320,171 (17.6)	293,359 (14.2)	184,092 (11.7)
Manufacturing	155,277 (37.9)	323,299 (30.6)	581,379 (32.0)	728,867 (35.3)	580,820 (36.9)
Plantation	74,501 (18.2)	298,325 (28.2)	472,246 (26.0)	333,900 (16.2)	299,217 (19)
Construction	49,080 (12.0)	149,342 (14.1)	281,780 (15.5)	306,873 (14.9)	223,688 (14.2)
Services	36,610 (8.9)	64,281 (6.1)	159,662 (8.8)	211,630 (10.3)	132,919 (8.4)
Agriculture	na	na	na	186,967 (9.1)	152,325 (9.6)
Total	409,660 (100.0)	1,067,529 (100.0)	1,815,238 (100.0)	2,062,596 (100.0)	1,5730,61 (100.0)

(Source) Ministry of Home Affairs, Malaysia, 2008, 2011.

Table 1 : Number of migrant workers in Malaysia by sector

Table 1 demonstrates that majority of the migrant workers are manufacturing sector followed by, plantation sector, and the services and agriculture sectors.

Malaysia had faced immigrant problem in 1969, about racial issue between Chinese and Malays. In 2015, approximately 10.000 refugees from Rohingya refugees fled from Myanmar to Malaysia, which made the rise of labor issues became a serious challenge to Malaysian government. As a result, the Malaysian employers prefer to select migrant workers rather than local labors. This is because the migrant workers are cheaper compared to local workers in terms of wages and conditions. The high demand on migrant workers made Malaysian job sectors was filled with high number of low-skilled, low-wage migrant workers. It means that 25% to 30% of the work force is composed of migrants workers. Local workers have also to compete with migrant workers for high income jobs. This is the fact that most of Malaysian middle class do not want to build their career in so called 3D (Dirty, Difficult, and Dangerous). As consequence, the 3D sector was dominated by migrant workers. The refugees and undocumented immigrant also contribute to the increase of sex workers industry in Malaysia (Keong, 2017) as well as human trafficking. A report reveals about 79 human trafficking cases in 2016 where 403 cases finally were sentenced in the court up to 2016 (Bakar, 2017).

In 2006 foreign workers in Malaysia responsible for around 5.000 criminal cases as government report (Hays, Foreign Workers in Malaysia, 2015). In 2014 Home Minister of Malaysia Datuk Seri Dr

Ahmad Zahid Hamidi mentioned that almost 9,496 criminal cases involving foreigners. He also added that 2,306 of the cases involving the foreigners were related to serious crimes, such as rape (138), unarmed gang robbery (1,008), armed gang robbery (108), murder (167), unarmed robbery (377), armed robbery (10) and causing hurt (498). While the rest of 7,190 cases were related to property crimes, namely theft (1,871), snatch theft (318), car-theft (568), heavy vehicle-theft (78), motorcycle-theft (1,252) and house break in (3,103) (SunDaily, 2014).

The Minister of Natural Resources and Environment of Malaysia Datuk Dr. Haji Wan Junaidi in 2013 said that, 19,056 foreign workers were caught because of criminal cases that accounted for 12 per cent of the total 147,062 criminal cases in Malaysia. Then until September 2014, 14,143 foreign workers were caught and their cases made up 14 per cent of the 97,393 cases reported (Bernama, 2014).

Economy factor also infected by the immigrants, the money that goes out to immigrants higher than the money that spent by immigrants that used in Malaysia. It will make inflation to the country because usually the immigrants sent their money to their family in home country. Ringgit value will decrease because of that.

THEORETICAL FRAMEWORK

To answer the research question, this thesis will employ securitization of migration concepts by Philippe Bourbeau.

The concept explains about movement of people and the system of order underpinning the movement. This concept is the application of security frameworks related to migration. This combination that emphasizes policy and defense come from the process of discursively and institutionally integrating international migration.

Philippe Bourbeau argues there are two categories that evaluate the migration are securitized or not. The categories are institutional category that divided into three indicators that are legal, government policy and saliency indicator. The second category is indicators of securitized migration concern the security practices relating to the migration–security nexus.

First indicator, **institutional category** is legal indicator. Every country have own law system that have important role without exception including immigration. The law system should concede securitization of migration that deal with migration flows that possibly can be a threat to the country.

The second indicator from Bourbeau is government policy related to security, foreign affairs, and immigration. This is because immigration have strong relation with violence, terrorism trafficking, illegal migrant that can threat the country and causes of security problems.

The third indicator in institutional category is saliency. Saliency indicator is a connection between migration and the government policy. This indicator shows how strong the government policy to tackle migration issues or how the government join an organization or to get assistance from other countries to tackling the immigration issue that can be the serious security problem and threatened the stability of the country (Bourbeau, 2011). A migration scholar argues, that migration and security were linked with immigrants and are more involved in criminal activities than “local” people (Virginie Guiraudon Joppke and Christian, 2001).

The second category is **indicators of securitized migration** concern on security practices related to connection between migration and security. This security action based on the securitization of migration. Security needs practices not only from policy and law. Philippe Bourbeau divided the indicators of securitized migration that concern in security practices in two that are interdiction and detention of immigrants. Interdiction is an activity that preventing the movement of people that in this case is to tightening the flow of migration by prohibiting, intercepting, and/or deflecting them. The detention is security action that will useful in the criminal, and violations cases by migrants. Detention will help to solve the issue by action with procedures and codes of conduct to tackling the issue (Bourbeau, 2011).

In this term of institutional category that divided into 3 indicators namely legal, government policy and saliency is implemented by Malaysia government to secure their country. Malaysia creates institutional to formulate a law, government policy and connect it with migration security policy. From second category Malaysia practices the laws that already created and make sure the law and policy have securitized the country. The author tends to use this concept because suitable with this thesis, concerning elements of securitization of migration in Malaysia. This concept will describe the process of securitization of immigration and the purpose establishing such law for immigrant).

RESULTS AND DISCUSSION

As already mentioned in chapter II about the political demography that shows the history, data, and the factor of immigrant attract to become foreign workers in Malaysia. In chapter III about the political, security, economy and social the Government should solve the problem by create a policy that will tightening the immigration flows and increasing institutional immigration capacity of Malaysia through the development of detention house, infrastructure or structural organization.

Malaysia faced many problems such as security, politic, social and economy that will give an impact to the future of Malaysia. Million foreign workers come to Malaysia to get better life, as well as better job. With low wages and can placed in 3D (Dirty, Difficult, and Dangerous) impact to local workers jealousy. It happened because the local workers usually want high wages and good place, so they work in safety area. 3D (Dirty, Difficult, and Dangerous) can become 4D, the fourth D referred to Diseases. Dirty, Difficult and Dangerous work can bring Diseases to the foreign workers, moreover the mostly employers did not have responsibility about the health of their foreign workers that made foreign workers can easily contracted with disease. The disease can influence local people through daily activity and will make social problem.

The incoming of immigrant can bring security issues, it emerged cause the difference of understanding and habitual with their home country. Mostly, the immigrant use illegal way to Malaysia the reason is because it is cheaper than the legal way despite it is more dangerous either on their way to Malaysia or after arriving in Malaysia. After they come to Malaysia they will face many rules that controlled the people activity. Every country has their own rules that ruled by the government and should obey by the people to increase the quality of the country. Uneducated immigrant mostly ignores the rules, and then they will face a trouble. The immigrant will place in somewhere where they are condemned for their action. For legal immigrant, usually they just get an earful from the officer. However, the illegal immigrant usually gets a punishment and can get kicked out of the country. In this moment some bad political actors give deals to the illegal immigrant. They will get legal citizenship if the illegal immigrant votes some political party in the election. This case can bring the impact to the vote outcome. However Malaysia's government already takes a serious action to create a policy that with hope can solve this problem. If their policies work properly as they wish, it will strengthen the accountability representative in Malaysia. So the representative is from educational, proper and good side.

From this problem the author put a securitization migration concept from Philippe Bourbeau to become a foundation that used by Malaysia to tackling and resolve the issues. Malaysia uses two policies to secured Malaysia from immigration issues. The first policy used when the immigrant want to come to Malaysia, the country will secure with the tightening migration. It will help Malaysia's government can control the immigration flows that come to Malaysia and out from Malaysia. The second policy is to give a punishment to the immigrant who already entered and make a trouble in Malaysia. The policy will punish the immigrant in detention house and then kick out of the country, so it will not destroy the social stability in the country.

1. Policy to Tightening Migration

Philippe Bourbeau said that to secure the country, the country should create a policy that have related to security, foreign affairs, and immigration. One of the indicators is interdiction that the meaning is an activity that preventing the movement of people that in this case is to tightening the flow of migration by prohibiting, intercepting, and/or deflecting them.

Malaysia in 2011 start to used biometric data to control the flow of immigration (Indonesia, 2011). In 1 June biometric data inaugurated by Malaysia's National Enforcement and Registration System (NERS) said the embassy by the Department of Foreign Affairs. Biometric data is a general term used to refer to any computer data that is created during a biometric process. The system is created to scan subject's thumbprints, and then input and compare the data that already records by the Malaysian Immigration System, make sure that foreign workers are legal like what they said when undergoing the screening (Beal, 2017).

The process in using biometric data foreigners are asked to place their two index fingers on the glass plates of the electronic fingerprint scanning machines at immigration office. The data from biometric process will be saved in the Department of Immigration's database. The data will used for the security of the country, the immigrants will get verification process upon exiting the country. Malaysia had amended the Immigration Law and Regulations to support the operation of new biometric

registration requirement at entry points. Under the new system, all immigrants from 12 years and above should submit to the biometric procedure to control the flows of migration more secure (Team I. , 2011).

Malaysia Immigration general director Datuk Seri Mustafar Ali, said that Immigration department identified the percentage of immigrants especially foreign workers who have tried to fake their medical screenings and the using of the biometric screening system represents the seriousness the Malaysia's government authorities to overcome the issues. From 400.000 foreign workers who came to Malaysia about 2.6 percent failed their medical exams, leading to their disbarment from working in the country.

The Malaysia's government starts to develop the biometric data so it can used to identify the refugee. The reason of Malaysia's government to develop biometric data system is to tackle the terrorism as well as to weeding out potential Islamic State terrorists (Perala, 2017).

However Malaysia's government increase the quality of biometric data to control the immigrant for the medical screening of foreign workers is scheduled to go into action starting from October 2017. It will increase the security of the country and make the flows of immigration to Malaysia tighter than before. It will help to maintaining a central database would discourage the immigrants using fake documents by using other people identity to get permission to work, reside or study in the Malaysia. Fingerprints every person is different so it will make easier to reliably match immigrants to their personal identification data and documentation.

Database would make the Police to help Immigration department and Naturalization Service. The Police will check the identity of immigrants especially the foreign workers because mostly the problem comes from the illegal foreign workers. Foreigners also have benefit from the use of biometric data that it could prevent their falling victim to identity theft, which can be a serious problem.

Biometric data also make Malaysia's government easier to track down visa over stayers living and working illegally in the country. Malaysian immigration officials said that a new and unique 'Biometric Tracking System' will introduce in the country's immigration department. Through this system officers could easily looking for the exact location of illegal immigrants that already broke the rule of the country due to not extend validity of their visa terms. Immigration department claimed that the new system will extensively reduce illegal immigration in the country, which rose to almost 700,000 in 2011. Immigrant department officials also said that the new system is a sustaining process from previously implemented system, to decrease or even eradicate criminal cases like people and narcotics smuggling, called the Advanced Passenger Processing System (APPS).

The visa over stayers was one of the major concerns of the authorities as they have been continuously increasing in numbers. The number of over stayers, living in the country as of 2011 was 694,000. Usually the over stayers are from Indian and Chinese immigrants who had decided to remain in Malaysia. Indian and Chinese after their visa expired they will not extend the validity period however they work illegally in local companies. The main issue in this case for immigration department was that, due to the absence of any registering documents except for their passports, the over stayers sometimes they don't feel that they involved in criminal activities and they enjoyed it.

Biometric system would assist the authorities in tracking down and getting rid of such offenders in a much timely manner said Alias Ahmad, head of the Malaysian immigration department. He said that immigration department will maximize the function of biometric data to the offenders. Biometric data will give the immigrants that have a problem and detect the location that automatically already active in the system. The immigration data will use all the offenders access to get the location, by:

1. From bank account that they have, in registration they would need to provide their fingerprint
2. From the first offenders visiting the country, they should have to use their passports while checking in at any hotel. This will allow the authorities to immediately determine any immigration offender's location as soon as the hotel scans their passport through their computers, which will be linked with the authorities.

Alias Ahmad said that the system that already developed is far better than the current system, under which the over stayers can only be detected while they are exiting the country, or during any other action particularly for this purpose.

The officials wish that system would work properly and actually be the continuation of Advanced Passenger Processing System. The system will used for cracking down on human trafficking, people smugglers and drug dealers. Under the Advanced Passenger Processing System, the foreigner

checked and conducted by the immigration authorities to ascertain if they had any criminal links or records (Preet, 2012).

2. Institutional Immigration in Malaysia

Malaysia is one of many countries that become a magnet for immigrants despite the country have failure to ratify key human rights treaties and poor human rights record. Illegal entry and stay without any permission is criminalized and Malaysia already solve the problem, the illegal migrants often serve prison sentences before being transferred to one of twelve detention house while awaiting deportation. Caning, a legacy of British colonial rule, is widespread. In 2013, more than 5,000 foreigners were caned.

The immigrant that have serious problem that related to the security, social, politic and economic issues to the country usually caned in detention house. Detention house is a place maintained by the civil authorities for persons charged with a crime, and sometimes for witnesses, awaiting trial.

Malaysia is one of the more vibrant economies in Southeast Asia. All unauthorized foreigners, including Rohingyas that fleeing from Myanmar also considered as illegal or prohibited immigrants under the Immigration Act (The Commissioner of Law Revision, 2006). Immigration detention in Malaysia includes various unique and brutal features such as caning and detention aboard vessels.

Illegal immigrants that stay in Malaysia considered as criminal action. The illegal immigrants often serve time in prisons before being transferred to one of the twelve administrative detention houses while awaiting deportation. Legacy from British rule that is caning still remains a judicial punishment for criminal offences in the Malaysian Criminal Procedure Code. It was introduced in the Immigration Act in 2002 to deter unlawful migration. According to the Home Minister, 8,481 prisoners were caned in 2013, of which 5,968 were non-citizens (Meikeng, 2014).

About 68,000 people were placed in immigration detention house in 2013, mostly people are from Indonesians, Burmese and Bangladeshis. Suruhanjaya Hak Asasi Manusia (SUHAKAM) as the national human rights institution reported that about 1,406 children were arrested in detention house from January to October 2013 (Team S. , 2013). From section 34(1) of the Immigration Act provides that persons may be arrested for an urgent or necessary period usually detention house is a place for immigrants that have a problem before deportation. The immigrants generally spend between two months and two years in detention.

The procedures of deporting immigrations are reportedly very poor. Generally immigration detainees are rarely having information of the reasons for detention in a language they understand. Moreover the authority limits the migrants right to get access to legal counsel. There are no alternatives to immigration detention. Some United Nations High Commissioner for Refugees (UNHCR) refugee cardholders that detained in detention house can be released due to the government's discretion however the UN refugee agency only has access to them after they are transferred to the detention house from prisons.

The deportation in Malaysia already have significant improvement, the witnesses of state's improve the ability to deport, through diplomatic partnerships, and the involvement of the International Committee of the Red Cross (ICRC), international NGOs (such as the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM)). By partnership, it will overcome the geopolitical stalemate. International collaboration is pertinent, as enforcement is often limited by "geopolitical difficulties," which refers to the states of origin being unwilling to accept their own returned nationals. If the immigrants have no money, the officer will ask if he has friends or relatives in Malaysia or his home country who are able to pay the ticket cost. If the funds cannot be secured, the detainee's embassy or ex employer would then be asked to find a suitable solution (Choo Chin Low and Khairiah Salwa Mokhtar, 2017).

The implication of the policies since the crime index rate for Malaysia has decreased between 4.2 per to 12.6 per cent from 2011 until 2015 (Nokman, 2016). This is mean that the policies that run from Malaysia's government work properly as they wish. It will make the country secure from politic, security, economy and social issues that happened caused by immigrants.)

CONCLUSION

Malaysia is multi-ethnic nation consist of three main races living together namely Malays, Chinese and India. It happened since British colonialism that brings Chinese and India people to Malaysia. There are such a push and pull factor that attract the immigrant to come to Malaysia. The

tolerance in Malaysia, local people in Malaysia respect each other. They used English as Second Language (ESL) that make the immigrant easy to communicate with the local people. The alliance that makes the political system based on ethnic stabile.

The push and pull factors make a lot of immigrants migration to Malaysia to improve and get better life, as well as better job. Lot of immigrants in Malaysia made some socio economic, politic and security issues emerged. Capital Flow, Social Gap and Diseases Problems in Malaysia emerged. The money that paid to the immigrant does not return to Malaysia despite sent it to their home country. The job opportunity decreases because the immigrants accept the low wages and placed in 3D. 3D can creates diseases, moreover the employers do not treat them like a human. Mostly because of this some violation emerged and become domestic security problem. When they are arrested in detention house, some political party takes advantages to influence the immigrants to votes the party in election. The immigrant that have a problem gifted a reward from the political party that is become legal citizen of Malaysia.

Malaysia's policy to solve the immigration issues are tightening the immigration flows through biometric data and Institutional Immigration through detention house already give a huge impact to the security of Malaysia. Biometric data can filter the immigrants that come to Malaysia and decrease illegal migration, it happened because the procedure should include fingerprint that every people on earth have different fingerprint. If there are illegal immigrants can entry to Malaysia, the Malaysia's government cannot track down the location.

The immigrants that involved in criminal cases, Malaysia's government directly put the immigrants to detention house and deported the migrant. Thus the immigrant can't stay again in Malaysia. If there are legal migrant that involved in criminal cases, the government can easily track down the migrant through:

1. Bank account that they have, in registration they would need to provide their fingerprint.
2. The first immigrant come to country they should have to use their passports while checking in at any hotel. This will allow the authorities to immediately determine any immigration offender's location as soon as the hotel scans their passport through their computers, which will be linked with the authorities.

After they tracked, they will arrest in detention house. Before the immigrants departs from Malaysia they can get access to legal counsel, although it very hard it. Then if the immigrant proven guilty, the government will departs the immigrant to their home country. If the immigrants have no money, the officer will ask if he has friends or relatives in Malaysia or his home country who are able to pay the ticket cost.

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