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Malaysia's Illegal Indonesian Migrant Labour Problem: In Search of Solutions

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The influx of illegal Indonesian migrant labour into Malaysia continues to be a source of bilateral friction for Malaysia–Indonesia relations. This article argues that long-term solutions to the problem of illegal Indonesian labour remain illusive because of the lack of political will on the part of both governments to compromise. The article begins by exploring the historical background to Indonesian migration into the Malay Peninsula. It then proceeds to discuss the “securitization” of the illegal Indonesian migrant worker issue by the Malaysian Government and media, and how this has framed Malaysian perceptions of Indonesian workers. Finally, it concludes by examining the problems and prospects for a long-term resolution of this enduring problem.

The long-term, undocumented migration flow of Indonesians into Malaysia is arguably the second largest flow of illegal immigrants after the movements across the U.S.–Mexico border. The issue of the migration of illegal Indonesian labour to Malaysia has been a persistent source of friction in Malaysia–Indonesia relations for the past twenty years. The latest round of protests by Indonesian politicians, the media, and the public in response to harsh laws recently enacted by Kuala Lumpur against illegal foreign workers threatened once again to plunge bilateral relations into another downward spiral of animosity and diplomatic sabre-rattling. Tensions have been exaggerated by the securitization of the illegal Indonesian migrant worker problem by the Malaysian media and certain government officials. Given the vast number of Indonesian labourers in Malaysia and the crucial role they play in the Malaysian

economy, unless the root causes of this problem are acknowledged and addressed coherently by both parties, the issue of illegal Indonesian migrant labour will continue to be an obstacle to better bilateral ties.

The regular recurrence of the problem of illegal Indonesian labour migration into Malaysia and the elusiveness of viable solutions has opened the way for scholarly research to be undertaken to illuminate the fundamental issues involved that impede the search for solutions. Be that as it may, there remains a paucity of scholarship that attempts to study the social, political, economic, and diplomatic undertones to a problem that has emerged as one of the most enduring problems for contemporary Malaysia–Indonesia relations. Most studies that have been done on this subject have taken two forms. Some have devoted much effort at listing the social-economic problems arising from the influx of Indonesian labourers, and in particular illegal economic migrants, into Malaysia.¹ Others have studied the geographical and demographical dimensions to this problem, focusing on the origins of these Indonesian illegals, the problems they encounter in making their way to, and finding employment in, Malaysia, and the exploitation that they are forced to undergo as a result of their status.² Few have attempted to place the illegal Indonesian migrant worker problem in the broader historical context of political trends in Malaysia–Indonesia relations, or to make recommendations on the crucial issues that need to be addressed in the search for solutions.³ It is in this regard that this study considers the political undercurrents to the phenomenon of illegal Indonesian labour in Malaysia. The article seeks to explore: (1) the evolution of the so-called “illegal Indonesian migrant worker” problem, (2) the various unilateral and bilateral attempts at finding a solution, (3) some possible considerations that should be taken into account in this search for solutions, and (4) the underlying problems which have impeded, and might continue to impede, progress towards a comprehensive resolution based on the interests of both states.

Origins of Indonesian Migration into the Peninsula

Migration from the Indonesian archipelago to the Malay peninsula has long been a feature of the interaction and exchange that defines the identity of the Indo-Malay World. Malay historical records such as *Sejarah Melayu*, *Hikayat Hang Tuah*, and *Sejarah Melayu dan Bugis* (otherwise known as *Tuhfat al-Nafis*) document the movement, via both trade and war, of peoples across the Indo-Malay archipelago and how cultures crossed as a consequence of this. In the more recent colonial past, British and Malay authorities in the peninsula also welcomed migrant workers from Indonesia to meet the manpower

requirements of colonial economic enterprise.⁴ Because of shared racial and to some extent cultural traits, Indonesian migrant workers were favoured by the Malay aristocracy and royalty in the nineteenth century as demographic buffers against the influx of Chinese and Indian labour that was occurring under colonial economic policy. Later in the 1950s and early 1960s, Indonesian migration into Malaya was also encouraged by the Malayan Government for political reasons, as their easy integration into the Malay community allowed Malays to maintain a numerical edge in population over the Chinese and Indians. A scholar of this phenomenon had observed that in the early years these immigrants were “silently welcomed” by the Malays, for the immigrants were then perceived as *bangsa serumpun* (of the same racial stock) who would eventually assimilate with the local *bumiputera* (indigenous person, literally “sons of the soil”). Thus, in the long run, the Indonesian immigrants were regarded to have strengthened the Malays’ electoral power *vis-à-vis* the non-Malays because it was assumed that they would assimilate with the local Malays.⁵

The political motivation for the encouragement of Indonesian immigration gained greater urgency after the 13 May 1969 racial riots in Malaysia. The riots sparked a reassessment of the terms of national identity in Malaysia, leading to government-sanctioned affirmative action policies aimed at entrenching Malay dominance in both the economic and political spheres. Insofar as Malaysia’s relations with Indonesia were concerned, many among the Malaysian leadership saw that close relations with Jakarta worked as an effective buffer to the increasing dominance of the ethnic Chinese community in Malaysia at the time. To that effect, a Malaysian political affairs report had hypothesized that:

Good relations with Indonesia have overriding significance because, to the Malays, Indonesia represents their ultimate source of strength in a region under the heavy shadow of communist China and with large overseas Chinese populations of unpredictable loyalty.⁶

Commenting on this influence of such thinking in Malaysia, an Australian intelligence source reported portentously:

The moderates (in Malaysia) see in a new relationship with Jakarta some element of insurance against the Chinese More radical Malay feeling may move the government in Kuala Lumpur further in an anti-Chinese direction, and towards greater concerting of Malaysian and Indonesian policies.⁷

In fact, many among the Malay community, particularly among the Malay radicals, believed that in the event of a clash with the Chinese, Indonesia would come to their assistance.⁸ The negative implications of such a state of affairs for the fragile multiracial Malaysian national

identity was that “backed by Indonesia, and stimulated by Indonesia’s attitudes towards the Chinese ... the radical Malays could increasingly campaign to use Malay predominance in Government and administration for anti-Chinese measures”.⁹ It was in this context that the 1970s saw active co-operation between Kuala Lumpur and Jakarta to encourage the migration of Indonesians into the peninsula.

Economic logic further accompanied the political motivation behind Indonesian migration into Malaysia in the early 1970s. The expansion of the Malaysian economy as a result of an industrialization programme under the New Economic Policy began to provide employment opportunities to foreign as well as local labour.¹⁰ In particular, the urban migration of Malay youths opened the door for Indonesian labour in the agricultural sector. Push factors included unemployment and over-population in Java, while the relatively higher wages found in the peninsula was a major pull factor.¹¹ Added to that was the fact that the easy assimilation of most Indonesians into Malay society sometimes allowed the “guests” to benefit from affirmative action programmes of the NEP as well.¹² Even without such inducement, the fact that Malaysia was not only a location of close proximity but also a nation whose majority population shared much with the Indonesians in terms of language, culture, and even ethnicity meant that it would be the obvious choice for Indonesian labour looking to relocate to greener pastures. By the 1990s, Indonesian labour had moved from agriculture to the construction and service sectors in tandem with the urbanization of Malaysia; and their numbers also increased substantially to meet this demand. It was estimated by the Washington-based Migration Policy Institute that during the period 1994–99, 556, 575 Indonesian workers arrived in Malaysia legally, more than half of the total foreign labour work-force in Malaysia.¹³

Indonesian labour has thus played a particularly crucial role in the expansion of the Malaysian economy since the late 1980s. With the emergence of labour shortages, the government announced in late 1991 that more foreign workers could be recruited in the plantation, construction, and domestic service sectors under the Foreign Labour Recruitment Policy. Needless to say, a large percentage of this increase has been Indonesian labour.¹⁴ Unfortunately, the fact that the Malaysian Government has never successfully put in place a concrete and clearly defined policy on migrant labour has not only hampered close monitoring of the situation, but as this article suggests, it has also aggravated the negative impact of the Indonesian migrant labour problem on bilateral relations.¹⁵

While Indonesians have historically migrated into the peninsula and played a critical role in shaping the culture and economy that has

evolved there, in recent times Indonesian migration has been viewed in a markedly negative light, and has been blamed for a host of social problems that have plagued Malaysia. In particular, fingers have been pointed at Indonesian workers who have entered Peninsular and Eastern Malaysia via the coasts of Sumatra and across the Indonesia–Malaysia borders in Borneo without valid documents. Until recently, illegal immigration had been a relatively muted issue on the political stage owing to efforts by both governments to tone down their rhetoric on an issue that might have otherwise sent bilateral ties into a tailspin. Diplomatic indulgence, however, could not conceal the fact that illegal Indonesian workers were fast becoming a major problem for the Malaysian Government, and the inability to find a satisfactory solution has meant that this issue remains a thorn in the side of both governments. Indeed, it was this combination of a lack of solutions and the increasing urgency of the problem that culminated in the recent mass expulsion of Indonesians between March and July 2002 as part of a Malaysian Government programme to repatriate illegal workers.¹⁶ Because of slipshod logistical planning and preparation, a general under-estimation of the numbers, and a lack of communication and co-operation between Malaysian and Indonesian authorities, this programme of mass repatriation, insofar as it related to Indonesian workers, resulted in many problems. Identification and registration of illegal workers were difficult, as was their transportation out of Malaysia. Consequently, many were detained in unhygienic environments and subsequently shipped out of Malaysia in overcrowded vessels. Malaysia's policy of immediate repatriation also created logistical problems for Indonesia, with returning workers confined again in overcrowded stations at their Indonesian ports-of-call as they waited for transportation back to their villages and towns.¹⁷

Yet while the questionable nature of the repatriation exercise and the subsequent implementation of harsh laws no doubt contributed to the resentment of Indonesians towards Malaysia, it has been the matter of the “securitization” of the illegal Indonesian worker problem that has antagonized most Indonesians, fostering in them a belief that they were being specifically targeted by the Malaysian Government for ill-treatment.

The “Securitization” of the Illegal Indonesian Worker Problem

With the increase in the number of Indonesians entering Malaysia over the years, concerns had intensified that these Indonesians had a potential rupturing effect on the fabric of Malaysian society. This was because the influx of Indonesian labour in Malaysia evidently coincided with

an increase in crime rates, particularly in the 1990s. Indeed, Indonesian labourers have been implicated and convicted in crimes ranging from petty theft to rape and high-profile robberies and murders. In 2001 alone, 1,051 Indonesian workers, by far the largest figure from the foreign labour communities, were arrested for such crimes. More alarmingly, Malaysian security forces have also reported the discovery of weapons in illegal immigrant squatters strewn throughout Peninsular and East Malaysia. Consequently, Malaysia's increasing intolerance of the criminal activities of Indonesian illegals has prejudiced them against legal Indonesian workers as well.

Matters were no doubt aggravated by the sheer magnitude of the presence of undocumented Indonesian workers in Malaysia. In 1981 for example, it was estimated that there were 100,000 illegal Indonesian immigrants in Malaysia.¹⁸ By 1987, the figure was placed by the Malaysian Trade Union Congress at close to one million. In the Migration Policy Institute Report cited earlier, it was noted that an amnesty offered by the Malaysian Government in 1993 to Indonesian illegals saw half a million undocumented migrants come forward; it noted further that "since coming forward meant that employers had to pay migrant workers the same wages as Malaysians and provide them with the same working conditions, it is clear that not all undocumented workers were detected in the amnesty".¹⁹ Indeed, during subsequent government operations aimed at flushing out illegal foreign labour throughout the country, it was revealed that 83.2 per cent of the 483,784 illegals uncovered in 1992–94 and 59.4 per cent of the 554,941 in 1996 were Indonesians.²⁰ In addition, it was once estimated that up to 36 per cent of prison inmates throughout Malaysia were illegal Indonesian immigrants.²¹

In recent times, the increase in the number of Indonesian immigrants led to more intense competition for jobs, and especially those traditionally the preserve of Malay commerce. Another matter for concern was the fact that many Indonesian immigrants (illegal or otherwise) were in fact Christians and had begun using shared language and ethnicity as an avenue to proselytize among the Malay community.²² Such was the severity of this problem that a Malaysian Cabinet minister had considered the spreading of Christianity among the Malay population by their Indonesian counterparts to be the "biggest threat facing Muslims in Malaysia today".²³ Larger scale crimes, such as rioting, in particular, have been given greater publicity in the Malaysian media and have exacerbated negative opinions of Indonesian workers. While riots involving Indonesian workers have occurred regularly both inside and outside detention centres, such as the January 1987 hostage siege in a Kuantan prison, the growing regularity of such incidences of

mob violence in recent times, exemplified by a string of riots between October 2001 and January 2002, has raised alarms in Malaysia. In Malaysian political discourse thence, the phenomenon of Indonesian illegal workers was fast becoming a “threat” to “national security”.²⁴

Recent Crises

While the illegal Indonesian migrant worker issue has long been a problem for Malaysia, it was a policy change in reaction to problems associated with Indonesian labour towards the end of 2001 that sparked the mass expulsion of foreign workers, mostly Indonesian, and the introduction of a suspension of Indonesian employment in Malaysia. In March 2001, the Malaysian Home Ministry proposed to review Immigration Act 1959/63 and increase the punishment to be meted out to illegal migrant workers in Malaysia, including whipping for the workers and heavier fines for their employers.²⁵ In October 2001, the Malaysian Parliament passed legislation that capped work permits for foreign workers at three years. In so doing, Kuala Lumpur changed the official status of many Indonesians from “legal” to “illegal” almost overnight. This was because many of these workers in fact carried six-year work permits, yet with the implementation of this policy those who had served three or more years of the six were immediately categorized as “illegal” and repatriated with three months’ notice. Subsequently, the government also announced its decision to repatriate 10,000 Indonesian illegal immigrants each month.

In response to their sudden change in status, “re-categorized” Indonesians detained at the Machap Umboo detention centre in Alor Gajah rioted, in the process injuring a Malaysian policeman. Later in November that year, 2,000 illegal workers who were detained at the Pekan Nenas detention centre in Johor also rioted. The Malaysian media latched quickly to these two incidents, portraying them as typical examples of Indonesian violence. Consequently, calls were intensified for the government to take more drastic measures against Indonesian illegal workers, despite Indonesian expressions of regret for the incidents.²⁶ The Malaysian Government responded by introducing flogging for first-time immigration offenders, and the immediate repatriation of detained illegals.²⁷

More recently, concern over terrorism in the region has introduced a new dimension to the “problem” of Indonesian immigrants.²⁸ With the recent revelations that Indonesians were behind a terrorist network operating in Malaysia and Singapore, there was a fear of the possibility that the Indonesian illegal migrant worker network could provide yet another channel through which Islamic militancy could be transported

to Malaysia. This concern heightened in the wake of the terrorist bombing in Bali on 12 October 2002, when it was revealed that the planning for the Bali attack took place in Malaysia.²⁹ Coupled with the perceived propensity of Indonesian workers towards violence, that concern prompted a desire in Malaysian circles to put Indonesians under closer scrutiny.

Repatriation and the “Hire Indonesians Last” Policy

On 17 January 2002 in the state of Negri Sembilan, some 400 Indonesian workers at a textile factory in the Nilai industrial estate rioted and torched buildings after police tried to detain sixteen of their co-workers for alleged drug abuse. According to a Malaysian labour rights group, Tenaganita, the riot was provoked by police when they lined up the workers and started slapping them while conducting urine tests.³⁰ Their report was brushed aside by Mahathir, who inflamed Indonesians by suggesting that even if there was police brutality involved, Indonesian police were much worse.

Another widely publicized riot involving seventy Indonesian workers and stall owners in Cyberjaya, south of Kuala Lumpur, three days later, on 20 January, gave greater impetus to Malaysian condemnation of Indonesian workers. Government and media outlets immediately blamed the workers for the incident and launched a vitriolic attack on Indonesian workers in general, branding them as “troublemakers”. Consequently, Indonesian apologies for both incidences went unacknowledged in Kuala Lumpur. Expressing the sense of frustration that Malaysia was feeling, Law Minister Rais Yatim noted:

Besides defying authority, they (Indonesian immigrant workers) had the cheek to wave the Indonesian flag. They are not in Jakarta. They are in Malaysia.... Indonesia's Ambassador here need not say sorry anymore. We are going to take stern action. Malaysians in general cannot tolerate the violent behaviour of the Indonesians who are being too extreme and ungrateful.³¹

Following these two incidents, the Malaysian Government announced that it was going to embark on a policy of mass repatriation of illegal foreign workers. Deputy Prime Minister Abdullah Badawi subsequently announced on 24 January 2002 a “temporary halt” to the employment of Indonesian workers. Elaborating on this policy, Prime Minister Mahathir expressed the opinion that it was time for Indonesian workers in Malaysia to be “replaced” by workers of other nationalities. Mahathir reinforced Badawi's statement implying the closing of its doors to

Indonesian labour, and announced a “Hire Indonesians Last” policy, where Indonesians would be confined to the domestic help and agricultural industries.³² Mahathir defended the decision to impose the employment ban by arguing that: “A lot of crimes they (Indonesian workers) have committed, we’ve kept silent about. But when a riot is carried out by one group, followed by another and another, we cannot any longer stay silent”.³³ While several Malaysian Ministers commented that there was also an economic logic to the repatriation of foreign workers, arguing that there was a need in the context of the Asian economic crisis to create employment for Malaysians and also to control the outflow of ringgit from Malaysia, it was clear that the government’s decision to repatriate foreign workers was driven primarily by what they perceived to be the security threat posed by them, and in particular those of Indonesian descent.³⁴

Paradoxically, the Malaysian Government’s attempts at implementing the “Hire Indonesians Last” policy revealed the full extent to which Malaysia depended on Indonesian labour for its economic and infrastructural development. It was revealed by MIER (Malaysia Institute of Economic Research) that Indonesians accounted for up to 70 per cent of construction workers, and 80 per cent of these Indonesians were undocumented.³⁵ Consequently, the implementation of this policy saw the immediate reduction of construction workers by some 40 per cent.³⁶ The policy was quickly recognized as unviable, and was subsequently rescinded. Of greater significance than the impracticability of such a policy, however, were the ramifications it had on Indonesian perceptions of Malaysia, and the status of their bilateral relations.

Indonesia’s Response

Kuala Lumpur’s policies and the treatment of Indonesian workers as a result of the recent introduction of new legislation did not pass unnoticed in Indonesia.³⁷ Labour activist and non-governmental organizations (NGOs) protested outside the Malaysian Embassy in Jakarta, criticizing Malaysia for their “degrading” and “disparaging” treatment of Indonesian workers.³⁸ Some proceeded to call for Indonesian workers in Malaysia to embark on a three-day mass strike against deportation plans, while others condemned Malaysia for turning a blind eye to people smuggling activities of their own nationals.³⁹ Members of the Laskar Merah Putih burned the Malaysian flag outside the Malaysian Embassy in Jakarta and threatened to tear down its gates. Giving further vent to Indonesian frustrations, National Assembly Speaker Amien Rais criticized Malaysia in Parliament and called for Jakarta to take action against the “smaller

country". In an article bearing the provocative title "Remember *Konfrontasi*", an Indonesian media source launched a stinging attack against Malaysia's actions, arguing that the new policies were far too extreme, and that "there was a time, not so long ago, when Indonesia did not take such a belligerent act from a neighbouring country lying down".⁴⁰ In turn, Malaysia responded with a stout diplomatic defence, and later warned its citizens against travelling to Indonesia, and calling for the Indonesian Government to take action against those who threatened to jeopardize bilateral relations with their protests.⁴¹

Central to the emotionally charged response among Indonesians was the perception that they had been singled out by the Malaysian authorities.⁴² On the surface, such concerns, as many Malaysian politicians have maintained, appear to be ungrounded. Indeed, in their fit of passion, several factors seem to have been overlooked by the Indonesians. For instance, the new laws stipulating corporal punishment for illegal workers in Malaysia obviously applied not only to Indonesians, but to other nationalities as well. Furthermore, these illegals, and in particular those who have become, in the words of many Malaysian leaders, a "national security problem", are clearly not only Indonesians. In fact, the first few illegals arrested after the expiration of the Malaysian amnesty dateline in August 2002 were Indians, and in 2001 the Malaysian Government launched a massive manhunt for illegals from Africa who were participating in criminal activities. Thirdly, though the illegal Indonesian workers caught after the amnesty period have been tried, punishment has yet to be carried out. This implies that a window remains open for further diplomatic negotiation to avert the crisis that might follow their intended flogging. As for the "Hire Indonesians Last" policy, one could of course suggest that Bangladeshis are far worse off than Indonesians, for unlike the latter, who are still permitted under the policy to work in the agricultural and domestic help sectors, they have been barred from employment in Malaysia completely. Finally, Indonesians seemed to have ignored the fact that Kuala Lumpur had to some extent already bent backwards to accommodate Indonesian sensitivities. These included the granting, and subsequent extension of an amnesty period, and more recently the decision to re-hire Indonesians who obtain valid work permits.⁴³ Given these facts, it appears that the Indonesian response, if driven by the perception that they were being singled out for far worse treatment, seems to be misguided.

Having said that, however, there is a case to be made that the Indonesian response is not surprising, given the heavy securitization of the illegal Indonesian immigrant worker problem by the Malaysian

press and several Malaysian leaders (including the Prime Minister), who have repeatedly berated them for a host of security problems, from rapes to riots to robberies. Indeed, one would have expected that such a portrayal of Indonesian workers would have elicited the heated response it did from the Indonesian media and public.

In order to appreciate the Indonesian reaction, several factors need to be considered. One pertinent issue to that effect is that of hurt Indonesian pride. The fact of the matter is that although Malaysia's problem of illegal migrant workers pertain not only to Indonesians but other nationalities as well (such as Indian, Bangladeshi, Thai, Myanmar, and Filipino), political leaders and the media in Malaysia, by regularly singling out Indonesians as the perpetrators of violence and crimes, have given the impression that it is an "Indonesian" problem. Indonesians, however, are conscious of their role in Malaysia's development and industrial success. That being the case, the nonchalant and oftentimes abrasive treatment meted out to Indonesian labourers by the Malaysian authorities has not been appreciated kindly in Indonesian circles, particularly among those of a Javanese mindset, who for historical reasons have long held patronizing views of the Malays in the region.

Secondly, the intensity of the Indonesian response was indicative of the fact that they had expected some measure of sympathy from their Malay counterparts, which they felt was not forthcoming. Consider the fact that of the various nationalities that have been repatriated or incarcerated following the termination of the amnesty period in August 2002, it has arguably been Indonesians who have reacted most strongly, going by the measure of political statements, street protests, and flag-burning incidents.⁴⁴ This has been a result of a long-held belief in Indonesian circles that Indonesia and Malaysia share a "special relationship", both as fellow ASEAN members and as societies that share cultural and religious traits, and that this should in the present context entail extra effort on the part of Malaysia to take Indonesian sensitivities into consideration. In Indonesian eyes, this clearly has not happened. Malaysia's lack of understanding and indulgence on this issue has been manifested in its demand for the immediate repatriation of Indonesian illegal workers, the provision of less-than-respectable holding accommodation for Indonesians awaiting repatriation, and the implementation of a "Hire Indonesians Last" policy. Kuala Lumpur's "securitization" of the Indonesian worker issue by demonizing them as regular perpetrators of criminal activities that threaten Malaysian national security provides further evidence to Indonesian minds that Malaysia's aggressive pursuit of policies towards Indonesian labour was being undertaken with no consideration for the "special

relationship" that Kuala Lumpur has always claimed to exist between the two "kin states".

Finally, the current tension over illegal Indonesian workers is symptomatic of the extent to which Indonesia–Malaysia bilateral understanding has gradually deteriorated over the past twenty years. One recalls how, in the 1970s, Indonesia–Malaysia relations enjoyed a period of unsurpassed harmony as a result of a policy of "self-induced subordination", orchestrated in Kuala Lumpur by key Indonesian policy-makers, Abdul Razak, Ghazali Shafie, and Zainal Sulong towards Indonesia.⁴⁵ In comparison, the Mahathir era of bilateral ties has witnessed a distinct lack of effort to build upon this legacy in order to foster greater policy congruence between Kuala Lumpur and Jakarta. The unofficial bilateral consultation process that defined the Razak and Hussein Onn administrations, exemplified by annual tête-à-têtes between the respective leaders (commonly known in ASEAN diplomatic discourse as "four-eyed" meetings), has also been jettisoned by the Mahathir administration for a more business-like approach to the relationship. A host of recent bilateral problems, such as contested visions of regional order manifested in the early to mid-1990s in Indonesian opposition to Mahathir's East Asian Economic Caucus (EAEC) proposal, and fundamental differences that have emerged in various Track I and Track II forums over the South China Sea, tends to suggest the distinct absence of the *gotong royong* spirit that defined bilateral relations in earlier years. Indeed, it is not surprising that ties have taken a turn for the worse as a result of this recent crisis over Indonesian labour.⁴⁶

The (Continuing) Search for Solutions

The foregoing should not be taken to suggest that no efforts were made on the part of the two governments to find some measure of consensus in the management of the illegal Indonesian migrant worker problem. Indeed, notwithstanding the fundamental nature of bilateral differences that lie beneath this problem for Indonesia–Malaysia relations, periodic efforts were undertaken by both governments in an attempt to contain and control the influx of Indonesian labour.

For instance, an agreement was signed in 1984 in Medan, Sumatra, which stipulated that Indonesia would supply six specific categories of workers for two-year contracts whenever requested by Malaysia.⁴⁷ In 1988, Jakarta announced that Indonesians working illegally in Malaysia would be issued passports to provide them "protection and help them earn better pay".⁴⁸ Correspondingly, Malaysia announced new laws in 1991 that stipulated stricter penalties for employers of

illegal immigrant workers as well as a minimum wage and other terms to improve working conditions. Under this scheme, Indonesian illegals, when caught, would still be permitted to work provided they registered with the Malaysian Immigration Department and obtained valid travel documents from the Indonesian embassy. Subsequently, a Memorandum of Understanding (MoU) was signed in 1996 and an Exchange of Notes in 1998 in an attempt to define clearer terms and procedures for the employment of Indonesian labourers in Indonesia. In the aftermath of the most recent crisis in early 2002, both governments have agreed to review the terms of these arrangements, and in the process draft a new agreement.⁴⁹

While these efforts should be applauded, they have done little to stem the flow from Indonesia. Indeed, co-operation has not been without its own obstacles and problems. The bureaucratic nature of the solutions has meant a long and arduous, sometimes even expensive, process of implementation, which has been a burden for immigration departments and too complex for the potential Indonesian illegal migrant to comprehend.⁵⁰ Beyond that, many domestic quarters in Malaysia, including government officials, have long been guilty of complicity in facilitating the transportation of illegal Indonesian workers over to Malaysia, and of providing them with accommodation and jobs.⁵¹ Local authorities have seldom, if ever, looked into this aspect of the problem, and corruption remains a substantial obstacle in this respect.⁵²

There has also been in the minds of the respective governments the perception that the other has not been doing its part in the joint attempt to eradicate this problem of illegal immigrants. Malaysian authorities have continually highlighted Jakarta's apparent unwillingness to render maximum co-operation in repatriating Indonesian illegal immigrants who were caught or imprisoned for crimes. On its part, Indonesia has argued that Malaysia has been insensitive and unco-operative by demanding the immediate repatriation of undocumented Indonesian labour, knowing that Jakarta itself was undergoing an even greater economic meltdown and could barely provide adequate holding and transportation facilities for returning workers, to mention nothing of providing employment for them.

Necessary Considerations for Long-Term Solutions⁵³

The search for a more comprehensive solution requires that the problems of illegal Indonesian migrant workers be addressed at four levels — humanitarian, political, diplomatic, and economic — in order not only to limit (if not stop) its recurrence, but also to contain the potential damage for relations should the problem recur.

Humanitarian

At the humanitarian level, the conditions of detention centres require much more careful monitoring by the authorities concerned than is the practice currently. A common criticism levelled against Kuala Lumpur, and which could conceivably have been a cause for several riots at detention centres holding Indonesians, has been the appalling conditions at the detention centres. From the perspective of human rights, it has been argued that such considerations in effect add to the victimization of Indonesian detainees.⁵⁴ In point of fact, the Malaysian Government itself has long been aware of this problem. In 1995, for example, the government expressed surprise and shock at the death of seventy-one detainees as a result of malnutrition and infectious diseases in the Semenyih detention camp near Kajang, Selangor, and subsequently declared that it would investigate the situation.⁵⁵ Conditions in such detention centres — overcrowding, unsanitary environment, and the shortage of food and water, have presented Malaysia in a bad light. While the Malaysian authorities have admitted to the inadequacies of their detention centres to cope with the numbers of detainees, further effort will be required to ensure that detainees are kept under reasonable conditions as they await deportation. In doing so, clear and proper lines of communication are needed between Putrajaya (Malaysia's administrative capital since 1999) and the various detention and deportation centres in Malaysia, to ensure that instructions and feedback can be relayed without delay or hassle.

The Indonesian authorities too, have to shoulder a certain measure of responsibility for the plight of their workers returning from Malaysia. The Indonesian Government has admitted that Jakarta had been unprepared and slow to respond to the crisis surrounding the repatriation of its workers from Malaysia, despite being aware of the potential scale of the repatriation.⁵⁶

Political

Political will is also needed to ensure compliance with and implementation of laws dealing with the problem of illegal immigration that have been in place for a long time in Malaysia. One reason for the persistence of the problem lies in the fact that immigration laws have not been enforced diligently. Both Kuala Lumpur and Jakarta need to ensure that not only should the illegals be interdicted and penalized, but also those who have facilitated their entry to Malaysia.⁵⁷ In particular, laws against the employers of illegal immigrant workers have to be enforced. Of equal import is the need to penalize oblivious local authorities and accomplices who have assisted in the transportation and accommodation of these workers, including employers who prefer

to engage “illegals” rather than legally recruited migrant workers in order to avoid payment of fees related to the employment of foreign labour.

Border patrols too, either unilateral or bilateral, have to be increased, and co-operation between Malaysian and Indonesian police and armed forces strengthened on this front. Indeed, a mechanism already exists in the form of the General Border Committee, created after Confrontation as a joint military effort to deal with communist insurgents in Borneo. Similar co-operation should be strengthened in relation to the control of travel across the East Malaysia–Kalimantan border in Borneo. A policy of minimum wages would not only provide better working conditions for Indonesians, but also entice prospective “illegals” to consider entering Malaysia as documented workers instead.

Finally, government policies will also have to be more carefully considered and plotted before implementation if confusion and embarrassment are to be avoided. A pertinent case in point was Malaysia’s flawed “Hire Indonesians Last” policy. The policy, undertaken without consultation with the Malaysian business community, betrayed a fundamental misunderstanding of its structural ramifications on Malaysian industry. Consequently, the sudden shortage in the labour force compelled Kuala Lumpur to re-examine the policy. The fact that the policy was eventually revised indicated that the policy had not been thought through carefully.

Diplomatic

Together with the political aspects of the problem, diplomatic efforts will be required in the search for and implementation of any prospective solutions. Central to this enterprise is the need for better communication between Kuala Lumpur and Jakarta, which was sorely missing during the recent repatriation exercise. Malaysia’s decision to embark on a “Hire Indonesians Last” policy, for example, was undertaken without prior consultation or negotiation with Jakarta, and such unilateral action was not appreciated by the latter. Diplomatic consequences were further aggravated by the fact that the policy proved untenable, and had to be rescinded, somewhat embarrassingly, by Malaysia.

There is a need also for both Mahathir Mohamad and Megawati Soekarnoputri as leaders of the respective countries to express a personal interest in the problem of illegal Indonesian migration in order to strengthen these diplomatic channels. One effective means to ensure better communication is to have a “hotline” or direct channel between the heads of government in order to diffuse potentially difficult bilateral situations. However, such a channel — used to great effect when Philippine President Gloria Arroyo personally contacted Mahathir

Mohamad immediately to discuss the repatriation of Filipino workers — is conspicuously absent in Mahathir–Megawati relations.

Beyond that, there is a need for a comprehensive bilateral arrangement between Kuala Lumpur and Jakarta that can effectively address this problem of illegal workers and immigrants. Despite the persistence of this problem that has plagued Indonesia–Malaysia relations during the past decade, consensus remains elusive. While agreements already exist in the form of the 1996 Memorandum of Understanding and 1998 Exchange of Notes, both governing the issue of illegal Indonesian migrant workers, it is clear that the recurrence of the problem is indicative that these arrangements were agreed upon on an *ad hoc* basis, without much direction towards something more conclusive. Most recently, two attempts to reach common ground at the highest levels of government were made during Indonesian President Megawati Soekarnoputri's visit to Malaysia in August 2001 and the Mahathir–Megawati Summit meeting in Bali on 7–8 August 2002, but both failed in the search for a solution that satisfied both parties. While it is heartening to note that Jakarta and Kuala Lumpur have agreed to discuss another Memorandum of Understanding which would set guidelines for the handling of Indonesian workers in Malaysia, whether or not this forthcoming MoU will amount to anything more than another stop-gap measure will depend on the willingness of both parties to make concessions on the issue.

In the meantime, there has been an over-emphasis on the “securitization” of the illegal Indonesian migrant worker problem in the Malaysian media and by certain Malaysian authorities, and which has not helped bilateral relations. While it might be true that Indonesian migrant workers have contributed to the crime rate, and in that respect have somewhat posed a threat to Malaysia's “national security”, an unhealthy over-emphasis on this aspect of relations, particularly in the Malaysian press but also in comments by parliamentary backbenchers, cannot but add fuel to the fire.

Economic

Popular opinion has suggested that the structural cause of the illegal Indonesian migrant worker problem is economic, arguing that the problem is driven, and will be aggravated by, the conditions of Indonesia's economy.⁵⁸ There is some measure of truth to this train of thought. Indeed, Indonesians must realize that part of the reason behind this problem that plagues relations with Malaysia is rooted in their own economic stagnation. Any attempt on their part to control the flow of labour out of Indonesia into Malaysia will thus be closely entwined with Jakarta's own economic performance and the availability of jobs in

Indonesia.⁵⁹ On this front, Malaysia has a role to play, as has the rest of ASEAN, in encouraging investments, as well as increasing their own economic interests in Indonesia.

Having said that, however, one must also realize that the influx of illegal Indonesian workers had been identified as a “security problem” by Malaysian authorities as early as the late 1980s, and the impact of this phenomenon on Malaysian society has throughout the 1990s continued to be framed in terms of its “security threat”. These were also the years when the Indonesian economy was much healthier, and comparatively stronger, than its current state. In other words, one should be careful not to use the causal link between Indonesia’s economic performance and the outflow of illegal immigrants as the key explanatory factor for this problem of the Indonesian illegal migrant worker in Malaysia.

Conclusion

Ultimately, while it is true that as a sovereign nation, Malaysia reserves the right to punish those who have breached its borders, either via fines, imprisonment, flogging, or deportation, there is also the matter of diplomatic tact that is involved. This is particularly so where relations with Indonesia are concerned, for both are believed historically to share a “special relationship”. Essentially, and in the spirit of ASEAN diplomacy, Malaysia should keep Jakarta informed of new legislation that obviously would impact most on Indonesians, or of any intention to take particular action on issues that concern Indonesians. Likewise, Jakarta’s recognition of its own role in this problem and co-operation in supporting Kuala Lumpur’s move to clamp down on illegal Indonesian migration will be critical to the success of such attempts.

Whatever the solutions Indonesia and Malaysia agree on, the fact of the matter is that Indonesian workers, whether legal or illegal, have long been, and will remain, a vital component of the Malaysian economy. In this regard, the failure of Kuala Lumpur’s attempt at implementing a “Hire Indonesians Last” policy can hardly be surprising. Similar attempts to stop the recruitment of certain categories of labour had been experimented with before, with little success.⁶⁰ These attempts, however, did little more than highlight the Malaysian economy’s reliance on Indonesian labour, while aggravating brittle Malaysia–Indonesia ties.⁶¹ One can be relatively confident that even with substantial economic recovery in Indonesia (an unlikely prospect in the near future), Indonesians will continue to stream into Malaysia in the hope of better employment prospects. For now, the Malaysian commercial and industrial sector has already begun to lament the reduction in the pool

of foreign labour as a result of the government's repatriation policy, prompting a policy reversal in Kuala Lumpur.⁶² Indonesian workers, as many in the Malaysian private sector have acknowledged, come cheap, speak the language, and are readily available. Indonesians, too, know that they are indispensable to the Malaysian economy, with or without work permits. Whether or not the attempts to control and/or curb the influx of illegal Indonesian workers will be effective will ultimately depend on the political will and resolve of Kuala Lumpur and Jakarta to look beyond their differences and co-operate in dealing with a recurring problem that plagues both societies and threatens to destabilize bilateral relations. It was heartening that despite domestic pressure, the Indonesian Government resisted launching a diplomatic offensive against Malaysia. It was also noteworthy that amidst President Megawati and Vice-President Hamzah Haz's calls for restraint, several Indonesian parliamentarians criticized Amien Rais' comments, arguing that "all parties should not take Indonesia's National Assembly Speaker Amien Rais' outburst as a reflection of the souring of relationship between both countries".⁶³ Furthermore, in a meeting between the youth movements of UMNO (United Malays National Organization) and the PPP (Parti Persatuan Pembangunan) in August 2002, both expressed their belief that there were parties in Indonesia who were deliberately using this crisis to sour relations between the two states, but their view represented only a small minority of Indonesian popular opinion.⁶⁴ It would serve the best interests of both governments to realize the need for continued discussion and co-operation, rather than finger-pointing and sabre-rattling — and put into practice the ASEAN spirit of *gotong royong* and *mushyawarah* and *mufakat* that, ironically, both were instrumental in fostering as founding members of the regional grouping in 1967.

NOTES

1. See, for example, Firdaus Abdullah, "The Phenomenon of Illegal Immigrants", *Indonesian Quarterly* 21, no. 2 (1993).
2. See Azizah Kassim, "The Unwelcome Guest: Indonesian Immigrants and Malaysian Public Responses", *Southeast Asian Studies* 25, no. 2 (1987); Azizah Kassim, "Masalah Tenaga Kerja Indonesia di Malaysia" (Paper presented at "Identifikasi Masalah Tenaga Kerja Indonesia di Malaysia dalam Konteks Pembinaan Sumber Daya Manusia" Seminar, Kuala Lumpur, 22 August 1997); chapters by Ida Bagoes Mantra and Riwanto Tirtosudamo in Sukamdi, Abdul Haris, and Patrick Brownlee eds., *Labour Migration in Indonesia: Policies and Practices* (Jakarta: Gadjah Mada University, 1998); Sidney Jones, *Making Money Off Migrants: The Indonesian Exodus to Malaysia* (Hong Kong: Asia Limited, 2000); Arif Nasution, *Orang Indonesia*

- di Malaysia: Menjual Kemiskinan, Membangun Identitas* (Yogyakarta: Pusat Pelajar, 2001); and Khairulmaini bin Osman Salleh and Fauza Ab. Ghaffar, "Modelling the Impact of International Migration on National Security at Border Regions — A Case Study of the Sarawak-Kalimantan Border of Malaysia and Indonesia" (unpublished paper).
3. Most of the studies that have attempted this are dated. See, for example, A.S. Bahrin, "Indonesian Migration and Settlement in Malaysia", *Asian Studies* 5, no. 2 (1967); a more recent study would be Grame Hugo, "Indonesian Labour Migration to Malaysia: Trends and Policy Implications", *Southeast Asian Journal of Social Science* 21, no. 1 (1993).
 4. See C.D. Cowans, *Nineteenth Century Malaya: The Origins of British Political Control* (London: Oxford University Press, 1961).
 5. Firdaus Abdullah, "Issues in Malaysia-Indonesia Relations" (Paper presented at the ASEAN Fellowship Seminar, Tokyo, Japan, 20 August 1992), pp. 45–46.
 6. "Extract from KL's 1967/8 Annual Report", A1838 3006/4/9 Part 38, National Archives of Australia (NAA).
 7. "Quadripartite Talks: Agenda Item (B)", Department of External Affairs, Canberra, 22 June 1966, A1838 3006/4/9 Part 35, NAA.
 8. Cable no. 2493, Australia High Commission, Kuala Lumpur, 26 July 1969, A1838 3006/4/9 Part 39, NAA.
 9. Jockel to Hasluck, 12 May 1966, A1838, 3006/4/7 Part 39, NAA.
 10. For a detailed study of Indonesian economic migration into Malaysia during this period, see Firdaus Abdullah, "The Phenomenon of Illegal Immigrants", *Indonesian Quarterly* 21, no. 2 (Second Quarter, 1993).
 11. *Ibid.*, p. 43.
 12. "Migrant workers spark resentment in Malaysia", *Far Eastern Economic Review*, 11 January 1990.
 13. See Country Profiles, "Indonesia's Labor Looks Abroad", Migration Information Source, September 2002, p. 2.
 14. A study of the costs and benefits of migrant labour to the Malaysian economy has been undertaken in Don J. DeVoretz, *Malaysian Immigration Issues: An Economic Perspective* (Vancouver: Vancouver Centre for Excellence, Research on Immigration and Integration into the Metropolis, Working Paper Series, 1999).
 15. This suggestion that the Malaysian Government has been largely "reactive" in its formulation of policies to deal with the illegal foreign labour problem has also been made in Azizah Kassim, "Profile of Foreign Migrant Workers in Malaysia" Towards Compiling Reliable Statistics" (Paper presented at the "Conference on Migrant Workers and the Malaysian Economy", Kuala Lumpur, 19–20 May 1998). Similarly, the literature on industrial relations in Malaysia has little by way of studies on Indonesian labour.
 16. Indonesians accounted for 82.7 per cent of the illegals and overstayers repatriated.
 17. See "Malaysia Wavers on Crackdown", Migration Information Source, 1 October 2002, at www.migrationinformation.org.
 18. "Illegal migrant report for Jakarta", *Straits Times*, 15 February 1981.
 19. See Country Profiles, "Indonesia's Labor Looks Abroad", Migration Information Source, September 2002, p. 2.
 20. These figures were quoted in Azizah Kassim, "Profile of Foreign Migrant Workers in Malaysia", p. 7. Further figures are available in Division of Record and Information Systems, Immigration Department, Malaysia, *Information on Foreign Workers in Malaysia* (Kuala Lumpur: Immigration Department, 1996).

21. "Malaysia acts to stem tide of illegal immigrants", *Straits Times*, 29 January 1987. Statistics are not available for more recent times.
22. Non-Muslim evangelism among the Muslim community is prohibited by Malaysian federal law.
23. "Illegals must go", *The Star*, 9 August 1987.
24. See, for example, "Time to stop flood of illegal immigrants", *New Straits Times*, 31 August 2000. Elsewhere, Indonesian illegals have been described as a problem and a challenge to "political stability". See Azizah Kassim, "Profile of Foreign Migrant Workers in Malaysia", p. 20.
25. "Curb inflow of illegal immigrants", *New Straits Times*, 2 March 2001.
26. See for example, "Rusuhan di depot: 13 pendatang, polis cedera", *Berita Harian*, 18 October 2001; and "2000 illegals go on riot, torch 4 blocks", *Business Times*, 4 December 2001.
27. "Flogging move marks tougher stance on illegals", *South China Morning Post*, 11 December 2001.
28. "Malaysia to expel illegal immigrants", BBC News, 26 January 2002.
29. See "The Bali bomber's network of terror", BBC News, 19 February 2003. For more general studies on the influx of militant Indonesian Islamic ideology into Malaysia, see Rohan Gunaratna, "Terrorist Patterns in the Asia-Pacific Region", in *The New Terrorism: Anatomy, Trends, and Counter-Strategies*, edited by Kumar Ramakrishna and Andrew Tan (Singapore: Eastern Universities Press, 2002); and Zachary Abuza, "Tentacles of Terror: Al Qaeda's Southeast Asian Network", *Contemporary Southeast Asia* 24, no. 3 (December 2002): 450–59.
30. "A matter of face", *Asia Times*, 7 February 2002.
31. "Sorry is not enough", *Straits Times*, 22 January 2002.
32. "Malaysia said on Tuesday it will whip illegal immigrants and their employers", Reuters News, 5 February 2002; and "Malaysia shuts the door on Indonesian workers", *Australian Financial Review*, 25 January 2002.
33. "Malaysian government cracks down on immigrant workers", at www.wsws.org/articles/2002/feb2002/mal-f04, 4 February 2002.
34. It was estimated, for example, that foreign workers accounted for the outflow of five billion ringgit annually. See Malaysian Human Resources Minister Fong Chan Onn's comments in "Indonesia apologises to Malaysia for problematic immigrants", *Agence France-Presse*, 10 December 2001. See also "Clock ticking for Malaysia's immigrants", BBC News, 20 June 2002.
35. "Southeast Asia-Malaysia", *Migration News* 9, no. 10 (October 2002).
36. Ibid.
37. "Persoalan TKI, Persoalan Jatim", *nakertransNET*, 4 February 2002, at www.nakertrans.go.id.
38. To that effect, one should note also that several Malaysian labour and human rights groups, such as Tenganita, also protested the government's treatment of Indonesian illegals.
39. "Malaysian government cracks down on immigrant workers", at www.wsws.org/articles/2002/feb2002/mal-f04, 4 February 2002.
40. "Remember 'Konfrontasi'", *Jakarta Post*, 1 February 2002.
41. See "Malaysia defends arrest of thousands of illegal immigrants", *Agence France-Presse*, 26 February 2002.
42. "Jakarta paper raps Malaysian press over illegal immigrants", *Straits Times*, 10 March 1987.
43. See "30,000 work permits issued since Aug 1", *New Straits Times*, 16 August 2002.

44. The Philippine response has been comparable, but in some respects their case has been more clearcut and specific in that they are protesting the treatment of repatriated illegals who, among other things, have been subject to sexual abuse.
45. This term was used in Stephen Chee, "Malaysia and Singapore: Separate Identities, Different Priorities", *Asian Survey* 13, no. 2 (February 1973): 157, to describe Malaysia's relations with Indonesia during Tun Abdul Razak's office. See also Lee Kam Hing, "From Confrontation to Co-operation: Malaysia-Indonesia Relations, 1957-90", *Sarjana*, Special Issue (1994).
46. Brief discussions of the tensions in Indonesia-Malaysia relations can be found in Leo Suryadinata, *Indonesia's Foreign Policy Under Suharto* (Singapore: Times Academic Press, 1996), pp. 69-74; and N. Ganesan, *Bilateral Tensions in Post-Cold War ASEAN* (Singapore: Institute of Southeast Asian Studies, 1999), p. 30.
47. "KL-Jakarta labour pact", *Straits Times*, 20 June 1984.
48. "Passports for illegal Indonesians in Malaysia", *Straits Times*, 6 July 1988.
49. See "Malaysia, Indonesia agree to amicably resolve labour row", at www.nakertrans.go.id (Ministry of Manpower and Transmigration, Republic of Indonesia, 20 February 2002).
50. This has been argued in Nasution, *op.cit.*
51. See "Immigration officer and 'middleman' assisting ACA", *New Straits Times*, 1 September 2000.
52. See Jones, *op. cit.*, pp. 20-21.
53. Parts of this section have been published in Joseph Liow, "Desecuritisng the 'Illegal Indonesian Migrant Worker' Problem in Malaysia's Relations with Indonesia", *IDSS Commentaries*, No. 18 (September 2002).
54. "Indonesia-Migration in 1998", at www.scalabrini.asn.au/atlas/indonesia98.htm.
55. "Humanity is what makes Malaysia great", at www.Malaysiakini.com, 30 August 2002.
56. "Hamzah Admits Government's Lack of Response Over Indonesian Workers", *Tempo*, 3 September 2002.
57. See "Getting to the root of the problem", *Business Times*, 6 February 2002.
58. See *ibid.*
59. "Not in my backyard", *Asiaweek*, 29 June 2001.
60. "Malaysia stops recruitment", *Migration News* 4, no. 9 (September 1997).
61. See "PM admits migrant crackdown hit construction industry", at www.Malaysiakini.com, 10 September 2002.
62. "Wanted: More workers", *Far Eastern Economic Review*, 12 September 2002.
63. "Indons aware whipping applies to all", *New Straits Times*, 29 August 2002.
64. "Indon youth movement admits to groups trying to sour ties with Malaysia", *New Straits Times*, 30 August 2002.

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