

## **Governance of Indonesian labour and migration to Malaysia: an overview**

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International labour migration in the Southeast Asian region is not a new phenomenon. Prior to the colonial period, cross-border movements of people were a common occurrence, particularly in the Malay Archipelago region. During the colonial period, borders were open and people from Indonesia were encouraged to migrate to British Malaya as settlers and plantation workers. Communities living along the newly-defined border zones paid no attention to the 'colonial' borders. After World War II and the emergence of Indonesia and Malaysia as independent nation states, this movement did not stop. Ethnic, religious and cultural ties between the two countries ensured that Indonesian labour migration to Malaysia continued to flourish. In the 1980s this movement was formalised between the two countries through a bilateral agreement. However, the association of Indonesian migrants with crime and various other social problems in Malaysia has resulted in the further regulation of this movement, and measures aimed at the governance of migration have been put in place. This paper provides an overview of the governance of migration in Indonesia.

### **Background**

The main factors contributing to Indonesian labour migration to Malaysia since the 1970s include the economic and demographic disparities between the two countries and their socio-cultural, linguistic and religious ties. Singapore, formerly part of Malaya, is also a major destination for Indonesian migrant workers. Indonesia's population stands at 210 million compared to Malaysia's 25 million and Singapore's 4 million. Indonesia has a lower per capita income

compared to Malaysia and Singapore. Indonesia also has a large number of unemployed people: 42 million, and 27.1 per cent of its population live below the poverty line. Thus Indonesians have a strong economic incentive to seek employment in Malaysia, Singapore and other countries.

Along with the other Southeast Asian countries such as Malaysia, Thailand and the Philippines, Indonesia's initial emphasis on import-substitution gave way to the development of labour-intensive export-oriented industries in the 1980s and 1990s. The transition to labour-intensive manufactures for export was supported by the inflow of foreign direct investment, the state's supportive macroeconomic policies and its trade liberalisation strategy. However, the country's steady growth, as in the other Southeast Asian countries, was abruptly interrupted by the financial and economic crisis in the region in 1997–8. Compared with the other Southeast Asian countries, however, recovery in Indonesia has been slow. There is also a large surplus of unskilled labour in the country and job creation is slow.

The Indonesian government implemented specific overseas labour deployment policies that have resulted in increased labour migration in Southeast Asia. The export of labour has become an important strategy for addressing poverty, easing domestic unemployment pressures, generating foreign exchange and fostering growth. The Indonesian government also includes targets for the number of workers it hopes to send abroad in its economic development plans. These targets have increased over the period 1980–2000.

Indonesian migrant workers are largely concentrated in four main sectors: construction, plantation, industry (labour-intensive manufacturing) and domestic work. The demand for these categories of workers in the destination countries in 2002 is shown in Table 1. As shown there, the greatest demand for Indonesian workers is in domestic work where almost 100 per cent of workers are women. In terms of countries, Malaysia was the most important destination for Indonesian workers. A Department of Manpower and Transmigration study conducted in 2002 found that 57,055 of the female migrants and 71,770 of the males recruited in Malaysia originated from 96 districts

	Countries	Housemaids	Industry	Construction	Plantation	Total
1	Saudi Arabia	16,229	0	207	0	16,436
2	Brunei	650	100	100	0	850
3	Malaysia	31,302	26,249	37,531	6,322	101,404
4	Hong Kong	52,020	0	350	0	52,370
5	Singapore	18,760	1,000	0	0	19,760
6	Kuwait	4,225	0	0	0	4,225
7	Taiwan	100	0	0	0	100
8	UEA	6,991	5,000	0	0	11,991
9	South Korea	0	2,485	0	0	2,485
10	Jordan	3,600	200	0	0	3,800
11	USA	0	1,100	0	0	1,100
12	Oman	431	0	0	0	431
13	Japan	0	200	0	0	200
14	Europe	0	1,200	0	0	1,200
	Total	134,308	37,534	38,188	6,322	216,352

Source: Department of Manpower and Transmigration (2002)

*Table 1*

*Main occupations of Indonesian workers in selected countries, 2002*

in Indonesia. These migrants preferred to work in Malaysia rather than in other countries. The current estimates for Indonesian migrant workers in the main countries are: Malaysia, 426,886; Saudi Arabia, 380,332; Taiwan, 93,394; and Singapore, 71,588 (Departemen Tenaga Kerja dan Transmigrasi 2005).

### **Indonesian migrant workers in Malaysia**

News reports in the Indonesian print media and on television highlight the poor working conditions and plight of Indonesian labour migrants in countries such as Malaysia, Singapore and Saudi Arabia. Why then do Indonesians migrate to these countries to work? Many Indonesians work overseas because they are poor, are unemployed and expect to earn a 'good' salary which would enable to send a part of their earnings to support their families in Indonesia. Migration overseas appears to be the only way that they can improve their living standards, even though they know that working overseas is risky and dangerous and has negative impacts on family life. For woman, employment in

isolated household conditions as domestic workers carries additional risks because they are at the mercy of their employers and there is no one to help them. On the other hand, the economic aspects of migration appeal to them. There are a few success stories of some former labour migrants being able to build houses and buy land upon their return home.

#### *Malaysia as the preferred destination*

Most migrants prefer to work in Malaysia because of its geographical proximity, shared ethnicity, similar customs and religion with Indonesia. The history of Indonesian labour migration to Malaysia is summarised below:

##### *1. The period before 1960*

During this period there was cross-border movement of people who lived in the border areas between Malaysia and Indonesia. The Indonesian migrants moved freely between the two countries without having to face immigration or border controls. They worked in Malaysia and returned periodically to Indonesia to visit their families. Some married local women in Malaysia and settled in the country.

##### *2. 1960 to 1967*

A large number of Indonesians found employment in Sabah and Sarawak during this period. Indonesia faced major economic problems due to political instability and a separatist movement. The main ethnic groups who migrated to Malaysia originated from Sumatra, South Sulawesi, Java and East and West Nusa Tenggara. In May 1967 Indonesia and Malaysia signed an agreement known as the Agreement on Border Crossing. Under the terms of this agreement, Indonesians who worked in Sabah and Malaysia were granted permanent resident status and were given the option of obtaining Malaysian citizenship (Raharto and others 1997–8:67).

##### *3. 1967 to 1997*

Following the 1967 Agreement on Border Crossing, a large number of Indonesian workers from South Sulawesi and East Nusa Tenggara were employed in Sabah on palm oil and cocoa plantations. They entered Sabah through the Nunukan sub-district, which is in the

Bulungan District of East Kalimantan. In 1996, for example, the Nunukan Immigration office recorded that 36,000 Indonesian migrant workers were employed in Sabah. 67 per cent of these workers were male while 33 per cent were women who were mainly employed as domestic workers and cooks. Most of the migrants had primary education of varying levels. They originated mainly from South Sulawesi, East and West Nusa Tenggara, East Java, Eastern Sulawesi, Central Sulawesi and East Kalimantan. In 1996 around 350 to 400 Indonesian migrants were deported from Tawau because they did not have documentation, and were considered illegal migrants. About 36,000 of these illegal workers were deported from Malaysia during the period 1994–6 (Raharto and others 1997–8:77, 84, 91).

#### *4. 1997 to 2005*

The Asian economic and financial crisis put a severe strain on the Indonesian economy. During this period, the number of illegal workers increased at a faster rate than documented workers. In January 1997 the Malaysian government made amendments to the Malaysian Immigration Act, which imposed heavier fines on illegal foreign workers, employers and agents in an attempt to reduce unauthorised entry and employment. In August of the same year, a total ban was imposed on new recruitment of foreign workers. The ban was lifted shortly after protests by businesses and employers of domestic workers, but was re-imposed in January 1998 for workers in the manufacturing, construction and service sectors. In 1997–8, the overall number of official placements of overseas labour migrants dropped 55 per cent, primarily because of changes in the Malaysian government's labour migration policies. Bans were again lifted in mid-1998, and numbers quickly rebounded. By 1999 they had reached two-thirds of 1996–7 levels (Depnakertrans 2003). Nevertheless, the Malaysian Immigration and Police authorities increased their vigilance, particularly in the following seven towns: Kota Kinabalu, Labuan, Sandakan, Sepitang, Keningau, Lahad Datu and Tawau. The Malaysian government also announced a 'Hire Indonesians Last' policy in 2002, which strained relations between the two countries. Approximately 400,000 illegal Indonesian workers were deported from Malaysia during the period October 2004 to April 2005 (Hariyadi 2005).

### **The Indonesian state and regulation of labour migration**

The Indonesian government has come under severe criticism from human rights organisations, national and international Non-Governmental Organisations (NGOs) and civil society organisations in Indonesia for its indifference to the plight of its nationals. The Government has been urged to pay special attention to the following policy areas:

1. Implement measures to regulate migration that take into account the welfare of Indonesian foreign workers while at the same time introducing sound policies that will discourage undocumented migration.
2. Put in place policies to protect Indonesian foreign workers from sexual harassment, discrimination, intimidation, rape, and misconduct in Malaysia by cooperating with the Malaysian government.
3. Cooperate with international organisations and international NGOs to ensure protection for Indonesian foreign workers and also sign a bilateral agreement with the Malaysian government to regulate migration. Women migrants in particular face specific gender-related problems which require cooperation with authorities in the destination country.

#### *The migration process*

There are two main channels for Indonesians seeking employment abroad. First, the potential migrant can personally contact a labour recruitment company (known as *Perusahaan Jasa Tenaga Kerja Indonesia*, or PJTKI). Second, the potential migrant can go through a recruiter or middlemen who have ties with the PJTKI. The middlemen play a very significant role in the recruitment of labour migrants because they work in remote areas to recruit labour migrants. Without the assistance of these middlemen, many migrants would not be aware of employment opportunities overseas. This is because the offices of the sub-agents of PJTKI are located in the cities which are far away from the villages of the prospective labour migrants.

There are several different levels of middlemen in the recruitment process, reflecting their wide network. The main

operational areas of the middlemen are between the places of origin of migrants in the rural areas and recruiting companies in the cities that are officially licensed to send migrant workers overseas. In general, each PJTKI has business relations with a number of recruiters known locally as the 'sponsor' of PJTKI, who have established connections with local middlemen in the villages or remote areas. The sponsor and local middlemen recruit as many prospective workers as possible, since the more applicants they can recruit, the higher the commission they get as recruitment fees from the PJTKI, as well as from the prospective migrants.

The local sponsors usually assist intending migrants obtain the administrative documents issued by the local government because most prospective migrants, for some reason, are reluctant to go directly to the government offices. These documents are required by the prospective migrants to register with the PJTKI since without these documents, the prospective migrants cannot be processed for further documents. The local sponsors, however, often charge exorbitant fees and deceive the prospective migrants or give them misleading information.

The role of the local middlemen in assisting prospective migrants is very significant. These middlemen also provide a sense of assurance and security to the prospective migrants because they are known to the prospective migrants. Middlemen, however, also create problems in the recruitment process because they often falsify documents and information in order to meet the eligibility requirements of the government. For example, they may falsify the age of the prospective migrant or forge permission letters from parents or spouses (especially for women migrants), documents of residence, identification cards and birth certificates.

The role of the PJTKI is to conduct the official migration side of the business. They handle the documentation for the prospective migrants at the regional office of the Manpower Department. The regional office issues an employment order which enables the PJTKI to prepare a recruitment agreement with the agencies in the destination country. In the meantime, the PJTKI has to organise a certificate of health for the prospective migrant (after the medical

check up); provide the required overseas job training; organise the visa from the destination countries, and make travel arrangements. The prospective migrant has to sign a work contract/agreement, register for a program of social guarantees for migrant workers, enrol in an Indonesian savings program for migrant workers, and register for tax payment. The PJTKI's charges for the above services are around Rp. 10 million. Generally, the migrants do not have the money to pay the fee charged. Consequently, many are forced to sell their land or borrow money from money lenders in the rural areas.

Raharto and others (1999) have provided information on the illegal migrant network used by prospective migrants from East Java. These migrants first have to deal with recruiters/sponsors in their local areas; they must then deal with sponsors in Surabaya and eventually deal with sponsors in Jakarta before departing for Riau Island, en route to their destination. At Riau Island the undocumented migrants stay in holding centres before travelling to Malaysia by boat. They have to negotiate payment with the captain while on board the boat. On arrival in Malaysia, the Malaysian *tauke/toke* (middleman) takes over. The *tauke* transports the undocumented workers to the potential employers. According to Raharto, this network was safe, simple, involved few costs and a shorter time frame, and was well organised. Compared with the formal official procedures, the informal network for illegal migration made it much easier for Indonesians to go to Malaysia to obtain employment. Since employers in Malaysia had good and reliable links with the *tauke* there was an assurance of employment through this network.

One of the ways in which the Indonesian government has attempted to protect migrant workers (particularly female migrant workers) in the wake of international criticism is to place restrictions on their movement. However, this has generally been counterproductive. Bans on movement have resulted in the migration being driven underground. The migrants prefer to go without documentation and become even more vulnerable to exploitation and abuse. Restrictions also tend to lead to lying and the bribery of officials. The forging of birth and marriage certificates, identity cards and passports has become an industry in Indonesia.



Currently, prospective migrants are required to meet the following Indonesian Government eligibility conditions:

- they should be at least 18 years of age, except if the country of destination has its own age requirements;
- they should have a minimum education at the primary school level;
- they should possess a residence identification card;
- they should possess a Family Order Card (which shows their birth order in the family);
- they must have in their possession a Permission Letter from one of the following individuals: parents/husband/wife/a village official of good standing;
- they must have in their possession a Birth Certificate or certificate of education;
- they must have documentary evidence of their skills for the required position;
- they must have a Yellow Card from the Department of Labour, and an Indonesian labour force identification card from the Department of Manpower.

The Malaysian government has listed seven criteria in the recruitment of Indonesian migrant workers. These workers must satisfy the following conditions prior to their entry into Malaysia:

- they must be at least 18 years of age but not more than 40 years of age;
- they must possess the required qualifications and skills specified by the employer;
- they must possess sufficient knowledge of Malaysian culture and social practices;
- they must have the ability to communicate either in English or in Malay;
- they must satisfy Malaysian immigration procedures in Malaysia;
- they must comply with Malaysian medical requirements;
- they must not have any previous criminal records.

The Malaysian government has specified designated clinics/hospitals in Indonesia that are allowed to conduct the medical examinations for prospective migrants and issue certificates of health. This certificate of health is a very important document in Malaysia. If

the candidates are in good health they are allowed to stay for a three month period in holding centres which provide overseas job training. Often, many candidates stay longer than three months. The long period in the holding centres means that many migrants accumulate more debts in return for their basic needs such as food accommodation, medical care and other expenses. The longer the stay at the holding centre, the greater the debt they have to repay. A report in *Kompas* dated 21 March 1995 stated that the physical conditions of the accommodation facilities in some of these holding centres were sub-standard. Also, women often experienced sexual harassment and sexual assault, including rape, in these holding centres.

The skills and knowledge base of the prospective workers are crucial factors in the migration process. The PJTKI are required to provide training for the candidates according to the types of skills/training demanded by Malaysian employers. In fact, most PJTKI do not follow a standard curriculum and lack suitable facilities for the training of workers. There are also differences between the various PJTKI. Some PJTKI do not have training facilities and they send the workers for training at other PJTKI that do have these training facilities. Most of the PJTKI provide training related to the technical aspects of the occupation. They do not provide information on the laws and regulations, customs, or provide advice on how to resolve problems.

Nagib and others (2001) in their study on developing policies for Indonesian woman migrants overseas found some interesting findings: the sponsor/recruiter played a dominant role in the recruitment process; the recruitment procedures/regulations were often ignored; the training provided for female migrants lacked professionalism; procedures for arranging departure documents were a long and complicated process which (often) led to collusion and corruption. Consequently, woman labour migrants were often cheated and lacked protection. They recommended the following policy proposals:

1. The Indonesian government should improve the regulatory aspects of the migrant employment system particularly in the area of policies and regulations; ensure that there are adequate checks in

the system at every stage of the process and procedures and increase stakeholder participation.

2. The recruitment system should be improved by strengthening the legal responsibilities of sponsors. Since these recruiting agencies have strong links with sponsors, they should ensure that sponsors abide by all regulations. The labour recruiting agencies should insist that sponsors shoulder their legal responsibilities in order to avoid violations against the migrant workers.
3. The Indonesian government should develop a professional training system and establish standardised training centres for overseas workers. These should be managed by special agencies that are independent institutions having no relationship with recruiting agencies.
4. The Indonesian government should replace the current pre-departure documentation procedures with a new system that is simplified and less costly.
5. The Indonesian government should evaluate the final pre-departure selection activities as the last stage of the pre-employment system.

#### *Bilateral agreements with Malaysia*

The Indonesian and Malaysian governments signed an agreement on the supply of workers between the Republic of Indonesia and Malaysia in Medan in 1984. In 2002, following a number of incidents involving Indonesian workers, the then Malaysian prime minister Mahathir Mohamad, announced a 'Hire Indonesians Last' policy targeted at halving the number of Indonesian workers in Malaysia and confining them to the plantation and domestic service sectors. The government later rescinded this policy after appeals by Malaysian companies who have long been dependent on Indonesian workers. A mass deportation exercise of illegal workers in 2002, which resulted in the death of dozens of Indonesians, including children, in transit areas like Nunukan also attracted international attention.

In 2002 both countries agreed to renew the agreement with revisions because the old agreement did not include sufficient safeguards for workers. On 10 May 2004 the Indonesian and Malaysian

governments signed a Memorandum of Understanding (MOU) on the recruitment of Indonesian workers in Malaysia. This MOU ensured some measure of protection for most categories of Indonesian workers in Malaysia. However, Indonesian domestic workers were excluded from legal protections guaranteed to other workers. In July 2004 the Malaysian Home Affairs Minister announced plans to round up and deport undocumented migrant workers, the majority of whom were Indonesian. Subsequently, the Indonesian Minister for Manpower and Transmigration and the Malaysian Minister for Home Affairs met in Jakarta on 14 January 2005. They discussed several issues relating to Indonesian illegal workers in Malaysia. One important issue centred on the concern for workers' protection and the human rights of Indonesian workers in Malaysia. The Indonesian government wanted more oversight over the Malaysian middlemen who organised the recruitment of Indonesian workers in Malaysia. In addition, the Indonesian government asked the Malaysian government to register the Malaysian middlemen/agents who supply workers to various employers in Malaysia. The deportations of undocumented workers carried out in early 2005 were less dramatic than those conducted in 2002.

In 2003 there were about two million foreign migrant workers, mostly Indonesian, in Malaysia. However, only about 750,000 of them are documented workers. Most of the undocumented workers were employed in construction and in manufacturing. According to Malaysian government estimates illegal immigrants constitute up to 70 per cent of the workforce in these industries (Liow 2003). In order to reduce the number of illegal migrants from Indonesia, the Malaysian government should devise an effective system to control and regulate illegal migration, paying attention to the following: humanitarian and human rights issues, political issues, and diplomatic issues.

As Abdul Razak Abdullah Baginda, executive director of the Malaysian Strategic Research Centre stated:

It is easier said than done. How do you physically do it? You need the cooperation of the Indonesian government and other neighbouring countries. You can get rid of 100,000 foreign workers in a couple of days, but that does not assure that they will not be back the next day

because of the porous nature of our borders. Surely a black market will emerge unless the Malaysian economy (including the household) no longer needs those foreign workers ... to get a million workers back to where they came from has long been a government goal. But because of the need for workers in the construction and plantation sectors over the past few years it has been very difficult to implement (*International Herald Tribune*, 3–4 January 1998)

Finally, there is little doubt that both Indonesia and Malaysia benefit from the very significant economic contributions made by documented and undocumented Indonesian migrant workers. It is imperative that both countries cooperate on establishing improved governance of migration that will emphasise the human rights of the migrants. This will then ensure that the needs of all parties are met.

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