



# IDSS COMMENTARIES (18/2002)

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## DESECURITISING THE “ILLEGAL INDONESIAN MIGRANT WORKER” PROBLEM IN MALAYSIA’S RELATIONS WITH INDONESIA

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Indonesian-Malaysia relations have recently been strained by a spate of protests by Indonesian politicians, media, and the public. Indonesian opinion was inflamed by reports of ill-treatment and deaths during the expulsion of Indonesian workers from Malaysia, the perceived unjust and inhumane treatment during their repatriation, and amendments to labour laws in Malaysia that provide harsh penalties (including caning) for illegal foreign workers caught in Malaysia. While both governments have advocated the need for a calm approach, a resolution to this problem continues to prove elusive.

In particular, there has been a tendency to securitise the problem by the Malaysian media and certain government spokesmen. While some Indonesian immigrant workers have been involved in criminal activities, posing a threat to Malaysia’s national security, an over-emphasis on this aspect of the problem has not helped to ease the situation of illegal migrant workers in Malaysia.

Because of the integral role of Indonesian labour in the Malaysian economy, the illegal Indonesian migrant worker problem is not one that will disappear. Any attempt to find solutions that would rid Malaysia completely of Indonesian illegals is unlikely to succeed. The challenge instead for Jakarta and Kuala Lumpur is to control their numbers and manage the problem so that relations are not jeopardised, in the way they have been for the past decade, every time a problem arises concerning illegal Indonesian workers in Malaysia.

### **The Recurring Problem of Illegal Immigration**

There are about two million foreign, or migrant, workers, mostly Indonesians, in Malaysia, constituting about 10% of the workforce. However, only 750,000 of them are legal. Most of the illegal Indonesian migrant workers can be found in the construction and manufacturing industries, the backbone of Malaysia’s economic growth over the past two decades. Indeed, government estimates have suggested that illegal immigrants constitute up to 70% of the labour workforce in these industries.

### **Repatriation and “Hire Indonesians Last”**

To curb the number of illegal foreign workers in Malaysia, Kuala Lumpur announced

in January 2002 that it was embarking on a massive repatriation exercise for illegal workers. The riots in Negri Sembilan and Cyberjaya earlier in the month involving Indonesian workers from the textile and construction industries were the impetus behind the repatriation policy. These riots served to reinforce a concern that numbers of illegal immigrants might well have reached alarming proportions, and were beginning to pose a serious threat to Malaysian internal security. In March 2002, the government stipulated that an amnesty period of three months would be granted to all illegal workers who registered at repatriation stations, for humanitarian reasons and to encourage this voluntary repatriation. After Indonesian appeals, the amnesty period was extended by another month, until 31 July 2002.

Prime Minister Mahathir Mohamad also announced a “Hire Indonesians Last” policy targeted at halving the number of Indonesian workers in Malaysia and confining them to the plantation and domestic help sectors. The government, later revised this policy after appeals by Malaysian companies who have long depended on Indonesian labour.

Given that Indonesian labour, both legal and illegal, are critical components to Malaysia’s industrialisation, the question arises as to why Malaysia decided to act so drastically against this illegal Indonesian labour force when it did?

### **Rationalising Malaysia’s Repatriation Policy**

The Malaysian government has been quick to cite the need to protect employment for Malaysians during the current economic downturn as a primary impetus to the policy of repatriation, despite the fact that most immigrants undertake menial jobs scorned by local people.

However, a more pressing reason behind the policy appears to be a concern for the security threat posed by the Indonesian labour force in Malaysia. Indonesian workers have been associated with committing crimes ranging from petty theft to kidnapping and armed robbery, and have also been accused of proselytising Christianity among the local Malay population. It was estimated that 36% of prison inmates throughout Malaysia were illegal Indonesian immigrants. As the economic downturn had caused many industrial and construction projects in Malaysia to grind to a halt, the government was concerned at the prospect of many more unemployed and restless Indonesians roaming on Malaysian streets.

Finally, given the recent revelations that Indonesians were behind a terrorist network operating in Malaysia and Singapore, there was probably 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. Coupled with the violence and nationalism displayed by some Indonesian workers, that concern prompted a desire to put Indonesians under closer scrutiny.

### **Indonesian Protests**

Malaysia’s repatriation of illegal Indonesian migrant workers strained relations with Indonesia as a result of Indonesian bitterness over the treatment meted out to its workers, which many viewed as “inhumane”, and the harsh penalties imposed on illegals caught after the expiration of the amnesty period. Even though Malaysian legislation against illegal foreign workers was aimed at other nationalities as well, in Indonesian eyes it appeared that they were the hardest hit by the new policies.

At the height of bilateral tensions, members of the Indonesian *Laskar Merah Putih* burned the Malaysian flag outside the Malaysian Embassy in Jakarta and threatened to tear down its gates, the Peoples' Consultative Assembly Speaker criticised Malaysia and called for Jakarta to take action against the "smaller country", and the media rekindled old animosities by raising the spectre of Confrontation. In turn, Malaysia responded by warning its citizens against travelling to Indonesia, and calling for the Indonesian government to take action against those who threatened to jeopardise bilateral relations with their protests. As emotions subsided following calls by both Mahathir Mohamad and Megawati Sukarnoputri for restraint, the search for solutions to this longstanding problem continues.

### **The Search for Solutions**

The search for a comprehensive solution must begin with the acknowledgement that the illegal Indonesian migrant worker will not go away anytime soon. Indeed, the crippling effects of a "Hire Indonesians Last" policy have already been seen in the construction industry during the brief period in which the policy was implemented, and the government's revision of the policy gave greater credence to the argument that Malaysia needs Indonesian workers. As long as opportunities remain in Malaysia, Indonesian labour will continue to stream in to the peninsula. The challenge for the respective governments is to devise an effective system of control and regulation of illegals, and of crisis management should such problems erupt again. In turn, this requires that the problems of illegal Indonesian migrant workers be addressed at three levels – humanitarian, political, and diplomatic.

#### Humanitarian

At the humanitarian level, conditions of detention centres require much more careful monitoring by the authorities concerned than what is currently practiced. 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 detention centres. While 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. To do so, clear and proper lines of communication are needed between Putrajaya and the various detention and deportation centres in Malaysia, to ensure that instructions and feedback can be relayed without delay.

#### Political

Political will is needed to ensure compliance with and implementation of laws dealing with the problem of illegal immigration, which have been in place for a long time in Malaysia. Here, Kuala Lumpur needs to ensure that not only are the illegals interdicted and penalised, but also those who have facilitated their entry to Malaysia. In particular, laws against the employers of illegal immigrant workers have to be enforced. Of equal import is the need to also penalise 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.

Border patrols too, either unilaterally or with Indonesia, have to be increased. 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. Some similar cooperation could be revived in relation to the control of travel across the East Malaysia-Kalimantan border in Borneo.

### Diplomatic

Along with the political aspects of the problem, some diplomatic effort will also be required in the search for and implementation of any prospective solutions. Central to this is the need for better communication between Kuala Lumpur and Jakarta, which was sorely missing during the recent repatriation exercise. Malaysia's unilateral decision to embark on a "Hire Indonesians Last" policy, for example, was undertaken without prior consultation or negotiation with Jakarta. Neither did Kuala Lumpur consult with its own business community. Consequently, the sudden shortage in the labour force compelled the business community to pressure Kuala Lumpur to re-examine the policy. The fact that the policy was eventually revised indicated that the policy clearly had not been thought through carefully. A means to improve communication is to have both Prime Minister Mahathir and President Megawati take an active and personal interest in the search for solutions.

Second, 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 for over a decade, both sides have not been able to reach consensus on the terms of such a comprehensive agreement. While agreements already exist in the form of the 1996 Memorandum of Understanding and 1998 Exchange of Notes, governing the issue of illegal Indonesian migrant workers, it is clear that the problem persists. Most recently, attempts to reach common ground during the Mahathir-Megawati Summit meeting in Bali on 7-8 August 2002 also failed to devise 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, it is doubtful whether this forthcoming MoU will amount to anything more than another stop-gap measure.

### **Conclusion**

While efforts are made to desecuritize the issue, Malaysian policy-makers have to take into consideration the impact of its policies on Indonesian perceptions and national pride. While Malaysia, as a sovereign nation, has the right to punish those who have breached its borders, either via fines, imprisonment, caning or deportation, there is also the matter of diplomatic sensitivity that is involved. This is particularly so when relations with Indonesia are concerned, for both believe that they share a "special relationship". Indonesia takes the view that 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.

Some have also highlighted that the fundamental solution to this problem lies in economics, and that a large part of the illegal immigrant worker problem that plagues relations with Malaysia is rooted in Indonesia's economic stagnation. Economic growth in Indonesia will create jobs, and this will inevitably reduce the number of Indonesians who search beyond their borders for work. This logic, however, can only be partially right. First, illegal Indonesian workers had already been streaming in to Malaysia in the early 1990s, when the Indonesian economy was healthy and strong. Second, even if there were to be a

recovery in the Indonesian economy in the near future, employment opportunities and wages will still be substantially lower compared to the far more economically advanced Malaysia. In other words, it is likely that illegal Indonesian workers will continue to try to enter Malaysia, even if the Indonesian economy recovers.

It appears then, that the key to this problem in Indonesia-Malaysia relations lies not in economics, but in politics. It is not likely that the illegal Indonesian migrant worker problem will dissipate soon. For Jakarta and Kuala Lumpur, the primary focus should instead be to manage the problem in a manner that saves Indonesian face while addressing Malaysia's security concerns.

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