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Azizah Kassim
Institute of Malaysian & International Studies (IKMAS), UKM

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1. Objectives of Paper

- Substantial increase in M’sian foreign pop in the last 40 years. In 2010, of 28.4 million 8.3% are non-citizens.
- Increase due to several streams of labour inflow that makes significant contribution to M’sia’s econ. & social devt; but has many attendant problems. This paper will:
  - Outline transnational population flows in the last decade & identify major streams that are causing considerable concern to the state & the M’sian public. The focus is on low skill foreign workers (FW), the largest category of migrants in M’sia.
  - Examine public perceptions of FW & how such perceptions are formed & their impacts on state policy.
  - Explain state policy on FW, its objectives & strategies.
  - Highlight challenges in implementation of the policy.
  - Evaluate policy achievements & shortcomings.
2. Transnational Migration in the Post Independence Era

- M’sia is both a receiving & sending country. The former role is more dominant.

a. Emigration.

- M’sians emigrate for better opportunities as students & as low skill, professional & technical workers.
- Considerable concern over substantial number of high skill M’sians working abroad; yet no comprehensive official records on them are available. Estimates of their number @900,000.
- M’sia is wooing them to return, response hasn’t been encouraging – (see Talent Corp.).
3. Transnational Inflow

Many streams of transnational inflow that include:

i. *Low skill workers* (legal & irregular) since early 1970’s.


v. *Foreign students*. Began in earnest in late 1990s- M’sia’s project to be a regional hub for higher education.

In flows taking place amid M’sia’s active promotion of its tourism industry since 2007. @20 million visited M’sia (2012).
3.1: Transnational Migration Inflows

- WELCOME INFLOWS: Expatriates, MM2H participants & foreign students.
  1. **Expatriates** - M’sia is all out to attract more of such workers. Min. monthly pay RM3,000 – min. contract 2 years; recruitment procedure relatively short & easy, can take along family, buy properties, etc. In 2012, their number was 44,140 or 2.7% of foreign workers in M’sia.
  2. **MM2H participants** – 21,059 in 2013, mainly the elderly.
     • Expatriates & MM2H participants are largely “economic elite”, in urban areas. Viewed as least likely to burden the govt. But the negative impacts of their presence are emerging, i.e. the rising price & rental of urban housing as developers & speculators target them as customers.
  3. **Foreign students** - 86,923 in 2010. M’sia’s is actively wooing them to come to realise the country’s mission to be a regional hub for higher education. But their presence is gradually seen as problematic as many student passes are being abused by prospective economic migrants. (see Chart 1,2,3 & 4)
Charts Not Included

- CHART 1. EXPATRIATE WORKERS BY SOURCE COUNTRIES, MAY 2013.
- CHART 2: EXPATRIATE WORKER BY JOB SECTOR MAY 2013.
- CHART 4: NUMBER OF INTERNATIONAL STUDENTs IN MALAYSIA BY COUNTRY OF ORIGIN, 2010.
3.2: Problematic Inflows

i. Legally recruited low skill foreign workers (LFW):
   - >1.571,000 LFW in 2012.
   - From 14 sanctioned countries & employed in six sectors – construction, domestic maids, services, plantation, agriculture & manufacturing (see Chart 5 & 6).

2. Irregular economic migrants / workers (IM),
   - Over 1.3 million (IM) registered under the 6P program in 2011.
   - In addition there are 44,189 IM in the KDN depot waiting for trial or deportation.
   - Number of IM has increased since 1970s & remains persistently high (see Chart 7, 8, 9, 10, & 11).
3.2: Problematic Inflows (cont’d)

3. Asylum seekers & refugees (ASR). Officially they are IM as M’sia not a party to the Geneva Convention on the Status of Refugees. No legal mechanisms to administer them.

- In Sabah, Filipino asylum seekers first arrived in early 1970s. Allowed temporary stay under IMM13 since mid 1980s & their number now is 69,317 (SFTF S/L).

- In the Peninsula-101,081 ASR registered with UNHCR (2012). >92% from Myanmar. The largest number are ethnic Chins, followed by stateless Rohingyas who were stripped of their citizenship in 1982.

- In 2012, over 9,000 ASR were detained in 14 KDN depots. The number must be more as there are others who arrived clandestinely and were not officially processed.

- @3,000 Rohingyas entered M’sia bet. June 2012 – June 2013 due to ethnic/religious conflict in Myanmar (see Chart 13 & 14).
Charts Not Shown

- CHART 5. FOREIGN WORKERS BY COUNTRY OF ORIGIN (2012).
- CHART 8. ILLEGAL IMMIGRANTS WHO CHOSE TO STAY & WORK UNDER 6P PROGRAM, 2011.
- CHART 11: INMATES AT KDN DEPOT BY MAJOR COUNTRIES OF ORIGIN (2012).
4. Major Issues in Migration Inflow

i. *Abuse of student passes/tourists visa* by economic migrants - the case of 40,000 missing Indian tourists (2010); young prostitutes & drug traffickers entering on student visa.

ii. *Over stayers, some of whom are economically active.*

iii. *Close link bet. labour inflow with human trafficking & smuggling.*

iv. *M’sia now a transit & destination country for ASR.* Destination esp for those from Myanmar & transit for ASR from Pakistan, Afghanistan, Iran, Sri Lanka, enroute to Australia via Indonesia.

v. *Unregistered children of foreign nationals (stateless children).*

RESULTS:

- Persistent increase in number of IM & ASR. Majority of IM are now pass abusers & over stayers NOT undocumented migrants.
- Heavy burden on state enforcement officers & state coffers.
- Various measures to curb the expansion of irregular migrants appear unsuccessful.
- Constant attack by local & international human rights groups – for human rights violations in dealing with LFW, IM & ASR.
- Poor rating in the TIP report by US state Dept - Tier 2 Watch list for 3 consecutive years.
5. Public Perceptions of LFW, IM & ASR

- Perceptions shaped by individual experience, vested interests & are contextual.

- **Favourable** from those benefiting directly from FW employment (landlords, local employers).

- **Unfavourable** from those who compete with FW for jobs, trading opportunities, public & social amenities.

- **Economic context:** In recession, opposition to FW presence escalates.

- **Security Infraction:** invokes public anger, e.g. a riot by Indonesian workers in a Nilai factory in 2002 incensed M’sians, govt reduced intake of Indonesians & open doors to workers outside ASEAN.
5. Public Perceptions of LFW, IM & ASR (cont’d)

- **Political context**: Allegation foreigners are included in the electoral roll—create resentment against FW. GE13: unfounded allegation that 40,000 Bangladeshis were brought in to vote for BN. In Sabah, such allegation existed since 1998 GE.

- **Social context**: Incidences such as fights between locals & FW or among FW can create fear & stir local resentment. In 1995 bet. Malaysian-Bangla men led to banning of workers from Bangladesh.

- **Resentment can turn to sympathy** by external political events against foreign groups. E.g. recent mass massacre of Rohingyas by Buddhist in Rakhine Myanmar evokes much sympathy among Malaysians—outpouring of donations & most importantly a reduction of public resentment against them.

**EXPRESSION OF ANGER (OR SYMPATHY) AGAINST FW AFFECT STATE STRATEGIES ON FW/MIGRANTS**
6. Downside of Foreign Workers Presence: A Summary

Positive contribution by FW to M’sia’s economic & social devt is acknowledged, but their negative impacts are many:

i. Economics

- A drain to the economy through remittances.
- Depressing local wages.
- Crowding out local workers- employers prefer FW who are easily controlled, manipulated & are temporary.
- Impedes technical upgrading in production, distribution, etc.
- High cost of policing IM, their upkeep in detention & deportation.
- High cost of recruitment, the expansion of recruitment industry which has exploitative effect on employers & FW.
- Incursion into prohibited economic sector particularly trading in urban areas esp. in KL, Selangor & Penang.
6. Downside of FW … (cont’d)

ii. Threat to Political stability:
- Penetration into electoral roll (alleged 40,000 Bangladeshi voters in GE13 contributed to BN declining votes)
- Disrupts M’sia’s demographic balance & balance of political power.

iii. National Security:
- Illegal entry a threat to border & internal security (e.g. Lahad Datu incursion in Feb-April, 2013 –Karam terrorists attack)
- Involvement in criminal activities (armed gang robbery, smuggling of prohibited goods esp. drugs)
- Involvement in commercial crimes.
- Expansion of fake document industry run mainly by international syndicates.
iv. **Social/cultural**:

Many FW are working in manufacturing, services & as domestic maids which are urban based. This led to:

- **Stress on affordable urban housing** (many low cost urban housing are being rented to FW & in squatter areas migrants rent & build houses.)
- **Stress on state medical facilities** (FW owes the govt. millions in unpaid medical bills).
- **Social problems** – increase in the number of foreign beggars & in the number of foreigners in the sex industry.
- Spread of **deviant teachings & religious practices**.
- **Spread of diseases once under control** in M’sia e.g. Malaria & introduction of new diseases.
7. State Policy on FW, IM & ASR

Early 1990’s, implementation of the FW Policy with two inter-related objectives:

i. To encourage legal recruitment.

ii. To reduce the number of IM.

➢ Introduced & implemented in early 1992, when there were @half a million IM in M’sia.

➢ Policy making institution Cabinet Committee on Foreign Workers (CCFW), changed in 2006 to Cabinet Committee on FW and Illegal Immigrants (CCFWII).

➢ Executing agencies:

i. Ministry of Home Affairs (Dept of Immigration & Bahagian Pekerja Asing for FW & all enforcement agencies under MOHA for IM),

ii. Ministry of Human Resources (Dept of Labour esp. Division for Foreign Workers).
7.1. Policy Objective 1: Encouraging Legal Recruitment

- CCFW determined source country, sector that can use FW & the terms & conditions of recruitment & employment.
- Recruitment offshore, direct or through recruiting agencies & in 2005 via outsourcing agencies. Recruitment cost varies depending on sectors & source country.

Terms & conditions of employment.

- FW cannot marry while in service & can’t take along family.
- Tenure min. 1 year - max. 5 years. In 2010 max period up to 10 years.
- Payment of annual levy which varies according to sectors. Lowest DM (RM410) & highest for Services (RM1,850).
- FW must be certified medically fit before & on entry in M’sia.
- Employers make their own contract with workers with regards to wages, duties, leave etc. Invariably some conditions in the contract contradicts labour laws.
- Signing MoU with source countries.
7.1: Policy Objective 1: Encouraging Legal Recruitment (cont’d)

FW Policy widely criticised, many consider it a failure. Common complaints:

- High cost of recruitment.
- Frequent changes in strategies & procedures which make their management difficult.
- Lacks emphasis on basic rights of FW.

Note: The policy is successful in increasing the number of LFW (see Chart 15).
Now the number of LFW too high & this is considered bad for the economic development & security. Since 2006, there is a deliberate attempt to reduce number of LFW.
CHART 15: NUMBER OF FOREIGN WORKERS IN MALAYSIA 1993-2013

Source: Amended form Azizah Kassim, 2012:47.
8. Strategies to Reduce Dependency on FW

i. Among strategies adopted are:

- Encouraging initiatives to upgrade technology to phase out labour intensive industries.
- Readjusting levy - Increasing cost of annual levy to discourage employers from employing FW.
- Introducing minimum wage to encourage locals to take up low skill & previously low paid jobs.
- Developing local capacity/ initiatives to encourage locals take up jobs done by FW. E.g. encourage employers to operate child care center, allowing workers to work from home, etc.)

The number of legally recruited FW has gradually decreased since 2010.
8.1 Strategies to Reduce Dependency on FW - Challenges

- Choosy Malaysian work force.
- Delays in implementing minimum wage.
- Employers preference for FW. More committed to their jobs, easy to manage & manipulate.
- Policy strategies are constantly changing in response to changing economic condition & pressure from employers & recruiters.

2009 – Ban on recruitment of FW in manufacturing. It was lifted when demand for rubber gloves increase due to spread of H1N1.

2010 – Levy for FW to be paid by employers to deter them from employing FW. This was reversed in the following years.
9. Strategies to Reduce Number of IM

Measures taken since early late 1980s are:

1. Amnesty & regularisation - periodically.
2. Deportation – on-going.
5. Amendments to the Immigration Act 1959/63 in 1998 (introduced canning as penalty for IM & increase in jail terms & fines).
7. Setting up Special Court for Illegal Immigrants (Mahkamah PATI), 2005.
9. Introduction of the biometric system in M’sian passports.
10. 6P Program 2011.
11. Formation of the Royal Commission of Inquiry for the Illegal Immigrants in Sabah, 2012 - ongoing
9.1: Strategies to Reduce Number of IM – 6P Program

- The 6P program – A comprehensive program where each of the six IM reduction strategies are carried out in stages within a specified period - initial plan for one year (2011-2012). The 6P strategies are as follows:
  1. 6P= Pendaftaran (registration),
  2. Pemutihan (regularisation);
  3. Pengampunan (amnesty).
  4. Pemantauan (monitoring),
  5. Penguatkuasaan (enforcement)
  6. Pengusiran (deportation).

The implementation didn’t go as planned. After two years the 5th & 6th stage is yet to be completed.
9.2: Strategies to Reduce Number of IM – Anti-Trafficking in Persons & Anti-Smuggling of Migrants Act, 2007 (Act 670) or ATIP.

- ATIP aims to clamp down on human trafficking & smuggling activities is based under the Ministry of Home Affairs (MOHA).
- The Majlis Antipemerdagangan Orang & Antipenyeludupan Migran (MAPO) was formed in MOHA in 2008, among others, to formulate policy/strategies & monitor implementation of these strategies.
- Main aim of ATIP – Prevention, protection (of victims) & prosecution of perpetrators (3P).
- Enforcement agencies are from the police, Immigration Dept. Malaysian Marine Enforcement Agency (MMEA), customs, Dept of Labour; Attorney General’s office as legal advisor & Ministry of Women, Family & Community Devt responsible for protection of victims.
- Results of ATIP enforcements are shown in Table 1&2 (data from MAPO secretariat).
Tables Not Included

- TABLE 1: TRAFFICKING IN PERSONS (28 FEBRUARY 2008 - 30 APRIL 2013)
- TABLE 2: SMUGGLING OF MIGRANTS (15 NOVEMBER 2010 - 30 APRIL 2013)
9.3: Strategies to Reduce Number of IM-Challenges

Among major challenges are: in built weakness in the FW policy & obstacles in its implementation

a. Policy on FW has in-built weaknesses

Terms & conditions have counter-productive results – eg. prohibition to marry while in service & to take along family are openly violated as it is against basic human needs.

Many FW get married (have children who are often unregistered) or bring in their family members who arrived as tourists, over stay & work, changing their status to IM.
b. Challenges in Policy Implementation

- Long sea & land border makes surveillance & border control acutely difficult.
- Kinship links between cross border communities facilitate and abet illegal crossings, while cross-national kinship links facilitate & abet visa abuse.
- High cost of legal recruitment – RM8,000 for a domestic maid from Indonesia (2012).
- Large number of IM makes full operation to root them out is extremely difficult – inadequate space in KDN detention depot & lack of enforcement officers.
- Lack of co-operation & subversion of policy operations by employers & recruiting agencies.
- State active promotion for tourism & foreign students led to lax immigration control (e.g. Entry by VOA) facilitates abuse of passes by economic migrants & their families to enter M’sia.

Measures taken to reduce IM such as amnesty or regulation done periodically is like draining a swamp- it gets dried up but soon covered with water again.
10. Concluding Remarks & The Way Forward

There are several streams of migration flow into M’sia and each has its peculiar impact on society & the state. It is important that these inflows be tightly regulated & monitored to avoid their negative consequences. M’sia also need to closely monitor its citizens abroad & keep comprehensive records of them because many of them are the high skill workers whose services are greatly needed in M’sia.
M’sia is heavily dependent on FW for its development. Will it succeed in reducing this dependency & the number of IM?

- The dependency on FW is likely to continue even when M’sia attain industrial nation status.
- There will always be jobs that can’t be automised / mechanised – e.g. the need for domestic maid will be sustained with rising number of women in formal workforce & increase in the aged pop & declining fertility rate. Note the experience of industrial countries – EU, US, Japan.
- The number of IM will continue to rise unless the root of the problem is attended to – the inherent weaknesses in the FW policy & high cost of FW recruitment inducing economic migrants to abuse tourists & student passes.
- Pressing need to review FW policy & recruitment procedures as well as be cautious in promoting tourism & wooing overseas students.
The End

Terima Kasih