

ILLEGAL IMMIGRANT AND SECURITY CRISIS IN SABAH (MALAYSIA)

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ABSTRACT

Rising number of immigrant workers to Malaysia is becoming one of new issues in Malaysia recently. Where immigrants in Malaysia can be divided into two which is legal immigrant and illegal immigrants. Legal immigrant are those who enter the country legally and those who are entering the country without proper procedure considered as an illegal immigrant. Thus, the article focusing on illegal immigrant issues in Malaysia and its implication to the human security issues. The needs of cheap labours in Malaysia always become a catalyst for the increase of illegal immigrant entering the country with another reason such as the economy. Migrant from countries such as Indonesia, the Philippines, Vietnam, Bangladesh, Pakistan, India and many more views Malaysia as their new opportunities. In addition, Malaysia needs to employ foreigners especially in semi-professional and unprofessional sector.

Keywords: Immigration, Illegal immigrant, Sabah, security threat.

1. INTRODUCTION

Malaysia in the recent day has shown to the world major development and transformation, especially in the economic sector. From agriculture sector to multi-sector oriented economy system. With positive growth records, Malaysia today has enjoyed the developing transformation that has been introduced by the government through the launched of different economic policy. The citizens of Malaysia are also enjoying such development, especially after Malaysia boosted her economy during Prime Minister Mahathir's administration. With such development, Malaysia attracted many foreign direct investment invested in Malaysia. Big company from Japan started to invest in Malaysia after Dr. Mahathir launched the "Look East Policy" in early 1980s.

However, such development not only attracted foreign companies to invest and establish their company in Malaysia, but also attracted people from less develop countries to find jobs in Malaysia. Foreign workers in Malaysia keep on increasing from time to time. Therefore, we need to know that foreign workers in Malaysia can be classified into two categories which is legal and illegal foreign workers. Consequently, Malaysia presently faces serious problems of illegal immigrants into the country. They come largely from the Southeast Asian region, i.e., Indonesia, Thailand, the Philippines, Myanmar and Vietnam. In addition to that, citizens from South Asia also migrated to

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Malaysia legally and illegally. Countries like Sri Lanka, Bangladesh and India are considered amongst countries that makes Malaysia as a source of finding jobs even though the salary is low.

It is clear to say that, illegal immigrant issues has become one of the major problems in Malaysia. Increase of the number of illegal immigrant has shown that the government need to implement serious immigration policy in order to overcome the issue from continuously threatening national security of Malaysia in the future. Moreover, the issue has also reflected an issue of human security in Malaysia as part of non-traditional security threat. Therefore, in order to have a clear understanding about the issue, the article is divided into four parts. Part one will discuss about the definition of immigrant in a general context and in the Malaysian context as a case study. Which highlighted the definition of illegal immigrant from Malaysia's perspective. The second part describes about illegal immigration in Sabah. The third section explains about major issues and problems caused by illegal immigrant in Sabah. Finally, the article will explain policy and action taken by the government to overcome the problem as well as to highlight several possible solutions.

2. MIGRATION, IMMIGRATION AND SOCIAL CHANGE

Today, one of the major phenomena is migration. People move from one area to another area as a response to the socioeconomic change within the country. Migration becomes contentious issues among the country's elite and the people. Particularly cross-national immigration in which leads to social changes within the nation. These changes can be clearly seen in terms of social structure, economic affairs of the local people. Migration of people from rural area to urban or city is very common and it does not reflect many issues within the society. Migration like this is very frequent for those who are seeking for better life, jobs and career. Young generation who are educated are more attracted to live in big cities and urban area to find jobs and a career. Thus, this type of migration is common and do not affect the social and security issues.

Another type of migration is cross-national migration. This is happening because of people hopping to another countries. This type of migration can be in terms of legal immigration and illegal immigration. In the 21st century people are moving from one country to the other is a common phenomenon. The Economic factor is one of the catalysts that force people to move. Citizens from a country that's been categorized as professional or skilled-workers tend to work in countries which offer them better payment and salary. This type of workers does not bring an issue because every country needs professional and skilled-workers. Professionals in this context refers to engineer, doctor, consultant, lecturer and many more. However, migration in large-scale of professionals will bring another problem to the country when the country is having lack of professionals to help develop the country. This happens mostly in developing countries, where professional prefer to work and stay in the country that offer the best payment and salary as well as career advancement. Consequently, host-country certainly will benefit from this migration. Countries like the US have more than 40 million immigrants.³ Most of the receiving-countries are developed countries and have a friendly immigration policy towards the foreign citizens. However, the problem arises when foreign

³ Data from World Bank, statistic has shown that US have more than 40 millions immigrants, followed by Russia, Germany, Saudi Arabia, Canada, UK, Spain, France, Australia and India. These countries considered as top 10 having immigrant in 2010. Migration and Remittances Factbook 2011.

citizens entering the country without proper documentation such as Visa, passport. This type of immigrant is known as “*Illegal Immigrant*”.⁴ Illegal Immigrants⁵ come from countries from the Southeast Asian countries like Indonesia, the Philippines, Vietnam and countries from the South Asia like India, Pakistan and Bangladesh. Most of these immigrants are unskilled-workers that work in different sectors like plantation and construction.

Compared to other countries in Southeast Asia, Malaysia is amongst the country that is facing serious problem especially with the increase numbers of illegal immigrant in Malaysia. Malaysia become one of the country in the Southeast Asia that attract more foreign workers either from within the region or from other region like the South Asia countries. With the recent number of Malaysia’s population and the number of immigrant (legal or illegal), increase of foreign workers seems quite serious especially illegal immigrant who considered as un-skilled workers. According to statistic in 2012, number of foreign workers in Malaysia almost reached 2.8 million. Where according to the Human Resource Ministry, 1.5 million are legal who holds Temporary Working Visiting Pass (PLKS) and 1.3 million are illegal immigrants.⁶

According to Wan Shawaluddin Wan Hassan, Marja Azlima Omar, and Ramli Dollah (2010), have stated that “*Not all immigrants are illegal and vice versa*”.⁷ Thus, this article focusing on illegal immigrant and issues that arises because of the increase in the number of illegal immigrant in Sabah’s context. Illegal immigrant, according Azizah Kassim, illegal Immigrant can be defined as:

*“(a) A foreigner who enters a country without permit or pass. (b) A foreigner who slips into a country through undisclosed channel. (c) A foreigner who enters a country legally but stays on without renewing the permit or pass. (d) A contract worker (expatriate/semi-skilled and skilled) who violates the work permit by changing their work or their employer. (e) A foreigner who misuses the pass visit, for instance those who enters on tourist or student visa but abuses the given visa by staying on to do other things. (f) Those who possess fake document or legal document gained through illegal means. (g) A foreign worker who fails to renew his or her working permit. (h) A refugee who fails to renew his or her yearly IMM13 pass.”*⁸

Another definition “*the illegal immigrants includes the foreigners who enter the country without proper travel document or those who enters legally but stays longer than permitted... illegal immigrants are foreign nationals who enter the country through legal ways but overstayed, or those who slipped into the country through illegal channel, or foreign workers who works without the required permit.*”⁹

⁴ Illegal Immigrant also known as undocumented immigrant/worker. Referring to illegal Immigrant also.

⁵ Illegal Immigrant in Malaysia is known as “Pendatang Asing tanpa izin” or PATI.

⁶ See NST online “2.8 million legal, illegal foreign workres in Malaysia”, <<http://www.nst.com.my/latest/2-8-million-legal-illegal-foreign-workers-in-msia-1.317515>>, (Accessed on 20 March 2014).

⁷ Wan Shawaluddin Wan Hassan, Marja Azlima Omar & Ramli Dollah, The illegal immigrants in Sabah: Why do they come back? Borneo Research Journal, Vol. 4, Dec 2010, p 117

⁸ Cited from Wan Shawaluddin etc

⁹ Ibid.

Therefore, Illegal immigrant can be categorized as those who are working, entering and staying in the country without any proof and proper evidence indicates that they are legally being recognized by the countries' law and policy.

3. IMMIGRATION LAW OF MALAYSIA

Under Malaysian law, Immigration Act 1959/63 is an Act relating to immigration. This act applies throughout Malaysia subject to Part VII. To begin with, under Interpretation of Immigration Act, it provides the meaning of "prohibited immigrant" as a person declared to be a prohibited immigrant under section 8 of the Immigration Act. As regards with the prohibited immigrant, there are several sections under PART II (ADMISSION INTO AND DEPARTURE FROM MALAYSIA), mainly under Section 8(3) (a)-(n) of the Immigration Act that clearly classified the prohibited immigrants.¹⁰ Besides, under **section 35 of the Immigration Act** highlighted about power to arrest person liable to removal. Section 35 provides that; Under this Act *may be arrested without warrant by any immigration officer generally or specially authorized by the Director General in that behalf or by a senior police officer, and may be detained in any prison, police station or immigration depot* for a period *not exceeding thirty days* pending a decision as to whether an order for his removal should be made.¹¹ Furthermore, under **section 36 of the Immigration Act** states that any person unlawfully enters Malaysia, foreign workers

¹⁰According to Immigration Act 1959/63, these are those who considered as prohibited immigrant: (a) any person who is unable to show that he has the means of supporting himself and his dependants (if any) or that he has definite employment awaiting him, or who is likely to become a pauper or a charge on the public;(b) any person suffering from mental disorder or being a mental defective, or suffering from a contagious or infectious disease which makes his presence in Malaysia dangerous to the community;(c) any person who refuses to submit to a medical examination after being required to do so under subsection 39A(1);(d) any person who has been convicted in any country or state of any offence and sentenced to imprisonment for any term, and has not received a free pardon; (e) any prostitute, or any person, who is living on or receiving, or who, prior to entering Malaysia, lived on or received, the proceeds of prostitution; (f) any person who procures or attempts to bring into Malaysia prostitutes or women or girls for the purpose of prostitution or other immoral purpose; (g) vagrants and habitual beggars; (h) any person whose entry into Malaysia is, or at the time of his entry was,unlawful under this or any other written law for the time being in force; (i) any person who believes in or advocates the overthrow by force or violence of any Government in Malaysia or of any established government or of constituted law or authority or who disbelieves in or is opposed to established government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property; (j) any person who is a member of or affiliated with any organisation entertaining or teaching disbelief in or opposition to established government or advocating or teaching the duty, necessity or propriety of the unlawful assaulting or killing of any officer, either of specific individuals or officers generally, of any Government in Malaysia or of any established government, because of his or their official character, or advocating or teaching the unlawful destruction of property; (k) any person who, in consequence of information received from any source deemed by the Minister* to be reliable, or from any government, through official or diplomatic channels, is deemed by the Minister* to be an undesirable immigrant; (l) any person who has been removed from any country or state by the government of that country or state on repatriation for any reason ...; (m) any person who,...., is not in possession of those documents or is in possession of forged or altered travel documents or travel documents which do not fully comply with any such written law; (n) the family and dependants of a prohibited immigrant.

¹¹Section 35 of the Immigration Act 1959/63

without permit and anyone who employs or harbours them, may be *fined up to ten thousand ringgit, imprisoned for five years* and sentenced to receive up to *six strokes of canning*.¹²

4. ILLEGAL IMMIGRANTS IN SABAH

There are some arguments that most of the immigrants or foreign labours come mainly from Indonesia and the Philippines. The proximity of Sabah to Indonesia and the Philippine is one of the main factors that attract the immigrants to Sabah. Most of the immigrants from the Philippines are Muslim and they are either of the Bajaus or Sulu' that originate from the Southern Philippine. On the other hand, the Indonesian immigrants consist of the Bugis, Torajas and Flores from Sulawesi and Flores islands or the Muruts from the Kalimantan-Sabah borders. While the Bugis are mainly Muslims, the Torajas and the Flores are mostly Christians and the Muruts are either Christian or pagan. Besides the Indonesians and the Philippines, Sabah also receives immigrants from many other countries such as India, China and Pakistan.¹³

Furthermore, some studies that revealed that, the majority of Indonesians could be located especially in Tawau, Kunak, Lahad Datu, Sandakan and also in Kota Kinabalu. On the other hand, the Filipinos normally could be located in the eastern part of Sabah, especially Sandakan, Lahad Datu, Kudat, the towns that are closer to the Philippines. Although the number of the Filipinos in Tawau is small compared to the Bugis (from Indonesia), Tawau could still be regarded as a focal point of entry for the Filipinos. This is due to the fact that there are 3 villages or *kampongs* that are dominantly populated by the Filipinos.¹⁴ Below, is the statistic of the total population 2010 in Sabah that include Malaysian citizens and non-Malaysian citizens.¹⁵

Besides, there was some arguments that, in 2005 the district of Kinabatangan had a population of about 85,000 and only about 25,000 were Malaysians.¹⁶ As at 23 December 2005 Sabah's prison population was 3052 and 70% were foreigners.¹⁷ The Minister of Health was reported in the Daily Express in its 9 July 2006 edition that hospitals in Sabah were receiving the most number of foreigners amounting to about 30%.¹⁸ According to the Minister, some of them forged identity cards to gain admission and leave without paying. They also account for many contagious and communicable diseases.¹⁹ It was also reported in the Daily Express on 18 November 2007 that 80% of the Likas maternity hospital beds were occupied by illegal immigrants.²⁰ In 2002, 34 foreigners were found to be in possession of Mykads. The Department confirmed that the cards were indeed genuine.²¹

¹²Section 36 of the Immigration Act 1959/63

¹³ Wan Shawaluddin Wan hassan, Marja Azlima Omar & Ramli Dollah (2010). The Illegal Immigrants in Sabah: Why Do They Come Back? *Borneo Research Journal*. Volume 4, 115-128. p.115-116

¹⁴Ibid, p.116

¹⁵Available at www.beritasemasa.com

¹⁶Simon Sipaun (2012). *Sabah, Land of Illegal Immigrants!*Sabah Kini. p.4

¹⁷Ibid

¹⁸Ibid

¹⁹Ibid

²⁰Ibid

²¹Ibid

5. MAJOR ISSUES IN SABAH

In Sabah, foreign workers have been the crucial elements in the economic development of Sabah. These workers mainly come from Indonesia and the Philippines. Besides that, Sabah also employed immigrants from many countries such as China, India and Pakistan. One could not ignore the massive economic contribution of the immigrants to the development of the state. Their involvement in construction, agriculture, timber, fisheries, and domestic sectors are inherently dominant. In addition, they are also significant players in unprofessional sector. Most of them are petty traders selling goods such as cigarettes, vegetables and fishes around market places. Therefore, we could say that their involvements are highly crucial such that the survival of most of these sectors is really dependent on the migrant communities. Without them, Sabah economic sectors would be seriously affected.²²

On the other hand, due to a regular increase in high school graduates among the residents in Sabah, workers with limited schooling are hard to find. Such workers, however, are an important part of the host country's economy as they are responsible for filling specific occupations like building homes, cleaning offices, farm works, and generally taking other low-paying or so-called "dirty" jobs that legal residents refuse. So local employers hire undocumented immigrants at a very low wage, perhaps taking into account their illegal status.²³ Albeit, depending heavily on foreign labors, significant presence of the illegal immigrants still raise up many concerns. In the recent years, large inflow of foreigners, particularly the illegal immigrants has been officially categorized as a security issue. Such categorization had prompted the government to undertake various measures aimed to flush out illegal immigrants. In the past, Ops Nyah operations were carried out nationwide to track down immigrants without proper documentations. Once arrested, they would be deported back to their country of origin.

Besides the operations, the government had also imposed stricter measures to punish not only the illegal immigrants but also those who employ them illegally. In August 2002, the amendment to the Immigration Act 1959/1963 came into force and under the amended Act, foreign workers without permits and anyone who employs or harbors them, may be fined up to RM10, 000.00, imprisoned for five years and sentenced to receive up to six strokes of canning²⁴ In spite of the measures, the illegal immigrants continue to come back to Sabah. The media reported that the illegal that were caught, caned and deported back to their home country would come back to the shores of Sabah within a matter of days or in some cases, the next day. Intriguingly, they would continue to return even after being arrested and deported for more than one time. From 1990-2007, an estimated of 360,000 illegal immigrants had been caught by the authorities and 280,000 of them

²² Kurus, B. Goddos, R. & Koh, R. (1999). "Migrant Labour Flows in the East ASEAN Region: Prospects and Challenges". *Borneo Review*, IX (2). P.156-186.

²³ "Free Cities: An Economic Alternative to Illegal Immigration," 21July2007, Threat Watch. Available online from <http://threatswatch.org/rapidrecon/2007/07/>

²⁴ Marja Azlima Omar. (2005). *Migration of Indonesians into Malaysia: Implications on Bilateral Relations*. Paper presented at the Proceeding of Seminar on StatecResponse to the Presence and Employment of Foreign Workers in Sabah, Kota Kinabalu.

were sent back home and the number of those who had returned for more than once is approximately 6,000.²⁵

It is also interesting to note that the majority of the immigrants from Indonesia would come back through legal means that is with proper travel documentation and entering through a recognized point of entry. It is believed that only less than nine per cent of the Indonesian immigrant would come back illegally. This is so because the Indonesians only has to pay Rp.75, 000 (equivalent to RM22) for the required document to enter back into Sabah. Since it is affordable for them to obtain the legal document, many of them prefer to come back through the legal channel. Such situation suggests that getting the needed document is a not an issue and this could explain why they choose to come back in the case of Indonesian immigrants. Nonetheless, these groups of immigrants would eventually become illegal as many of them tend to stay longer than permitted.²⁶

The proximity of Sabah to the Philippines and Indonesia is one the main factor that never fails to attract the immigrants to come back to Sabah. The distance is so near that it is almost impossible for the migrant not to come back to Sabah. It is said that from certain parts of Sabah it only takes two hours of boat ride to enter the Philippines's border. This is true if one were to take a boat ride from Tanjung Labian (one of an illegal entry point in Lahad Datu district) to either Tawi-Tawi Island or Bongao Island. Tawi-Tawi Island is said to be only 27 nautical miles from the Sabah shore. As for the Indonesian, they could take either the land or sea-route to slip back into Sabah. Since most of the Indonesians arrive from Sulawesi by ferry that docked at Nunukan Island, they will enter through Tawau from the island of Sebatik. By taking a boat ride from Sebatik Island, one could end up at the jetty right in the town of Tawau. As for the other route, illegal migrants would come back in Sabah through the border town of Kalabakan.²⁷

In fact, many of the deported illegal immigrants have families in Sabah. Thus, it is only natural for them to re-enter Sabah since they are the bread-winner of the family. Having relatives in Sabah is also one of the factors that perpetuate chain migration. Relatives, friends or acquaintances who have long settled in Sabah provides some kind of shelter and security for the new comers and the returnees. It was also revealed in a study that illegal migrants would look for an opportunity to marry the locals. That kind of marriage arrangement may be null and void, but they would still look forward for such an arrangement.²⁸

6. IMMIGRATION POLICY IN MALAYSIA: ACTION AND REACTION

Legalization was done in several stages, the first in 1985 following the signing of the Medan agreement with Indonesia in 1984. Two more legalization exercises were implemented between 1987 and 1989 to pave the way for full implementation of the foreign worker policy in 1992. More were carried out in the subsequent years as and when the government finds it necessary to do so. Amnesty

²⁵ The figure is based on Federal Task Force data

²⁶ Wan Shawaluddin Wan Hassan, M.A.O, Ramli Dollah (2010). "The Illegal Immigrants in Sabah, Why Do They Come Back". *Borneo Research Journal*, 4, p.115-128.

²⁷ Abd. Rahman Mad Ali. (2008). *Peristiwa Kalabakan: Sejarah dan Implikasinya*. Latihan Ilmiah B.A, UMS, Kota Kinabalu. p. 13

²⁸ Kamarulnizam Abdullah, & Shawaluddin Hassan. (2002). *The Security Implications of Illegal Immigrants in Saba. SSIR Occasional*. Bangi: UKM.p. 19

exercises (*Program Pengampunan*) were carried out periodically in 1996, 1997, 1998, 2002 and 2004-2005 at the state and/or national levels. Under these exercises illegal immigrants are given specific periods to leave the country without being charged for violating the immigration law. If they failed to do so within the given period they will be arrested, charged and deported. In January 1992, the government introduced an ongoing border control and surveillance exercise, the Ops Nyah 1 designed to curtail border intrusion by foreigners into Malaysia. This involved patrolling of land border by the army and the General Operation Force (GOF); and of the sea border by the Marine Operation Force (MOF) and the Malaysian Maritime Enforcement Agency (MMEA). The GOF was relieved of its border surveillance duties in 2010.²⁹

Not all irregular migrants participate in the legalization and amnesty exercises and border surveillance was not able to stop the clandestine entry totally. In order to deal with illegal immigrants who are in the country, the Ops Nyah 2 exercise was implemented in July 1992 with the aim of rooting them out and deporting them. The lead agency for this program is the Division for Enforcement in the Immigration Department with the assistance of other agencies such as the police, National Registration Department (NRD) and urban enforcement authorities. Since then, thousands of small scale operations targeted at specific groups of irregular migrants have been carried out annually. In 2010, for example 6,017 operations were implemented under different codenames depending on the target groups such as *Ops Sayang*, *Ops Sapu*, etc. Irregular migrants nabbed under the Ops Nyah 1 and Ops Nyah 2 are sent to the immigration holding centers (now known as MOHA depot) in the Peninsula, and in the case of Sabah, to the *Pusat Tahanan Sementara* (Temporary Detention Center) where they will be charged for the breach of immigration laws. Depending on the nature of their offence, they will be sentenced to a fine, jail and/or canning, and once the sentence is served, they will be deported.³⁰

7. POSSIBLE SOLUTIONS

Malaysia has adopted a restrictive, economic-driven policy based on the premise that foreign labour utilisation is temporary. As such policy measures change in tandem with the country's economic performance, and the terms and conditions of alien labour employment, i.e. the unskilled/semi-skilled group are tailored towards their short stay (they are not allowed to marry or take along family members and must return home after five years, etc.) and discourage integration. The policy emphasises control and regulation.³¹ The Malaysian government announced a "Hire Indonesians Last" policy and banned on new recruitment of Indonesians for all sectors except domestic maids in February 2002. In response to Malaysian policy toward Indonesian workers, there were protests outside the Malaysian embassy in Jakarta to criticize the Malaysian treatment of

²⁹ Gatidis, J, 2004, *Recruitment and hiring of foreign workers: The experience of Sawit Kinabalu*. In Azizah Kassim (ed.), ***Public Responses to Foreign Workers in Sabah***. Seminar Proceedings. Universiti Malaysia Sabah, Kota Kinabalu

³⁰ Azizah Kassim, 2002, *International Migration: Prospect and Challenges in Malaysia*. In Yaakub Johari & Chong Shu Yaw (eds.), *Reinventing Sabah: Global Challenges and Policy Responses*. Institute Development Studies (Sabah), Kota Kinabalu.

³¹ Azizah Kassim, 2005, *Filipino Refugees in Sabah: Ambiguous Position, Uncertain Future*. Paper presented at *UNHCR Roundtable on Migration and Refugees Issues*. United Nations High Commissioners for Refugees (UNHCR). Kuala Lumpur. 13 – 14 June.

Indonesian workers. Members of the Laskar Merah Putih burned the Malaysian flag outside the Malaysian embassy in Jakarta. Former National Assembly Speaker Amien Rias criticized Malaysia in Parliament and called for Jakarta to take action against its neighboring country. In turn, Malaysia responded with a stout diplomatic, defense, and later warned its citizens against traveling to Indonesia, and calling for the Indonesian government to take action against those who threatened to jeopardize bilateral relations with their protests.

In addition, Malaysia's decision to embark on a "Hire Indonesians Last" policy was undertaken without prior consultation or negotiation with Indonesia, and such unilateral action was not satisfied with the latter. Indonesian authorities were poorly prepared to deal with the chaotic situation that developed along parts of the country's border with Malaysia. Before the new immigration law took effect on 1 August 2002, in Kalimantan, the Indonesian province, which borders Malaysia's Sabah state, a transit town, Nunakan, turned into a heaving mass of human misery. Some 350,000 migrant workers and their families entered the town and camped in squalid condition. It was reported that as many as 85 people, including young children, died in Nunakan camps. On August 9, 2002, four Indonesians were sentenced to be fined, caned and jailed under the new law, which had mixed reactions in Indonesia.³²

At the same time, the respective government finger-pointed each other that the other has not been doing its part in the joint attempt to eradicate the problem of illegal immigration. The Malaysian government has continually highlighted Jakarta's apparent unwillingness to render maximum cooperation in repatriating Indonesian illegal immigrants. In its parts, Indonesia has argued that Malaysia has been insensitive and un-co-operative by demanding the immediate repatriation of undocumented Indonesian labor, knowing that Jakarta itself, was undergoing an even greater economic meltdown and could barely provide adequate holding and transportation facilities for returning workers. The period from the second half of 2004 through to the beginning of 2005 was another vulnerable time for Indonesian migrant workers in Malaysia because the Malaysian government had again carried out mass deportations of undocumented migrant workers in Malaysia based on its Immigration Act of 2002. Despite the Malaysian government's early warning in July 2004, no significant response came from the Indonesian government to anticipate the implementation of this policy. Malaysia and Indonesia signed MOU that gives permission to the employer to keep their employee's passport.³³ Law No.39/2004 on overseas placement and protection of Indonesian migrant workers has not made a significant impact on labor placement management. Either Malaysia-Indonesia MOU or Law No.39/2004 did not cover the issues of illegal Indonesian migrant workers.³⁴ Critics noted that the Indonesian government did little to assist returning unauthorized migrants. For the governments of Malaysia and Indonesia have assumed that deportation is the only way to settle the issue of illegal (undocumented) migrant worker. In its reality, however, deportation leaves many issues unresolved. Instead, every time a deportation takes place, tension increases in Indonesia-

³² Ford, Michele (2005) "Migrant Labor in Southeast Asia: Case Study of Indonesia", paper presented in Workshop on Migrant Labor in Southeast Asia, jointly organized by the Friedrich-Ebert-Stiftung (FES) Philippine Office and the Asia Research Institute of the National University of Singapore (NUS), in Singapore, on 25-27 August 2005

³³ See Malaysia, Singapore, Thailand, < http://migration.ucdavis.edu/mn/more.php?id=3103_0_3_0>, (Accessed on 21st March 2014)

³⁴ Hugo, Graeme (1993), "Indonesian Labor Migration to Malaysia: Trends and Policy Implications", *Southeast Asian Journal of Social Science*, 21 (1): 36-72.

Malaysia diplomatic relations. There is also great potential for violence and human rights violations, especially when civilian vigilante groups are mobilized. Massive accumulations of deportees at transit points also lead to many serious problems, as was the case in Nunukan.

The Malaysian government's approach to the issue of illegal immigrant workers draws attention to two key features of securitization theory. First, it is noticeable that illegal immigrations have been portrayed as an "existential threat" of sorts to Malaysian lifestyles and social order according to the "speech act" of government officials, including the Prime Minister, as well as at the behest of certain sectors of the general public. Second, it is also evident that resources have been mobilized to great extents as the government has embarked on "emergency measures" to address this problem. These measures have been manifested in attempts at drastic policies such as "Hire Immigrants Last", the intensification of border patrols, and formulation of stricter legislation against illegal workers and those who support them.³⁵ 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. One reason for the persistence of the problem lies in the fact that immigration laws have not been enforced diligently. Border patrols too, either unilateral or bilateral, have to be increased, and cooperation between Malaysian, Indonesian, and Philippines police and armed forces strengthened on this front.³⁶ In addition, together with the political aspects of the problem, diplomatic efforts will be required in the search for, and implementation of any prospective solutions³⁷. Better communication between Malaysia, Indonesia and Philippines is needed.

The most important thing in reducing the illegal immigration is by secures the border points of entry. There can be no effective immigration reform without first securing the borders and the coastline boundaries of the country. Securing the borders and coastlines will require additional frontline Border Patrol agents, the newest surveillance technology, fences or barriers in some locations, support from military units and a commitment of cooperation from federal, state and local governments.³⁸ Moreover, the government should enact selective immigration laws which allow just qualified and certified immigrants to enter their boundaries. In the example, French President Nicholas Sarkozy recently called for a selective immigration policy preferring to draw only skilled workers who have appropriate requirements. He said: "The law would give the government tools to promote immigration of choice and would mean immigrants would be better accepted by the rest of the society..."³⁹

All international borders and points of entry to the Sabah must be controlled absolutely, using whatever technology and manpower is available, so that illegal clandestine entry is eliminated – whether by land, sea or air. In addition, installation of the technology required to monitor all border crossing sites should be authorized and funded. Furthermore, employers would simply post jobs with the private employment agencies specifying location, duration, wages and other required information – just as they often do within the Sabah today. There are dozens of employment firms, staffing

³⁵ Liow, C.J. (2004). "Malaysia's Approach to Its Illegal Indonesian Migrant Labour Problem: Securitization, Politics or Catharsis?". IDSS-Ford Workshop on Non-Traditional Security in Asia, Singapore.

³⁶ Liow, C.J. (2003). "Malaysia's Indonesian Labor Migration". *Contemporary Southeast Asia*, 1(25), p.44-64.

³⁷ *Ibid*, p.15

³⁸ American Legion Res. 23, "Immigration Reform to Enhance National Security," National Executive Committee Oct 2010.

³⁹ Lieutenant Colonel Salaheddine Rezouni, *Illegal immigration: Causes, Consequences, and National Security Implications?*, p.20

companies, human resource companies and others who specialize in this field, and make their living putting employers and employees together. This would not change the current requirement that employers demonstrate attempts to hire local citizens before seeking non-citizen workers. Today, some employers hire illegals purposely to lower labor costs, but many do so without knowing whether the workers are legal or not. Forged documents are common and inexpensive, so even employers making a good-faith effort to hire legal residents are subject to potential fines and other penalties.⁴⁰

In addition, globalization has served to make immigration and border control an increasingly important priority for the state, affecting nearly all facets of security- geopolitical, economic and societal.⁴¹ Given the intense media attention paid to illegal migration, border control is often exclusively understood in terms of the movement of people, but inspection of international travelers is only one part of the inspection process. Sabah officers must also examine conveyances, including automobiles, ships. Furthermore, the entry- exit system collects data on arriving and departing foreign nationals in order to monitor compliance with immigration laws and detect individuals who overstay their visas. An automated biometric entry-exit system that would eventually incorporate the ability to keep track of foreigners during their stay in Sabah, this system supports the inspection process at all ports of entry by including biometric data collection to the previously existing border inspection.⁴²

The other way is the elimination or reduction of employment opportunities in this country for illegal immigrants. If the number of available jobs were reduced, there would be less incentive for illegals to remain in this country. There are native workers available to work in jobs currently being held by the illegal workforce, if they were given a decent wage.⁴³ Furthermore, the government should support comprehensive screening and background checks on all foreign visitors and a means to track their whereabouts and monitor their intentions while physically in Sabah. Releasing them in our society, as has often been the case in the past, is not in the best interest of our national security.

One resource has been overlooked in the efforts to find a solution for the overwhelming problem of illegal immigration. The hiring of an illegal immigrant is an illegal activity, and operating an illegal activity is subject to tax just like the operation of legal activities. The ordinary and necessary expenses of operating a business apply to both legal and illegal businesses.⁴⁴ Thus; illegal activities are still subject to tax.

⁴⁰ Refer to www.redcardsolution.com

⁴¹ Rudolph, Christopher. (2005). Sovereignty and Territorial Borders in a Global Age. *International Studies Review* 7 (1). Pp 1-20.

⁴² Koslowski, Rey. (2011). The Evolution of Border controls as a Mechanism to Prevent Illegal immigration. Washington, DC: Migration policy Institute. pp. 3-6

⁴³ American Legion Res. 302, "Strategy to Address Social, Economic and Population Problems Related to Illegal Immigration," 2010 National Convention.

⁴⁴ *Comm'r v. Sullivan*, 356 U.S. 27, 29 (1958) (holding payments made to employees as wages and to the landlord as rent are "ordinary and necessary expenses," and allowing those payments to be deducted unless the deduction is made to "avoid the consequence of violations of a law.").

8. CONCLUSION

Illegal immigration is a growing phenomena which could adversely affect the stability and security of both destination and transit countries if not controlled. The economic collapse of some source countries generated by the process of globalization combined with the existence of authoritarian regimes the main causes of instability and the rise of illegal immigration. Furthermore, the emergence or/and the reemergence of other factors emphasize this rate despite sophisticated control border technologies and strict immigration policies.

The consequences of illegal immigration are innumerable and affect the destination, transit, and source countries in a different manner. In destination countries, illegal immigrants take jobs that the residents refuse, and contribute in supporting the local economies, but criminal organizations and terrorist networks also may use them to reach their goals. On the other hand, illegal immigrants contribute to strengthening their original countries' economies, especially by transferring currencies and by investing back in many vital sectors.

With the existence of attractive pull factors, Sabah is and will always be the ultimate destination of illegal immigrants. Interestingly, Sabah's vibrant economy also heavily depends on the employment of foreign labour. Therefore, the illegal immigrants, the exercise taken to deport them and the returning of the deportees are the 'never ending story' of Sabah. Unless and until we deal with the matter wisely, such problems will be inherited by the future generations endlessly.

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