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Working Paper

Policy on Irregular Migrants in Malaysia: An Analysis of its Implementation and Effectiveness

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Policy on Irregular Migrants in Malaysia: An Analysis of its Implementation and Effectiveness

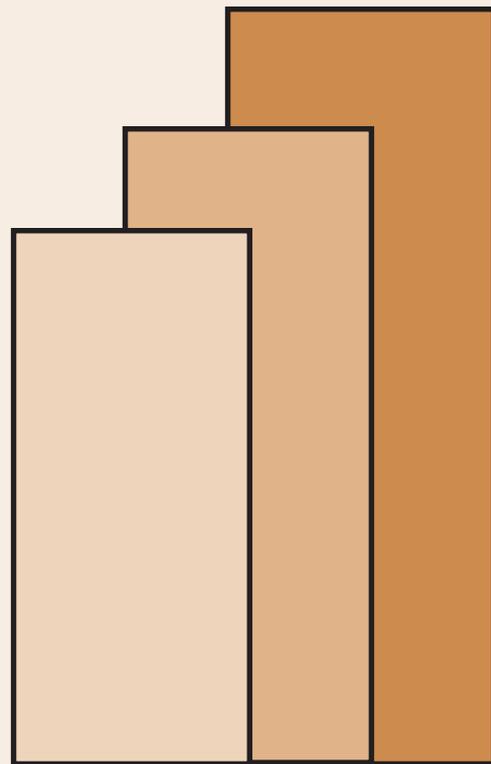
Azizah Kassim and Ragayah Haji Mat Zin

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Managing International Migration in ASEAN

**POLICY ON IRREGULAR MIGRANTS
IN MALAYSIA: AN ANALYSIS OF ITS
IMPLEMENTATION AND
EFFECTIVENESS**

Azizah Kassim
&
Ragayah Haji Mat Zin

**Final Project Report
2011**

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ABBREVIATIONS

ATIPSOM	Anti-Trafficking in Persons and Anti-smuggling of Migrants Act 2007
CCFWII	Cabinet Committee on Foreign Workers and Illegal Immigrants
DOI	Department of Immigrations
DOL	Department of Labour
GOF	General Operation Force
MEF	Malaysian Employers Federation
MMEA	Malaysia Maritime Enforcement Agency
MOF	Marine Operation Force
MOHA	Ministry of Home Affairs
MTUC	Malaysian Trades Union Congress
NGOs	Non Government Organisation
PAPA	<i>Persatuan Agensi Pembantu Rumah Asing</i> (Domestic Workers Recruitment Agencies Association)
RELA	Ikatan Relawan Rakyat Malaysia (The People's Volunteer Corps)
UNHCR	United Nations High Commissioner for Refugees
VOA	Visa on Arrival

ABSTRACT

In the early 1970s Malaysia began to be inundated by foreign workers, all of whom were irregular migrants. A decade later their uncontrolled entry left several negative consequences especially to the internal and border security of the country. To overcome the problems Malaysia introduced the foreign worker policy which became fully implemented in 1992. The policy has two objectives, firstly to regulate the inflow of foreign workers; and secondly, to stem the inflow of irregular migrant workers into the country. The implementation of the policy has led to a spectacular increase in the number of legally recruited migrant worker. However, it has not been able to curb the expansion of irregular migrants; instead their number has risen in parallel with that of legally recruited ones. This report is an attempt to examine why this is so. It is based on a research carried out in 2011 among 404 irregular migrants as respondents, comprising 340 who were apprehended and housed at seven of the 17 holding depot run by the government and 64 others who are still at large.

The report has five chapters. The first explains the objective, scope and methodology of research carried out; a conceptual framework; literature review; a brief account of the expansion of foreign population in the country and the policy on irregular migrants and its implementation. A socio-economic background of the respondents is given in Chapter 2, while chapter 3 describes and analyzed their inflow patterns elucidating, among others, the purpose of their entry, location of their first landing; routes taken, the role of formal agencies and social networks in making their way into Malaysia, securing jobs and initial adaptation in the country.

Chapter 4 focuses on irregular migrants who were apprehended and placed in the state run depot prior to deportation. It examines their interface with the Malaysian immigration, labor and criminal laws and how policy measures put in place impacted on their lives and work. It also provides an assessment of their understanding of Malaysia's policy measures on irregular migrant workers, their survival strategies in circumventing these measures and the possibility of their return to Malaysia after their deportation.

Chapter 5 provides an evaluation of the implementation of policy measures on irregular migrants. It concludes that, contrary to popular belief, the policy is not a total failure. It has a measure of success to the extent that it decelerated the expansion of irregular migrants to a manageable level and with it their many negative consequences. It also offers some proposals to be considered by the government in its attempt to curb the expansion of irregular migrants in the country.

Key words

Foreign workers, migrant workers, immigration, emigration, irregular migrants, illegal immigrants, legalization, amnesty, deportation, asylum seekers and refugees.

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Research on irregular migrants is both dangerous and difficult. The in-flow of irregular migrants is often linked to syndicates involved in human smuggling and trafficking. As such, it was extremely difficult to persuade irregular migrants to be our respondents and to co-operate in our research. That we are able to complete this research successfully is due to the help and assistance given to us by many stakeholders in the migrant workers industry – officials from the related government agencies and the private sector, as well as non-government and civil society organizations. In spite of their busy schedules many representatives from these agencies willingly accommodated us to discuss Malaysia's policy on irregular migrants and their attendant issues and problems from their different perspectives. Others contributed by providing the necessary data and statistics we required and by sharing with us their social networks which proved useful as extra sources of information for our research. We owe these kind individuals a debt of gratitude and would like to express our profound thanks to all of them especially to officers from the various departments in the Ministry of Home Affairs, the Ministry of Human Resources and the National Security Council in the Prime Minister's Department; officials of the Malaysian Trade Union Congress (MTUC); the Malaysian Employers' Federation (MEF), and the Malaysian Association of Foreign Worker Agencies (PAPA). Among those who deserve special mention are members of our Research Steering Committee as follows:

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3. Mr. Mohd Arif Baharom
Director, Special Federal Task Force (Sabah & Labuan)
Kota Kinabalu, Sabah.

4. Mr. Malai Fazlan Aswad Malai Mustapha
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Prof. Dr. Azizah Kassim & Prof. Dr. Ragayah Hj Mat Zin,
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Bangi, Selangor.

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Chapter 1

Policy on Irregular Migrants in Malaysia: An analysis of its Implementation and Effectiveness: Background to the Study

1.1 Introduction

The movements of people within and across regions and countries have been going on for centuries. Some moved voluntarily in search of better economic opportunities while others were forced to move out by forces beyond their control. The former are economic migrants while the latter are victims of human trafficking activities; asylum seekers escaping political persecution or protracted civil war in their country of origin; or people running away from natural disaster such as desertification, tsunami, volcanic eruptions or earthquake. The expansion of capitalism in the nineteenth and early twentieth paved the way for movement of millions of economic migrants across continents—from India, China, Japan and Europe to the newly “found” and colonized territories in America, Africa, South and Southeast Asia, Australia and New Zealand. Cross-country migration subsided after the Second World War and became more restricted in the ensuing years as newly formed independent nations formulated their own immigration laws and tightened border control. However, in the second half of the twentieth century, trans-national migration began to increase in volume and significance since 1970s affecting almost all countries worldwide. Today some countries assume the role of source countries, others as host, yet others play both roles simultaneously. According to United Nations (2006), in 2005 about 190 million people lived outside their country of origin. Of these over 70% were working or living in the developed nations in Europe, United States of America (USA), Canada, Australia and Japan. The rest were in developing countries. Trans-national migration as an instrument of globalization is both beneficial and problematic to the sending and receiving countries.

Among the developing countries, Malaysia is now one of the major host countries for trans-national migrants. In the last four decades there has been a rapid increase in the inflow of foreign nationals into Malaysia, both legally and otherwise. In the last population census in 2010, out of a population of 28.2 million, 8.2% are foreign nationals. In 2009, there were over 1.9

million legally recruited foreign workers in the country consisting over 16.5% of the Malaysian labor force. In addition there are large numbers of irregular migrant workers whose actual number cannot be ascertained. The Department of Immigration Malaysia estimates their number between 500,000 to 1.8 million in 2011, a figure highly contested by many quarters such as employers' associations and trade unions who believe their actual figure is much higher.

There are also many Malaysians living abroad either as students or workers. As Malaysia has no policy on sending workers abroad, many of them entered the host country on tourist visa, overstayed and sought employment. Many are engaged in the lower end jobs, the 4 D jobs (that is, the dirty, dangerous, difficult and demeaning jobs). Some are skilled workers engaged in professional, managerial and technical capacity. They comprise largely students who stayed on after completion of their college or university education in the host country. Malaysia has no comprehensive records on the number of its citizens living and working abroad. Estimates of their number vary between 700,000¹ and 800,000². The presence of Malaysian residents abroad can be gauged from studies made by foreign researchers such as Hugo (1992) in Australia and Iguchi (1992) for Japan. In addition there are also about 300,000 of Malaysians working in Singapore, many of whom commute daily from Johor Bharu to the republic. Thus Malaysia is both a host and source country in the trans-national labor network but it is the former role that is most challenging.

While the presence of foreign workers contribute significantly to Malaysia's economic development, their large number, especially as irregular migrants, have left a trail of negative impacts which are of grave concern to the public and the government. Since the early 1980's the presence of irregular migrants have been seen as a threat to border and internal security and it was this concern that compelled the government to formulate and implement the policy on foreign workers in 1992. However, in spite of the various measures taken to curb the expansion of irregular migrants, their number remains high. With the rise in their number, the problems associated with their presence also increased. These include the transgression of Malaysian borders by human smugglers, the influx of cheap labor that depressed wages and crowd out local workers, increase in the cases of labor exploitation and abuses, the spread of new diseases and

¹Figures given by the Deputy Prime Minister, Tan Sri Mahyuddin Yassin, on his visit to Australia in October 2009 (Utusan Malaysia 14 October 2010).

² See HRH Raja Nazrin Shah, 11 November, 2010.

the re-emergence of diseases once under control in Malaysia, to mention a few. Moreover, allegations of human rights abuses of immigrants in Malaysia by local and international non-government organizations have tarnished the country's image at the international stage. In 2009, the United States Committee on Refugees and Immigrants (USCRI) gave Malaysia a tier 3 rating and announced it as one of the worst places for immigrants. This project was undertaken in the light of such negative accounts of about migrants, specifically, irregular migrants in Malaysia.

The main concern of this study is to examine Malaysia's policy on irregular migrants, its implementation and effectiveness. Specifically the objectives are to:

- examine the development of Malaysia's policy on foreign workers particularly irregular migrants' workers, its governance, institutions and instrumentalities;
- explore the roles of the various state implementing agencies in the migration industry and the regulatory provisions of the policy itself to determine if it has some inherent weaknesses that can give rise to unintended negative outcomes;
- investigate other factors that contribute to the continued presence and expansion of irregular migrants in Malaysia such as the geography of Malaysian borders and the state of border control, the role of social networks in illegal recruitments given Malaysia's multi-ethnic population;
- identify some weaknesses in the foreign workers policy and its implementation and based on these suggestions will be made to the state to improve the policy;
- identify which sectors are more prone to employ irregular migrants, why and how are they able to escape prosecution, and detect which nationalities are most inclined to resort to illegal entry and irregular employment and how they strategize to avoid detection by the authorities.

1.2. **Concept, Methodology and Literature Review**

1.2.1 Defining Irregular Migrants

In the Malaysian context, the term "irregular migrants" is rarely used in official and academic discourses, as the popular term used is "illegal immigrant" or "illegal immigrant workers" if they

are employed. In this paper the phrases ‘illegal immigrants’ and ‘irregular migrants’ will be taken as synonymous. Illegal immigrants include the following:

- i. Foreign nationals who came clandestinely without any travel documents (also referred to as the undocumented);
- ii. Children born to foreign nationals in Malaysia and whose births have not been officially documented;
- iii. Foreign workers whose work passes have expired;
- iv. Pass abusers and contract defaulters;
- v. Over-stayers, who may or may not be in the workforce;
- vi. Foreign nationals in possession of false documents or holding genuine documents obtained fraudulently;
- vii. Asylum seekers and refugees as Malaysia is not a signatory to the Geneva Convention on Refugees 1951/New York Protocol 1967;
- viii. Refugees in Sabah who were granted permission for temporary stay under a special pass, the IMM13 (P), which is to be renewed annually. If the pass is not renewed, the refugees become illegal immigrants.

Thus, irregular migrants are heterogeneous in nature and an understanding of their various categories is important in the formulation of measures to combat their expansion.

1.2.2 Methodology

This study adopts a triangulation method that combines a quantitative (gathering information through a quantitative survey) and qualitative approach that is based on interviews and focus group discussion in analyzing the effectiveness of the policy on migrant workers. The study covers both East and Peninsula Malaysia where interviews were carried out in seven depots and several places at large between March to June 2011.

The survey covers 404 respondents, comprising 340 or 84.2% from the Ministry of Home Affairs (MHA) depot and 64 or 15.6% respondents from those at large. The former are those that have been apprehended and housed at the depot while waiting for deportation. There are 17 such

depot in Malaysia³ (see Figure 2.1a and 2.1b) and permission was given to conduct interviews in seven of them, that is Belantik, KLIA, Lenggeng, Papar, Semuja, Pekan Nenas and Ajil.

Interviews were also carried out with various government agencies in charge of keeping out, controlling and managing *PATI* and foreign workers recruiting agencies in order to understand various parties' roles in handling this issue. The interviews were carried out with Rear Admiral Ahmad Puzi of the Malaysian Maritime Enforcement Agency (MMEA), Dato' Isa Bin Munip, Senior Assistant Commissioner II, Marine Operations Force, Malaysia, Dato' Misri bin Barham, Director, Federal Special Task Force (Sabah/Labuan) and Datu Robert Lian, Director, Department of Immigration, Sarawak. These interviews were mainly to find out how the respective agencies play their roles in controlling the infiltration by illegal foreign workers. At the same time, we also interviewed Mr. Jeffrey Foo, Vice President of Persatuan Agensi Pembantu Rumah (PAPA) or Association of Domestic Maids Agency, to find out the procedure of recruiting maids, the costs incurred by selected agents in the countries of origin and in Malaysia and the salary/pay deductions made to the salaries of the maids to cover these costs.

Focus group discussions were also conducted with various relevant parties. These include:

- the Ministry of Home Affairs (MHA) depot officers at the seven depot visited;
- relevant officers from other ministries;
- the project's steering committee members; and
- legal and illegal immigrants.

At the same time, two national seminars were held to seek inputs from the government agencies, trade union leaders, employers' representatives, non-governmental organizations, researchers and students. The topic of the first seminar was *Pekerja Asing dan Pendatang Asing Tanpa Izin Di Malaysia: Dasar, Pelaksanaan Serta Respon Perekrut, Majikan dan Pekerja* (Foreign Workers and Illegal Migrants in Malaysia: Policy, Implementation and the Response of Recruiters, Employers and Workers). This Seminar aimed at providing a platform for the various

³ There are eleven MHA depots in the Peninsula, two in Sarawak and four *Pusat Tahanan Sementara* in Sabah.

relevant parties to discuss the issues and problems created by foreign workers, especially by the irregular migrants or *Pendatang Asing Tanpa Izin (PATI)*, to the policy makers and implementers. It also sought the views of employers' and workers' representatives, recruiters of foreign workers, researchers and other parties who are interested in this issue. Information from this seminar would be used when the two researchers write up their research report.

The second Seminar was on Policy on Irregular Migrants in Malaysia: An Analysis of Its Implementation and Effectiveness held at Palm Garden Hotel, Putrajaya on 9 June 2011. The two researchers have undertaken an interim survey of 355 illegal immigrants in five MHA depot in the Peninsula, Sabah and Sarawak and those still at large, to shed light on their socio-economic status, their inflow patterns, how and why they became irregular migrants, their confrontations with the authorities and how they lead their lives "outside" the law. The objective of this second seminar is mainly to share part of the research findings to solicit comments (and criticisms) from the selected commentators and the seminar participants. Two groups of commentators were invited to give critiques and suggestions for improving the papers presented by Prof. Azizah and Prof. Ragayah. For the first paper, Irregular Migrants in Malaysia: Their Inflow Patterns & Socio-Economic Status, the commentators were Mr. Steve Wong, Institute of Strategic and International Studies (ISIS) Malaysia; Mr. Mohamed Fauzi Ismail, Deputy Director, Enforcement Division, Immigration Department, Putrajaya; Laksamana Maritim Ahmad Puzi, Malaysian Maritime Enforcement Agency; and Dato' Isa bin Munir, Senior Assistant Commissioner II, Marine Operations Force, Malaysia. The second paper, Implications of Research Findings on Policy Implementation: Some Suggestions for Consideration, was commented upon by Prof. Dato' Abdul Rahman Embong, IKMAS; Dato' Mohamad Asri bin Yusof, Director General, Depot Management Division, Ministry of Home Affairs; Tuan Haji Abdul Wahap bin Abdul Hamid, Assistant Secretary, Foreign Workers Division, Ministry of Home Affairs; and Supt. Anuar Ahmad, External Intelligence Special Branch, Royal Malaysia Police.

However, before proceeding to the above presentations and to complement the first Seminar presentations, the participants heard two presentations on the experience of Sabah and Sarawak authorities. The first is by Mr. Malai Fazlan Aswad bin Malai Mustapha from the

Federal Special Task Force (Sabah/Labuan) on Federal Special Task Force (S/L): It's Role in Managing Illegal Immigrants in Sabah and Labuan. Datu Robert Lian, Director, Department of Immigration, Sarawak presented the paper on Managing Foreign Workers and Illegal Immigrants in Sarawak.

Holding centers or immigration depot (now MHA depot) were established to accommodate irregular migrants who were apprehended. There are now (2011) 17 such depot in the various states in Malaysia that can accommodate about 11,000 inmates at any one time (see **Table 1.1** and **Figure 1.1a** and **1.1b**).

Table 1.1: Capacity of Immigration Detention Centers (Nov. 2007)

	Depot	Capacity
1.	Juru (Penang)	550
2.	Langkap (Perak)	700
3.	Semenyih (Selangor)	1,300
4.	Lenggeng (N Sembilan)	1,250
5	MacapUmboo (Melaka)	400
6	Kemayan (Pahang)	400
7.	PekanNenas (Johor)	700
8.	Tanah Merah (Kelantan)	500
9.	Semuja (Sarawak)	550
10.	Ajil (Trengganu)	500
11.	Belantik (Kedah)	350
12.	KLIA	600
13.	Sandakan (Sabah)	1,000
14	Tawau (Sabah)	800
15	Menggatal (Sabah)	1,800
	Total	11,400

Source: Special Briefing by the Director of Enforcement, Immigration Department at SUHAKAM office, Kuala Lumpur, 18 December 2007.

The distribution of the respondents by interview location and gender is shown in **Table 1.2**. The largest number were interviewed at the Ministry of Home Affairs (MHA) Depot

Belantik with 58 respondents or 14.4%, followed by MHA Depot KLIA (57 respondents or 14.1%), MHA Depot Semuja (53 respondents or 13.1%), MHA Depot Papar and MHA Depot Ajil (49 respondents or 12.1% each). The respondents are evenly distributed in terms of gender at MHA Depot Belantik and MHA Depot Lenggeng as well as in Kajang, Selangor; and almost balanced at MHA Depot Papar and in Kota Kinabalu. No males were interviewed in Pekan Nenas because the Depot was being renovated and the male detainees were placed in the lock-ups elsewhere in Johor. On the other hand, there were disproportionately more males at Semuja compared to the females.

Table 1.2: Distribution of Respondents by Interview Location and Gender

Interview Location		Male	%	Female	%	Number of Respondents	%
Johor	MHA Depot Pekan Nenas	0	0.0	22	14.1	22	5.4
Kedah	MHA Depot Belantik	29	11.7	29	18.6	58	14.4
Negeri Sembilan	MHA Depot Lenggeng	26	10.5	26	16.7	52	12.9
Sabah	MHA Depot Papar	26	10.5	23	14.7	49	12.1
	Kota Kinabalu	16	6.5	15	9.6	29	7.2
	Tawau	9	3.6	5	3.2	16	4.0
Selangor	Kajang	9	3.6	9	5.8	18	4.5
	MHA Depot KLIA	41	16.5	16	10.3	57	14.1
	Gombak	1	0.4	0	0.0	1	0.2
Sarawak	MHA Depot Semuja	47	19.0	6	3.8	53	13.1
Terengganu	MHA Depot Ajil	44	17.7	5	3.2	49	12.1
Total		248	100.0	156	100.0	404	100.0

Source: Survey.

1.2.3 Limitations of the Study

As far as secondary data on legal migrants are concerned, the various departments have been most cooperative although they may take some time to compile the data. However, they have only estimates of the number of irregular migrants. As such, the current survey is not representative because it is not randomly selected as we do not know the exact total population of the irregular migrants. Moreover, it is difficult to get the cooperation of those not under detention as they are afraid we may betray their presence to the authorities. So the interviews were done only with those who are willing to cooperate.

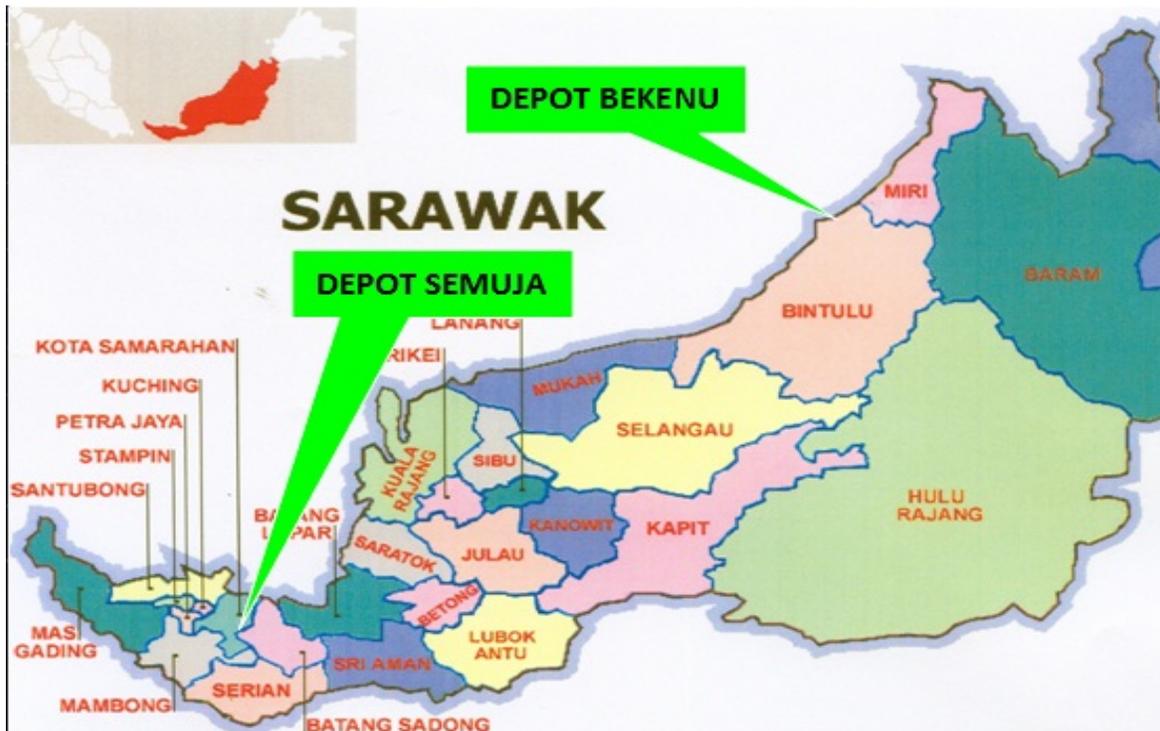
Illegal immigrants are very often associated with human smuggling and human trafficking involving cross-border syndicates and crimes. Our research was considered quite a dangerous enterprise that limits our access to the respondents. As such, we mostly interview those in the depots where we were allowed by the authority limited access to the respondents because some of the detainees were criminals while others harbored all sorts of communicable diseases. Entry to these depots is severely restricted due to the dangerous situation. During our fieldwork, there was a breakout at the Lenggeng Depot just a few days after we had done our interviews⁴. Hence, the sample was subject to the number and location that we were allowed to interview as well as their rules and regulations. We tried to get proportionate representation of their nationalities and gender, but also ensure that all nationalities at each particular depot are represented. Problems encountered also include language limitation since some of the respondents hardly speak the Malay language or English, hence restricting the choice of respondents to those who can communicate or if someone can act as translators, plus the tight time constraint we had in executing the survey.

⁴ It was reported in the Malay daily *Utusan Malaysia* 5 April that there was a riot and breakout of illegal immigrants on Monday night 4 April 2011 at the Lenggeng Depot, where 109 detainees escaped (many were rearrested). They also burned down a building. We did our interviews there on 29 March.

Figure 1.1a: Location of MOHA Depot in Peninsular Malaysia



Figure 1.1b: Location of MOHA Depot in Sabah & Sarawak



1.2.4 Literature Review

Irregular migrants or illegal immigrants as they are officially referred to in Malaysia comprise both irregular economic migrants and refugees. The latter's presence is irregular as they have infiltrated into the country and as Malaysia has not ratified the Geneva Convention on Refugees 1952, it is not obliged to accommodate the refugees. Hence, their presence in Malaysia is considered irregular in the same manner as the illegal immigrants

Irregular migrants began to make their presence felt in Malaysia in the early seventies with the infiltration into Sabah of thousands of Filipinos asylum seekers escaping political turmoil in the Mindanao region in Southern Philippines. This was followed by the entry of a large number of Vietnamese boat people in the mid seventies and a small number of Cambodians fleeing civil war in their respective countries. The early seventies also mark the clandestine entry of economic migrants, but due to the covert nature of their presence and small number, they escaped public attention. It was the presence of the asylum seekers whose number was large which was the focus of public attention and which caused much political debate. Given this background, it was understandable that most of the early studies on irregular migrants are on asylum seekers and refugees. The earliest works on refugees was that of Yahya Ismail (1979) on the problems related to the entry of the Vietnamese refugees into Peninsula Malaysia. This was followed by Dorall (1980) on the Filipino refugees in Sabah. Subsequent works on the refugees include that of Bahrin & Rachagan (1984); Noraini Zulkifli (1984), Parveen Singh (1988) and Doral (1988 & 1989). Bahrin & Rachagan examined the entry of the "displaced" Filipinos into Sabah and the basis of their accommodation by the then head of state, the responses of various ethnic groups in Sabah and the implications of the entry of the Filipinos on the politics of Sabah. Noraini Zulkifli and Praveen Singh, both law students at a local university, focused their studies on the Vietnamese refugees. The former confined her study to the Vietnamese refugees warehoused at the Sungai Besi Holding Center in the state of Selangor, Malaysia, while the latter centered on those who remained in Pulau Bidong, Terengganu, the site of their first arrival.

By the 1980's, the number of illegal economic migrants in Malaysia began to rise and with it the various attendant problems. The majority were Indonesians. As their number increased, many moved to the urban areas where they worked in construction and the service sector and in petty trading. This made them conspicuous, which in turn evoked negative

responses from certain sections of the public who saw them as a threat economically and to security. The result is a growing interest in the study of illegal economic migrants in the following decade. In the first half of 1990's many works on both refugees and economic migrants emerged. Among these are those of Rachagan (1991), Kalsum Mohd Nur (1990/91), David (1993), and Zahrinan (1993/94). Most of these studies were by final year students for their graduation exercises.

Illegal economic migrants as the sole focus of study began only in the second half of the decade as represented by the works of Azizah Kassim (1995 & 1997), Sanmuga (1996), Fadil Nurdin & Tutty Tohri (1997). Since then the issue of illegal economic migrants have been the favorite topic for many student thesis at the both graduate and post graduate levels. In addition, illegal economic migrants have also attracted the attention of local and foreign academics, policy makers, non government organizations and independent researchers as evidenced by the substantial number of papers presented at seminars, conferences and workshops. Some of these are later published. Among published works in the recent decade are Liow (2003), Nor Azizan (2004), Asis (2004), Sadiq (2005), Azizah Kassim (2005), Wong & Afrizal and Kanapthy (2008).

The issue of illegal immigrants have been studied and analyzed from various disciplinary approaches. Liow (2003) studied the Indonesian illegal immigrants in Malaysia from the perspective of international relations. He explored the evolution of the 'illegal Indonesian migrant worker' problem in Malaysia, the elusiveness of a viable solution and how the issue of illegal immigrants has become an obstacle to a better Malaysia-Indonesia relation. A similar approach was adopted by Nor Azizan Idris (2004). He highlighted the problems caused by the presence of the Indonesian illegal immigrants and the various measures taken by the Malaysian government to curb their expansion and how the implementation of some of these measures (such as, the canning of illegal migrants) were blown up by the Indonesian media, eliciting much resentment and anger from the Indonesian public and denting Malaysia-Indonesia relations. The author emphasized that the problem of the illegal workers must be resolved in order to improve relations between the two countries and presented some policy options for both the source country and Malaysia.

A sociological approach in the study of irregular migrants in Malaysia is seen in the paper by Azizah Kassim (2005). The author focused on Sabah where the number of illegal migrants is highest. The objective of the paper is to account for the continued presence of the “illegal immigrants” in spite of various measures taken by the Malaysian authorities to stem their inflow and expansion. It explained the many ways in which foreigners can become “illegal immigrants” and examined their survival strategies and the dynamics of their relationship with the authorities and other stakeholders, in particular, the government. The author concluded that a proper understanding of their survival strategies is necessary to formulate an effective policy on the irregular migrants.

A political science approach is adopted by Kamal Sadiq in his paper on irregular migrants in Sabah. Based on his research on the Filipinos in Sabah, the author sought to explain the conflict over illegal immigration into Malaysia and how the state encouraged illegal immigration in spite of opposition from its citizens. In highlighting the case of the Filipinos, Sadiq challenged the prevailing theories in immigration and citizenship that bestow on the state the function of monitoring, controlling and restricting illegal immigrants’ access to citizenship. He argued that the loosely institutionalized nature of citizenship enabled illegal immigrants to get into the electoral rolls and gain access to the rights of citizens in Sabah.

Studies concentrating solely on policy regarding irregular migrants in Malaysia are few and far in between. Perhaps the earliest work on the subject is that of Azizah Kassim (1997) which provided an account of the changing Malaysian state responses to illegal immigrants in the light of various problems associated with their presence in the early eighties. The author explained the steps taken by the state to stem the flow and expansion of irregular migrants and the problems faced by the government in its implementation. The same author attempted to explain the persistence of the illegal migrants in two later papers (Azizah Kassim 2007 & 2008). By unpacking and scrutinizing the policy on migrant workers the writer concluded that one major factor contributing to the continued presence of irregular migrant workers is the inherent weakness of the policy itself. Another paper on policy is by Kanapathy (2008a) that emphasized on Malaysia’s experience in controlling irregular migration, that is the process of irregular entry not on the irregular migrants *per se*. She gave an outline of the Malaysian government policy to stem irregular migrants which she divided into three phases based on the types of policy

measures taken and policy instruments adopted. According to her, the first phase was marked by the lack of action against irregular workers, the second with the introduction of policy instruments to encourage legal recruitment and to curtail illegal in-migration. The third phase, which began in 1997 on the eve of the Asian financial crisis, saw the introduction of tougher measures as irregular migrants was then perceived as a social and security threat. The author attributed the persistent presence of the irregular migrants to several factors, including lower transaction costs of migration, greater freedom and flexibility to work with any employer and any job, the low pay that irregular migrants are willing to accept because of their the development of migration networks, ineffectiveness of enforcement and the existence of ready secondary job market for irregular migrants.

Most of the previous studies are on the illegal immigrants highlighting the problems they face and caused, the strategies they adopt to circumvent state policy measures and the impact of their presence on diplomatic relations and on security and national politics. These works are usually fragmented. Some focus on illegal immigrants in a specific sector only, for example, the study by Halim & Rashid (1987) on illegal immigrants in construction. Others concentrate on irregular migrants from a specific country (such as Indonesian irregular migrants only) or, on illegal migrants in a specific state, such as the work of Sadiq (2005) and Azizah (2005) as mentioned above. The majority of these works are based on secondary sources. Few have attempted to elicit information from the irregular migrants themselves to find out whether or not they know of the Malaysian policy on migrant workers and the consequences of being irregular, and if they do know the policy, why they chose to come and work illegally; or why they came legally, overstayed and work. If they did not, how did they access labor recruiters? Were they trafficked or smuggled into the country? For the undocumented, some have identified their routes and points of entry and explain why one route is preferred over others. It is often argued that economic reason is the root cause of their irregularity, but few writers have provided concrete evidence to support this contention.

A few scholars have attempted to examine the policy on irregular migrants, to identify its weaknesses and strength and the various problems in its implementation that has resulted in the continued presence of irregular migrants in the country. These are mainly macro level analysis that excluded the views and responses of the irregular migrants to the policy. For a better

understanding of the effectiveness of the policy it is necessary to combine both macro and micro level analysis and to include irregular migrants in the study. This is the main objective of our proposed research.

1.3 Labor Inflow and the Expansion of Irregular Migrants: An Overview.

Economic development in Malaysia led to a labor shortage, initially in agriculture and forestry that later spread to other sectors, as more Malaysians gained access to formal education and employment and rejecting the three 3 D (dirty, dangerous, degrading) jobs. The inflow was also induced by external factors such as the relatively slow economic development in many of the neighboring countries as well as political instability in the southern Philippines which led to inflow of asylum seekers into Sabah; and in Vietnam, Cambodia, Aceh, southern Thailand and Myanmar which caused many to flee and sought refuge elsewhere, including Malaysia. Based on the Malaysian National Census carried out every ten years, there has been a steady increase in the number of foreign population since 1970. There were only around 764,400 foreign nationals in Malaysia in 1970 accounting for 7% of the population. In 1980 their number declined, however in the next two decades, it started to rise again reaching a total of over 2.123 million or 7.3% of the population in 2010 (see Figure 1.2). Most of the increase is found in Sabah and the Peninsula.

In the seventies, Malaysia had no mechanisms for legal recruitment and employment of low-skilled foreign workers and many arrived without proper documents. The majority was from Indonesia with a few from the Philippines and Thailand and they worked mainly in the agricultural sector. Within a decade, their number rose to about half a million and as many moved to the urban areas they became more visible. Soon they were competing with the locals for affordable housing, social services, public amenities and economic opportunities. They began to be seen as a threat to border and internal security. This compelled the government to devise a policy on migrant workers which was implemented in 1992. The policy is to encourage legal recruitment of foreign workers and to stem the expansion of irregular migrants. Consequently, the number of legally recruited foreign workers increased (see Figure 1.3), but that of irregular migrants did not decline as expected but continues to rise in tandem with legal migrant workers. It is impossible to estimate their number accurately, but an indication can be gauged from the

Figure 1.2: Increase in Foreign Population in Malaysia (1970-2010)

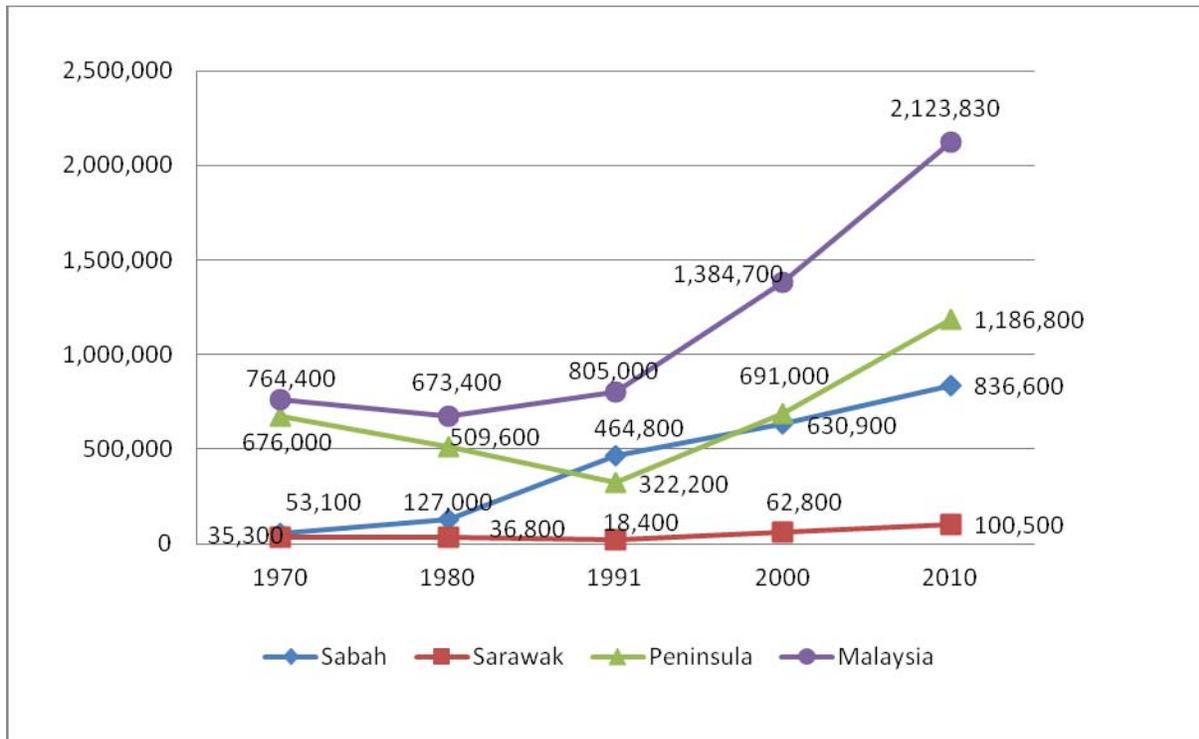
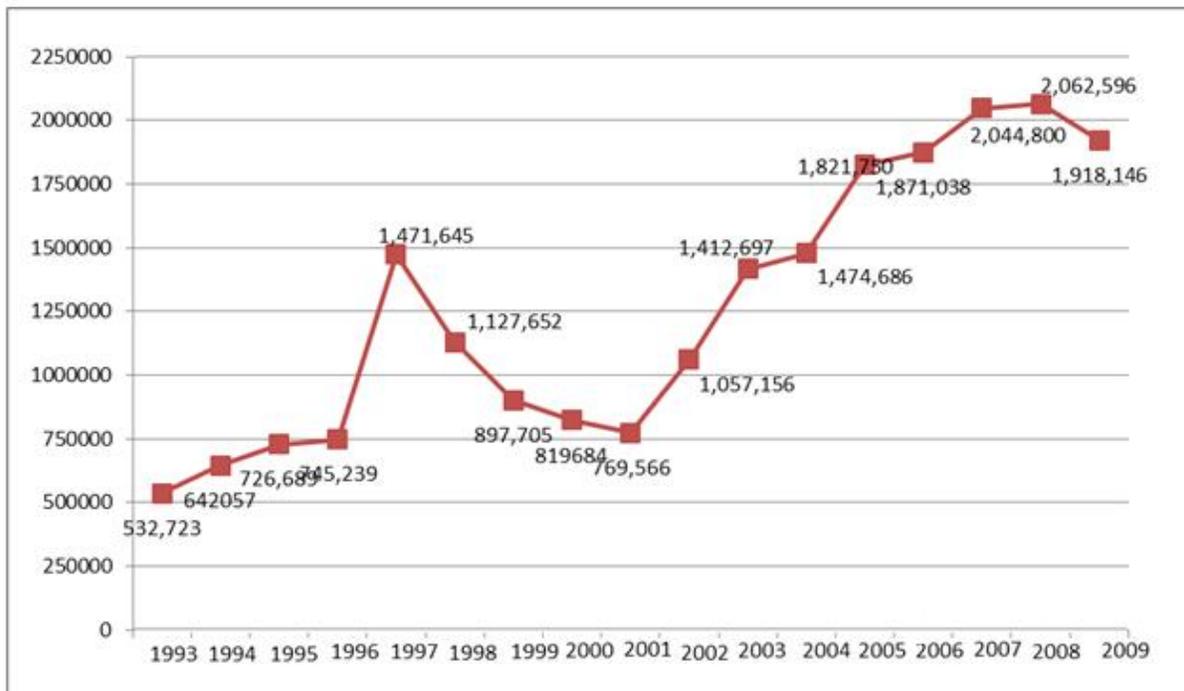


Figure 1.3: Number of Foreign Workers in Malaysia (1993-2009)



results of many exercises carried out to stem their inflow. Between 1993 and 2010, over 4.1 million irregular migrants have been identified (see Table 1.3) and in 2010, official sources put their number between 500,000 and 1.9 million. This may be an underestimate, as 1.3 million illegal immigrants have registered under the current registration exercises (July 2011- January 2012) and the Ministry of Home Affairs estimates that two million more have yet to register.

Table 1.3: Identified Irregular Migrants in Malaysia (1992-2010)

Year	Ops Nyah1	Ops Nyah2 /Ops Tegas	Legalization	Amnesty	Runaways	Total
1992			483,784			483,784
1996			554,941			554,941
1997			413,812			413,812
1998				187,486		187,486
2000					72,528	72,528
2002				439,727		439,727
2004, Oct - Feb, '05				398,758		398,758
2006	129,746	909,473				1,039,219#
2007				175,282		175,282
2008, (31 Aug.-31 Oct -Phase1)*				161,747		161,747*
2009 (27July 31Oct.- Phase 2)*				151,090		151,090*
2010					30,000	30,000
Total	129,746	909,473	1,452,537	1,514,090	102,528	4,108,374

Sources: Azizah Kassim, 2008 and unpublished data from the Special Federal Task Force Sabah (2011), Ministry of Human Resources (2011) & Department of Immigration, Putrajaya, 2010.

(Notes: 1. Ops Nyah 1 is for border control; Ops Nyah/Ops Tegas is to root out irregular migrants already in Malaysia. 2. Figures for legalization & amnesty include dependents of migrant workers. * For Sabah only.

1.4 Policy on Irregular Migrants in Malaysia.

For over a decade from the early 1970s, the entry of foreign workers into Malaysia was unregulated. Clandestine entry by foreign workers and their family members was the norm and they were engaged illegally by employers to work mainly in the rural and agricultural sectors. As their number grew, many moved to the urban areas to take up jobs in construction and services and this made their presence conspicuous to the general public. By the early 1980s their number

had grown to an estimate of around half a million. Soon they were competing with the local urban poor for the limited resources, especially for affordable housing, paid employment, social services, public amenities and self employment opportunities mainly in petty trading. Their large presence and accompanying problems became exacerbated with the involvement of a few in criminal activities and in illegal land occupation for housing purpose in the urban areas, particularly in and around Kuala Lumpur, the Malaysian capital city, where most of them were concentrated. This evoked a sense of resentment against them from the general public and politicians and soon the issue of illegal immigrants found itself in the national political agenda (see among others Dorall 1986 & Azizah Kassim 1987). Illegal immigrants began to be viewed not just as a threat to border security but a serious challenge to internal political stability. In an attempt to come to grips with the problems caused by the presence and employment of illegal immigrants, steps were taken by the government to formulate a foreign worker policy in the early 1980's.

The policy, which began as a security initiative, has two inter-related objectives of to encouraging legal recruitment of foreign workers and combating the expansion of illegal immigrants/workers in the country. Many state institutions are involved in the implementation of the policy. The Cabinet Committee on Foreign Workers and Illegal Immigrants (CCFWII)⁵ is the main body responsible for the formulation of policy measures. This high powered committee is chaired by the Deputy Prime Minister and its members comprise representatives from 13 related Ministries⁶. The implementing agencies are many departments in the Ministry of Home Affairs, particularly the Department of Immigration, as well as the Department of Labor in the Ministry of Human Resources,

The CCFWII came up with many policy measures to address the issue of legal recruitment and to curb the expansion of illegal immigrants. These were done in stages in

⁵ This Committee was formally known as Cabinet Committee for Foreign Workers. It was renamed in 2009 to reflect its true functions.

⁶ These ministries include the Ministry of Home Affairs, Ministry of Human Resources, Ministry of Public Works, Ministry of International Trade and Industry, Ministry of Foreign Affairs, Ministry of Agriculture and Agro-Based Industry, Ministry of Finance, Ministry of Plantation Industries and Commodities, Ministry of Rural and Regional Development, Ministry of Health, and the Ministry of Tourism.

response to specific socio-economic, political and security problems that arose over the years. With regards to the illegal immigrants, the last two decades saw the introduction of a series of measures. Some of the major ones are as follows:

- i. Regularization or regularization of illegal immigrants.
- ii. Amnesty exercises.
- iii. Introduction of an on-going border surveillance and control exercise called the Ops Nyah 1 in January 1992.
- iv. Introduction of the Ops Nyah 2 in July 1992 to root out irregular migrants already in Malaysia.
- v. Amendment to the Immigration Act 1959/63 and Passport Act 1969 in 1998 and in 2002.
- vi. The establishment of a special court, the Mahkamah PATI (Special Court for Illegal Immigrants) at the end of 2005.
- vii. The application of the The Anti-trafficking in Persons and Smuggling of Migrants Act 2007 (ATIPSOM) to forced labor in 2009.
- viii. Implementation of the 6P program aimed, among others, at combating the expansion of illegal immigrants in the country.

The policy on irregular migrants is managed by separate agencies for Sabah and the rest of the country. In Sabah and Labuan where the problems associated with irregular migrants are acute, it is managed by the Federal Special Task Force for Sabah & Labuan, under the National Security Council in the Prime Minister's Department. In the Peninsula and Sarawak it is under the purview of the Department of Immigration in the Ministry of Home Affairs.

The foreign worker policy was fully implemented in early 1992 and legislations with regards to illegal immigrants and illegal workers are the Immigration Act 1959/1966 and Passport Act 1966, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, and the penal code. Since the inception of the policy, Malaysia's stand on the issue of irregular

migrants remains constant until 2009. Irregular migrants working and residing in the country were and are still seen as a security threat and as “public enemy number 2” (Immigration Department, 2005 & Mohd. Zamberi, 2011).⁷ They have no basic rights as residents or workers and they must be rounded up, charged in court, sentenced and once they served their sentence, they will be deported.

In mid-2009, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act, 2007 (ATIPSOM)⁸ was extended to cover forced labor. This has important implications on the status of irregular migrants as all cases related to the breaching of the Immigration Act by foreign nationals are now to be investigated first under ATIPSOM. Only when it is proven that the accused are not victims of human trafficking or smuggling can they be investigated under the immigration law. Victims are not “arrested”, but “rescued” and sent to any one of the five shelter homes (known also as places of refuge) run by the Ministry of Women, Family and Community Development (shelters for children and women) and by the Ministry of Home Affairs, for male shelters. In these shelters they will be protected and rehabilitated while their perpetrators are charged in court. In cases where the victims of forced labor have not been paid by their employers, the victims can lodge a report with the Department of Labor that will help them claim their wages. They will be sent home once their case is disposed of, usually within a period of three months.

1.4.1 Policy Implementation

Legalization was done in 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 workers policy in 1992. More were carried out in the subsequent years as and when the government finds it necessary to do so.

Amnesty 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

⁷ Public enemy number one is the scourge of drug addiction.

⁸ The Act was initially referred to as Anti-Trafficking Act 2007. It was amended in November, 2010 to include anti-smuggling.

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 on-going 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.

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 are 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)⁹ 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.

In spite of the efforts taken by the authorities to stem the expansion of irregular migrants, their number continued to increase. By the mid-1990s, their number remained high indicating that available measures then were far from effective. Other strategies were needed and this time attention was focused on the provisions in the Immigration Act. There was a consensus among

⁹ There are eleven MHA depots in the Peninsula, two in Sarawak and four Pusat Tahanan Sementara (PTS) in Sabah.

policy makers then that available provisions in the Act were inadequate to deter unauthorized entry and stay in Malaysia. The Act was amended to increase the penalty for breaching the immigration laws. The fines and jail sentence for such violations were increased and those found guilty were also subjected to six strokes of canning. However, canning is not applicable to men above 55 years, women and children.

Another amendment to the immigration Act was made in 2002 following complaints from many quarters, especially human rights groups, that provisions in the Act punished only the illegal immigrants and not those who abetted their presence and employment. New provisions were introduced to provide sanctions against trafficking, harboring, employing of illegal immigrants and for falsification of official documents (see Section Sect. 55A, 55B, 55C & 55E of the Act).

Even with the various measures in place, enforcement officers were still unable to perform their task effectively as cases of illegal immigrants in the Malaysian courts cannot be disposed of fast enough due to a huge backlog of court cases. To overcome this setback, the government established the Special Court for Illegal Immigrants or *Mahkamah PATI* in late 2005. The courts which are located within or close to the holding centers started operations in early 2006. Court hearings are held as and when necessary and this has facilitated quick disposal of their cases and early deportation (see Chapter 4). As the number of apprehended irregular migrants increased, overcrowding became a big problem in many of the depot. In addition, the large number of arrests made overstretched the administrative and financial capacity of the Immigration Department. In 2010, the task of administering the depot was handed over to a specially created department, the *Jabatan Depot Kementerian Dalam Negeri* or *Jabatan KDN Depot* for short (Lit: Department of Ministry of Home Affairs Depot). Under the new department steps were taken to improve their holding capacity and basic amenities in the depot through massive renovations. There are also plans to build more buildings in future.

1.4.2 Challenges in Policy Implementations

The legalization and amnesty exercises are problematic in some ways. Legalization is aimed at irregular migrant workers only, and does not take into consideration their family members who

may be with them. Moreover, in order to be legalized, a worker has to get a work permit by paying the annual levy as well as visa and processing fees which vary between RM445 per annum for domestic workers to over RM2,000 for those in services (see Table 1.4 & 1.5). Before

Table 1.4
Cost of Levy for Foreign Workers in the Peninsula, Sabah and Sarawak

No.	Sectors & Jobs	Pen. Malaysia	Sabah & Sarawak
1	Manufacturing	RM1,200.00	RM960.00
2	Construction	RM1,200.00	RM960.00
3	Plantation	RM540.00	RM540.00
4	Agriculture	RM360.00	RM360.00
5	Services		
	Restaurant	RM1,800.00	RM1,440.00
	Cleaners	RM1,800.00	RM1,440.00
	Cargo Handlers	RM1,800.00	RM1,440.00
	Laundry/ <i>Dobi</i>	RM1,800.00	RM1,440.00
	Barber	RM1,800.00	RM1,440.00
	Wholesale & retail trade	RM1,800.00	RM1,440.00
	Textile business I	RM1,800.00	RM1,440.00
	Metallic Scrap and Used Goods	RM1,800.00	RM1,440.00
	Welfare Homes	RM600.00	RM600.00
	Island Resorts	RM1,200.00	RM960.00
	Domestic Helpers		
	1 st . Domestic Maid	RM360.00	RM360.00
	2 nd . Domestic Maid	RM540.00	RM540.00
	3 rd . Domestic Maid	RM540.00	RM540.00
	4 th and others.	RM540.00	RM540.00

Source: Adapted from the *Buku Panduan Dasar, Prosedur Dan Syarat-Syarat Penggunaan Pekerja Asing Di Malaysia*, 2003. Imigresen Department, Malaysia.

Table 1.5
Cost of Visa & Deposit by Country of Origin

No.	Country of Origin	Visa	Deposit
1	Indonesia	RM15.00	RM250.00
2	Bangladesh	RM20.00	RM500.00
3	Myanmar	RM19.50	RM750.00
4	India	RM50.00 (SEV) RM100.00 (MEV)	RM750.00
5	Vietnam	RM13.00	RM1,500.00
6	Philippines	RM36.00	RM1,000.00
7	Cambodia	RM20.00	RM250.00
8	Nepal	RM20.00	RM750.00
9	Thailand	Gratis	RM250.00
10	Pakistan	RM20.00	RM750.00
11	Turkmenistan, Uzbekistan & Kazakhstan	RM20.00	RM1,500.00
12	Laos	RM20.00	RM1,500.00
13	Sri Lanka	RM50.00 (SEV) RM100.00 (MEV)	RM750.00

Source: Adapted from the Buku Panduan Dasar, Prosedur Dan Syarat-Syarat Penggunaan Pekerja Asing Di Malaysia, 2003. Jabatan Imigresen Malaysia, Azizah Kassim, 2007.

April 2010, when the government made it compulsory for employers to pay for the levy, payment of levy was the workers' responsibility. As many are poorly paid they cannot afford to be legalized. Once an irregular migrant is legalized he has to renew his work permit annually. Many failed to do so and reverted to their illegal status after a year.

In contrast, amnesty targets all irregular migrants and the purpose is to enable them to go home legally without being charged or compounded for contravening immigration and other laws of Malaysia. From time to time the government launched amnesty exercises for a specific

period which can be less than two weeks, such as during the period before the Muslim Eidil Fitri festival to celebrate the end of the fasting month of Ramadan so Muslim irregular migrants can go home legally. It could also be for a long period as the case was in 2004-2005 when the amnesty which was to run for three weeks was extended three times to over a year at the request of Indonesia,¹⁰ Malaysia's major source country for migrant workers. However, not all irregular migrants took up the offer to be legal workers, or participated in the amnesty exercises as it involved costs which many cannot afford. The amnesty exercise in 2004-2005 shows that, amnesty can be implemented only for temporary migrant workers who have lived in the country for a few years as stipulated by the foreign worker policy. But for those who have settled in Malaysia for decades such as Filipino and Indonesian economic migrants in Sabah, voluntary repatriation is not an easy option. For them, the cost of going home is very high especially if a worker has several dependents, has invested in a house and has a stable source of income such as running a small business. Voluntary repatriation under the amnesty program means up-rooting his entire family and returning to the source country which he has left behind for a long time; and which is alien to his Malaysia-born children. The cost of going home is high, as it includes paying for travel documents to get home and transport costs for the entire family. As a result many irregular migrants did not participate in the legalization and amnesty exercises. There are also those who did not know where to go and how to legalize themselves as many of them are illiterate, very seldom go out and keep to themselves to avoid arrest. This is particularly true of those who work in plantations in the interior which are often out of reach to enforcement officers.

Many employers are also opposed to legalization and amnesty because these exercises are disruptive to production. Legalization will also increase their production costs as legal foreign workers cost more to hire and maintain as they have to be given other benefits such as insurance, housing and medical benefits apart from their basic pay. They are also to be given paid leave and overtime wages consistent with Malaysian labor law. Moreover, irregular migrant workers are easy to control as they are in no position to demand higher pay and better working conditions.

¹⁰ The request was made partly due Indonesia's inability to process and manage the huge number of irregular migrants coming home within the stipulated period of two weeks and also because of the tsunami that badly hit Indonesia's Aceh province in early 2005.

Once the period of legalization and amnesty is over, the government will go all out to round up irregular migrants who failed to comply with the legalization or amnesty directives. The crackdown activities will be accelerated or reduced depending on available space to house those arrested at the MOHA depot or the temporary detention centers. In short the implementation of policy measures against irregular migrants is riddled with problems as will be explained in later chapters.

Chapter 2

Irregular Migrants in Malaysia: Background and Socioeconomic Status

2.1 Introduction

As mentioned earlier, Azizah Kassim (2005) had concluded that a proper understanding of their survival strategies is necessary to formulate an effective policy on the irregular migrants. The present chapter tries to fill in this gap by examining the socio-economic status of the irregular immigrants and their working experience in Malaysia while Chapter 3 looks at the process of how they sneaked into Malaysia despite the border controls put in force, and Chapter 4 describes how these irregular immigrants live their lives when the law is up against them. The background will give an insight of who are they, which nationality and where they come from, what is the social networks that they have in this country, what happen to their family lives when they decided to come to this country, and why did they leave their countries.

2.2 Background of the Respondents

Of the 404 respondents interviewed, 204 or 61.4% are males while the rest (176 or 38.6%) are female. These numbers are not representative of their actual presence in this country. **Table 2.1** shows the distribution of the respondents according to their country of origin and gender. It is not surprising that Indonesians constitute the largest group with 176 respondents or 43.6% of the total (101 or 40.7% are males and 75 or 48.1% are females) as they are our close neighbor sharing long borders with Malaysia as well as cultural ties involving similar language, customs and religion. The next biggest respondent group was the Filipinos, totaling 61 respondents or 15.1% (consisting of 28 or 11.3% males and 33 or 21.2% females). The Southern Filipinos also have close cultural and historical links with the Malaysian state of Sabah. The next largest group of respondents are those from Myanmar with 32 or 7.9% (21 or 8.5% males and 11 or 7.1% females), followed by Bangladeshis with 30 respondents or 7.4% (all males as there are no female Bangladeshi working in Malaysia). All these countries have a huge population with plenty of surplus labor. However, there are also illegal migrants who came from as far as Brazil, Ghana, Liberia, Morocco, Nigeria and Somalia.

Table 2.1: Distribution of Respondents by Country of Origin and Gender

Country of Origin	Male	%	Female	%	Total	%
Bangladesh	30	12.1	0	0.0	30	7.4
Brazil	0	0.0	1	0.6	1	0.2
Cambodia	8	3.2	12	7.7	20	5.0
China	0	0.0	2	1.3	2	0.5
Ghana	2	0.8	0	0.0	2	0.5
India	10	4.0	2	1.3	12	3.0
Indonesia	101	40.7	75	48.1	176	43.6
Liberia	1	0.4	0	0.0	1	0.2
Morocco	1	0.4	0	0.0	1	0.2
Myanmar	21	8.5	11	7.1	32	7.9
Nepal	6	2.4	0	0.0	6	1.5
Nigeria	3	1.2	0	0.0	3	0.7
Pakistan	11	4.4	0	0.0	11	2.7
Philippines	28	11.3	33	21.2	61	15.1
Somalia	1	0.4	0	0.0	1	0.2
Sri Lanka	3	1.2	4	2.6	7	1.7
Taiwan	1	0.4	0	0.0	1	0.2
Thailand	12	4.8	11	7.1	23	5.7
Turkey	1	0.4	0	0.0	1	0.2
Vietnam	8	3.2	5	3.2	13	3.2
Total	248	100.0	156	100.0	404	100.0

Source: Survey.

The age distribution of the respondents by gender is shown in **Table 2.2**. There is not much difference in the age distribution by gender except that the females tend to be just slightly older than the males in general. Most of the respondents (63.9%) are aged from twenty-one and

thirty-five years. This is not surprising as it would be the young and the fittest that would come to look for a job, especially when the jobs are of the unskilled and semi-skilled types that require more physical than mental energy. Moreover, it is most likely that these are the respondents who might still be single that can leave their families to look for jobs overseas. However, there are 43 youths as young as 15-20 years, forming 10.6% of the respondents, and one respondent even aged below 14 years old. Respondents aged between 36-45 years constitute 78 persons or 19.3% of the respondents, resulting in the total respondents below 46 years old to be 379 or 93.8%. This age distribution is in line with the Malaysian policy of trying to limit the import of foreign workers to those aged below 46 years old.

Table 2.3 shows the distribution of respondents by their final location of employment and gender. According to this information regarding their last place of employment, most of respondents in this sample were working Selangor (95 or 23.5%), followed by Sabah (90 or 22.3%), Sarawak (54 or 13.4%), Kuala Lumpur (31 or 7.7%), Johor (30 or 7.4%), Terengganu (27 Or 6.7%), Kedah (26 or 6.4%), and Penang (21 or 5.2%). The males were working all over Malaysia, with most of them were located in Selangor (60 or 24.2%), Sarawak (49 or 19.8%) and Sabah (47 or 19.0%). As for the females, the majority was working in Sabah (43 or 27.6%), followed by Selangor (35 or 22.4%) and Johor (22 or 14.1%). There were no females working in Kelantan in this sample.

Table 2.4 shows that a total of 73 or 18.1% of the respondents had no schooling at all while 42 or 10.4% only had three years or less of primary schooling and another 79 or 19.6% had attended just 4-6 years of primary schooling. Hence, it is not surprising that these people come to look for jobs in Malaysia where the locals shun the 4D jobs. The females tend to be slightly less educated than the males. However, there are also those who might have gone, but not necessarily, through tertiary education (those with 13 years of schooling and above, totaling 36 or 8.9%, with 23 or 9.2% males and 13 or 8.3% females) who were in Malaysia illegally. Twelve of these are from the Philippines, five from Indonesia, four each from Myanmar and Thailand, three from Bangladesh, two each from Cambodia and Pakistan, and one each from Ghana, Nigeria, Somalia, and Vietnam. A number of these well educated people came to

Table 2.2: Age Distribution of the Respondents

Age	Male	%	Female	%	Total	%
15-20	28	11.3	15	9.6	43	10.6
21-25	48	19.4	34	21.7	82	20.3
26-30	67	27.0	36	23.1	103	25.5
31-35	48	19.4	25	16.0	73	18.1
36-40	22	8.9	19	12.2	41	10.1
41-45	21	8.5	16	10.3	37	9.2
46-50	10	4.0	8	5.1	18	4.5
51-55	0	0	2	1.3	2	0.5
56-60	4	1.61	1	0.6	5	1.2
Total	248	100.0	156	100.0	404	100.0

Source: Survey

Malaysia not to look for a job but for other purposes, such as tourism or looking for business opportunities.

In terms of their marital status (see **Table 2.5**), 158 or 39.1% of the total respondents are single, 202 or 50.0% are married, 30 or 7.4% are divorced while 14 or 3.5% are widowed. A total of 121 or 48.8% of the males are single while 37 or 23.7% of the females belong to this group. However, there are relatively more females who are married (53.2% vs 48.0%) or divorced (14.7% vs 2.8%), and all those widowed, except one, are females. It is surprising to find relatively more married women leaving their husbands and children to work in another country, but this could probably be explained by the fact that the job opportunities in Malaysia tend to favor the women.

With whom do these respondents stay in Malaysia? As shown in **Table 2.6**, a majority (196 or 48.5%) stay with their friends. This is expected since most of these respondents are single when they come to Malaysia, they tend to share a dwelling with their friends in order to lower their cost of living. These friends tend to be people from their own country. Others (45 respondents or 11.1%) stay on their own while another 30 or 7.4% stay with their employers (these tend to be those working as house maids). However, there are many who stay with their

Table 2.3: Distribution of Respondents by Final Location of Employment and Gender

Final Location of Employment	Male	%	Female	%	Total	%
Johor	8	3.2	22	14.1	30	7.4
Kedah	11	4.4	15	9.6	26	6.4
Kelantan	2	0.8	0	0.0	2	0.5
Kuala Lumpur	17	6.9	14	9.0	31	7.7
Melaka	1	0.4	3	1.9	4	1.0
Negeri Sembilan	4	1.6	5	3.2	9	2.2
Pahang	6	2.4	1	0.6	7	1.7
Perak	3	1.2	1	0.6	4	1.0
Perlis	2	0.8	2	1.3	4	1.0
Penang	13	5.2	8	5.1	21	5.2
Sabah	47	19.0	43	27.6	90	22.3
Sarawak	49	19.8	5	3.2	54	13.4
Selangor	60	24.2	35	22.4	95	23.5
Terengganu	25	10.1	2	1.3	27	6.7
Total	248	100.0	156	100.0	404	100.0

Source: Survey

spouses (70 or 17.3%), parents, siblings and children (33 or 8.2%), relatives, including grandparents (26 or 6.4%). Even two or 0.5% claimed they were staying with their fiancée! In other words, the social/family networks of these respondents are very wide in Malaysia to enable them to come with ease and escape detection.

For those who are married and do not have their spouses with them in Malaysia, the places where their spouses are residing are shown in **Table 2.7**. For 70 or 17.3% of the respondents, their spouses are also in Malaysia while another six are together with them in the detention depots. At least for these families, while life as a low-skilled workers who are

Table 2.4: Distribution of Respondents by Years of Schooling and Gender

Years of Schooling	Male	%	Female	%	Total	%
1-3	26	10.5	16	10.3	42	10.4
4-6	56	22.6	23	14.7	79	19.6
7-9	56	22.6	25	16.0	81	20.0
10-12	50	20.2	43	27.6	93	23.0
13-15	15	6.0	7	4.5	22	5.4
16-18	8	3.2	6	3.8	14	3.5
No Schooling	37	14.9	36	23.1	73	18.1
Total	248	100.0	156	100.0	404	100.0

Source: Survey.

irregular migrants, life is hard and full of challenges, at least they are together. But for most of them, their spouses are left in their countries of origin while a significant number (23 or 5.7%) do not know where their spouses are. A small number are also working as migrant workers in other countries such as Japan, Saudi Arabia and Taiwan. Their children are similarly scattered, with 38 or 9.4% are in Malaysia, as shown in **Table 3.8**. One of the respondents has a child working in Japan and while another has a child working in Singapore. There are also three respondents being detained with their children at three of the depots. It appears that for most of them, they sacrifice their family lives in order to come here and earn a living.

Table 2.5: Distribution of Respondents by Marital Status

Marital Status	Male	%	Female	%	Total	%
Single	121	48.8	37	23.7	158	39.1
Married	119	48.0	83	53.2	202	50.0
Divorced	7	2.8	23	14.7	30	7.4
Widowed	1	0.4	13	8.3	14	3.5
Total	204	100.0	151	100.0	404	100.0

Source: Survey.

Table 2.6: Distribution of Respondents by Whom They Stay with in Malaysia

With Whom They Stay	Number of Respondents	%	Cumulative %
Husband	43	10.6	10.6
Wife	27	6.7	17.3
Parents	8	2.0	19.3
Siblings	20	5.0	24.3
Children	5	1.2	25.5
Relatives	24	5.9	31.4
Friends	196	48.5	80.0
Employer	30	7.4	87.4
Own	45	11.1	98.5
Agent	2	0.5	99.0
Fiancee	2	0.5	99.5
Grandmother	2	0.5	100.0
Total	404	100.0	

Source: Survey.

Table 2.7: Distribution of Respondents by Residence of Respondents' Spouses

Where Spouses Reside	Number of Respondents	%	Cumulative %
Bangladesh	16	4.0	4.0
Cambodia	8	2.0	5.9
China	1	0.2	6.2
Ghana	1	0.2	6.4
India	5	1.2	7.7
Indonesia	57	14.1	21.8
Japan	1	0.2	22.0
Malaysia	70	17.3	39.4
Myanmar	2	0.5	39.9
Nepal	5	1.2	41.1
Pakistan	3	0.7	41.8
Philippines	13	3.2	45.0
Saudi Arabia	1	0.2	45.3
Sri Lanka	2	0.5	45.8
Taiwan	1	0.2	46.0
Thailand	12	3.0	49.0
Vietnam	5	1.2	50.2
Detention Depot	6	1.5	51.7
Don't know	23	5.7	57.4
Deceased	14	3.5	60.9
Single	158	39.1	100.0
Total	404	100.0	

Source: Survey.

Table 2.8: Distribution of Respondents by Residence of Respondents' Children

Where Respondents' Children Live	Number of Respondents	%	Cumulative %
Bangladesh	14	3.5	3.5
Cambodia	7	1.7	5.2
China	1	0.2	5.4
India	6	1.5	6.9
Ghana	1	0.2	7.2
Indonesia	83	20.5	27.7
Japan	1	0.2	28.0
Malaysia	38	9.4	37.4
Myanmar	5	1.2	38.6
Nepal	5	1.2	39.9
Pakistan	4	1.0	40.8
Philippines	20	5.0	45.8
Singapore	1	0.2	46.0
Sri Lanka	3	0.7	46.8
Thailand	13	3.2	50.0
Vietnam	5	1.2	51.2
Detention Depot	3	0.7	52.0
Subtotal	211		
No Children	36	8.9	60.9
Single	157	38.9	100.0
Total	404	100.0	

Source: Survey.

What type of job or work experience do these respondents have before coming to work in Malaysia? **Table 2.9** provides the answer. Only 12 or 3.0% has experience working in the manufacturing sector while 26 or 6.4% has experience as construction workers. Most (137 or

Table 2.9: Distribution of Respondents by Sector and Job Type in Country of Origin

Sector	Job Type	No. of Respondents	%	Cumulative %
Manufacturing		12	3.0	3.0
Construction	<ul style="list-style-type: none"> • Construction labourer • Welding • Carpenter 	20 4 2	6.4	9.4
Services	<ul style="list-style-type: none"> • Lorry attendant • Business • Washing clothes • Waiter • Cleaner • Tailor • Mechanic • Restaurant helper • Masseur • Sales • Security guard • Cook • Shop assistant • Teacher • Office assistant • Driver • Police • Photographer • Make-up artist • Sailor • Army • Caregiver • Graphic Designer • Engineer 	3 45 1 6 2 5 4 7 1 3 2 1 3 1 2 5 1 1 1 2 1 1 1 2 1	25.0	34.4
Domestic maid		5	1.2	35.6
Agriculture	<ul style="list-style-type: none"> • Farmer • Fisherman • Rubber tapper • Rear animals • Oil palm fruit picker 	99 25 10 1 2	33.9	69.6
Not Working	<ul style="list-style-type: none"> • Unemployed • Housewife • Student 	103 8 12	30.4	100.0
Total		404	100.0	

Source: Survey.

33.9% has experience as working in the agriculture sector or as service sector worker (101 or 25.0%) with another 5 or 1.2% have experience working as house maids. The rest (123 or 30.4%) were not working when they were in their respective countries with 103 or 25.5% were unemployed. The rest were students or housewives. Hence, it is not surprising that 122 or 30.2% do not have any income (see **Table 2.10**). Among those who worked, their incomes were also not very high with 53 or 13.1% earning less than RM100 per month, 128 or 31.7% earning RM100 to RM300 per month. Another 53 or 13.1% used to earn between RM300-RM500, with another 32 or 7.9% getting between RM500-RM1,000 per month. Only 16 respondents or 4.0% used to earn more than RM1,000 per month. This means that 356 or 88.1% of the respondents had no income or less than RM500 per month. They earned low income in all sectors, especially agriculture and services, although the highest income was also earned in the services sector. It can be summarized that the main reason why these respondents came to Malaysia is due to the push factor at home, where they did not have a job, or if they did, the job paid very little.

Box 2.1: Push Factor from Home Country

A male respondent from the Autonomous Region of Muslim Mindanao of Southern Philippines claimed he used to earn 1,000 pesos* per month doing odd jobs, which is inadequate for him to live on even as a single man. He said that coming to Sabah to look for a job is not a choice but a necessity in order to survive. Hence, no matter how many times he got deported, he would still come back as there is no employment that can support a living available to him in his home village. Several respondents from that region also gave the same reason—that there is no job in the place of origin.

* Equivalent to US\$23.22 at the exchange rate of 43.072 to USD1.00 on July 14, 2011.

2.3 Working Experience In Malaysia

The findings in this study in terms of gender, sector and wages earned are similar to those of Ragayah (2010) even though the latter focused on the working experience of legal migrant workers. The distribution of the respondents by gender and sector for the present study is shown

Table 2.10: Distribution of Respondents by Income Earned in Country of Origin by Sector

Income Per Month (RM)	Job Sector						Total	%
	Manufac-turing	Cons-truction	Services	Domestic maid	Agri-culture	Unemp-loyed		
<100		3	18		31	1	53	13.1
101-200	2	2	13	2	46		65	16.1
201-300	2	6	24		31		63	15.6
301-400	2	2	7	1	11		23	5.7
401-500	2	6	17		5		30	7.4
501-600	2	2	2		3		9	2.2
601-700		1	3		2		6	1.5
701-800	1		5		1		7	1.7
801-900			2		4		6	1.5
901-1000		1	3				4	1.0
>1001		3	8	2	3		16	4.0
No Income						122	122	30.2
Total	11	26	102	5	137	123	404	100.0

Source: Survey.

in **Table 2.11**. Most of the respondents (159 or 39.3%) were working in the services sector. This is particularly true for the females as 86 or 55.1% of them were in this sector compared to 73 or 29.4% of the men folks. Males tend to dominate the construction (91 or 36.7%), manufacturing (38 or 15.3%), agriculture (26 or 6.4%) and plantation (6 or 1.5%) sectors. Of course, only females work as domestic maids and there were 29 or 18.6% of them in this sector.

Most of the respondents (82.7%) came to Malaysia to look for a job, to improve their living standards in the countries of origin. Are these migrants able to do so and how much better are their incomes compared to what they left behind? **Table 2.12** shows distribution of respondents by distribution of respondents by sector and job types they do in Malaysia while **Table 2.13** shows the distribution of respondents by sector and their monthly wage. It can be seen that they do earn higher in Malaysia, although there are 13 or 3.2% earning less than RM300 per month and another 68 nor 16.9% earning between RM301-RM500 monthly. However, this is much

Table 2.11: Distribution of Respondents by Gender and Sector

Sector	Male	%	Female	%	Total	%
Manufacturing	38	15.3	12	7.7	50	12.4
Construction	91	36.7	5	3.2	96	23.8
Services	73	29.4	86	55.1	159	39.3
Domestic maid	0	0.0	29	18.6	29	7.2
Agriculture	26	10.5	1	0.6	27	6.7
Plantation	6	2.4	1	0.6	7	1.7
Detained before starting work	1	0.4	0	0.0	1	0.2
NA	13	5.3	22	14.1	35	8.7
Total	248	100.0	156	100.0	404	100.0

Note: NA : Not applicable, including one respondent who was detained before starting work.

Source: Survey.

better than in their country of origin as there were 44.8% earning below RM300 per month. There are also 73 or 18.1% of respondents who earned more than RM1,000 per month, with five of them earning more than RM2,500 per month. Again, the highest and the lowest income are found in the services sector, as this sector is very widely defined.

For quite a number of these respondents, the remuneration they received was not only in the form of the monthly wages. Some also receive other benefits, including accommodation, food, transportation, medical benefits, electricity and water as well as clothing that are provided for by the employers. **Table 2.14** shows the distribution of respondents by the monthly benefits received and gender. A majority of respondents (214 or 53.0%) were provided with accommodation, with more males getting the benefits (138 or 55.6%) compared to females (76 or 48.7%). Some 50 or 20.2% of the male respondents and 64 or 41.3% of the female respondents also received free meals. People in this group tend to be domestic maids and benefit. A total of 44 or 17.7% of the male and 31 or 19.9% of the female respondents also received medical benefits. In certain cases, those provided with free accommodation were also supplied with free electricity and water. In this study, 81 males (32.7%) and 41 females (26.3%) were provided with free electricity and 83 males (33.5) and 41 females (26.3%) with free water. Some

**Table 2.12: Distribution of Respondents by Distribution of Respondents
by Sector and Job Type in Malaysia**

Sector	Job Type	No. of Respondents	%	Cumulative %
Manufacturing		47	13.2	13.2
Construction	<ul style="list-style-type: none"> • Construction labourer • Welding • Carpenter 	60 3 10	20.6	33.8
Services	<ul style="list-style-type: none"> • Cook • Cashier • Waiter/ress • Business • Shop assistant • Restaurant helper • Technician • Cleaner • Saloon • Security guard • Masseuse • Bus conductor • Car wash • Laundry • Clerk • Sailor • Caddy • Grass cutter • Petrol pump attendant • Tailor • Catering • Mechanic 	17 4 31 14 22 13 3 12 2 5 3 1 2 1 1 3 2 2 1 1 1 1	40.0	73.8
Domestic maid		29	8.2	82.0
Agriculture	<ul style="list-style-type: none"> • Fisherman • Rubber tapper • Aquaculture asst. • Orchards • Farmer 	11 7 1 5 1	7.0	89.0
Plantation	<ul style="list-style-type: none"> • Oil palm fruit picker 	7	2.0	91.0
Detained before starting work		1	0.3	91.3
N.A.		31	8.7	100.0
Total		355	100.0	

Source: Survey.

Table 2.13: Distribution of Respondents by Job Sector and Monthly Wage in Malaysia

Monthly Wage (RM)	Job sector								Total	%
	Manufac-turing	Cons-truction	Services	Domes-tic maid	Agri-culture	Planta-tion	Detained before starting work	NA		
< 300	1	1	6	4	1	0	0	0	13	3.2
301-500	10	8	29	14	4	3	0	0	68	16.9
501-750	12	18	40	7	8	1	0	0	86	21.3
751-1000	19	38	45	2	10	2	0	0	116	28.7
1001-1500	5	23	25	0	1	1	0	0	55	13.6
1501-2000	3	2	6	0	0	0	0	0	11	2.7
2001-2500	0	0	2	0	0	0	0	0	2	0.5
2501 >	0	0	4	0	1	0	0	0	5	1.2
Arrested before getting paid	0	5	2	0	0	0	0	1	8	2.0
Never paid a salary	0	1	0	2	2	0	0	0	5	1.2
NA	0	0	0	0	0	0	1	34	35	8.7
Total	50	96	159	29	27	7	1	35	404	100.0

Source: Survey.

Table 2.14: Distribution of Respondents by Monthly Benefits and Gender

Additional Benefits Received	Male	%	Female	%	Total	%
Accommodation	138	55.6	76	48.7	214	53.0
Food	50	20.2	64	41.3	114	28.2
Transport	12	4.8	15	9.6	27	6.7
Medical	44	17.7	31	19.9	75	1.9
Electricity	81	32.7	41	26.3	122	30.2
Water	83	33.5	41	26.3	124	30.7
Clothing	26	10.5	26	16.7	52	12.9

Source: Survey.

were also provided with free uniform or other forms of clothing, where 26 males (10.5%) and 26 females (16.7%) were given this benefit.

When the monthly wages and benefits are summed up, then the real income of those respondents who received the benefits goes up. **Table 2.15** shows the distribution of the respondents by the total income and gender. There are still 11 or 2.7% respondents earning a total income of less than RM300 per month. This implies that two of these respondents receive enough benefits to push them up into the next income brackets. Similarly, the number of respondents receiving income between RM301-RM500, RM501-RM750, and RM751-RM1,000 have all decreased and this is also true for the male respondents, implying that their total income is higher than just their wages. Now we have more respondents earning more than RM1,000 per month (111 or 27.5%), with ten of them (six males and four females) earning more than RM2,000 per month.

Table 2.15: Distribution of Respondents by Monthly Total Income and Gender

Wages + Benefits Received	Male	%	Female	%	Total	%
< 300	2	0.8	9	5.8	11	2.7
301-500	18	7.3	25	16.0	43	10.6
501-750	42	16.9	42	26.9	84	20.8
751-1000	80	32.3	27	17.3	107	26.5
1001-1500	63	25.4	17	10.9	80	19.8
1501-2000	14	5.6	7	4.5	21	5.2
2001-2500	2	0.8	1	0.6	3	0.7
2501 >	4	1.6	3	1.9	7	1.7
Arrested before getting paid	7	2.8	1	0.6	8	2.0
Never paid a salary	3	1.2	2	1.3	5	1.2
NA	13	5.2	22	14.1	35	8.7
Total	248	100	156	100	404	100

Source: Survey.

In terms of hours worked, there were respondents who worked less than the normal eight hours, and some even less than four hours (see **Table 2.16**). They are actually under-employed and explain the reason why some respondents receive very low wages. It is good to know that a majority (178 or 44.0%) were working normal hours of 8-9 hours a day. However, there are also those who worked for 9 to 16 hours and these include the respondents performed over time work. Those that claimed to work more than 16 hours are those who worked as domestic maids, as fishermen or sailors as they rarely come ashore and stay on the boats for weeks. Nevertheless, they do not actually work for more than 16 hours a day.

Table 2.16: Distribution of Respondents by Hours Worked Daily

Hours Worked Daily	No. of Respondents	%	Cumulative %
1-4	4	1.0	1.0
5-7	25	6.2	7.2
8-9	178	44.0	51.2
10-12	119	29.5	80.7
13-16	24	5.9	86.6
More than 17	18	4.5	91.1
Detained before starting work	1	0.2	91.3
NA	35	8.7	100.0
Total	404	100.0	

Source: Survey.

Table 2.17 shows the distribution of respondents by the number of days worked per week by gender. From the fact that there are some respondents who do not work the full week reinforces the explanation of the low income earned by a small number of the respondents. Most of the respondents actually work a seven-day (173 or 42.8% of respondents) or a six-day (171 or 42.3% of respondents). From the gender point of view, 126 or 50.8% of male respondents and 45 or 28.8% of female respondents were working six days a week, while another 94 or 37.9% of male respondents and 79 or 50.6% of female respondents were working seven days per week.

Table 2.17: Distribution of Respondents by Number of Days Worked Per Week by Gender

Days Worked Per Week	Male	%	Female	%	Total	%
1	0	0.0	3	1.9	3	0.7
3	2	0.8	2	1.3	4	1.0
4	2	0.8	0	0.0	2	0.5
5	10	4.0	5	3.2	15	3.7
6	126	50.8	45	28.8	171	42.3
7	94	37.9	79	50.6	173	42.8
No chance to start work	1	0.4	0	0.0	1	0.2
NA	13	5.2	22	14.1	35	8.7
Total	248	100.0	156	100.0	404	100.0

Source: Survey.

It is not surprising that these migrants can be taken advantage of by unscrupulous people as most of them do not know their rights as a worker in Malaysia. Only 117 or 29.0% know their rights, as shown in **Table 2.18**.

Table 2.18: Distribution of Respondents by Whether They Know Their Rights as a Worker in Malaysia

	Frequency	%	Cumulative %
Yes	117	28.9	29.3
No	252	62.4	91.3
Not relevant	35	8.7	100.0
Total	404	100.0	

Source: Survey.

In this respect, we would like to know whether their employment agents have informed them some of the relevant facts about their employment. Of those who responded, shown in **Table 2.19**, 121 said that their agents have informed them regarding the type of employment

they would be engaged in while 29 others said they were not informed. And yet only 90 respondents obtained the job they were promised while for the rest, they were given different jobs. The main item they reneged on is total pay or salary, where the agents had assured 106 respondents certain amounts but 33 went back on their promise. Promises were also made to 96 respondents to be provided with accommodation, but only 82 got what was due to them; 87 were promised time and length of their working hours, but only 78 got what they were promised. Similar pattern is observed for all the other benefits promised with none been 100 per cent fulfilled.

Table 2.19: Distribution of Respondents Who Came Legally by Information Provided by Agents and Promises Met

Items	Informed by Agent		Promises Fulfilled	
	Yes	No	Yes	No
Type of employment	121	29	90	31
Total pay/salary	106	44	73	33
Accommodation	96	54	82	14
Working hours	87	63	78	9
Medical benefits/sick leave	64	86	48	16
Workmen Compensation Scheme	39	111	26	13
Paid leave	42	108	30	12
Salary deduction	50	100	41	9
Overtime rate	55	95	40	15

Source: Survey.

The respondents were not that careful regarding their employment contract, as shown in **Table 2.20**. Only 44 kept a copy of the employment contract while 163 did not; only 58 read and understand the contract while 148 did not; and only 67 had medical checkup while 140 did not. They were also ill-prepared for their life in Malaysia as only 17 had undergone a training course in home country while 189 did not and only six followed an induction course in their home countries, while 201 did not. Hence, it is no wonder they faced a lot of problems when they are in Malaysia. Anyway, for a large number of respondents, they do not understand the contract as the contracts are written in English and they do not understand English.

Table 2.20: Distribution of Respondents by Action Taken Before Starting Work

Action	Yes	No
Keep a copy of the employment contract	44	163
Read and understand the contract	58	148
Had a medical checkup	67	140
Undergo a training course in home country	17	189
Took an induction course in home country	6	201

Source: Survey.

For those who came illegally, they would need someone to help them find a job. The distribution of respondents by those who found them their jobs is shown in **Table 2.21**. For 97 or 24.0% of them, it was their friends who found them the jobs. Another 46 or 11.4% were assisted by relatives while 55 of them or 13.6% found their own jobs. Agent assisted 33 or 8.2% of the respondents, while various parties assisted the rest. Except for the agents, most of the others who assisted in finding the jobs do not charge for their services.

Table 2.21: Distribution of Respondents Who Came Illegally by People Who Found Jobs for Them

Who Found the Job for the Respondent	No. of Respondents	%	Cumulative %
Friends	97	24.0	24.0
Relatives	46	11.4	35.4
Siblings	8	2.0	37.4
By themselves	55	13.6	51.0
Local people	1	.2	51.2
Agent	33	8.2	59.4
Husband	6	1.5	60.9
Employers	2	.5	61.4
Children	1	.2	61.6
Parents	2	.5	62.1
N.A.	153	37.9	100.0
Total	404	100.0	

Source: Survey.

Most of the migrants do not really need to wait long for a job, as shown in **Table 2.22**. Some 82 or 20.3% started work almost immediately as for many of them the jobs were already

waiting for them when they came. Another 49 respondents or 12.1% needed only to wait for less than a week while for another 66 or 16.3%, they had to wait only between eight days and a month. Another 22 or 5.4% of respondents had to wait between a month to two months before getting a job. For those who have to wait long (involving years) are children who came with their parents and they have to wait till adulthood to get a job.

Table 2.22: Distribution of Respondents Who Came Illegally by Period between Arrival in Malaysia and the date of Starting Work

Period between Arrival & Start Working	No. of Respondents	%	Cumulative %
Immediately - 2 days	82	20.3	20.3
2 days -1 week	49	12.1	32.4
8 days -13 days	9	2.2	34.7
2 weeks -1 month	57	14.1	48.8
1 month 1 day - 2 months	22	5.4	54.2
2 months 1 day -3 months	7	1.7	55.9
3 months 1 day - 6 months	11	2.7	58.7
6 months 1 day -12 months	6	1.5	60.1
More than 12 months	7	1.7	61.9
N.A.	154	38.1	100.0
Total	404	100.0	

Note: Some came as children and looked for a job only when they grew up.
Source: Survey.

When these workers have problems with their employers, the main thing they do is to run away from their place of work, as 82 of them, 42 or 17.0% of the male and 40 or 26.05 of the female would take this action (see **Table 2.23**). A small number would seek the assistance of the agents or ask for the neighbors' help.

Table 2.24 shows the estimated total amount of income that they have earned in Malaysia since they started work here. For those respondents who have come to Malaysia to work and have been here for quite a while, they have earned quite a substantial sum. These include 25 respondents, 19 (7.7%) males and 6 (3.8%) females, that have earned more than

Table 2.23: Distribution of Respondents by What They Do When They Have Problems with Employers by Gender

What Respondents do When Have Problems With Employers	Male	%	Female	%	Total	%
Run away from place of work	42	17.0	40	26.0	82	20.3
Report to the agent/NGO/embassy	8	0.8	7	4.5	15	3.7
Ask for neighbor's help	1	0.4	6	3.8	7	2.0

Source: Survey.

RM100,000. These include 10 Filipinos and 6 Indonesians, 2 each from Pakistan and Thailand, and one each from China, Nepal, Taiwan and Turkey. Another 13 (5.2%) males and 7 (4.5%) females have earned between RM70,001-RM100,000. However, most of them (214 or 53.0%) have earned only between RM1,001-RM15,000. There are also nine respondents who never had the chance to be paid before they were apprehended (9 or 2.2%) or they were taken advantage of and never paid a salary (5 or 1.2%).

Table 2.24: Distribution of Respondents by the Total Income Earned in Malaysia by Gender

Total Income	Male	%	Female	%	Total	%
<1000	9	3.6	14	9.0	23	5.7
1001-3000	31	12.5	20	12.8	51	12.6
3001-5000	27	10.9	16	10.3	43	10.6
5001-10000	40	16.1	22	14.1	62	15.3
10001-15000	23	9.3	12	7.7	35	8.7
15001-20000	14	5.6	7	4.5	21	5.2
20001-30000	20	8.1	12	7.7	32	7.9
30000-50000	20	8.1	9	5.8	29	7.2
50001-70000	9	3.6	5	3.2	14	3.5
70001-100000	13	5.2	7	4.5	20	5.0
100001 >	19	7.7	6	3.8	25	6.2
Arrested before getting paid	7	2.8	2	1.3	9	2.2
Never paid a salary	3	1.2	2	1.3	5	1.2
NA	13	5.2	22	14.1	35	8.7
Total	248	100	156	100	404	100

Source: Survey.

Note: N.A.: not applicable refers to those who came to Malaysia not to work, but as tourists, visiting relatives etc. So they did not earn any income.

As the main purpose of coming to this country is to earn money to support their families, it is therefore not surprising that a majority of respondents (240 or 59.4%) remit money to their families in their countries of origin (see **Table 2.25**). Those who do not remit are mostly those whose family members are here, have not earned adequately or anything yet, and those who have come here not to work but as tourists. The amount they remit varies between RM100 to more than RM2,000 (see Table 44). However, the frequency of sending also varies between monthly, once in three months, six monthly or once in a while, but most (186 or 46.0%) send either monthly or three months once (see **Table 2.26**).

Table 2.25: Distribution of Respondents by Whether They Remit Money to Families in Country of Origin

	No. of Respondents	%	Cumulative %
Yes	240	59.4	59.4
No	126	31.2	90.6
N.A.	38	9.4	100.0
Total	404	100.0	

Source: Survey.

Note: N.A.: not applicable, refers to those who came to Malaysia not to work, but as tourists, visiting relatives etc. So they did not earn any income.

Table 2.26: Distribution of Respondents by Amount Remitted to Families in Countries of Origin

Amount Remitted	No. of Respondents	%	Cumulative %
100-200	25	6.2	6.2
201-300	42	10.4	16.6
301-400	24	5.9	22.5
401-500	48	11.9	34.4
501-700	26	6.4	40.8
701-1000	38	9.4	50.2
1001-2000	24	5.9	56.2
Above 2001	14	3.5	59.7
N.A.	163	40.3	100.0
Total	404	100.0	

Source: Survey

Table 2.27: Distribution of Respondents by the Frequency of Remittance by Gender

Gender	Frequency of Remittance						Total
	Each month	3 months	6 months	Each year	Occasionally	N.A	
Male	70	52	14	11	12	89	248
Female	40	24	7	5	6	74	156
Total	110	76	21	16	18	163	404

Source: Survey.

Despite have been apprehended, it does not discourage many of these respondents from wanting to continue living and working in Malaysia. **Table 2.28** shows that a total of 204 or 50.5% of the respondents said that they intend to stay in Malaysia between less than six months to more than 10 years. There are even 55 or 13.6% who want to stay in Malaysia forever. However, there are also who have had bitter experience here and wants to leave the country for good (65 or 16.1%). Those who want to stay here forever are mainly Filipinos (21 of them) whose families are likely to be already in Malaysia (Sabah). The next largest groups are the Myanmarese (17), who are likely to be the Rohingas that do not want to return to their country and are in Malaysia mostly as asylum seekers, and the Indonesians (9).

2.4 Conclusion

It can be summarized that the respondents are in the relatively young age group of 21-35 years old, with low level of education and come from not just the 14 countries that Malaysia employers are allowed to hire to work in this country. A sizeable proportion of these respondents have relatives in this country that enabled their irregular presence and ability to get employed. Most of the respondents left their countries in search of a job because they either had very low-paying jobs or were unemployed. The rest came to join their relatives in this country, most with the ultimate objective of finding employment in this country. However, most of them who came legally were not given the type of employment, pay and other benefits as was promised to them by the agents and often they have been short-changed. Still, the majority managed to earn something and send money back to their families. The next Chapter will examine the inflow

process and pattern of these migrants into Malaysia despite all the border controls in place in most places.

Table 2.28: Distribution of Respondents by Length of Time Intended to Stay in Malaysia

	No. of Respondents	%	Cumulative %
< 6 months	18	4.5	4.5
6 months 1 day - 1 year	40	9.9	14.4
1 year 1 day - 2 years	63	15.6	30.0
2 years 1 day - 3 years	21	5.2	35.1
3 years 1 day - 5 years	42	10.4	45.5
5 years 1 day - 10 years	17	4.2	49.8
10 years >	3	.7	50.5
Depends on the situation	42	10.4	60.9
Forever stay in Malaysia	55	13.6	74.5
Leave Malaysia for good	65	16.1	90.6
N.A.	38	9.4	100.0
Total	404	100.0	

Source: Survey.

Chapter 3

The Inflow Pattern of Irregular Migrants into Malaysia

3.1 Introduction

In this chapter we seek to understand the process of how they sneaked into Malaysia despite the border controls put in force. As mentioned in Chapter 1, the responsibility of border control is under several units, namely the Immigration Department, navy, army, General Operations Force, Malaysian Marine Enforcement Agency, Marine Police, and the Anti-smuggling Unit. And yet these people can still penetrate the Malaysian borders due to several factors, including the fact that there are certain sections of the long Malaysian borders that are porous as well as some weaknesses in enforcing the law. Moreover, many came legally but became illegal later because of non-observation of the Malaysian law.

3.2 Date and Process of Entry

Table 3.1 shows that some of these respondents have been coming to Malaysia for a long time. In particular, 27 or 6.7% of them have arrived in Malaysia for the first time more than twenty years while 10.2% have come here for the first time more than ten years. However, for most of them (290 or 71.18) their first arrivals in this country have only been in the last six years.

The most popular route was by boat, as 171 or 42.3% of respondents came this way. This is because the most important source country, Indonesia, has mostly sea border while the second most important source country, the Philippines, has only sea border, with Malaysia. The second most popular route was by air, employed by 139 or 34.4% of respondents, while another 94 or 23.3% came by land (see **Table 3.2**). Air travel was utilized by respondents from faraway source countries as well as from neighboring countries where regional airlines had given discounted fares or budget airlines have sprouted and become popular in the region. Table 3.2 also shows that the type of vehicle used is mostly buses (employed by 76.7% of respondents who came by land) as the fares are cheap. However, these are used mainly by respondents who originate across land borders like from Southern Thailand into Peninsular Malaysia or West Kalimantan into West Sarawak. Note that there are also those who came on foot through ‘mouse lanes’ to avoid detection by the authorities.

Table 3.1: Year of First Arrival in Malaysia

Year of First Arrival in Malaysia	Number of Respondents	%	Cumulative %
< 1990	27	6.7	6.7
1991-1995	18	4.5	11.1
1996-2000	23	5.7	16.8
2001-2005	43	10.6	27.5
2006-2010	255	63.1	90.6
2011	35	8.7	99.3
Cannot remember	3	0.7	100.0
Total	404	100.0	

Source: Survey.

Table 3.2: First Arrival Routes and Types of Transportation

Types of Transportation	Frequency	%	Cumulative %
Boat	171	42.3	42.3
Plane	139	34.4	76.7
Land Vehicles:	86	21.2	98.0
• Bus	66		
• Car	9		
• Motorcycle	1		
• Train	1		
• Van	9		
Land: On foot	8	2.00	100.0
Total	404	100.0	

Source: Survey.

Most of the respondents (358 or 88.6%), as shown in **Table 3.3**, came direct to Malaysia while 39 respondents or 9.7% came via Thailand. The latter involves mainly those coming from Myanmar or Cambodia. Those transiting in other countries are those who claim that they are tourists visiting these places as well and mostly came from Brazil (via Hong Kong and Singapore) or African countries. About two-thirds entered Malaysia legally as 252 or 66.4% of the respondents came into Malaysia using passports and 17 or 4.2% used border passes before they violated the conditions provided in their legal documents and became irregular migrants.

Table 3.3: Transit Countries on the Way to Malaysia by Types of Documents

Transit Countries on the Way to Malaysia	Types of Documents Used to Enter Malaysia			Total	
	Passport	No Documents	Border Passes	No.	%
Direct to Malaysia	238	103	17	358	88.6
Thailand	7	32	0	39	9.7
Saudi Arabia	1	0	0	1	0.2
Hong Kong and Singapore	1	0	0	1	0.2
Dubai	3	0	0	3	0.7
Bangladesh	1	0	0	1	0.2
Singapore	1	0	0	1	0.2
Total	252 (62.4)	135 (33.4)	17 (4.2)	404	100.0

Source: Survey.

Where are the places of entry into Malaysia that are frequently used by these respondents? **Table 3.4** shows that these are at the borders of Peninsular Malaysia, these are mainly coastal towns where they could enter legally through the small ports or illegally through some mangrove swamps or isolated beaches. Land entry occurred in three border-states of Kelantan, Kedah and Perlis. Entries into Sabah were all through the sea borders while it is mainly entry through inland towns in Sarawak. Those who came by air entered through the main airports of Malaysia. Prior to July 1998, those coming to Kuala Lumpur came through the Subang Airport, but after that they came through the Kuala Lumpur International Airport or the LCCT, the low cost terminal if they had taken the budget airline.

Although all the respondents are classified as PATI, a majority of the respondents (252 or 62.4% comprising 154 or 62.1% males and 98 or 62.8% females) have used their passports to enter Malaysia (see **Table 3.5**). In other words, they have come into Malaysia for the first time as legal workers or legal visitors. Still, one third of the respondents (consisting of 84 or 33.9% males and 51 or 32.7% females) did come with no documents, meaning that they already came as irregular migrants right from the start.

Table 3.4: First Arrival: Points of Entry in Malaysia

	Frequency	%	Cumulative %
Kelantan	36	8.9	8.9
• Sungai Golok	24		
• Rantau Panjang	5		
• Pengkalan Kubur	7		
Selangor	27	6.7	15.6
• Port Klang	26		
• Pulau Ketam	1		
Johor	33	8.2	23.8
• Pasir Gudang	20		
• Stulang Laut	6		
• Johor Bahru	5		
• Kukup	1		
• Muar	1		
Penang	12	3.0	26.7
• Penang	12		
Kedah	13	3.2	30.0
• Bukit Kayu Hitam	13		
Perlis	7	1.7	31.7
• Padang Besar	7		
Negeri Sembilan	2	0.5	32.2
• Port Dickson	2		
Melaka	1	0.2	32.4
• Melaka	1		
Sabah	84	20.8	53.2
• Likas	1		
• Kudat	4		
• Semporna	18		
• Sandakan	24		
• Lahad Datu	3		
• Papar	1		
• Kota Kinabalu	1		
• Tawau	32		

Table 3.4: First Arrival: Points of Entry in Malaysia (cont'd)

Sarawak	47	11.6	64.9
• Tebedu	24		
• Kuching	5		
• Sarikei	10		
• Santubong	1		
• Serian	3		
• Lundu	1		
• Bintulu	2		
• Lubuk Antu	1		
KLIA/LCCT/Subang/Bayan Lepas/Kota Kinabalu/Kuching Airport	139	34.4	99.3
Don't know	3	0.7	100.0
Total	404	100.0	

Source: Survey.

From which countries do these respondents come from by the type of documents they used to enter Malaysia? **Table 3.6** shows that, among the major source countries, 30 or 93.8% of those respondents from Myanmar came in without any document, followed by 43 or 70.5% of respondents from the Philippines, and 51 or 29.0% of respondents are from Indonesia. Border passes are used only by those from Indonesia, Thailand and Philippines, which is understandable as these are the countries sharing common borders with Malaysia.

One of the explanatory hypotheses why the foreign workers come to Malaysia as illegal migrants is because of the high cost, especially if they come through an agent. **Table 3.7** shows the cost of the respondents' first journey to Malaysia. It appears that the cost is excessively high, that is more than RM10,000, for 13 of those from Bangladesh and one Pakistani. However, for 267 or 66.0% of respondents, the cost of this journey is less than RM2,000 and 43 or 10.6% even paid as low as less than RM100. Moreover, although the costs were high, most of respondents had come legally using their passports (see Table 3.6). Although the highest costs were incurred by the Bangladeshis and Pakistanis, most respondents from these countries entered legally

Table 3.5: Types of Documents Used to Enter Malaysia by Gender

Types of Documents Used to Enter Malaysia	Male	%	Female	%	Total	%
Passport	154	62.1	98	62.8	252	62.4
No Documents	84	33.9	51	32.7	135	33.4
Border Passes	10	4.0	7	4.5	17	4.2
Total	248	100.0	156	100.0	404	100.0

Source: Survey.

Table 3.6: Types of Documents by Source Countries

Country of Origin	Types of Documents			Total
	Passport	No Documents	Border Passes	
Myanmar	2	30		32 (7.9)
Bangladesh	29	1		30 (7.4)
Indonesia	112	51	13	176 (43.5)
Philippines	17	43	1	61 (15)
Vietnam	12	1		13 (3.2)
Thailand	18	2	3	23 (5.7)
Sri Lanka	7			7 (1.7)
Somalia	1			1 (0.2)
Nigeria	3			3 (0.7)
Morocco	1			1 (0.2)
Cambodia	14	6		20 (4.9)
Nepal	5	1		6 (1.5)
India	12			12 (3.0)
Pakistan	11			11 (2.7)
Brazil	1			1 (0.2)
Ghana	2			2 (0.5)
China	2			2 (0.5)
Liberia	1			1 (0.2)
Taiwan	1			1 (0.2)
Turkey	1			1 (0.2)
Total	252 (62.4)	135 (33.4)	17 (4.2)	404 (100)

Source: Survey.

Table 3.7: Distribution of Respondents by Cost of First Journey to Malaysia (RM) by Country of Origin

Country of Origin	1-100	101-300	301-500	501-1000	1001-1500	1501-2000	2001-3000	3001-4000	4001-6000	6001-10000	10001-15000	Above 15001	Don't know	Total
Myanmar	1	2		4	10	2	3	5					5	32(7.9)
Bangladesh			4	1	1		1	2	1	6	11	2	1	30(7.4)
Indonesia	20	24	30	35	18	10	6	2	1				30	176(43.6)
Philippines	8	17	8	13	2		1	1		1			10	61(15.1)
Vietnam			1	4	2		1		3	1			1	13(3.2)
Thailand	14	5	2										2	23(5.7)
Sri Lanka				1	1	1	1		2				1	7(1.7)
Somalia									1					1(0.2)
Nigeria									2	1				3(0.7)
Morocco									1					1(0.2)
Cambodia		1	1	4	2	3	1	1					7	20(5.0)
Nepal			1				1		2	1			1	6(1.5)
India			1		1	2	1	2	5					12(3.0)
Pakistan				3		3	1	1			1		2	11(2.7)
Brazil									1					1(0.2)
Ghana									1		1			2(0.5)
China				1		1								2(0.5)
Liberia										1				1(0.2)
Taiwan						1								1(0.2)
Turkey			1											1(0.2)
Total	43 (10.6)	49 (12.1)	49 (12.1)	66 (16.3)	37 (9.2)	23 (5.7)	17 (4.2)	14 (3.5)	20 (5.0)	11 (2.7)	13 (3.2)	2 (0.5)	60 (14.9)	404 (100)

Source: Survey.

because they have no opportunity to enter clandestinely owing to the distance. The costs are highest from these two countries because the agents in these countries charge the highest fees compared to others. It is mostly those that are from Indonesia, Philippines and Myanmar that came in without any documents.

It is possible that some of the costs are very low because they were incurred a long time ago, while the higher costs take into account the impact of inflation. As such, **Table 3.8** shows the cost of the respondents' first journey to Malaysia by their year of arrival. It is true that the

trips prior to 1996 cost mostly less than RM2,000, but it is also possible that those who came to Malaysia during that period were mostly those from the neighboring countries and they did not go through the formal agents that charge quite a lot. Now the costs are much higher because they come from afar. In order to ascertain this, **Table 3.9** will show the transportation costs by country of origin.

Table 3.8: Cost of First Arrival in Malaysia by Year of Arrival

Cost of First Journey to Malaysia (RM)	< 1990	1991-1995	1996-2000	2001-2005	2006-2010	2011	Cannot remember	Total
100 & less	8	3	3	3	14	10	2	43 (10.6)
101-300	5	3	7	4	28	2		49 (12.1)
301-500	3	5		5	32	4		49 (12.1)
501-1000	3	2	5	13	38	5		66 (16.3)
1001-1500	1	1	2	3	25	5		37 (9.2)
1501-2000	1	1		2	18	1		23 (5.7)
2001-3000		1			15	1		17 (4.2)
3001-4000				2	11	1		14 (3.5)
4001-6000			2	6	12			20 (5.0)
6001-10000			2	1	8			11 (2.7)
10001-15000			1		12			13 (3.2)
Above 15001					2			2 (0.5)
Don't know	6	2	1	4	40	6	1	60 (14.9)
Total	27 (6.7)	18 (4.5)	23 (5.7)	43 (10.6)	255 (63.1)	35 (8.7)	3 (0.7)	404 (100)

Source: Survey.

The cost of the journey comprises various items such as the cost of transportation, the agent's fee in the country of origin and that in Malaysia, the cost of obtaining the passport and the visa as well as the medical check-up. Table 4.9 shows that the amounts paid as transport cost appear reasonable according to the distance except for two cases, one each from the Philippines and Sri Lanka, as the amounts paid (above RM5,000) seem excessive. Otherwise, the transportation costs paid by those from the neighboring countries are mostly below RM1,000.

Table 3.9: First Arrival: Transport Costs by Country of Origin

Country of Origin	First Arrival: Transport Costs											
	1-100	101-200	201-300	301-400	401-500	501-700	701-1000	1001 - 2000	2001-5000	Above 5001	Don't know	Total
Myanmar	2	1	1			2		4			21	31 (7.9)
Bangladesh								2			25	27 (6.9)
Indonesia	17	21	14	17	6	7	9	5			77	173 (43.9)
Philippines	8	7	14	4	10	2	1	1		1	13	61 (15.5)
Vietnam				1		1		2	1		7	12 (3.0)
Thailand	18				1						4	23 (5.8)
Sri Lanka						1		2		1	3	7(1.7)
Somalia									1			1(0.3)
Nigeria									1	1	1	3 (0.8)
Morocco									1			1 (0.3)
Cambodia	1	2	1			1	1		2		12	20(5.1)
Nepal					1						5	6 (1.5)
India	1					1	1	3			5	11(2.8)
Pakistan						2	1	3	1		4	11 (2.8)
Brazil											1	1(0.3)
Ghana										1		1(0.3)
China							1				1	2 (0.5)
Liberia									1			1(0.3)
Taiwan								1				1(0.3)
Turkey											1	1(0.3)
Total	47 (11.9)	31 (7.9)	30 (7.6)	22 (5.6)	18 (4.6)	17 (4.3)	14 (3.6)	23 (5.8)	8 (2.0)	4 (1.0)	180 (45.7)	394 (100)

Note: 10 (2.5%) respondents did not indicate their transport.

Source: Survey.

Table 3.10 shows the amount of fees paid to the agents in the source countries by the countries of origin. It is difficult to get information on each of these expenses since most of the time the respondents do not know the breakdowns of the fees handed to the agent in their own countries. They might consider that the total sum is the agent's fee, which is likely to be untrue as the agents also have to pay for the other expenses. Assuming that these numbers can be believed, then agents from Bangladesh and Pakistan still charge the highest, while the respondent from Ghana is referring to the ticketing agent. Some agents from Nepal, Vietnam and Indonesia

Table 3.10: First Arrival—Fees to Employment Agents in Source Countries by Countries of Origin

Country of Origin	Fees/Payments Made to Employment Agents in Source Countries													Total (%)
	1-100	101-300	301-500	501-1000	1001-1500	1501-2000	2001-3000	3001-4000	4001-6000	6001-10000	10001-15000	Above 15001	Don't know	
Myanmar				5	4	2	1	1					4	17 (9.0)
Bangladesh			4	1			2		2	7	9	1	3	29 (15.3)
Indonesia	3		4	14	10	9	6	2	1				39	88 (47.0)
Philippines	1	2	1					1					5	10 (5.3)
Vietnam				2					3	1			2	8 (4.2)
Thailand							1						2	3 (1.6)
Sri Lanka				1					1				1	3 (1.6)
Somalia														
Nigeria														
Morocco														
Cambodia			1	2		2							7	13 (6.9)
Nepal							1		2	1			2	6 (3.2)
India				1			1	1	3				1	7 (3.7)
Pakistan								1			1		1	3 (1.6)
Brazil														
Ghana											1			1 (0.5)
China														
Liberia														
Taiwan														
Turkey													1	1 (0.5)
Total (%)	4 (2.1)	3 (1.6)	10 (5.3)	26 (13.8)	14 (7.4)	13 (6.9)	12 (6.3)	6 (3.2)	12 (6.3)	9 (4.8)	11 (5.8)	1 (0.5)	68 (36.0)	189 (100.0)

Notes : 215 (53.2 %) respondents did not go through employment agents

Source: Survey.

also charged quite high fees. On the other hand, **Table 3.11** shows that, among those who claimed that they pay to Malaysian agents (only 180 or 44.6%), most (164 or 91.1%) do not know the amount paid. Among the few that say they know, the amount are mostly less than RM1500.00, far lower than that charged by the agents in the country of origin.

Table 3.11: First Arrival: Fees to Employments Agents in Malaysia by Countries of Origin

Country of Origin	Fees paid to Employment Agents in Malaysia							
	1-100	101-300	301-500	501-1000	1001-1500	2001-3000	Don't know	Total
Myanmar					1		17	18 (10.0)
Bangladesh					1	1	25	27 (15.0)
Indonesia	1	5	1	2	1		75	85 (47.2)
Philippines		2					7	9 (5.0)
Vietnam							7	7 (3.9)
Thailand							3	3 (1.7)
Sri Lanka							3	3 (1.7)
Cambodia			1				11	12 (6.7)
Nepal							6	6 (3.3)
India							6	6 (3.3)
Pakistan							3	3 (1.7)
Turkey							1	1 (0.6)
Total (%)	1 (0.4)	7 (3.9)	2 (1.1)	2 (1.1)	3 (1.7)	1 (0.6)	164 (91.0)	180 (100)

Notes : 224 (55.4 %) respondents did not pay to Malaysian agents, including those from Brazil, China, Ghana, Liberia, Morocco, Nigeria, Somalia and Taiwan.

Source: Survey.

Overall, the respondents could have come directly or via a third country to Malaysia by land, sea or air, taking various types of transport or even just walking. When they arrived at the border, they have three choices of how to enter the country—showing their passports or border passes or sneaking into the country without any document. Their choice of the mode of entry depends on various reasons. **Table 3.12** shows the distribution of respondents by the type of document used and the reasons for their choice of the mode of entry. It can be seen that 252 or 62.4% of the respondents have chosen to come using the passport, while 17 or 4.2% used the border pass and 135 or 33.4% entered without any document. Among those who entered using the passports, the majority (91 respondents or 36.1%) did so because this was the arrangement made by their agents. Another 75 or 29.8% of the respondents did so because it was fast and easy, while 70 or 27.8% came this way because it was cheap. Of those using the border passes, 12 or 70.6% considered it cheap while the rest (5 or 29.45) did so because it was fast and easy. The main reasons for entering without any documents were because it was cheap (73 or 54.1% of the respondents), fast and easy (28 or 20.7% of the respondents), and arranged by their agents or

Table 3.12: First Arrival: Reasons for Choosing This Mode of Entry by Types of Documents

Reasons for choosing this mode of entry	Types of Documents			Total
	Passport	Border Pass	No Document	
It's cheap	70 (27.8)	12 (70.6)	73 (54.1)	155 (38.4)
Fast and easy	75 (29.8)	5 (29.4)	28 (20.7)	108 (26.7)
Provided by agents	91 (36.1)	0 (0)	22 (16.3)	113 (28.0)
Less chances of being detected by enforcement agencies	5 (2.0)	0 (0)	2 (1.5)	7 (1.7)
No financial resources to come legally	0 (0)	0 (0)	1 (0.7)	1 (0.2)
Provided by prospective employers	6 (2.4)	0 (0)	4 (3.0)	10 (2.5)
Usual route followed by everyone	2 (0.8)	0 (0)	0 (0)	2 (0.5)
No other choice	1 (0.4)	0 (0)	4 (3.0)	5 (1.2)
Do not know the correct way of entering Malaysia	0 (0)	0 (0)	1 (0.7)	1 (0.2)
Joining family members since a child	2 (0.8)	0 (0)	0 (0)	2 (0.5)
Total	252 (62.4)	17 (4.2)	135 (33.4)	404 (100.0)

Source: Survey.

prospective employers (22 or 16.3% and 4 or 3.0% of the respondents respectively). Hence, it was not just the workers that were violating the law, but those who arranged their journeys or those who were going to employ them were also contravening the law, emphasizing the need for the law to also penalize the agents and the employers.

Table 3.13 shows that most of the respondents (334 or 82.7%) came to Malaysia to look for a job, that is, most of the respondents are economic migrants. Among these are 208 or 62.2% of respondents with passport and these would also include those with valid work permits, 109 or 33% without any documents and thus they are considered illegal right from the start, as well as 17 using the border passes. Actually, the border passes do not allow the bearer to work and working using the border passes would also make these workers illegal. In fact, those who claimed that their purpose was joining family members or visiting family in Malaysia are most likely ending up looking for a job. Similarly, some of those who came on a tourist might also have the intention of working. But there are also people who ran away from political instability in source country, while others entered Malaysia unintentionally, like those who were fishing in Malaysian waters.

Table 3.13: Purpose of Entry by Type of Documents Used

Purpose	Types of Documents Used ¹			Total (%)
	Passport	No Documents	Border Passes	
Looking for a job	208 (62.2)	109 (33.0)	17 (5.0)	334 (82.7)
Tourism	19 (95)	1 (5.0)		20 (5.0)
Study	3 (100)			3 (0.7)
Joining family members	5 (28)	13 (72)		18 (4.5)
Visiting family in Malaysia	5 (62.5)	3 (37.5)		8 (2.0)
To escape political instability in source country	1 (17)	5 (83)		6 (1.5)
Fishing in Malaysian waters	1 (25)	3 (75)		4 (1.0)
To do business	2 (100)			2 (0.5)
To join lover	2 (100)			2 (0.5)
To attend a friend's wedding	3 (100)			3 (7.4)
On transit to Singapore	2 (100)			2 (0.5)
Looking for a long lost father		1 (100)		1 (0.2)
Go to the Embassy	1 (100)			1 (0.2)
Total	252	135	17	404

Note: Figures in parentheses are percentage distribution of respondents by the types of documents used.
Source: Survey.

Table 3.14 shows that the purpose of the respondents coming to Malaysia from certain countries, like Bangladesh, Nepal and Pakistan, is only to work. While a small number from countries like Indonesia, Philippines, Myanmar, Thailand, Cambodia, India, Vietnam and Sri Lanka claimed they came to Malaysia for other purposes, the majority still came to find a job. Moreover, no matter what is their stated purpose, they all end up working illegally in Malaysia. As for the respondents from the other countries, they are not allowed to work in Malaysia and thus their purpose of coming to Malaysia must be as tourists or to study, or in certain circumstances, to set up business or work as an expatriate.

While only 334 or 82.7% state that they came to Malaysia to look for a job, a total of 355 or 87.9% gave a positive probability of landing a job (see **Table 3.15**). In fact, a majority (173 or 48.3% of those looking for a job, were certain of getting a job. In fact, the interviews reveal that

Table 3.14: Purpose of Coming to Malaysia by Source Countries

Country of Origin	Looking for a job	Tourism	Study	Joining family members	Visiting family in M'sia	To escape political instability in source country	Fishing in Malaysia waters	To do business	To join lover	To attend a friend's wedding	On transit to Singapore	Looking for a long lost father	Going to the French Embassy	Total
Myanmar	20			6	1	4	1							32
Bangladesh	30													30
Indonesia	156	8		4	6					1		1		176
Philippines	49	2		6	1	1					2			61
Vietnam	9	1					1		1	1				13
Thailand	20			1			1			1				23
Sri Lanka	4	2											1	7
Somalia			1											1
Nigeria		2	1											3
Morocco								1						1
Cambodia	17	1		1			1							20
Nepal	6													6
India	11	1												12
Pakistan	11													11
Brazil		1												1
Ghana		1	1											2
China		1							1					2
Liberia						1								1
Taiwan								1						1
Turkey	1													1
Total	334	20	3	18	8	6	4	2	2	3	2	1	1	404

Source: Survey.

Table 3.15: Probability of Securing a Job in Malaysia on Arrival

Probability (%)	Frequency	%	Valid %	Cumulative %
10	2	0.5	0.6	0.6
20	3	0.7	0.8	1.4
30	2	0.5	0.6	2.0
40	2	0.5	0.6	2.6
50	70	17.3	19.5	22.1
60	15	3.7	4.2	26.3
70	24	5.9	6.7	33.0
80	32	8.0	8.9	41.9
90	32	8.0	8.9	50.8
100	173	42.8	48.3	99.1
Don't know	3	0.7	0.8	100.0
Sub-total	358	88.6	100.0	
Not applicable	46	11.4	100.0	
Total	404	100.0		

Source: Survey

many of these respondents had already arranged for the jobs even when they were still in their country of origin. Even if the respondents had not secured a job yet, most had very high probability of landing one as only 9 or 2.4% had probability of less than 50% while another three respondents did not know the probability.

3.3 Role of Social Networks

The various parties responsible for arranging the respondents' first trip to Malaysia are shown in **Table 3.16**. The people most responsible for arranging the trip are the respondents' parents (true for 157 or 38.9% of all respondents), followed by relatives (104 or 25.7%), husband (60 respondents or 14.9%), siblings (35 or 8.7%) or by themselves. It seems that employers and employment agency do not play an important part while the tourist agencies arranged the trip to Malaysia for those who came here as tourists.

Table 3.16: Party Arranging First Visit to Malaysia

Party Arranging First Visit to Malaysia	Frequency	%	Cumulative %
Respondent	19	4.7	4.7
Parents	157	38.9	43.6
Siblings	35	8.7	52.2
Husband	60	14.9	67.1
Relatives	104	25.7	92.8
Friends and acquaintances	7	1.7	94.6
Employer	5	1.2	95.8
Employment agency	10	2.5	98.3
Tourist agency	5	1.2	99.5
A priest in respondent's church	2	0.5	100.0
Total	404	100.0	

Source: Survey.

Table 3.17 shows that the grandmothers are the most important party in financing the respondents' first trip to Malaysia, as they financed 149 or 36.9% of respondents. This is followed by the respondents themselves as 101 or 25% of them financed their own first journey to Malaysia. Parents, who financed the trip for 71 or 17.6%, come next, followed by siblings (for 31 or 7.7% of respondents) and husbands that financed the trip of 25 or 6.2% of respondents. For those who provided the answer, the source of most of the finance came from their own savings, while some also borrowed to finance the trip, and two respondents even sold their land to finance it.

Only about one third, that is, 136 or 33.7% of those who replied, of the respondents indicates the sources of funding for the trip. Most of them (112 or 82.4%) have used their own or their relatives' savings, while another 22 or 16.2% had resorted to loans while another 2 or 1.5% had even sold their land. Unfortunately, 268 or 66.3% did not respond to this question.

Table 3.17: Party Financing First Journey to Malaysia

	Frequency	%	Cumulative %
Respondent	101	25.0	25.0
Parents	71	17.6	42.6
Siblings	31	7.7	50.2
Husband	25	6.2	56.4
Grandmother	149	36.9	93.3
Relatives	4	1.0	94.3
Friends and acquaintances	5	1.2	95.5
Fiancee	1	0.2	95.8
Employer	6	1.4	97.2
Employment agency	10	2.5	99.7
A priest in respondent's church	1	0.2	100.0
Total	404	100.0	

Source: Survey.

Table 3.18: Distribution off Respondents by Sources of Funding for First Journey to Malaysia

Sources of Finance	Frequency	%	Valid %	Cumulative %
Savings	112	27.7	82.4	82.4
Loans	22	5.4	16.2	98.5
Selling land	2	0.5	1.5	100.0
Sub-total	136	33.7	100.0	
No Answer	268	66.3	100.0	
Total	404	100.0		

Source: Survey.

As most of the respondents are lowly educated and have not travelled abroad before, a question that came to mind is whether these people dared to come alone to a strange country or

were they accompanied by others. **Table 3.19** shows that the majority, 133 or 32.9% of the respondents, came alone, followed by 104 or 25.7% of the respondents who came with friends and acquaintances. Another 87 or 21.5% came with the employment agents, 38 or 9.4% with their relatives, while the rest came mainly with various members of the family.

Table 3.19: People Accompanying Respondent on First Journey to Malaysia

	Frequency	%	Cumulative %
Respondent came alone	133	32.9	32.9
Parents	12	3.0	35.9
Spouse	17	4.2	40.1
Siblings	3	0.7	40.8
Son	1	0.2	41.1
Father in law	1	0.2	41.3
Relatives	38	9.4	50.7
Friends and acquaintances	104	25.7	76.5
Employers	6	1.5	78.0
Employment agents	87	21.5	99.5
Other prospective workers	2	0.5	100.0
Total	404	100.0	

Source: Survey.

It would ease the problems of adjustment if the respondents have relatives already in Malaysia that can provide them with various sorts of assistance. Of all the respondents, 158 or 39.1% of the respondents have relatives in Malaysia when they first arrived, as shown in **Table 3.20**. It can be seen that siblings are the most common relatives as they made up of 40 respondents or 25.3% of those who claimed that they have relatives in Malaysia, This is followed by ‘Uncle’ that made up 29 or 18.4% of the respondents, cousins that made up 27 or 6.7%, ‘Aunt’ that numbered 19 or 4.7% and ‘mother’ that totaled 13 or 3.2%.

The types of assistance provided by the relatives are shown in **Table 3.21**, where the most common assistance given is accommodation, given to 73 or 46.2%. The next most common

Table 3.20: First Arrival- Types of Relatives in Malaysia

Types of Relatives in Malaysia	Frequency	%	Valid %	Cumulative %
Mother	13	3.2	8.2	8.2
Father	1	0.2	0.6	8.9
Uncle	29	7.2	18.4	27.2
Aunt	19	4.7	12.0	39.2
Cousins	27	6.7	17.1	56.3
Siblings	40	10.0	25.3	81.6
In-laws	6	1.5	3.8	85.4
Grandfather	2	0.5	1.3	86.7
Grandmother	1	0.2	0.6	87.3
Nieces/nephews	5	1.2	3.2	90.5
husband	12	3.0	7.6	98.1
Fiancee/lover	1	0.2	0.6	98.7
Children	2	0.5	1.3	100.0
With Relatives	158	39.1	100.0	
Without Relatives	246	60.9	100.0	
Total	404	100.0		

Source: Survey.

Table 4.21: First Arrival- Types of Assistance from Relatives in Malaysia

Types of Assistance from Relatives in Malaysia	Frequency	%	Valid %	Cumulative %
Getting a job	55	13.6	34.8	34.8
Capital to start a business	1	0.2	0.6	35.4
Accommodation	73	18.1	46.2	81.6
Provided pocket money	6	1.5	3.8	85.4
Found a bride	1	0.2	0.6	86.1
No help given	22	5.5	13.9	100.0
Sub-total	158	39.1	100.0	
Without Relatives	246	60.9	100.0	
Total	404	100.0		

Source: Survey.

assistance rendered is getting the respondents a job (received by 55 or 34.8% respondents.) The other forms of assistance given are not that common. The various role relatives can play in the life of an irregular migrant is illustrated by the story in Box 3.1.

Box 3.1: Role of Relatives

Another male respondent from the Autonomous Region of Muslim Mindanao of Southern Philippines, working as a fisherman and earning a monthly income of 1,000 pesos in the early 1980s, came to Malaysia on a relative's boat for free for the first time in 1982. He already had a job arranged for him and he stayed in the beginning with his cousin. Since then, he had married and had seven children, five of whom are Malaysian citizens. His strategy to make his children Malaysians was by reporting to the registration office that the children are 'son' or 'daughter' of his brother who is a Malaysian citizen, (using 'bin' for son and 'binti' for daughter). He is literally a permanent resident of Sabah as he has no home in the Philippines and whenever he was deported back there, he would stay at the village mosque as he has only distant relatives there. He has been detained seven times in various depots in Sabah, either by the police or immigration officers, for overstaying or having no valid documents. He has been deported six times, the first time in 1992 and the last time in 2008, and also waiting for deportation for the current detention. As his wife and children are all in Sabah and he has no ties back in his village in the Philippines, he said he will continue to come to Sabah as he considers Malaysia his home, no matter how many times he is detained. At the same time, he also could not afford to come legally.

For the 158 or 39.1% of respondents, what are the status of their relatives in Malaysia? Box 3.1 has exemplified that the respondent has a brother who is a Malaysian citizen. How common is this? **Table 3.22** shows only 28 or 6.9% of the respondents have relatives who are Malaysian citizens, while a majority of the relatives (102 or 25.2%) are foreign workers themselves and another 18 or 4.5% are permanent residents. However, most of the rest, 246 or 60.9% of respondents, have no relatives in Malaysia.

Table 3.22: First Arrival – Status of Relatives in Malaysia

Status of Relatives in Malaysia	Frequency	%	Cumulative %
Foreign workers	102	25.2	25.2
Permanent residents	18	4.5	29.7
Malaysian citizens	28	6.9	36.6
Refugees (holders of UNHCR Card)	5	1.2	37.9
Holders of IMM13 Card	3	0.7	38.6
Lost touch with relatives in Malaysia	1	0.2	38.9
Holders of “Surat banci” Sabah	1	0.2	39.1
Without Relatives	246	60.9	100.0
Total	404	100.0	

Source: Survey.

3.4 Repeat Migrants: Process and Flow

So far, we have discussed issues pertaining to their first illegal entry. However, some of these respondents have been in and out of Malaysia for a number of times, as shown in **Table 3.23**. Although 274 or 67.8% respondents said that they are here for the first time, 130 or 32.2% have been in and out a number of times. Respondents from countries with the common borders like Indonesia, Philippines and Thailand have been in and out for as many as 50 times. Normally these are people who live just across the border with family and cultural ties on both sides. The respondent from Morocco and Taiwan has been in and out for many times because they travelled for business, with Malaysia being their base. The respondent from Liberia also claimed he is in Malaysia also doing business on a short-term basis and thus have to go out often to extend his visa.

One may presume that the number of times a respondent entered Malaysia would vary positively with his/her age. However, **Table 3.24** dispels this idea as it shows that the frequent entry is just as likely to be executed by a young or an older respondent.

Table 3.23: Number of Times Respondents entered Malaysia by Source Countries

Country of Origin	No. of Times Entered Malaysia Since First Arrival													Total
	1	2	3	4	5	6	7	8	10	12	15	20	50	
Myanmar	28	3	1											32
Bangladesh	26	4												30
Indonesia	122	29	9	6	4		2	1	1	1	1			176
Philippines	35	14	5	3		1	1		1				1	61
Vietnam	9	3			1									13
Thailand	4	5		1	1	1			3		1		7	23
Sri Lanka	7													7
Somalia	1													1
Nigeria	2	1												3
Morocco												1		1
Cambodia	18	1	1											20
Nepal	3	3												6
India	8	3	1											12
Pakistan	9	1		1										11
Brazil		1												1
Ghana	2													2
China		1		1										2
Liberia						1								1
Taiwan									1					1
Turkey		1												1
Total	274	70	17	12	6	3	3	1	6	1	2	1	8	404

Source: Survey.

Are males likely to enter the country more often than females? **Table 3.25** shows that there is not much difference between the two genders for entries up to ten times. However, there is only one female who entered the country 15 times compared to 11 males who entered the country more than ten times, with eight of them going in and out for 50 times! As mentioned above, some of them did this because they were doing business that necessitated them to travel to other countries.

Table 3.24: Distribution of How Many Times Have the Respondents Entered Malaysia since Their First Arrival by Age

No. of Times Entered Malaysia	Age									Total
	15-20	21-25	26-30	31-35	36-40	41-45	46-50	51-55	56-60	
1	35	68	69	50	20	19	10	2	1	274 (67.8)
2	6	6	23	13	13	4	3		2	70 (17.3)
3		2	4	3	4	3	1			17 (4.2)
4	1	3	2	1		5				12 (3.0)
5		2		2		2				6 (1.5)
6					1	1	1			3 (0.7)
7		1				2				3 (0.7)
8				1						1 (0.2)
10	1		2	1	1				1	6(1.5)
12					1					1(0.2)
15			1				1			2(0.5)
20									1	1(0.2)
50			2	2	1	1	2			8(2.0)
Total	43 (10.6)	82 (20.3)	103 (25.5)	73 (18.1)	41 (10.1)	37 (9.2)	18 (4.5)	2 (0.5)	5 (1.2)	404 (100)

Source: Survey.

For those who did travel home to their countries of origin, the distribution of respondents by the date of their last visit and gender is shown in **Table 3.26**. Of the 248 male respondents, 165 or 66.5% are in Malaysia for the first time while 83 had experienced going back to their countries of origin. Most of the respondents (52 or 21.0%) last visited their home countries between 2006-2010, while another 14 or 5.6% did so in 2011. It is also the same for the females, where 31 or 19.9% last went back to their countries of origin between 2006 and 2010, while another 7 or 4.5% returned to their home countries in 2011.

Table 3.25: Distribution of Number of Times the Respondents Have Entered Malaysia since Their First Arrival by Gender

No. of Times Entered Malaysia Since First Arrival	Gender		Total
	Male	Female	
1	165 (66.5)	109 (69.9)	274 (67.8)
2	46 (18.5)	24 (15.4)	70 (17.3)
3	9 (3.6)	8 (5.1)	17 (4.2)
4	6 (2.4)	6 (3.8)	12 (3.0)
5	3 (1.2)	3 (1.9)	6 (1.5)
6	2 (0.8)	1 (0.6)	3 (0.7)
7	2 (0.8)	1 (0.6)	3 (0.7)
8	0 (0)	1 (0.6)	1 (0.2)
10	4 (1.6)	2 (1.3)	6(1.5)
12	1 (0.4)	0 (0)	1(0.2)
15	1 (0.4)	1 (0.6)	2(0.5)
20	1 (0.4)	0 (0)	1(0.2)
50	8 (3.2)	0 (0)	8(2.0)
Total	248 (100.0)	156 (100.0)	404 (100)

Note: Figures in parentheses are percentages.
Source: Survey.

The 130 respondents who went home stayed back for quite some time, as shown in **Table 3.27**. Although 25 or 6.2% respondents went back to their countries of origin prior to 2006, only 11 or 2.7% returned during that period. Similarly, 83 or 20.5% of respondents went back to their home countries between 2006 and 2010, but only 78 or 19.4% came back to Malaysia. It was only in 2011 that 40 or 9.9% of the respondents returned to Malaysia.

Like the first time they came, **Table 3.28** shows that the most popular route was by boat, since 62 or 15.3% of respondents returned this way. However, returning by land is the second most popular route, taken by 36 or 9.0% of respondents, while the rest (32 or 7.9% of

Table 3.26: Respondents Last Visit to Home Country by Gender

Respondents Last Visit to Home Country	Gender		Total
	Male	Female	
Before 1990	1 (0.4)	2 (1.3)	3 (0.7)
1996-2000	5 (2.0)	2 (1.3)	7 (1.7)
2001-2005	11 (4.4)	4 (2.6)	15 (3.8)
2006-2010	52 (21.0)	31 (19.9)	83 (20.5)
2011	14 (5.6)	7 (4.5)	21 (5.2)
Cannot Remember	0 (0)	1 (0.6)	1 (0.2)
First time in Malaysia	165 (66.5)	109 (69.9)	274 (62.6)
Total	248 (100.0)	156 (100.0)	404 (100.0)

Source: Survey.

Table 3.27: Respondents Last Entry into Malaysia by Gender

Respondents Last Entry Into Malaysia	Gender		Total
	Male	Female	
1991-1995	0	1	1
1996-2000	1	0	1
2001-2005	6	3	9
2006-2010	50	28	78
2011	26	14	40
Cannot Remember	0	1	1
First time in Malaysia	165	109	274
Total	248	156	404

Source: Survey.

respondents) came back to Malaysia by air. The land and sea routes were chosen probably because most of those who did go home and then returned to Malaysia are from the neighboring countries of Indonesia, Philippines and Thailand, from where it is possible and cheap to come by boat or by land transportation.

Table 3.28: Repeat Migrants: Route Taken In Last Entry and Mode of Transportation

Route Taken & Mode of Transportation	Frequency	%	Valid %	Cumulative %
Sea by Boat	62	15.3	47.7	47.7
By Air	32	7.9	24.6	72.3
Land transportation:	36	9.0	27.7	100.0
• Bus	27			
• Car	3			
• Railways	3			
• Van	3			
Sub-total	130	32.2	100.0	
First arrival in Malaysia	274	67.8	67.8	
Total	404	100.0	100.0	

Source: Survey.

Table 3.29 shows the types of documents used by repeat migrants. Although a higher percentage of respondents returned legally using either the passports or the border passes (77.7% compared to 70.6% when they first arrived), yet they still breached the conditions of their legal documents. One would have thought that they would know how difficult it is to be an irregular migrant in this country, or would it be possible that it is only the entry points that are more difficult to penetrate and hence needing the legal documents, but once inside the country, they would know how to circumvent the detection and monitoring of their presence by the relevant authorities?

Table 3.29: Repeat Migrants: Documents Used upon Arrival in Malaysia

Documents Used	Frequency	%	% of Returnees	Cumulative %
Passport	80	19.8	61.5	19.8
No documents	29	7.2	22.3	27.0
Border passes	21	5.2	16.2	32.2
First time in Malaysia	274	67.8	-	100.0
Total	404	100.0	130 (100.0)	

Source: Survey.

Taking inflation into account, it would be expected that the costs of recent journeys would be more expensive than earlier ones as the costs are given in nominal terms. However, **Table 3.30** shows that these are not necessarily so as there are journeys in recent years that would also cost less than RM100 or RM200. Moreover, there are also journeys incurred in earlier years that cost the same as in recent years. Nevertheless these figures do not take into account the distance travelled.

Table 3.30: Distribution of Respondents Last Entry Date into Malaysia by Cost of Passage

Repeat Migrants: Cost of Passage RM	Respondents Last Entry Into Malaysia						
	1991-1995	1996-2000	2001-2005	2006-2010	2011	Cannot Remember	Total
1-100	0	0	0	10	16	0	26
101-200	1	0	1	10	4	0	16
201-300	0	0	1	4	1	0	6
301-400	0	0	0	11	2	0	13
401-500	0	0	0	4	0	0	4
501-700	0	0	1	6	2	0	9
701-1000	0	0	1	7	5	0	13
1001-2000	0	1	0	16	9	0	26
2001-5000	0	0	4	4	1	0	9
Above 5001	0	0	1	4	0	0	5
Don't know	0	0	0	1	0	0	1
Cannot Remember	0	0	0	1	0	1	2
First time in Malaysia	0	0	0	0	0	0	274
Total	1	1	9	78	40	1	404

Notes : 274 (68.0) respondents entered Malaysia for the first time.

Source: Survey.

3.5 Conclusion

It can be summarized that these irregular migrants had been coming to Malaysia for over 20 years although most of them came more recently. Most of them came by boat, entering the various sea ports around the country. A high proportion came directly and approximately two-thirds used legal documents to enter the country as they consider it cheap, fast and easy or it is provided by the agents. This is also true for repeat migrants, which implies that most of them became irregular only after entering Malaysia. Those without documents are mainly from Indonesia, Philippines and Myanmar, the latter mainly claiming to be refugees fleeing from their country. The total cost of coming to Malaysia can be very expensive for those who came here to work, especially for those from Bangladesh and Pakistan, and the fees charged by the employment agents in their home countries appears to be more than those charged by the Malaysian agents. No matter what are their stated purposes of coming to Malaysia, almost all of the respondents end up working in this country. The role of social networks is very important in facilitating their trips here as their parents and relatives are mostly the ones arranging their visit, financing the journey and providing assistance ones they get to Malaysia. Most of the relatives are foreign workers themselves although there are some who are having either permanent resident or Malaysian citizen status. Some respondents have been going in and out of this country a number of times, using the same tactic of entering with a legal document and then violating its conditions and so ending as irregular migrants.

Chapter 4

Irregular Migrants and the Law

4.1 Introduction

Several measures have been put in place to stem the expansion of irregular migrants as explained in Chapter 1. These include legalization, amnesty, border surveillance under the Ops Nyah 1; and rooting out exercises under the Ops Nyah 2. Both Ops Nyah 1 and Ops Nyah 2 are on-going exercises which irregular migrants can be subjected to anytime. They can be arrested under the Ops Nyah 1 operations while attempting to enter or leave Malaysia; or under the Ops Nyah 2 while at work, at home or anywhere at all. In addition, they can also be arrested by other enforcement agencies in the course of their work. A good example is the routine police operations under its D7 units which is responsible for combating gambling, gangsterism and immoral activities. It is under the D7 operations that foreign sex workers are usually arrested for the abuse of tourist or student passes or for the abuse of work permits.

A glimpse of how policy measures against illegal immigrants affect the lives of the respondents in this study will be explained. The focus will be on how and where they were arrested, the reasons for their arrest, their length of stay at the holding centers, the sentences meted out to them for breaching immigration and other laws. The respondents would be deported once their cases have been disposed off and sentences served. In relation to this they were also asked about the possibility of re-entry into Malaysia to see whether or not the sentences meted out to them can act as deterrent for them to come illegally or to stay illegally in Malaysia in future.

4.2 Place of Arrest

Under the Ops Nyah 2, impromptu checks are made on work places where migrants tend to concentrate such as the construction sites, entertainment centers as well as massage and reflexology centers. They also target their residential areas in squatter colonies and other migrant ethnic enclaves (see Azizah Kassim, 1999 & 2011) and carry out checks at road blocks, or in

public space such as shopping complexes and restaurants. The most common target is the construction coolie lines or kongsi as they are called locally. These places are usually raided in the night when the occupants are asleep and the chance of escape is less.

Table 4.1 shows that only 1.3% of the 404 respondents who have experienced arrest were nabbed under the border control exercise (Ops Nyah 1) while attempting to enter Malaysia. They were arrested at the Malaysia-Thai border in Bukit Kayu Hitam in the northern state of Kedah while attempting to enter Malaysia illegally. Two of them who had successfully crossed the border were already at a sugar cane plantation in the northern state of Perlis in the Peninsula when they were found by the police. They have been smuggled in from Myanmar through Thailand where successive guides took them from place to place until they reached the plantation. They were left there by the Malaysian guide who went to get them food. But he never came back. Instead the police arrived and arrested them and took them to the MOHA depot in Belantik, Kedah.

Two people were caught attempting to leave at the CIQ complex in Johor Bharu, three at the bus terminal and five at the airport. The largest number (49.9%) was arrested while at home, at work (25.9%); while travelling (10.2%) and on the way to work (0.8%). Six of them went to the police and one to immigration officers to report physical abuse inflicted on them by their respective employers. However, instead of getting assistance, they were arrested and sent to the MHA depots. Two respondents went to their respective embassy to seek official intervention to secure their unpaid wages. They too were turned in to the Immigration Department which subsequently sent them to the MHA depot. The response of the embassy officials is understandable as it is an offence under the Immigration Act 1959/63 to assist and harbor irregular migrants.

4.3 Reasons for Detention

The survey results show that the respondents were arrested for three major reasons (see **Table 4.2**). The majority (88.5%) were for violations of the Immigration Act 1959/63 and Passport Act 1966. Under this category, the largest number is those without documents (49%) followed by working without permit/visa abuse (19.5%). Although a high number of respondents are in

Table 4.1: Place of Arrest/ Surrender

Location	Frequency	%	Cumulative %	Types of Strategies
On Entering Malaysia				
Malaysia-Thailand border at Bukit Kayu Hitam, Kedah	3	0.8	0.8	Ops Nyah 1- Border Control
In sugarcane plantation, Perlis	2	0.5	1.3	
On Leaving Malaysia				
Bus terminal	3	0.8	2.1	Ops Nyah 1- Border Control
CIQ Complex	2	0.5	2.6	
Airport	5	1.4	4.0	
On The Road				
While travelling	37	10.2	14.2	Ops Nyah 2- Internal Weeding Out Exercises
On the way to work	3	0.8	15.0	
Place of work				
At a restaurant	9	2.5	17.5	
Karaoke Lounge	4	1.1	18.6	
Hotel	2	0.5	19.1	
At sea	4	1.1	20.2	
Work place (not specified)	181	49.9	70.1	
Official Centers				
Police station	6	1.6	71.7	Ops Nyah 2- Internal Weeding Out Exercises
Immigration office	1	0.3	72.0	
Embassy	2	0.5	72.5	
Others				
Shopping complex	6	1.6	74.1	Ops Nyah 2- Internal Weeding Out Exercises
At home	94	25.9	100	
Total	364	100.0		

Source: Survey.

Note: 40 respondents have never been arrested.

employment when they were apprehended, the number of respondents arrested for working without work permit is low because. This is because illegal employment is difficult to prove in court. Employers neither keep records of irregular migrants in their workforce nor of their wages. Foreign workers can only be arrested and charged for irregular employment when they are caught red handed, at their workplace performing their work. As such many irregular workers are

Table 4.2
Main Reasons for Present Detention at MOHA Depot

Reasons	Frequency	%	Valid %	Cumulative %
Violations of Immigration Act 1959/63 & Passport Act 1966 (n=300 / 88.5%)				
No travel document	166	41.0	49.0	49.0
Over staying	43	10.6	12.7	61.7
Passport held by employer	7	1.7	2.1	62.8
Did not take along passport	1	0.2	0.3	63.1
Expiry of work permit	17	4.2	5.0	68.1
Working without work permit/ Abuse of visa	66	16.3	19.4	88.5
Violations of FW Policy (N=19 / 5.6%)				
Abuse of work permit- Change of employer/job sector.	14	3.4	4.1	92.6
Ran away from employer	5	1.2	1.5	94.1
Criminal & Other Offences (N=14 / 4.1%)				
Possession of false IC	2	0.5	0.6	94.7
Falsifying documents	5	1.2	1.5	96.2
Having false work permit.	1	0.2	0.3	96.5
Having forged visa	2	0.5	0.6	97.1
Drunk & causing public disorder	2	0.5	0.6	97.7
Narcotic related offence	1	0.2	0.3	98.0
Stealing	1	0.2	0.3	98.3
Others Reasons (N=6/ 1.8%)				
UNHCR Card not recognized	1	0.2	0.3	98.6
Fishing in Malaysian waters	2	0.5	0.6	99.2
Do not know why	3	0.7	0.8	100
Subtotal	339	83.9	100.0	
Not applicable*	65	16.1		
Total	404	100.0		

Source: Survey.

Notes: * Respondents from outside MHA depot; FW= Foreign workers

instead charged for other immigration offences such as not having any travel or work documents. The main reasons for not having work permit is the high cost of levy, and the time consuming bureaucratic process involved. Many of the workers in the service, plantation, and construction sectors and domestic helpers are often recruited informally especially by sub-contractors or through informal social networks of the employers or their employees. Urgent need for foreign

workers such as by oil palm plantation owners during harvesting seasons or for domestic helpers by working housewives very often induce them to flout immigration and labor laws. Some respondents claim their employers or their agents have collected money from them to pay for their work passes but they had no idea the passes were not taken until they were arrested.

The percentage of over-stayers is significant (12.7%), while those arrested because their passport are kept by their employers is negligible (2.1%). Our data contradict the allegations made by many non-government organizations and foreign embassies that one major reason for the arrest of migrant workers is the withholding of their passports by their employers. The number of respondents who violated the terms and conditions of the foreign worker policy is small (5.6%). Of these, 4.1% abuse their work permits by changing job sector or employers, while others ran away from their employers. The reasons given for changing jobs and employers or for running away include non-payment of wages, employer's failure to give them the promised wages and other fringe benefits, or merely to avail themselves to better paying jobs offered by other employers. A small percentage (4.1%) of the respondents was charged for criminal offences, eleven of them for possession of fake documents and for falsifying official documents. The desperate need to avoid arrest and to gain access to jobs and housing induced many to purchase fake documents. A few were arrested for stealing, being drunk and causing injury to others, etc. The types of criminal offences indicated in this survey are light because we were not allowed access to hard core criminals at the MOHA depot for fear of our safety. According to official sources, the actual number of criminals among the inmates at the MOHA depot is high as they are housed there once they served time in jail and waiting deportation. The previous Director General of Immigration, Abdul Rahman was reported to have said, "*Hardcore criminals make up more than 4,000 foreign detainees at these camps*" (New Straits Times, 24 August 2010). Among these hardcore criminals are robbers, rapists and murderers. His statement is corroborated by official statistics from the Malaysian prison authorities which show that there are many foreigners in Malaysian prison (see **Table 4.3**). In 2001 over 19% of prisoners in Malaysian prisons were foreigners and the figure rose to 42.1% in 2007. In 2008, 2009 and 2010, although their number increased but their percentage declined to 34.5%, 31.5% and 27.9% respectively.¹

¹ Data from the Director General of Prison, Malaysia, via a letter dated 30 June 2011.

Table 4.3: Non-Citizens in Malaysian Prisons

Year	Malaysians			Non-Citizens					Total
	Con-victed	On Remand	Sub-Total	Con-victed	On Remand	Irregular Migrants	Waiting D'portn #	Sub-Total	
2001	15,421	7,021	22,448 (80.8)	3,702	1,138	0	497	5,337 (19.2)	27,785 (100)
2003	15,987	8,339	24,326 (71.9)	6,064	2,036	715	713	9,528 (28.1)	33,854 (100)
2005	17,757	9,729	27,486 (70.9)	5,762	2,375	2,929	210	11,276 (29.1)	38,762 (100)
2007	14,488	10,091	24,579 (57.9)	8,327	3,295	5,672	598	17,892 (42.1)	42,471 (100)

Note: # Waiting D'portn= Waiting for deportation. These are foreign nationals, who were sent to jail and have served their jail sentence. Due to overcrowding in the Immigration centres or to delay on the part of Immigration Department in processing their deportation, , they are kept in prison before being moved to immigration holding centres for deportation..

Source: Unpublished data from the Division for Security, Malaysian Prison Department (via personal correspondence).

Three of the respondents (a Vietnamese, Cambodian and Thai) were arrested for fishing in Malaysian waters by Malaysian border patrol and surveillance authorities such as the Malaysian Maritime Enforcement Agency under the Ops Nyah 1 exercises. Another, a refugee, was sent to the MOHA depot as his UNHCR registration card was not recognized as “proper document” by the arresting officer as he was unaware of the difference between a refugee and an illegal immigrant. Three others did not know why they were arrested. They claimed they were tourists enjoying themselves with their male friends when they were arrested at a spa. Our investigation reveals that they were apprehended for visa abuse as they entered Malaysia on tourist visa and they worked as guest relations officers (GRO) at the spa. In Malaysia, the term GRO is a euphemism for sex workers and prostitution which are not classified as legal professions.

A few of the respondents at the MOHA depot, especially those who violated the terms and conditions of their employment contract, can be categorized as forced labor and are victims of human trafficking. They should have been investigated under the Anti-Trafficking in Persons and Smuggling of Migrants Act (2007). Examples are the domestic maids who ran away from

their employers because of physical abuse and non-payment of wages and who sought intervention and protection from the authorities. As victims of forced labor they should instead be sent to shelter homes for protection and rehabilitation which are run by the Ministry of Women, Family and Community Development (for women and child victims) and by the Ministry of Home Affairs (for male victims). Administrative oversight on the part of enforcement officers and/or their ignorance of the Anti-Trafficking and Anti-Smuggling of Migrants Act 2007 denied the victims their rights to be “rescued” and placed at the shelter homes. They also missed the opportunity to claim their unpaid wages from their previous employers and assist the public prosecutor to charge the employers for exploitation.

4.4 Duration of Present Stay at the MOHA Depot

In the majority of cases, the duration of stay at the depot is relatively short. As shown in **Table 4.4**, more than half (180 respondents or 53.1%) have been at the depot less than a month, while another 72 or 21.2% have been there for less than two months. Only 19 or 5.7% have been detained between seven months and a year and another three or 0.8% for more than a year. The presence of the special court for illegal immigrants enable quick disposal of their cases and deportation.

Table 4.4: Duration of Present Stay at MOHA Depot

	Frequency	%	Valid %	Cumulative %
1 - 6 days	36	8.9	10.6	10.6
1 - 4 weeks	144	35.6	42.5	53.1
1 - 2 months	72	17.8	21.2	74.3
3 - 4 months	39	9.7	11.5	85.8
5 - 6 months	26	6.4	7.7	93.5
<i>7 - 8 months</i>	8	2.0	2.4	95.9
<i>9 - 10 months</i>	5	1.2	1.5	97.4
<i>11 months - 1 year</i>	6	1.5	1.8	99.2
<i>>1 year</i>	3	.7	0.8	100.0
Subtotal	339	83.9	100.0	
NA	65	16.1		
Total	404	100.0		

Source: Survey.

The delay in deportation is usually caused by difficulties in deciding the nationality of the irregular migrants (see Box 1) and/or the lack of co-operation from the respondents' respective embassies/consulates in validating their nationality and processing their travel documents. One foreign embassy whose officers were interviewed at the depot in Belantik, Kedah took three months before they came to process the travel documents of their nationals held at the depot. As the depot is far away from Kuala Lumpur where the embassy is, the officers would not come unless many of their nationals are due for deportation. They explained that it is not cost effective for them to come all the way from Kuala Lumpur to Belantik to process one or two illegal migrants from their country. So they waited until there were about thirty of them to be deported before coming to process their documents. The case of the Filipino irregular migrants in Sabah is more complex as many of the irregular migrants at the depot were born in Sabah but have no birth certificates to prove their nationalities. While Malaysia insists they are Filipinos, the Philippine authorities believe otherwise. As a result, some are now languishing in the Malaysian Temporary Detention centers. The absence of a Philippines Consulate in Sabah also delays deportation of their nationals from the state. While executing our fieldwork in Tawau in March 2011, we were informed that about a third of the inmates were Filipinos who have been there for some months because of the delays in validating their nationalities and processing their travel papers by the Philippine Embassy in Kuala Lumpur.

In the case of refugees, such as the stateless Rohingyas from Myanmar, their relatively long stay at the depot is due to the lack of a clear guideline to enforcement officers on what to do with them as they cannot be returned to Myanmar or sent elsewhere. There were also two cases of respondents categorized as "source country unknown" involving two sisters who were arrested on no man's land between Sarawak and Brunei several years ago. They claim to be descendents of an ancient Indonesian kingdom in Java but were born in Switzerland. They were jailed for trespassing and sent to the MOHA depot in Semuja, Sarawak before deportation. However, as their nationality remains unclear, it may take a long time before they can be deported.

Box 1: A Filipino Lady in Possession of false documents

One of the respondents, a 40 year old Muslim lady, was arrested for possession of false Malaysian identity card. She claims she was born in southern Philippines and was taken to Sabah by her parents while she was 4 years old and grew up and went to school in the state. In 1992, she was taken by an agent with several others to work in Peninsula Malaysia and was given a blue Malaysian identity card (IC) by the agent. She has used the IC all these years to work in factories, to get married and to register the birth of her four children. It was only when her house was raided by the Johor Islamic Religious Department in early 2011 for alleged co-habitation with a lover that she was told her IC was fake and consequently she and her children were arrested and taken to the Pekan Nenas MHA depot. Her case is a big legal puzzle facing the Malaysian authorities as to where to deport her and that will keep her and her children at the depot for a long time. Will the Philippines accept her and her children as nationals in the absence of an official document to certify that she and her children are Filipinos? Probably not.

Table 4.5 shows the duration of their stay at the depot by country of origin. Only a small number (6.6%) have been at the depot more than six months. They comprise Indonesians (7), Filipinos (7) Myanmarese (4), Indians (2) and one each from Nigeria and Cambodia. Quick deportation is possible if the prospective deportee or his consulate/embassy can pay for his passage home. Otherwise their passage will have to be paid by the Malaysian government which may cause considerable delay. Foreign consulates/embassies have so far refused to pay for the cost of passage home for their respective nationals, leaving the Malaysian authorities to foot the bill. In 2010, for example, statistics from the Department of Immigration reveal that over 42,622 irregular migrants were deported. This imposes a heavy burden on the Malaysian government which also has to bear the cost of maintaining them at the depot at RM35 per day for each person. The depots have a total capacity of over 16,000 but the number of inmates varies every day. Even if they have on average a 50% occupancy rate, the daily cost of maintaining them would be about RM280,000. However, the occupancy is much higher in most of the depots. Some depots, such as the one in Lenggend, are always overcrowded which makes them prone to

Table 4.5: Duration of Present Stay At MOHA Depot By Country of Origin

Source Country	Duration of Present Stay at MHA Depot									Total (%)
	1- 6 days	1- 4 Wks	1- 2 Mths	3- 4 Mths	5- 6 Mths	7- 8 Mths	9-10 Mths	11 Mths - 1 Yr	>1 Yr	
Myanmar	2	4	11	8	3	2		1	1	32 (9.4)
Bangladesh		22	6	2						30 (8.8)
Indonesia	20	73	28	7	4	3	3	1		139(41.0)
Philippines	3	9	6	5	6	1	2	3	1	36 (10.6)
Vietnam		6	4	2	1					13 (3.8)
Thailand	6	11	4		2					23 (6.8)
Sri Lanka		2	2	2	1					7 (2.1)
Somalia					1					1 (0.3)
Nigeria			1	1					1	3 (0.9)
Morocco		1								1 (0.3)
Cambodia	2	5	3	6	3	1				20 (5.9)
Nepal	1	2	2		1					6 (1.8)
India	1		1	3	2	1		1		9 (2.7)
Pakistan	1	5	1	3	1					11 (3.2)
Brazil		1								1 (0.3)
Ghana			1		1					2 (0.6)
China		2								2 (0.6)
Liberia			1							1 (0.3)
Taiwan		1								1 (0.3)
Turkey			1							1 (0.3)
Total (%)	36 (10.6)	144 (42.5)	72 (21.2)	39 (11.5)	26 (7.6)	8 (2.4)	5 (1.5)	6 (1.8)	3 (0.9)	339 (100)

Source: Survey.

break outs and riot by the inmates. Hence, the maintenance cost would be much higher. The Deputy Minister in the Ministry of Home Affairs in his Parliamentary speech in December 2010, was reported to have said the daily maintenance cost for foreign inmates was RM350,000 for 2009 (Utusan Malaysia, 2 December, 2010).

4.5 Arresting Agencies

Table 4.6 shows the agencies responsible for their arrest and the sectors where they were employed. Most of them were arrested by immigration officers (56.1%) and the police (35.5%). The role played by other agencies is minimal although RELA (Peoples Volunteer Corps) has

been accused and demonized by many (see among others SUARAM Annual Reports) as the major agency for arresting and abusing irregular migrants. Most of the arrests are by inland enforcement agency which indicates that arrest was done largely as a weeding out exercise under the Ops Nyah 2. The largest number (136 or 37.3%) of those arrested are from the service sector (such as cleaners, restaurant workers, security guards, etc.), followed by those from the construction sector (92 or 25.2%). The small number from agriculture and plantation is due to difficulties in gaining access to these areas as the plantations are large in size (thousands of acres) and both the plantations and agricultural small holdings are usually located in remote areas far away from the urban based enforcement officers. The enforcement officers are also not free to enter private homes where the domestic maids are working. In the manufacturing sector, the major user of foreign workers in Malaysia, the recruitment and placement of foreign workers is usually well regulated and is less likely to breach immigration laws. **Table 4.7**, which provides the breakdown of arrest by gender, shows that 137 or 37.6% of them are women and most have been arrested by the Immigration Department and the police.

Table 4.6: Previous Arrest by Enforcement Agency and Job Sectors

Agency	Man.	Cons.	Serv.	DM	Agri.	Plant.	NI	Total (%)
Police	13	31	42	10	13	5	14	128 (35.3)
RELA	1	1	6	1				9 (2.4)
Immigration	28	58	81	12	4	2	19	204 (56.1)
Military			1		1		1	3 (0.8)
MMEA			1		2			3 (0.8)
MOF					3			3 (0.8)
ASU		2						2 (0.5)
NAAD			1					1 (0.3)
Islam Dept.			1					1 (0.3)
DRT							1	1 (0.3)
Surrender *			3	5	1			9 (2.4)
Total	42 (11.5)	92 (25.2)	136 (37.3)	28 (7.6)	24 (6.6)	7 (1.9)	36 (9.9)	364 (100)

Source: Survey.

Notes: * To the police, Immigration and .Embassy; NI= No Information, Man=Manufacturing; Cons=Construction; Serv=Services; DM=Domestic Maid; Agri. =Agriculture & Plant=Plantation, MMEA= Malaysian Maritime Enforcement Agency; MOF= Marine Operation Force; ASU=Anti-smuggling Enforcement Unit; NAAD=National Anti Narcotic Agency; DRT=Department of Road Transport.

Table 4.7: Enforcement Agencies by Gender

Arresting Agency	Gender		Total (%)
	Male	Female	
Internal Enforcement Agencies			
Police	82	46	128 (35.2)
RELA	6	3	9 (2.5)
Immigration Enforcement officers	126	78	204 (56.0)
Dept. of Road Transport (JPJ)	0	1	1 (0.3)
Went to the Police for protection	2	7	9 (2.5)
Anti-Smuggling Agency (UPP)	2	0	2 (0.5)
National Anti Drugs Agency (AADK)	1	0	1 (0.3)
Islam Religious Department	0	1	1 (0.3)
Border Enforcement Agencies			
Military (land border)	2	1	3 (0.8)
MMEA (Sea)	3	0	3 (0.8)
Marine Operation Force (sea)	3	0	3 (0.8)
Total	227 (62.4)	137 (37.6)	364 (100)

Source: Survey.

Note: 40 (9.9%) have never been arrested.

Table 4.8 shows the number of times the respondents have been arrested and types of punishment meted out to them. As those at the depot are still waiting for their hearing or sentences, the types of sentences given them are based on their previous arrest. Only 227 respondents provided such information and of these, 157 (69.2%) have been sent to prison, others have been subjected to caning, fines, compound, and immediate deportation. Canning is only confined to adult males below 55 years of age. The majority (202 or 89%) had one previous arrest, 19 (8.4%) had been arrested twice before, 5 (2.3%) were arrested three times and one person had four previous arrests. Moreover, 69.2% have served time in prison between one day and more than a year while others have been caned (11.5%), fined (2.6%), compounded (4.0%, ranging between RM300 and RM15,000) and faced immediate deportation (12.7%). This indicates that the sentences meted out do not deter them at all from becoming irregular migrants.

The respondents were also asked who paid for the cost of their deportation in the previous arrests. Of the 29 who responded, 11 said it was paid by the Malaysian government,

Table 4.8: Sentences Meted Out to Respondents in Previous Arrest

Types of Sentence	1st Arrest	2nd Arrest	3rd Arrest	4th Arrest	Total
Sent to prison	146	11	-	-	157 (69.2%)
Fine	5	1	-	-	6 (2.6%)
Caning	22	3	1	-	26 (11.5%)
Compound	6	2	1	-	9 (4.0%)
Deported	23	2	3	1	29 (12.7%)
Total	202 (89.0%)	19 (8.4%)	5 (2.2%)	1 (0.4%)	227 (100.0%)

Source: Survey.

eight paid for themselves, seven paid by their relatives, and one each by their friends or their embassy/consulate. One respondent did not know who paid for his passage, but most likely it was paid for by the Malaysian government. Willingness to pay their own passage home will allow them to be deported sooner. However, only nationals of Malaysia's immediate neighbors can afford to do so as the costs for those from far away countries are expensive. As explained by a Thai detainee in the Ajil MHA depot in Terengganu in Peninsula Malaysia, it will cost him only around RM13 to travel from the depot to his home in Patani in southern Thailand. It may cost the Indonesians and Filipinos in Sabah slightly more but the travel cost is within the means of most foreign workers in Malaysia. Irregular migrants from far away countries, such as Bangladesh and India, usually cannot afford to pay for their passage as they have to return to their countries by plane.

4.6 Awareness of Who Irregular Migrants are and How to Avoid Arrests

It is interesting to note that a high number of the respondents are reasonably well informed of the various circumstances that can cause a foreigner in Malaysia to change his legal status to that of irregular migrants. These include staying in Malaysia without a valid passport, overstaying, running away from employers, using fake documents, abusing their visa and unregistered children of foreign nationals (see **Table 4.9**). They are also well aware of the many problems that irregular migrants face (especially by those in employment), the most important of which is the constant fear of arrest which limits their freedom to go out of their home and work place (see **Table 4.10**).

Table 4.9: Awareness of How Foreigners Can Become Irregular Migrants

Types of Violation	Yes	%
Staying in Malaysia without a valid document	350	86.6
Overstaying	330	81.7
Running away from an employer	248	61.4
Use of false document	306	75.7
Abuse of one's visa	266	65.8
Unregistered children of irregular migrants	210	52.0

Source: Survey.

It is important to note that only 40.6% of the respondents believe that they will have difficulty in getting a job in Malaysia if they were irregular migrants (see Table 10). A substantial number (31.4%) think those without proper documents will have little difficulty in going home, indicating that illegal entry and exit can easily be done through the many unauthorized entry points in Malaysia and the source country with the help of human smugglers from both sides of the border. It appears that they have not heard of or are not deterred by the numerous reports in the local and regional media about tragic accidents in the Straits of Melaka where hundreds of Indonesian irregular migrants died while on their way home because the unauthorized boats they took sank due to overload or bad weather (Utusan Malaysia, 23 June 2011).

Table 4.10: Problems Faced by Respondents Without Proper Documents

Problems Faced	Frequency	%
In constant fear of arrest	288	71.3
Not free to go out	275	68.1
Difficult to get a job	164	40.6
Problems in returning to home country	127	31.4
Low pay compared to legal workers	115	28.5
Difficulty in dealing with banks	121	30.0
Difficult to buy vehicles	104	25.7
Cannot get a driving license	96	23.8
Difficulty in renting a place to stay	87	21.5
Employers withholding pay	67	16.6

Source: Survey.

A lesser number also believe that they will have little difficulty in dealing with banks to send money home as there are a number of informal networks to transmit money as well as goods to their families in the source countries. For example, the informal recruitment agents who visit Malaysia four or five times a year to deliver workers also act as a courier for foreign workers who want to send money home to their families for a 10% fee. The respondents also believe that they will not have difficulty in getting a driver's license if they can afford to buy a car or a motorcycle, to rent a place to stay, or their irregular status will affect their pay. This reflects their perception that there are always some employers and members of the public in the country who are willing to flout Malaysian immigration and employment regulations for monetary gains. There are some truths in these perceptions. We found irregular migrants who have cars and motorcycles bought in the name of their Malaysian friends and they drove these vehicles without a license or with a license bought in the black market. Many Malaysians rent out rooms or a low cost housing unit to irregular migrants who are willing to pay more than the market price in rental. Such practices which are done at the expense of the local poor are in violations of Section 55E of the Immigration Act which prohibits the harboring of illegal immigrants.

In order to lessen the possibility of arrest, many irregular migrants confined their daily activities to their living and work space and mix only with members of their own ethnic community. To many respondents this is not a problem as they are working most of the time and have little time to spare for social activities. For those who are not in the workforce, this is a self imposed exile. An Indonesian irregular migrant in Bangi who is married to a refugee from Myanmar told us that she has not been out of her rented room for months for fear of being arrested. Another Indonesian housewife staying on the fourteen floor of a high rise low cost flat in Petaling Jaya said she has not been out of her flat since she arrived on tourist visa a year ago. When she had to deliver her baby, she did it at home with the help of her female friends from her own ethnic group.

The respondents in the survey said they would go out only for specific purposes such as to get their groceries. They will try to dress, behave and speak like the locals such as speaking in the local Malay dialect or in English if they are proficient in the language, or not to speak much (see **Table 4.11**). In multi-ethnic Malaysia, where the population comprises Malays, Indians,

Chinese and others, the presence of new migrants are not easily discernable. Many of them bear similar physical features as well as share common language, religion and customs with some sections of the local population.

Table 4.11: Ways of Avoiding Arrest By Irregular Migrants

Method	Yes	%
Refrain from leaving home unnecessarily	263	65.1
Mix with own ethnic group only	144	35.6
Dress like the locals	81	20.0
Only speak in Malay or English in public space	73	18.1

Source: Survey.

4.7 Possibility of Return after Deportation

As all the inmates in the depot will eventually be deported, the respondents were also asked a hypothetical question: Would they return to Malaysia after deportation? A large number 175 (43.3%) answered they will, 185 (40.8%) will not and the rest (15.8%) gave no answer as they were not sure. Of those who wish to return to Malaysia, 165 (40.8%) would do so legally so as to avoid being apprehended by enforcement agencies and to be free to move. They also want to work in peaceful environment and without fear, to get better wages and to be able to seek assistance from their embassies if they got into trouble (see **Table 4.12 & 13**). However, coming in legally to work does not guarantee that their legal status will be sustained. Many such workers failed to renew their work permits annually due to the high cost of levy, which in turn changed their status to irregular migrants.

Only ten respondents said they would re-enter Malaysia illegally because it is fast, convenient and cheap. These are respondents from the neighboring countries that share common land or sea borders with Malaysia, namely, Indonesia, Thailand and southern Philippines. There are many illegal crossing points along the land borders between the Peninsula and Thailand, and between Sarawak and Indonesia known locally as “rat trails“ through which they can enter Malaysia at minimal or no cost at all. Malaysia is also easily accessible by sea from Indonesia and southern Philippines due to their geographical proximity and the presence of many fishing vessels and barter traders between these countries.

Table 4.12: Possibility of Return after Deportation & Expected Mode of Re-Entry

Possibility of Return	Frequency	%	Cumulative %
Yes	175	43.3	43.3
No	165	40.8	84.2
Not Sure	64	15.8	100
Total	404	100	
Types of Entry			
Legal	165	40.8	40.8
Illegal	10	2.5	43.3
Do not want to return	165	40.8	84.1
NA	64	15.9	100.0
Total	404	100.0	

Source: Survey.

Notes: N.A= No answer

Those who planned to enter illegally again are not deterred by the prospect of being fined, compounded, canned or/and jailed. After all if they got arrested again they would eventually be deported once more and the cost of passage will most probably be paid by Malaysia. The penalty for breaking Malaysian immigration laws, said some informants in group discussions, is preferable to a life of unemployment and poverty back home. For example, many Filipino irregular migrants in Sabah, they would re-enter the state after deportation because all their family members are there. In Mindanao, they have no land or house let alone a source of income. So when they are deported, often times they sought refuge for a few days in mosques close to the port where they disembarked, before they made their way back again into Sabah.

4.8 Implication of Survey Results on Policy Implementation

The Immigration Act has provisions for the sanction against those who employ illegal immigrants, traffic or harbor them, but many parties, especially the NGO's and Malaysian Trade Union Congress (MTUC), bemoan the fact that these provisions are not fully enforced. The MTUC, for example, often questions why relatively few employers were apprehended. Our investigation reveals that the arrests of illegal workers are often accompanied by the arrest of their employers. However, the difficulty in proving illegal employment allowed errant employers

Table 4.13: Reasons for Re-entering Legally

Reasons for choosing to come illegally (n=10)	Yes	%
Speed and convenience	10	100
Cost – it's cheapest	9	90
If caught again, at the most I'll be fined and deported	8	80
If deported again, the Malaysian government pays for my passage home	8	80
Reasons for choosing to come legally (N=165)	Yes	
To avoid being apprehended by the authorities	165	100
Have more freedom to move	165	100
Can work peacefully without fear of apprehension	164	99.4
Can seek help from the Malaysian authorities/my Embassy if I have trouble with my employer	158	95.8
Have better wages and benefits by working legally	156	94.5

Source: Survey.

to go scot free. Another difficulty in apprehending employers for engaging illegal workers is when they are recruited by the out-sourcing recruitment procedure. In cases of conflict between the employer and workers, and the latter ran away and become irregular migrants, the problem is to prove who in fact is the employer to be charged: the outsourcing agency who recruits and pays the workers or the end user of their services, which may be a company or an individual. Most employers hauled by the Department of Immigration or by the Department of Labor prefer not to contest the charges made against them as the case may take years to conclude. Publicity given by the media to the case will also damage their company's or personal reputation. Hence, many prefer to go for quick disposal of the case by paying the compound instead. Such an option is also less costly than getting embroiled in a court case.

Several measures to address the problems caused by irregular migrants, such as the legalization and amnesty programs, border surveillance and control (Ops Nyah 1) and weeding out exercises to root out illegal immigrants in the country (Ops Nyah 2), appear to be targeted to the irregular migrants themselves and not to those who abet them, such as the employers, traffickers and harborers. The implementation of these measures has been given much publicity in the local, regional and international print and electronic media. Malaysia has been accused by many quarters, especially international agencies, of not according these workers their basic rights

and abusing and exploiting them. There are also widespread media reports about the way detainees are treated in the depot, the lack of basic facilities, of overcrowding and their unsanitary conditions. Much publicity has also been given to the “severe” canning penalties inflicted on the irregular migrants. In spite of all these reports, as seen in the case of the respondents, border infiltration is still common. Many workers who came legally often changed their status to irregular migrants by contravening immigration and labor laws or by committing crimes.

Most of the respondents in this survey understand how foreigners can become irregular migrants in Malaysia, what problems they will face and how to avoid being arrested. A majority have been apprehended, some more than once. Many have endured canning, have been fined, compounded and deported. Yet, when asked if they would come again after being deported from Malaysia, a substantial number said they will return. A few would even take informal routes and come in illegally yet again. This raises a very important question with regards to policy. Is the penalty not grave enough to deter foreigners to come as undocumented workers, or to overstay, abuse their visa and passes after arriving here legally? Is the cost of legal recruitment so high that they would rather risk, and if caught later, endure the penalties for breach of Malaysian immigration laws? Or, are there other factors that account their penchant for irregularity? The next chapter will try to provide some answers to these questions.

Chapter 5

Policy Evaluation and Proposals

5.1 Policy Performance: An Evaluation

Policy measures to stem the expansion of irregular migrants implemented in the last 19 years have positive results, but there are areas where they can be improved. The number of irregular migrants has not declined as anticipated. Instead it has risen in tandem with the increase in the number of legally recruited workers. In 1970s, their number was estimated at about half a million, but now it is much more although their actual figure cannot be ascertained. The rise is evidenced by the consistently high number of detainees in the 16 holding centers, the increase number of deportees every year such that a special unit, the Jabatan Depot, had to be established under MOHA to take over the management of the holding centers from the DOI in 2010.

The DOI estimates their minimum number in 2009 at 540,000 or 30% of the 1.8 million legally recruited migrant workers for the year. The ratio is based on spontaneous checks on migrant workers under the Ops Nyah 2 operations over the many years, where for every 100 immigrants examined, on average 30 are found to be irregular. Others, such as the MEF and MTUC, give a higher figure. They believe that for every one legal worker in Malaysia there is an irregular one and conclude that there are 1.8 million irregular migrant workers in 2009 (Shamsudin Bardan, 2011, & Balasubramaniam, MTUC. 2011). Based on these, it is safe to conclude that the number of irregular migrants is between 540,000 and 1.8 million. No later estimates are available.

The rise in the number of irregular migrants does not mean that efforts to stem out these irregular migrants as expressed in the second objective of the foreign worker policy have been futile. A fair assessment of the performance of these policy measures should be based on the achievements made by the enforcement agencies led by the DOI in the last 19 years. In 1970s, almost all foreign workers were illegal. With the implementation of policy measures since the signing of Memorandum of Understanding with Indonesia in 1984, many believe the ratio of

legal to legal migrant workers has changed considerably (see **Table 5.1**) from 0:10 in 1970's to 1:1 in 2000 as stated earlier.

Table 5.1: Ratio of Legal to Illegal Migrant Workers (1970-2011)

Period	Registered Workers		Irregular Migrants
1970's	0	:	10
1980's	1	:	5
1990's	1	:	3
2000's	1	:	1

Table 5.1 clearly indicates policy measures put in place has put a break to, or decelerates, the rapid expansion of irregular migrants in Malaysia since early 1992. As shown earlier in Table 1.3 in Chapter 1, in the last 19 years (1992-2011) around 4 million irregular migrants have been identified. These would not have been detected if the policy measures to curb the expansion of irregular migrants have not been put in place. Without these measures too their expansion may have accelerated further to a level that can demographically drown the Malaysian population by now. In short, these measures contain their number to a manageable proportion and along with it the many negative impacts associated with their presence especially their challenge to national security and sovereignty.

The steps taken to combat irregular migrants are not a total failure—they are successful albeit in a limited and subtle way. This is attributable to some inherent weaknesses in the policy provisions and extraneous factors—social, economic, political and administrative in nature that hampered and subverted the policy implementation. These will be explained below.

5.2 Counter-productive Elements in the Policy on Foreign Workers

The policy on foreign workers, as alluded to earlier, has two objectives: to encourage the recruitment and employment of foreign workers and to stem the expansion of irregular migrants. Some of the provisions made to achieve the two objects are counter-productive which led to the expansion of irregular migrants.

5.2.1 Inherent Problems in The Policy on Foreign Workers

i. Faulty Assumption

The policy on foreign workers was conceived as a temporary “stop-gap measure” and policy guidelines and measures put in place are tailored towards this objective. Thus migrant workers are given temporary work permit, the Pas Lawatan Kerja Sementara (PLKS), which allows them to work for a period of 5 years, after which they must return home. They are allowed to re-enter Malaysia to resume work after a period of 3 months.¹ In practice, however, the employment of foreign workers is not temporary. It has been going on for over three decades and this has allowed family formations and reunions and the emergence and expansions of foreign settlements, especially in Sabah and urban centers in the Peninsula like in Kuala Lumpur and Selangor. This disjuncture between policy and reality is the root cause of many problems associated with foreign workers’ employment. Employers in need of a stable labour supply very often violate policy guidelines on foreign worker employment by recruiting workers through informal agents and engaging them illegally and refusing to comply with amnesty and legalization exercises. In the plantations, this is rampant as policy enforcement is made impossible by the sheer size and nature of the plantations.

ii. Counter-Productive Terms and Conditions of Employment

Among the terms and conditions of foreign worker employment is the prohibitions for married workers to take along family members; and if they are single, from getting married while in service and in the case of female workers, they are not to get pregnant. As these conditions are contrary to human nature` and basic needs, they are frequently violated. Some workers get married clandestinely while in service and children born to them are usually not registered with the Malaysian National Registration Department. Others sent for their family members, especially wife and children, when they are financially stable. The family members would come legally on visitors pass and overstay. Cases like these lead to an increase in the number of irregular migrants.

¹ The “cooling off period” used to be 6 months before it was revised in 2010.

5.2.2 The General Nature of Policy Instruments to Combat Irregular Migrants

It is important to stress that irregular migrants are a heterogeneous category comprising the undocumented, overstayers, pass abusers, contract defaulters, undocumented foreign children and refugees. Some are in the labour force while a large number is not. Some are sojourners while others have been residing in Malaysia for decades with family members spanning over three or four generations. Policy measures put in place do not differentiate between the different categories of irregular migrants and failed to address their specific problems. The assumption behind the policy is that all irregular migrants can be deported. However, this is not true in the case of refugees and undocumented foreign children whose nationality cannot be determined. Similarly, long term irregular migrants who have been in the country for decades, such as some Filipino migrants in Sabah, cannot be repatriated and many have severed their links with their native land.

5.3 Challenges in Policy Implementation: Administrative Issues

Apart from the problems arising out of the policy, there are extraneous factors that influence its implementation. These include administrative, economic, social, security and political factors.

i. Frequent Changes in Policy Measures

Policy measures are frequently changed in response to economic, social, political and security concerns. For example, the decision to ban Indonesian workers in early 2002 was reversed within less than a month. The ban on Bangladeshi workers was imposed and lifted three times (1996, 2007 and 2008). Legalization and amnesties are frequently launched and its effective periods changed as a result of pressures from employers, recruiters or in response to request from the source country. The amnesty exercise in 2004, for example, was extended from three weeks to over a year. Such changes led to the confusion of front-line enforcement officers and other stake-holders and the workers and losses to recruiters and employers.

However, some migrants are able to manipulate these changes to their advantage. Many who came in legally, overstay and work, taking up jobs where they are least likely to be arrested, such as in domestic services and plantations and avoid public places. Many will wait until the

government announce the legalization exercise when their position can be regularized, or the next amnesty to return home without being arrested and charged under the immigration laws.

ii. Inadequate Facilities and Enforcement Staff

As alluded to earlier, the irregular migrant population is estimated between 540,000 and 1.8 million. The number is overwhelmingly large in relation to size of enforcement agencies especially the Immigration Department, the lead agency. Over pressured by its huge responsibility, in 2007, the Department applied for about 5,000 additional staff. The lack of personnel and basic infrastructure and equipments (such as vehicle, lock-ups and holding centers) greatly hampered their efficiency. For example, there are only 17 immigration depots with a total capacity of over 16,000 and this imposes a big constraint on activities of field officers. Enforcement officers can only perform their duties when there are vacancies in these centers.

The depots are also lacking in basic facilities and are often over-crowded due the delay in processing the departure of detainees. The establishment of the Special Courts for Irregular Migrants in 2005 has reduced the delay considerably as seen in the case of the respondents. However, the delays are also due to lack of co-operation from the related foreign missions in Malaysia.

iii. Corruption among Related Officials

Those who are entrusted with enforcing immigration laws are known to have abused their powers and abetted illegal immigrants. The Immigration Department in Putrajaya admits such corruption occurred. One of its publication (Buletin Imigresen Januari-Mac 2007:30-31) carries an article about how one of its officers was caught, investigated and later dismissed for making false endorsements on the passports of foreign nationals. The arrest of the Director General of Immigration Malaysia and his Deputy in July 2007 is also an indication that such practices are not uncommon and have permeated to all ranks in the Department. This also accounts for the ineffective implementation of immigration laws.

iv. Poor Enforcement of Immigration and Labour Laws

With the high number of over-stayers and undocumented migrants one can conclude that the enforcement of Immigration laws in the country is rather lax. In Sabah, for example, between 1996 and 2005, over 1.6 million Indonesians entered the state. Of these only 49.7 percent left the state. The rest overstayed and work and became irregular migrants (Sabah Yearbook of Statistics 2000-2006). The problem is accentuated by the lack mechanisms to track down over-stayers. Similarly, the enforcement of labor laws is ineffective, which enables employers to exploit legally recruited foreign workers such as giving them low wages, denying them leave and medical facilities to cut down on production costs. This in turn negatively affects employment of locals as employers prefer to hire migrant workers instead.

v. Lack of Punitive Action against Employers

In view of the increasing number of irregular migrants, the Immigration Act 1959/63 was amended in 1998 when the penalty for breach of immigration law with regards to illegal entry was raised and canning was introduced. In 2002, the Act was amended again which include provision to sanction employers, human traffickers and harborers of irregular migrants. Apparently it is difficult to charge employers for engaging them because often times irregular work lack documentation such as payment slips, attendance registers of workers that can be used as evidence to prosecute the employers. Employers can only be charged if irregular migrants are caught red-handed working in their premises. Even then, employers can deny any knowledge of these workers and by doing so they can possibly be charged for harboring illegal immigrants and not for employing them.² The lack of action against employers can also be attributed to systemic corruption among related officers as alluded to above.

vi. The High Cost of Recruitment and its Bureaucratic Procedures

The cost of legal recruitment is highly prohibitive, especially for those engaged in the service, construction and manufacturing sectors. The cost, on average, varies between RM6,000 for domestic workers from Indonesia to RM12,000 for Bangladeshis in the manufacturing sector. The cost includes the fee for two sets of agents (in the home country and Malaysia), the cost of

² Interview with an enforcement officer in Putrajaya in June 2007 and in 2010.

levy, visa and processing fee, two medical check-ups (one before leaving the home country and another after arriving in Malaysia), transportation and other related expenditure, such as pre-departure induction courses, training and accommodation. This is to be shared by the worker and his employer. The recruitment process may take up two or three months. When the government revised recruitment procedures and institutional structures in 2005, part of the objective was to reduce recruitment procedure and time, yet considerable delays still happen.

As legal recruitment is costly, many prospective workers prefer instead to come in as tourists, overstay and work illegally; or to seek the assistance of informal/unregistered agents to enter and seek jobs in Malaysia. The savings is considerable especially for workers from the Indian sub-continent who can now come to Malaysia on low fare airlines such as Air Asia. These alternative methods are preferred not only because they are inexpensive and fast, but also because they give the workers some freedom to choose their job and their employer which they could not do so if they were legally recruited.

5.4 Challenges in Policy Implementation: External Factors

i. Conflicting Inter-Ministerial Policy Objectives

While the Immigration Department is entrusted with controlling Malaysian borders, the Ministry of Tourism is actively encouraging tourists to come, especially during the Visit Malaysia Year in 2007. One of the methods to lure in tourists is to make entry to Malaysia easy. Thus the VOA (Visa on Arrival) entry procedure was introduced where tourists can come in and take their visa at the Kuala Lumpur International Airport (KLIA). This system has been widely abused especially by tourists from India. Official statistics from the Department of Immigration reveal that until November 2007, about a third of the 146,500 tourists who came that year have overstayed. In 2010, the Prime Minister announced that 40,000 Indian tourists had “disappeared” in Malaysia. Many used the VOA as a means to look for employment in Malaysia. Other VOA abusers are from China and Sri Lanka.

The Ministry of Higher Education is also encouraging foreign students to study in Malaysia. By 2010, over 80,000 students have arrived but many have also abused their student

visa and join the labor force. A few have been involved in the sex trade and drug related activities (Utusan Malaysia, 4 January 2011). These conflicting objectives between ministries have to some extent compromise the functions of the Immigration Department, a point that have been voiced by the Director General of Immigration in recent report in the national dailies.

ii. Expansion of the Fake Document Industry

With the acceleration of enforcement activities, many irregular migrants are resorting to fake Malaysian official documents. This has led to the expansion of the fake document industry which produces and sells fake documents in the form of Malaysian and foreign passports, Malaysian identity card (IC), birth certificates, driving licenses and stamps for endorsements of visa and work permits in their passports. Some of these are expertly done that they can only be detected by the trained eyes of enforcement officers and with special electronic gadgets. There are also cases of genuine documents secure by fraudulent means. A good example is the case in Sabah where some people keep the birth certificates of dead children, which are then given for use to relatives coming from the neighboring states (Zulkifli Hassan, 1999). There was also a reported case of a Sabahan who claimed an alien as his son to help him get an identity card, hence the term “backdoor” citizens (Azizah Kassim, 2005).

In recent years even the even the UNHCR card has been included in the list of fake documents available in the black market. Throughout this research and others we have met several immigrants who possess fake personal documents for several years only to discover they are fakes when Malaysia began examining them using the biometric identification systems. The Filipino lady in Box 1 is a good example.

iii. Entrenched Cross-National Kinship and Ethnic Networks

Malaysia has a multi-ethnic population, some of whom are descendents of immigrants from Indonesia, China, India, Pakistan, Saudi Arabia and other Middle Eastern countries and Europe. Many Malaysians still maintain kinship links with their families in their countries of origin. It is not uncommon for some of them to sponsor family members to come and work in Malaysia. In our research we found Indonesians being brought in on tourist visas by their Malaysian relatives

to help out in family enterprises in this country. Such a practice is also found among Malaysian Indians who operate restaurants and ambulatory food stalls selling such snacks as *cendol* and *rojak*. It is generally acknowledged officially that kinship links are often the conduit for the importation of irregular workers. From time to time, the state warns the general public through the media spelling out the consequences of harboring illegal immigrants. In the case of foreign nationals with Permanent Residents (PR) status, they could be stripped of their PR if they were found harboring and abetting irregular migrants. However, these warnings are often ignored.

*iv. Malpractices among Formal Recruiting Industry and
The Expansion of Informal Agencies*

There are now about 300 formal recruiting agencies to import foreign workers and the stiff competition between them sometimes lead to malpractices. There are many complaints by Muslim workers from Indonesia who were promised jobs in a Muslim family in Malaysia being sent to non-Muslim households where they are not allowed to practice their religion and asked to handle pork. Many ran away as a result changing their status to that of an irregular migrant. There are also many complaints about the employment contracts that were signed in the home country which were substituted by the Malaysia agent where the wages and benefits to be enjoyed by the prospective workers were reduced. The contracts are also in English, which are not understood by many of the foreign workers. Such malpractices also forced many legally recruited workers to run away.

Moreover, there is a large number of informal agencies whose number cannot be ascertained. Most of them are utilizing cross-border kin and family networks in their business operations. Some are operated by recent migrants who have been granted PR or citizenship status. Among some Indonesian groups, new migrants with PR status are now working as sub-contractors in the building industry (see Abdul Halim & Abdul Rashid 1997). They are now recruiting their kith and kin from their villages to work for them. Our survey reveals that plantation owners in Sabah very often ask their trusted foreign employees to recruit new workers through their family and ethnic networks in their home village. The new workers are brought in as tourists, overstay and work in the plantations. These informal channels are preferred by some as they do not involve bureaucratic procedures and are therefore fast. They are also cheap compared to formal recruitment.

v. *Lack of Co-operation from Foreign Missions*

Foreign missions are notified when their nationals or people who claim to be their nationals are arrested or to be deported. They need to evaluate if the detainees are indeed their nationals and this takes time especially if they are undocumented. In addition they have to prepare travel documents for the detainees to travel home and provide financial help for them if there are requests for it. Many foreign missions take their own time to respond immediately to such notice, with some taking months to arrive. Filipinos in the Sabah holding centers is a case in point. As the Philippines does not have a Consulate in the state, officials have to come all the way from Kuala Lumpur to attend to them. This causes considerable delay in deporting them. In March 2011, during our visit to the Pusat Tahanan Sementara in Tawau, Sabah, we were informed that more than 60% of the inmates were Filipinos who have been there for some months. Such impediments delay the weeding out operations in the state.

vi. *Pressures from International Regimes*

As a member of the international community, Malaysia is expected to observe some of the United Nations conventions relating to human rights and the rights of refugees and immigrants, even if Malaysia does not ratify the conventions or acceded to it conditionally. In monitoring illegal immigrants, for example, Malaysia faces a big dilemma, as it does not ratify the Refugee Convention 1951 or New York Protocol 1967. Consequently refugees are officially viewed as illegal immigrants. Although Malaysia is not obliged to accept asylum seekers and refugees, it also cannot refuse them entry, as it has to observe the principle of *non-refoulement*. Many economic migrants have come in disguised as refugees, and this subvert the exercises to root out illegal immigrants carried out by the authorities. The United States Committee on Refugees and Immigrants (USCRI) in 2007 has accused Malaysia of human rights violations with regards to refugees and immigrants and positioned Malaysia in the “F” grade. In a special report on the amnesty exercise 2004-2005, the Enforcement Division of the Department of Immigration mentioned the “interference” by UNHCR in the course of its duty relating to irregular migrants.

In recent years the US government through its annual report of human trafficking (TIP) has been imposing considerable pressure on the Malaysia government with regards to its

treatment of victims of trafficking and human smuggling. It has ranked Malaysia into tier 2, tier 3, tier 2 (watch list) and tier 2 (watch list) in the last four years which damaged the country's reputation. Such reports can be regarded as interference as it forced Malaysia to re-locate its finances into areas that is not yet a priority. The emphasis put into human trafficking also affect the implementation of existing labor and immigration laws.

vii. Diplomatic Considerations

There are times when diplomatic considerations forced the Malaysian authorities to refrain from taking unpopular actions against illegal immigrants. For example, the introduction of caning as a penalty for illegal entry took years to materialize as Malaysia did not want to offend the source countries, especially Indonesia, a close neighbor and a major source country. When caning was eventually introduced in 1999, Malaysia was subjected to a barrage of criticisms from the Indonesian public and some of its politicians (Marja Azlima Omar, 2006). In addition, the amnesty period for 2004 was extended twice in a show of sympathy for Indonesia when the tsunami struck Aceh at the end of 2004.

viii. Geographical Factors

Malaysia can easily be transgressed by its immediate neighbors from Indonesia, Singapore, Thailand, Philippines and Brunei with whom its shares a common border. Its long coastline and land borders make monitoring and control of cross-border migration an extremely difficult task. Moreover, the local population of separate nationalities living on both sides of the political boundary in the northern part of the Peninsula, the east coast of Sabah, and in Sarawak is usually linked by close ethnic and kinship ties. In the last century, the western colonial powers viz. Britain, Holland, Spain and the United States of America, divided them into different nationalities by imposing political boundaries that serve their immediate interests. But in spite of the political borders dividing them into separate nationalities, socio-cultural and economic interactions between them persist until today, requiring them to criss-cross these borders as their ancestors did before them. Illegal border crossing is an on-going process which is difficult to stamp out altogether. The border population, who do not seem to acknowledge "the border" have long experience in border crossings and are expert at it. They can very easily outwit law enforcers.

5.5 Recent State Actions on Migrant Workers

The government is mindful of the intricate link between legally recruited foreign workers and the expansion of irregular migrants and since 2005 took several measures to address the issue. Nonetheless, it has failed to find the right formula to overcome the related problems. In 2005, the restructuring of institutions and procedures for recruitment of foreign workers was undertaken, which among others, introduced such institutions as the One Stop Centre (OSC), Job Clearance System (JSC) and the privately run out-sourcing agencies to recruit and manage foreign workers. However, this did not solve much of the problems related to the employment of foreign workers. In fact, it accentuated them especially when some of the errant out sourcing agencies abused the system by over recruitment. In one case in 2007, an outsourcing agency working together with an agent from Bangladesh abandoned thousands of newly recruited Bangladeshi workers at the KLIA and they eventually joined the ranks of the illegal.

In February 2010, a laboratory on foreign workers and illegal immigrants was formed by the Ministry of Home Affairs. It was to provide a platform for all related government officers and other stake-holders from the private sector and civil society to meet and discuss the problems related to foreign workers and come up with some viable solutions. The result was the 6P system—Pendaftaran (registration), Pengesahan (legalization), Pengampunan (amnesty), Penguatkuasaan (enforcement), Pemantauan (surveillance) and Pengusiran (deportation). The system was scheduled to be implemented on 11 July 2011 for a six-month period but due to some unexplained obstacles it was postponed to 1 August 2011.

In November 2010, the government extended the Anti-trafficking in Person and Smuggling of Migrants Act 2007 (amended 2010) to include forced labor. This has benefitted a few hundred irregular migrants who ran away from their employers and sought help from their embassies and other agencies. However, its application is limited due to a lack of awareness among enforcement officials about the Act and the limited number of shelter homes for trafficked victims that are now available in Malaysia.

5.6 Policy Proposals

Malaysia is undergoing socio-economic transformation in its attempt to become a high income society. The utilization of foreign workers, especially irregular migrants is seen as a major obstacle towards this end as it sustains labor-intensive industries and discouraged the employers from up-grading their production technology. The need to phase out foreign workers was expressed much earlier and in 2006, when the then Prime Minister Abdullah Badawi announced in the Ninth Malaysia Plan 2006-2010 (Malaysia 2006) that Malaysia will reduce its foreign workers intake to 1.5 million. However, with pressure from employers the government backtracked and abandoned the plan as can be seen by the increase in the number of foreign workers in the subsequent years which reached a peak at over 2 million in 2008. The call to phase out these workers is revived under the present Prime Minister Najib Razak and employers and captains of industries are required to up-grade their technology. However not all sectors are amenable to technological development through mechanization and automation. The plantation, care giving and child minding sectors are good examples. Malaysia will have to continue depending on foreign workers in these sub-sectors. Based on this consideration our policy proposals are as given in the next section. The policy proposals are divided into two sections, namely proposals related to general policy on foreign workers and proposals specific to policy measures on irregular migrants.

5.6.1 Proposals related to general policy on foreign workers

- i. To have two sets of immigration laws:
 - a. for foreigners within the same cultural area as the host society
 - b. for those from outside the cultural area. This is to facilitate cross-border flows among border communities separated by artificially drawn political borders.
- ii. To phase out foreign workers in stages within a stipulated time period for each sector except for sectors dependent on foreign workers, such as the plantation sector where mechanization and automation are difficult to implement.

- iii. To locate industrial estates in the border areas so that foreign workers can commute daily to these areas to work.
- iv. In anticipation of continued labor inflow, legal classifications of residents in the country should be revised to include another category/label to accommodate the mobile foreign population and facilitate legal crossings.
- v. In Malaysia, currently there is an automatic conferment of citizenship to children of permanent residents. This practice should be reviewed and amended so as not to make it too easy for foreigners to attain Malaysian citizenship. Malaysia should explore the possibility of extending the period and conditions of eligibility to citizenship by children of permanent residents.

5.6.2 Specific Proposals

In order to address root causes of expansion of irregular migrants that is embedded in the policy on foreign workers, the following proposals are forwarded for consideration.

No.	Challenges	Proposals
1.	Faulty assumption on which the policy is based	To recognize that the dependency on FW will go on indefinitely and formulate suitable policy measures towards this end.
2.	Counterproductive terms and conditions of the Foreign Worker policy	To allow workers in sectors in critical sectors e.g. Plantations to take along family members to cater for a stable labor supply.
3.	The general nature of policy instruments to combat irregular migrants	<ul style="list-style-type: none"> ➤ To take note of the heterogeneous nature of irregular migrants and have suitable measures for each group. ➤ To formulate separate policy measures for sojourners and long term irregular migrants and undocumented foreign children

Challenges in Policy Implementation: Administrative Issues		
4.	Frequent changes in policy measures	To include other stakeholders in the formulation of policy measures such as the MEF, MTUC, PAPA and NGOs and researchers so that more durable policy measures can be arrived at.

5.	Inadequate facilities and enforcement staff.	The government is already taking measures to upgrade the depot and its facilities. Such measures should be extended to other facilities for enforcement officers in Ops Nyah 1 and Ops Nyah 2.
6.	Corruption among related officials	The government is paying due attention to this.
7.	Poor enforcement of immigration and labor laws	To urge the authorities enforce the laws fully.
8.	Lack of punitive action against employers	More punitive action should be taken especially under ATIP
9..	The high cost of recruitment and its bureaucratic procedures	To reduce the cost of recruitment. One proposal being made now is to allow direct recruitment by employers as an alternative means of recruitment.

Implementation of Policy Measures: External Challenges		
10.	Conflicting inter-ministerial policy objectives	Ministries should co-ordinate their different objectives so it will not conflict with the national agenda.
11.	Expansion of the fake document industry.	To all measures to curtail these industries. It is hoped that the introduction of the biometric system will help overcome the problem.
12.	Entrenched cross-national kinship and ethnic networks	<ul style="list-style-type: none"> ➤ To make use of this network for recruitment purposes where the Malaysian relatives can stand as security for the newly recruited FW. ➤ To impose high penalty for PR holders for harboring, employing and trafficking IM.
13.	Malpractices among formal recruiting industry and the expansion of informal agencies	Tough actions against errant recruiters under the ATIP or the immigration law.
14.	Lack of co-operation from foreign missions	To urge the Ministry of Foreign Affairs Malaysia to include this problem in their agenda in engaging foreign missions.
15.	Pressures from international regimes.	To take note and respond positively where ever possible.
16.	Diplomatic considerations,	Not to succumb to external pressure in formulations and implementations of domestic policy.
17.	Geographical factors.	To accelerate border control and surveillance exercises.

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