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After Nunukan: The Regulation of Indonesian Migration to Malaysia

Michele Ford

Introduction

Labour migration from Indonesia to Malaysia is a complex phenomenon. Migrants enter Malaysia via a range of formal, semi-formal and informal channels, primarily through Sumatra and Kalimantan. Although Indonesian authorities make little effort to stop semi-formal and informal migration flows, the Malaysian government constantly adjusts its policies towards both documented and undocumented labour migrants according to the condition of its labour market. Periodically these adjustments have involved the mass arrest and deportation of undocumented workers, for example when hundreds of thousands of Indonesian workers were expelled from Eastern Malaysia to the tiny town Nunukan in East Kalimantan in mid-2002. Both the Indonesian and Malaysian governments have failed to recognise the impact of the Malaysian government's policies on transit zones such as Riau and East Kalimantan, and that more serious efforts at bilateral cooperation must be made in order to lessen the social costs of labour migration in these zones.

On 1 August 2002, the Malaysian government enacted Immigration Act No.1154/2002 and began the mass deportation of undocumented foreign workers. Immigrant settlements were destroyed, and almost 400,000 Indonesians working without appropriate documentation were deported to Belawan, Batam and Dumai in Sumatra, and Pontianak and Nunukan in Kalimantan. It was certainly not the first time the Malaysian government had forcibly repatriated undocumented workers. However, it was the largest single repatriation ever undertaken. The number of workers deported to Indonesia in August and September 2002 far exceeded the capacity of return points in the transit provinces of Sumatra and Kalimantan, particularly Nunukan on Kalimantan's east coast, to accommodate them. The sudden influx of deportees to Nunukan, a small island on Indonesia's border with the Malaysian state of Sabah with a permanent population of just under 40,000 people caused a humanitarian crisis which became a critical point in the management of Indonesia's migration flows to Malaysia.

In the 1980s and 1990s, Suharto's New Order government (1967-98) had adopted a strongly interventionist approach towards the regulation of overseas labour migration through official

channels. After the Suharto regime's demise in 1998, the Department of Manpower (now the Department for Manpower and Transmigration) continued to pass regulations determining the process through which potential labour migrants would be recruited, trained, and managed, and to issue licences to private sector companies (or PJTKI, *Perusahaan Jasa Tenaga Kerja Indonesia*) to undertake those processes (Jones, 2000:17-21; Tirtosudarmo, 2001:10-12). However, during this period, labour migration was dealt with using a model that concentrated primarily on official flows leaving by plane from Jakarta and other major cities in Java directly to receiving countries.

Although officially sanctioned labour migration flows occurred through the transit zones of Sumatra and Kalimantan to the Southeast Asian destinations of Malaysia and Singapore, policy-makers paid relatively little attention to them. Meanwhile undocumented migration flows, which occurred primarily through these transit zones (Hugo 2001), were almost totally ignored. As a result of this approach, before the Nunukan crisis in August 2002 the New Order government and its successors made little attempt to acknowledge – let alone mediate – unofficial labour flows to neighbouring Malaysia. They paid even less attention to the social impact of those flows, particularly large-scale forced repatriations of undocumented migrants from Malaysia, on the transit provinces in Kalimantan and Sumatra. The regulation of labour migration remains Jakarta-centric, but events during and after the Nunukan crisis have forced Indonesia's central government to, at the very least, acknowledge the extensive social ramifications of undocumented labour migration flows through the transit provinces in Sumatra and Kalimantan through which labour migrants pass on their way to and from Malaysia and Singapore.

This chapter examines the Malaysian government's management of Indonesian labour migrant flows and the Indonesian government's responses to Malaysia's labour immigration policies, with a particular focus on the changing relationship between the Indonesian central government and the provinces since regional autonomy was implemented. It is divided into four parts. The first provides an overview of Indonesian labour migration, with an emphasis on the significance of Malaysia as a destination for both official and unofficial labour migration flows. The second examines the Malaysian government's policies towards Indonesian labour migrants, culminating in the mass deportation of unregistered workers under the 2002 Immigration Act, which caused the humanitarian crisis at Nunukan. This second section provides context for the final two parts of the chapter, which examine the Indonesian government's policies towards labour migrants before and after Nunukan and their implications for the transit provinces. The chapter draws on data from government sources, NGO reports and interviews with key NGO activists – including humanitarian volunteers present in Nunukan in 2002. It offers a preliminary analysis of tensions between sending provinces, transit provinces and the central government over Indonesia's labour migration policy, arguing that although the central government has retained control over labour migration, local and provincial governments in the transit zones must play an increasingly important role in the regulation of migrant labour if future crises are to be avoided.

Indonesia's migrant workers: an overview

Although significant numbers of workers migrated from the Indonesian archipelago for work during the colonial period and after Independence, it is only relatively recently that Indonesia became a major supplier of migrant workers to the Middle East, East Asia and to wealthier countries within Southeast Asia. In the five years between 1969 and 1974, just 5624 workers were placed under the government's official labour migration programme. A quarter of a century later, 1,461,236 Indonesians were sent overseas under government-approved labour migration schemes between 1994 and 1999 (Hugo, 2001:2).

As shown in Table 1 below, overseas migrant workers are an important source of foreign currency income for Indonesia (Table 1). Successive Indonesian governments have come to depend quite heavily on these remittances. In 2002 the government set a target of US\$ 5 billion for 2004 (Jacob Nuwa Wea quoted in *Bisnis Indonesia*, 17 February 2002). Economists later estimated that remittances have the potential to reach as much as US\$ 12 billion in future years (*Bisnis Indonesia*, 3 September 2003). However, these figures have proven to be wildly optimistic. After remittances reached over US\$ 2 billion in 2002 (Depnakertrans 2002a), they dropped sharply in 2003 and 2004 (Depnakertrans 2003a; 2004a). The decrease occurred primarily because the number of Indonesians officially employed in Asia-Pacific receiving countries contracted dramatically after 2002, not least because of changes in Malaysia's policy towards Indonesian migrant labour.

Table 1: Number of Documented Labour Migrants and Remittances by Region, 2001-2003

Region	2001		2002		2003	
	Persons	Remittances (\$US)	Persons	Remittances (\$US)	Persons	Remittances (\$US)
Asia-Pacific	217,555	355,088,125	238,324	1,181,660,673	109,722	n/a
Middle East and Africa	121,180	180,839,612	241,961	384,693,651	183,770	n/a
North America	228	1,532,160	40	221,760	171	n/a
Europe	29	194,880	68	443,520	31	n/a
Total	338,992	537,654,777	480,393	2,198,019,604	293,694	n/a

Note: Indonesian statistics are problematic, so these and other figures cited in this chapter should be treated as indicative rather than as authoritative. There were some errors in the labelling of these tables on the Depnakertrans website. They were corrected by comparing them with Depnakertrans (2003b; 2002b; 2001b). The remittance data on the website for 2003 was clearly erroneous, and has been omitted.

Source: Depnakertrans (2003a; 2002a; 2001a).

Official statistics, which do not account for labour migration occurring outside official channels (estimated to outstrip official migration levels), indicate that Saudi Arabia and Malaysia are the largest receiving countries for documented Indonesian labour migrants, as shown in Table 2 below.

Table 2: Historical Distribution of Documented Labour Outflows from Indonesia to Saudi Arabia and Malaysia

DESTINATION	1983	1987	1991	1995	1999	2003
Saudi Arabia	17,116	48,741	64,785	49,517	131,157	169,038
Malaysia	2,967	5,763	40,715	47,380	169,177	89,439
Malaysia as % of All Legal Outflows	10.2%	9.7%	32.3%	26.5%	39.6%	30.4%

Source: Adapted from ILO (1998), p. 3; Depnakertrans (2000; 2003b); Soeprbo (2003).

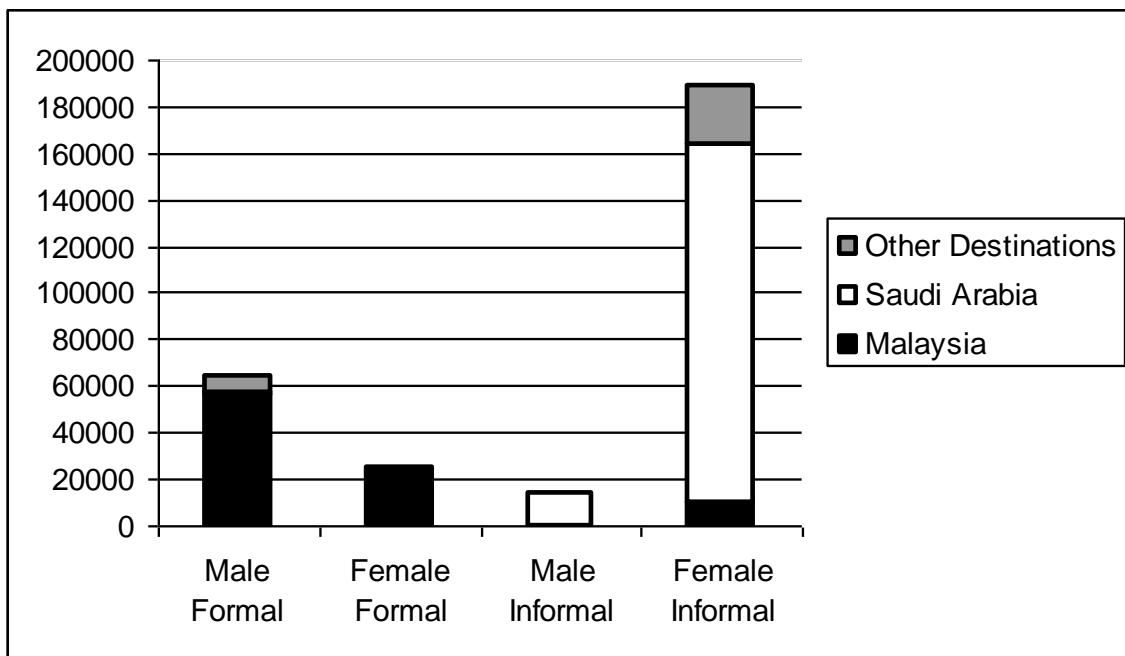
Although Saudi Arabia received more documented Indonesian labour migrants than Malaysia through the 1980s and most of the 1990s (ILO 1998), and has since reasserted its dominance, Malaysia is a particularly important destination for Indonesian migrant labour because of its geographical proximity and the shared cultural and linguistic heritage of the two countries. Indonesian migration to Malaysia has a long history (Kaur, 2004). In 1950, almost 200,000 residents were noted as having been born in Java – a 111 per cent increase from 1930. A further 62,200 were born in South Kalimantan, while 26,300 were born in Sumatra (Mantra, 2000:144). Indonesian migration levels grew again as a result of changes in immigration priorities after Independence was granted to Peninsular Malaysia in 1957 and Sarawak and Sabah in 1963.

In the colonial period, labour recruitment policies were designed to meet the labour requirements of export industries such as rubber and tin, but after 1957 efficient production of export commodities was no longer the government's primary concern. Instead, attention was focused on the implications of racially targeted labour migration for the Malayan population. Ethnic Malays (including Indonesians) accounted for fewer than 50 per cent of the population of Peninsular Malaysia, whilst some 37 per cent of the population was Chinese and a further 11 per cent was Indian (Dorall, 1989:290). As a direct result of concerns about the growing imbalance between the migrant Chinese and Indian communities and the Malays, the government banned unskilled labour migration from China and India soon after Independence. This policy was taken one step further after the race riots of 1969, when the government repatriated a number of Indian plantation workers and moved to encourage the in-migration of large numbers of Muslims from Indonesia and the Philippines, particularly to the East Malaysian state of Sabah.

Since the 1970s, there have been three broad trends in labour migration to Malaysia (Kanapathy, 2004). First, as manufacturing grew, Malaysia experienced a high level of internal migration from rural areas to the towns, which gave rise to labour shortages in the agricultural

sector in general and in the new oil palm industry in particular. Overseas migrant workers were used to overcome the shortages first in agriculture and then in construction in the late 1970s and early 1980s. The second wave occurred as Malaysia's export-oriented industrialisation policies succeeded, and demand for foreign workers grew in manufacturing from the late 1980s. A third wave occurred after the 1997-98 Asian economic and financial crisis, when flows of overseas migrant labour stabilized in response to the Malaysian government's stricter enforcement of its immigration policy. An important characteristic of contemporary officially sanctioned Indonesian labour migration to Malaysia is its gender balance, which is different to that of other large receiving countries of Indonesian migrant workers, particularly Saudi Arabia, as shown in Figure 1. Whereas most Indonesians working abroad are females employed in informal sector, particularly in domestic work (ILO, 1998; Hugo, 2001), most Indonesian labour migrants leaving through official channels to Malaysia are males seeking work in the plantation, construction, transportation and manufacturing sectors. Moreover, a much larger proportion of female Indonesian labour migrants in Malaysia are employed in the formal sector than in other major receiving countries, where the majority of women are employed as domestic labour. In 2001, almost one-third of women officially placed in Malaysia were employed in formal sector occupations (Depnakertrans, 2001c; 2001d). By 2003, the proportion of women placed in the formal sector had risen to over two-thirds, as a result of the Malaysian government's 'employ Indonesians last' policy (Depnakertrans, 2003c; 2003d).

Figure 1: Sectoral Distribution of All Overseas Migrant Workers Officially Placed in 2003 by Gender and Destination



Source: Raw data taken from Depnakertrans (2003c; 2003d).

The fact that many more workers leave for Malaysia through semi-formal or informal channels than through official programs (Hugo, 2001) has important implications for the areas of Indonesia close to the border with Malaysia. Access to Peninsular Malaysia from

Riau and North Sumatra is relatively easy by sea, while Sabah and Sarawak in East Malaysia share a long land border with the provinces of East and West Kalimantan. It is important to note, in the context of the transit provinces' role in migration between Indonesia and East and Pensinsular Malaysia, that not all workers leaving through these unofficial channels are undocumented. This is reflected in the fact that the transit provinces of East Kalimantan, West Kalimantan, Riau and North Sumatra record relatively high numbers of labour migrants officially leaving for Malaysia (and, from the Sumatran provinces, to a lesser extent for Singapore), despite their relatively small populations (Hugo, 2001). Although local people from the transit provinces undoubtedly do become labour migrants, these figures are swelled by large numbers of Javanese and people from West Nusa Tenggara who are issued local papers. Many registered and unregistered agents recruit intending workers at village level or elsewhere in the sending provinces then take them to a transit province, where they arrange a local identity card from which a passport can be issued. Local immigration officers are paid 'special fees' to issue local identity cards and then passports (see, e.g., Ford, 2001). In Nunukan, for example, illegal agents simply have to telephone the immigration department, and they can produce hundreds of passports within days (personal communication with Riwanto Tirtosudarmo, 14 July 2003). While having been obtained illegally, these passports are authentic, official documents. Such documents are commonly described as being *aspal* (*asli tapi palsu*, original but fake). The large numbers of 'semi-formal' migrants who enter using *aspal* documents are reflected in the differences between the overall arrivals and departures figures for Indonesians issued by the Malaysian Department of Immigration, as shown in Table 3.

Table 3: All Arrivals and Departures of Indonesian Citizens to Malaysia, 2000-2003

Year	Arrivals	Departures	Difference between Arrivals and Departures	Difference as % of All Indonesian Arrivals
2000	790,769	416,387	374,382	47.34
2001	1,046,376	526,862	519,514	49.65
2002	1,247,003	696,958	550,045	44.11
2003	1,557,240	856,610	700,630	44.99

Source: Data from Department of Immigration Malaysia (2000; 2001; 2002; 2003).

The enormous numbers of Indonesians leaving for Malaysia officially, semi-officially and unofficially each year through the transit provinces in Sumatra and Kalimantan suggest that those provinces should long have been a major focus for Indonesian policy-makers. Instead, while semi-legal and illegal entry to Malaysia was – and continues to be – aided and abetted by local immigration officials in the transit provinces, the Department of Manpower (the department responsible for handling overseas labour migration) paid almost no attention to the transit provinces until after the crisis at Nunukan. As is suggested below, Indonesia's

failure to address migration flows through these provinces has periodically caused significant difficulties in relations between Indonesia and Malaysia. Perhaps more importantly, however, those flows had serious social and economic implications for Indonesians living in those provinces and the migrants passing through them.

Regulating the flow of Indonesian labour migrants

In contrast to Indonesia's failure to properly acknowledge and accommodate the flows of migrants through the transit provinces of Sumatra and Kalimantan – let alone address the problems associated with those flows – Indonesian immigration has long been a focus for Malaysian policy-makers, not least because of public reactions to the influx of Indonesian migrants. Although Indonesians were initially welcomed in Malaysia because they shared the racial and religious background of the Malays – many of whom are descended from earlier waves of migration from the Indonesian archipelago – over time, the enormous influx of migrants brought considerable criticism within Malaysia. During cyclical economic downturns, Indonesians and other migrant workers were seen to represent a threat to Malaysian citizens' economic security. Malaysians have also long been uneasy about the motives, morality and behaviour of Indonesian migrant workers. In the 1980s, for example, concerns were expressed that although the majority of Indonesians were Muslim, some Indonesians were spreading Christianity amongst the ethnic Malay community (Dorrall, 1989:305). Reports in the late 1980s also highlighted drug-trafficking, burglary involving the use of black magic and kidnappings involving Indonesians. For many Malaysians, the large numbers of Indonesians living in squatter settlements continued to represent a moral and social risk two decades later. Crinis' (2004) survey of English-language Malaysian newspapers, including the government-sanctioned *New Straits Times*, shows that media coverage continues to focus on the social problems associated with migrant labour, particularly drugs, violence, murder, disease, rape and prostitution. Indonesians are also perceived as competing unfairly for jobs and for living space in the cities, as Hing has demonstrated using data from interviews with middle-class and working-class Malaysians (2000:231).

In response to pressure from the public and foreign policy and economic imperatives, the Malaysian government has varied the intensity with which it enforces border control as means of enhancing its social and labour market regulation. The Malaysian government formally began trying to regulate inflow of foreigners unilaterally in the early 1980s. Bilateral attempts to regulate the flow of spontaneous labour migration were subsequently formalised in 1984 when the government initiated the Supply of Workers Agreement, known as the Medan Agreement, with Indonesia (Tirtosudarmo, 2001). Similar agreements were later signed by the Malaysian government and the governments of the Philippines, Thailand and Bangladesh. The government increasingly sought to limit migration during the 1985-87 recession, but as the economy recovered, demand for foreign workers grew once more, and the government again encouraged labour migration. As a result, the number of documented migrant workers allowed into Malaysia in the period between 1986 and 1990 was one and a half times higher than that of the previous five years (Lim, 1996:322).

In conjunction with its attempts to regulate new arrivals, the Malaysian government moved to control undocumented foreigners already working in Malaysia. In 1989, the government undertook its first major initiative, namely to establish the Foreign Worker Regularisation Programme, which was designed to minimize the employment of illegal Indonesian plantation workers. Under the scheme, foreign workers employed on plantations were offered three-year contracts in return for registration, and the employment of new workers from Indonesia was frozen from 1 January 1990. The program was only moderately successful: it is estimated that only one-third of foreign plantation workers registered at the centres (Kanapathy, 2004). In the 1990s, the government ran another series of campaigns in a renewed attempt to regularize undocumented foreign workers already employed in Malaysia and to minimize undocumented border flows to Peninsular Malaysia (Kassim, 2000:102-3). In October 1991, the government implemented the Comprehensive Policy on the Recruitment of Foreign Workers. This policy streamlined recruitment processes for employers in the plantation, construction, manufacturing and services industries, and mandated a number of social security measures for foreign workers (Kanapathy, 2004). Additional policies were subsequently implemented to discourage over-reliance on foreign labour, including an annual levy on foreign labour in 1992, and bans on various categories of low-skilled foreign workers between 1993 and 1995.

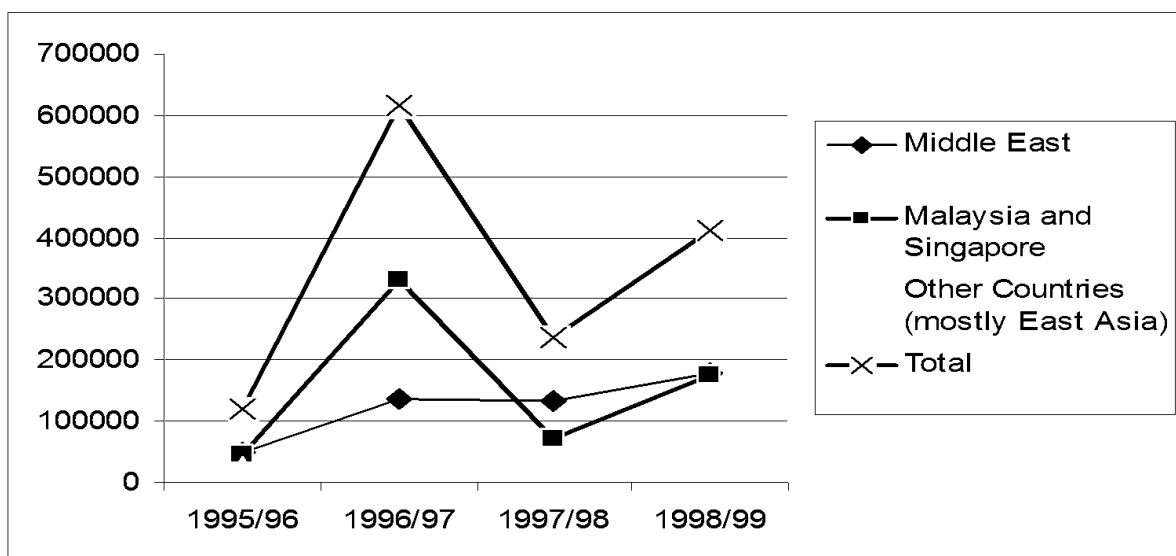
Two major amnesties and registration and deportation campaigns were also run in the early-mid 1990s under the names *Ops Nyah I* and *Ops Nyah II*. Of those arrested between 1992 and 1995, some 78 per cent, or almost 147,000 people, were Indonesian (UNESCO-MOST, n.d.). During that same period 402,508 other Indonesians found to be working illegally in Malaysia were allowed to register as legal foreign workers (UNESCO-MOST, n.d.), while in 1996-97 over 300,000 more undocumented Indonesian workers were regularized (Hugo, 2001). A total of 413,832 unregistered foreign nationals were registered between March and August 1997 in Sabah alone, of whom 294,704 were Indonesians (Kurus, 1998:282). After amendments were made to the Immigration Act in January 1997 heavier fines were imposed on illegal foreign workers, employers and agents in an attempt to reduce unauthorized entry and employment of foreigners. In August the same year, a total ban was imposed on new recruitment of foreign workers. The ban was lifted shortly after protests by businesses and employers of domestic workers, but was re-imposed in January 1998 for workers in the manufacturing, construction and service sectors (Kanapathy, 2004).

During the Asian economic and financial crisis of 1997-98, the Malaysian government again strengthened its dual strategy of migration control. In an attempt to deal with increasing unemployment once again it simultaneously sought to limit the number of Indonesians entering Malaysia through official channels and to expel Indonesians already working illegally in Malaysia. In late 1997, the government announced that 200,000 foreign workers would lose their jobs in 1998, and that work permits for 700,000 foreign workers (excluding domestic workers) would not be renewed on expiry (Pillai, 1998:268). In early 1998, levies on foreign labour were raised, and conditions under which foreign domestic workers could be employed were tightened (Pillai, 1998:269). Stricter border checks were imposed, unregistered migration agents were arrested, and a number of Immigration officers were

arrested on the suspicion that they were issuing forged documents (Pillai, 1998:271). As a result, in 1997-98, the overall number of official placements of overseas labour migrants dropped 55 per cent, primarily because of the changes in the Malaysian government's labour migration policies aimed at softening the effect of the crisis on local Malaysians (Feridhanusetyawan & Gaduh, 2000:314).

However, when bans were again lifted in mid-1998, as Figure 2 suggests, numbers quickly rebounded. By 1999, they had reached two-thirds of 1996-97 levels (Depnakertrans, 2003a) – levels that were artificially high because a large number of undocumented workers in the service sector were legalized in that year (Hugo, 2001). While the number of migrant workers arriving in Malaysia through official channels again rose after the crisis, the Malaysian government continued its anti-Indonesian policy, particularly with regard to undocumented workers. It deported 30,000 undocumented workers in August 2000 as part of a plan to halve the number of Indonesians working in Malaysia from 900,000 to 450,000 (*Surabaya Post*, 27 January 2002). In December 2000, the government announced that it had commenced deporting another 66,000 undocumented Indonesians, and in January 2001 declared that around 120,000 more would be deported in the near future (AMC, 2002:62-3). In November 2001, Zainal Abidin Zin, Malaysia's Deputy Minister for Internal Affairs announced the government would deport 10,000 undocumented Indonesian immigrants per month (*Detik.com* 28 November 2001). Some 2500 Indonesians were immediately repatriated on two navy ships (*Suara Merdeka* 21 November 2001).

Figure 2: Effects of the 1997-98 Crisis on Placement of Overseas Migrant Workers in Major Destinations, 1995-1999



Sources: Depnakertrans (2001; 2002).

In January 2002, the Malaysian government responded to riots by Indonesian workers in an industrial zone in Negeri Sembilan and in Cyberjaya on 20 and 27 January respectively by threatening to end Indonesian labour migration to Malaysia altogether (*Kompas*, 27 January 2002). On 21 January 2002, after the first riot, Deputy Prime Minister Abdullah Ahmad Badawi announced that Indonesian labour would be banned altogether (*Kompas*, 23 January

2002), whilst Prime Minister Mahathir announced a 'hire Indonesians last' policy. These announcements were again met by protests from Malaysian business organisations, which argued that their members required access to Indonesian labour to effectively run their business concerns (see, e.g., *Suara Merdeka*, 31 January 2002). Another amnesty for undocumented workers was announced two months later. Between 22 March and 11 July, 145,578 Indonesians left Malaysia voluntarily under the amnesty, which was then extended to July 31 (*Nakertransnet*, n.d.). In mid-2002, the Malaysian government deported 3200 Indonesians working illegally in Malaysia in the lead-up to the implementation of the Immigration Act on 1 August (*Satunet*, 22 July 2002), after which at least 140,000 Indonesians were forcibly repatriated. As tensions rose, the Indonesian Foreign Minister, Syed Hamid Albar, and Malaysian Prime Minister, Mahathir, advised Malaysians to temporarily suspend visits to Indonesia (*Pikiran Rakyat*, 29 August 2002).

Responses to the crisis at Nunukan

At the time the mass deportation began in August 2002, Nunukan was already experiencing a population explosion caused by the steady flow of migrants returning under the amnesty in the months leading up to the implementation of the Immigration Act. In July and August 2002 alone, the Indonesian Consulates in the East Malaysian cities of Kota Kinabalu and Tawau registered almost 140,000 undocumented workers returning to Indonesia via Nunukan (Palupi & Yasser, 2002:9; Purwanto & Kuncoro, 2002:2). In the first half of August, between 5000 and 9000 people passed through Nunukan's Immigration Office every day (Palupi & Yasser, 2002:8). According to human rights activists present in Nunukan at the time, most of the deportees were robbed of their assets before returning to Indonesia (Palupi & Yasser, 2002:20; Interview with Sri Palupi, June 2003).

The majority of those deported to Nunukan were moved to other areas of Indonesia on Navy and regular ships (Purwanto & Kuncoro, 2002:2). However, approximately 25,000 returnees remained in twenty-one camps run by registered labour sending companies. According to local officials, at least half this number again also remained on the island without being registered (Palupi & Yasser, 2002:10). Purwanto and Kuncoro (2002:2) divide those who remained in to three categories: those waiting for their passports to be processed so they could return to Malaysia; those who wished to return to their home provinces, but did not have the means to do so; and those whose family members were still either detained or fugitives in Malaysia. In Nunukan, some deportees were housed in tents or buildings owned by labour sending companies. Others constructed makeshift shelters, or slept in the markets, sheds or on building sites (Palupi & Yasser, 2002:13). Sanitation and lack of clean water was a major problem both in the camps and outside them. Deportees experienced major illnesses, including breathing problems, fever, dysentery, malaria, stomach problems, skin diseases, dehydration, and anaemia (Palupi & Yasser, 2002:15-16; Purwanto & Kuncoro, 2002:15). According to NGO investigations, between 67 and 70 deportees died (Palupi & Yasser, 2002:17-18; Purwanto & Kuncoro, 2002, Appendix). The effects on the population of Nunukan itself were also severe. Although local residents in some ways profited by providing services and facilities for the influx of people, they were subjected to price rises of up to 100 per cent for basic food commodities, and many took in deportees, sometimes for months. The

town's infrastructure did not cope with the sudden quadrupling of its population, and locals as well as returnees suffered from a lack of basic facilities. As could be expected, there was a rise in social problems and crime, as well as significant environmental pollution (Palupi & Yasser, 2002:20).

In response to the worsening conditions, local authorities established a crisis response team on 27 July 2002, which became the channel for outside help. The crisis team ran programmes to help the local community prepare for the influx; established security posts in dangerous areas and increased both sea and land patrols; established nine basic health clinics to deal with the returnees' health problems; increased the capacity of the immigration office; prepared emergency accommodation for returnees and arranged with the central government for warships to be sent to Nunukan to transport returnees to their provinces of origin (Palupi & Yasser, 2002:10). These measures helped alleviate some of the worst of the suffering, but were insufficient to effectively address even the immediate needs of the deportees. The labour-sending companies that had provided inadequate documentation for the workers they placed in Malaysia were not penalised in any way (Purwanto & Kuncoro, 2002:12).

At first, the Nunukan crisis received no response whatsoever from government officials in Jakarta. It was only after considerable critical media coverage of events in Nunukan and a series of NGO campaigns that a number of central government officials and members of parliament visited Nunukan (Palupi & Yasser, 2002:22). However, the seriousness of the situation continued to be underestimated. President Megawati Sukarnoputri accused the media of overstating the problems experienced in Nunukan, whilst shifting responsibility for handling the issue to Vice President Hamzah Haz, who in turn delegated authority to the Coordinating Minister for Health and Welfare to deal with the problem. After these visits, the central government continued to make little serious effort to deal with either the humanitarian crisis in Nunukan or the underlying causes of that crisis (Purwanto & Kuncoro, 2002:11).

NGOs dealing with migrant labour played an important role both in bringing the Nunukan crisis to the central government's attention and in eventually forcing the government to take steps to begin to address the situation in Nunukan and other transit locations. In a letter dated 24 July 2002 to the Coordinating Ministers for Politics and Security, Health and Welfare and Economics and Industry, as well as the parliament and the National Human Rights Committee, these NGOs urged the central government to address the impending mass deportation. They recommended that the central government give priority to finding a diplomatic solution to stop the Malaysian government's arbitrary treatment of Indonesians; prepare for future large-scale deportations by establishing dedicated taskforces in the locations to which undocumented migrant workers are generally returned; instruct the local governments of sending areas to become involved and provide protection for workers from those areas and undertaking necessary steps required to return Indonesian migrant workers to their families if deported; and undertake a complete revision of the process under which workers are placed overseas and the protection of those workers whilst overseas (*Konsorsium Pembela Buruh Migran Indonesia* [KOPBUMI]; Interview with Wahyu Susilo June 2003).

When these recommendations were initially ignored, a number of these NGOs filed a citizen's lawsuit against nine government officials, including President Megawati Soekarnoputri, in September 2002 (KOPBUMI), in which they argued that the President had failed to fulfil her duty under the human rights and anti-corruption laws of 1999. The text of the lawsuit incorporated a chronological account of the humanitarian crisis at Nunukan in the evidence section, which included references to the President's claims that journalists were overstating the severity of the situation, poor coordination between Ministers, failure to react in a timely manner to Malaysia's announcement of its plans to deport large numbers of overseas migrant workers and failure to sign a Memorandum of Understanding in Bali at a Meeting of Senior Officials in August 2002.

In response to NGO activity, a number of government department set up new initiatives to address the overseas migrant worker question, in addition to providing some emergency aid directly to Nunukan (Palupi & Yasser, 2002). The Department of Manpower's Decision No. 312A/D.P2TKLN/2002 attempted to mandate the protection of overseas migrant labour through bilateral agreements, placement and work contracts, insurance, the regulation of placement costs and the provision of legal aid for overseas migrant workers (KOPBUMI). The decision included provision for the setting up of a protection unit to deal with complaints, establish protocols for handling migrant worker cases; to verify information concerning the accuracy of migrant workers' documents and information about placement, the health and safety of migrant workers awaiting placement, the suitability of placement; and to organise the return of all fees to migrant workers who are not successfully placed. More importantly, in the context of this discussion, the unit was to liaise with the police, the courts, local and provincial governments. This requirement was one of the first concrete measures in which the central government recognized the role of local institutions in managing migrant worker flows.

The year 2002 also saw the introduction of a bill into parliament on the Protection of Indonesian Migrant Workers and their Families. A year later, three competing drafts were being discussed by the parliament, one of which was drafted by KOPBUMI (Solidaritas Perempuan/Komnas Perempuan, 2003). The tabling of the drafts and ensuing discussions were followed by a public announcement on 17 November 2003 that the government would set up a migrant advocacy team to provide legal protection for migrant workers in Indonesia and abroad. The agreement, which was signed by a number of relevant Ministers, covered transportation, passports, and the establishment of a special team to deal with returnees (*Kompas*, 14 November 2003; *Jakarta Post*, 18 November 2003). Meanwhile, the Ministry for Women's Empowerment, in conjunction with a number of women's groups, began a pilot project aimed at improving the regulatory environment for overseas domestic work; the Ministry for Social Affairs established a new division focusing on migrant workers and victims of violence, which conducted a series of workshops and established a number of crisis centres for migrant workers; and the Ministry of Foreign Affairs supported a collaborative program to improve the provision of consular services for overseas migrant domestic workers. A number of other ministries also responded directly to the Nunukan affair (Solidaritas Perempuan/Komnas Perempuan, 2003).

New bilateral and multilateral negotiations were also undertaken after the Nunukan crisis. As noted earlier, negotiations between President Megawati and Malaysian Prime Minister Mahathir failed in Bali in August 2002, but Malaysian officials announced in March 2003 that the Memorandum of Understanding, which would include a quota for Indonesian workers to be sent to Malaysia, was to be signed within two months (*Jakarta Post*, 13 March 2003). In May 2004 – almost two years after the Nunukan tragedy – the governments of Indonesia and Malaysia finally signed the long-awaited agreement. The Memorandum of Understanding covered issues including recruitment, medical checkups and transportation, but did not prescribe sanctions for employers who do not meet mandated conditions, or deal with issues concerning the deportation of undocumented workers (Forum Kerja untuk PRT Migran). In the same month, officials announced that a new Memorandum of Understanding that dealt specifically with the question of Indonesian domestic workers in Malaysia would be negotiated (Human Rights Watch, 2004). Meanwhile, on 28 August 2003, Malaysian Human Resources Minister Fong Chan Onn announced that Malaysia would accede to the Indonesian government's request not to recruit workers outside the official system of labour-sending agents (*Star*, 30 August 2003). The protection of migrant workers was again discussed at the ASEAN Inter-Parliamentary Organisation (AIPO) meeting in Jakarta in September 2003, at which it was decided that legal instruments were required to provide protection for migrant workers (*Jakarta Post*, 10 September 2003). NGO activists later urged ASEAN to take up the AIPO initiative, arguing that ASEAN's policy of non-interference prevented the satisfactory resolution of issues surrounding migrant labour (*Jakarta Post*, 9 October 2003).

Implications for the transit provinces

So what of the transit provinces? The mass deportation of Indonesian workers from Malaysia under the 2002 Immigration Act was not the first time the transit provinces have had to deal with the negative effects of labour migration. However, under the centralised system established by the New Order, there was little local and provincial governments could do to mitigate those effects. Changes in the political climate after the fall of President Suharto – particularly those associated with the passing of the national laws on fiscal decentralisation and regional autonomy in 1999 – meant that it became possible for regional governments to become actively involved in the regulation of migrant labour. Since then, some sending provinces including East and Central Java and West Nusatenggara have issued regulations and policies concerning overseas migrant workers (Tirtosudarmo, 2001; 2004). In addition, demands have been made by local and provincial governments in the transit provinces that the local and provincial governments in sending regions (primarily in Java and Eastern Indonesia) take responsibility for people from those regions who are forced to return to the transit provinces. For example, in late July 2002, representatives of the governments of West Kalimantan and North Sumatra were reported as complaining about the failure of the central government and the governments of sending provinces to take responsibility for dealing with the crisis caused by the large numbers of migrant workers deported to Kalimantan and Sumatra (*Sinar Harapan*, 29 July 2002).

Such complaints do not negate the fact that the local government of Nunukan did receive some assistance from the central and provincial levels, and from neighbouring local government regions during the Nunukan crisis, although this assistance was nowhere near enough to meet the needs of the deportees (Palupi & Yasser, 2002:11). Most commonly sending provinces contributed to the transportation of migrant workers returning to their provinces of origin. For example, by the end of August 2003 the provincial government of East Java had outlaid Rp 2.3 million for the return of 208 deported workers (*Bisnis Indonesia*, 29 August 2003). However, overall the transit provinces of North Sumatra, Riau and West and East Kalimantan received little help from either the sending provinces or the central government with regard to deported migrant workers, and most of the burden of housing, feeding and repatriating deported workers fell on the governments of those transit provinces themselves. Central government initiatives to lessen the flow of deportees through the transit provinces were also only partially successful. Although the Department of Manpower later requested that the Malaysian government repatriate Indonesians to the large Javanese ports of Tanjung Priok in Jakarta and Tanjung Perak in Surabaya rather than just paying repatriation costs to the nearest Indonesian port (*Media Indonesia*, 14 November 2003), no effective formal mechanism was established to achieve this, let alone create structures for handling normal flows of migrant labour through those transit zones. More recent attempts to establish a series of ‘one-roof’ processing centres for deportees have also been relatively unsuccessful (Interview with Lisa Humaidah, Komnas Perempuan, July 2005).

Perhaps most importantly, despite the Malaysian government’s best efforts to regulate the flows of migrant workers from Indonesia, Malaysia’s borders with Indonesia remain extremely porous, and workers continue both to enter Malaysia illegally and be deported. In 2003, the Malaysian government announced that another 48,000 Indonesians working illegally in Malaysia would be repatriated (*Media Indonesia*, 14 November 2003). Between January and September 2003, the Malaysian government deported an additional 5552 undocumented workers to Medan’s Belawan Port alone (*Kompas*, 10 September 2003). In July 2004, plans were announced to deport a further 1.2 million illegal workers, in the lead-up to the introduction of micro-chipped identity cards for foreign workers (*Malaysiakini*, 12 July 2004; *Jakarta Post*, 20 July 2004). Although at that time the Indonesian government asked that Indonesians working illegally in Malaysia be regularized, the government of Malaysia refused (*Suara Pembaruan*, 20 July 2004).

In July 2004, NGOs and the Minister for Manpower warned that the new round of deportations could result in a ‘second Nunukan’ (Migrant Care, 2004; *Kompas*, 19 July 2004). Only a few months later, the local government in Nunukan announced it was ‘ready to receive the influx of tens of thousands of illegal Indonesian migrant workers to be deported...in the next few months’, having prepared barracks for the deportees and budgeted for their travel expenses back to their provinces of origin (*Jakarta Post*, 27 September 2004). Although the local government may be more prepared for this ‘second Nunukan’, repeated influxes of deportees would still most certainly put unbearable strain on local resources.

Conclusion

Although the repatriation of illegal immigrants is set to continue, the Nunukan Affair of 2002 was a crucial point both in bilateral relations between Indonesia and Malaysia. It also put significant pressure on the relationship between Indonesia's central government and the provinces through which migrant workers pass on their way to Malaysia, and to which Indonesian migrant workers no longer welcome in Malaysia are deported. Local governments' new-found political power (and financial responsibility) following the implementation of regional autonomy laws in 1999 has greatly increased their willingness to speak out about problems associated with migrant labour flows through the transit provinces and demand support from both the sending provinces and the central government. Yet although the Nunukan Affair has forced Indonesia's central government to attempt to respond more systematically to deportations of workers from Malaysia, central government departments have overwhelmingly continued to seek centralized solutions to the detriment of the interests of the transit provinces. This is clearly demonstrated in Law No. 39/2004 on The Placement and Protection of Indonesian Workers Overseas, which was finally signed on 18 October 2004 (Depnakertrans 2004b). Instead of dealing comprehensively with issues concerning mass deportations and their effects on the transit provinces, the only article that referred to deportation simply stated that in the case of deportation, workers were to be returned to their region of origin (Law No.39/2004, Article 73).

The pressures associated with the repeated mass deportation of Indonesian migrant workers from Malaysia mean that the regulation of labour migration flows through the transit provinces, and their effects on the communities through which they pass, can no longer be ignored. However, the central government's continued marginalization of the transit provinces suggests that while regional autonomy has highlighted the problems associated with migrant flows, it is yet to provide a framework in which those problems can be addressed. Until such a framework is created and the transit zones are properly resourced to deal with the contingencies associated with migration flows to and from Malaysia, future humanitarian disasters in the transit provinces cannot be avoided.

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