

# **THE SECURITY IMPLICATIONS OF THE EMPLOYMENT OF FOREIGN WORKERS HOLDING VISIT PASS (TEMPORARY EMPLOYMENT) IN PENINSULAR MALAYSIA**

**Mohamad Fauzi Md Isa, Nik Azmi Nik Omar, Arbaiyah Jusop, Rodziana Mohamed Razali, Hendun Abd Rahman Shah, Intan Nadia Ghulam Khan, Nisar Mohammad Ahmad, Muhammad Safwan Ibrahim, Sahubar Ibrahim Ismail Gani, Norailis Ab Wahab**

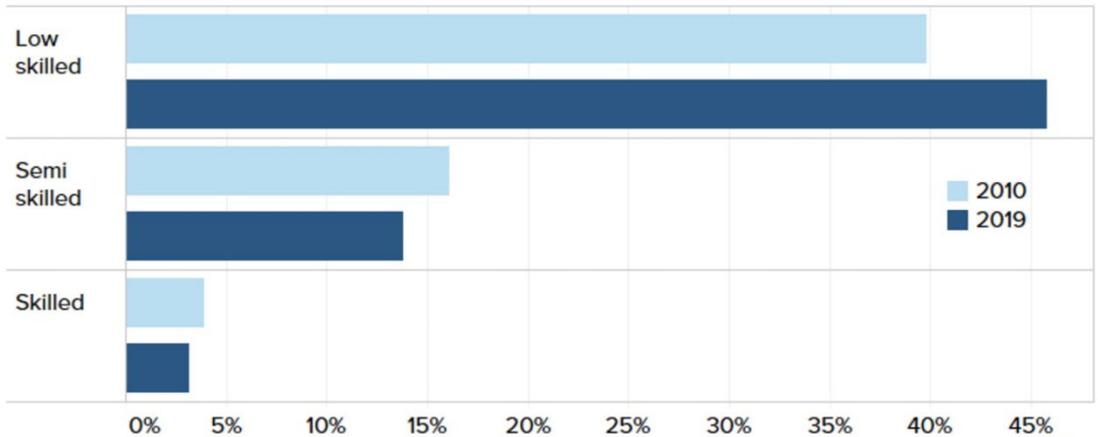
## **ABSTRACT**

Migration policy is an essential component in the country's national security agenda. History shows that internal security and threats to security are the primary logic that informs foreign worker policy in Malaysia. This article looks into the security implications of the employment and presence of foreign workers holding the Visit Pass (Temporary Employment) or 'PLKS' holders in Peninsular Malaysia. This study is part of an overarching research that re-evaluates a number of employment policies applicable to PLKS holders and assesses the impact of employment policies and practices that concern this category of workers from both public order and human security perspectives. It used qualitative methods such as desk review, focus group discussions (FGD) and round table discussions (RTD), and is based on the Security and Public Order Policy (DKKA 2019) and the intent to develop a comprehensive foreign worker policy. Areas assessed include the involvement of foreign workers in crimes, the phenomenon of irregularity, terrorism, corruption, infectious diseases, drug abuse and drug trafficking.

## **INTRODUCTION**

Steady economic growth and demographic changes have contributed to increasing inflows of foreign workforce concentrated in the low-skilled labour sector which form around 15% of the total labour force, according to Labour Force Surveys by the Department of Statistics Malaysia (DOSM) (World Bank, 2019).

**Figure 1: Percentage of Migrant Workers by Skill Level**



SOURCE: Department of Statistics Malaysia, Tan and Jarud (2020)



**(Source: Department of Statistics Malaysia, Tan and Jarud (2020) as quoted in Lee, 2020)**

The foreign workers in Malaysia come from 15 source countries, namely Indonesia, Bangladesh, Nepal, Myanmar, India, Vietnam, the Philippines (male), Pakistan, Thailand, Cambodia, Sri Lanka, Laos, Turkmenistan, Uzbekistan and Kazakhstan. As of December 2020, the figures of these foreign workers in manufacturing, plantation, agriculture, services, construction, and mining and quarry sectors amounted to 1,490,168 (see Figure 2), equivalent to 4.55% of the total population of the country recorded at 32.73 million as of the last quarter of 2020 (Berita Harian, 10 February 2020).

These workers can enter the country subject to an employer-specific quota mechanism and levy system set by the Ministry of Home Affairs (MOHA). The age of employment at entry point is between 18 and 45 years of age (between 21 and 45 for domestic helpers) (MOHA, 2019). The workers are able to stay up to 10 years (5+5). Starting 2018, the extension of the Visitor Pass (Temporary Employment) or *Pas Lawatan Kerja Sementara* (PLKS) for another three years for foreign workers who are in the 10th year of employment (10 + 3) could be applied (Website of MOHA, 2020) subject to annual permit extension, including passing medical check-ups by Foreign

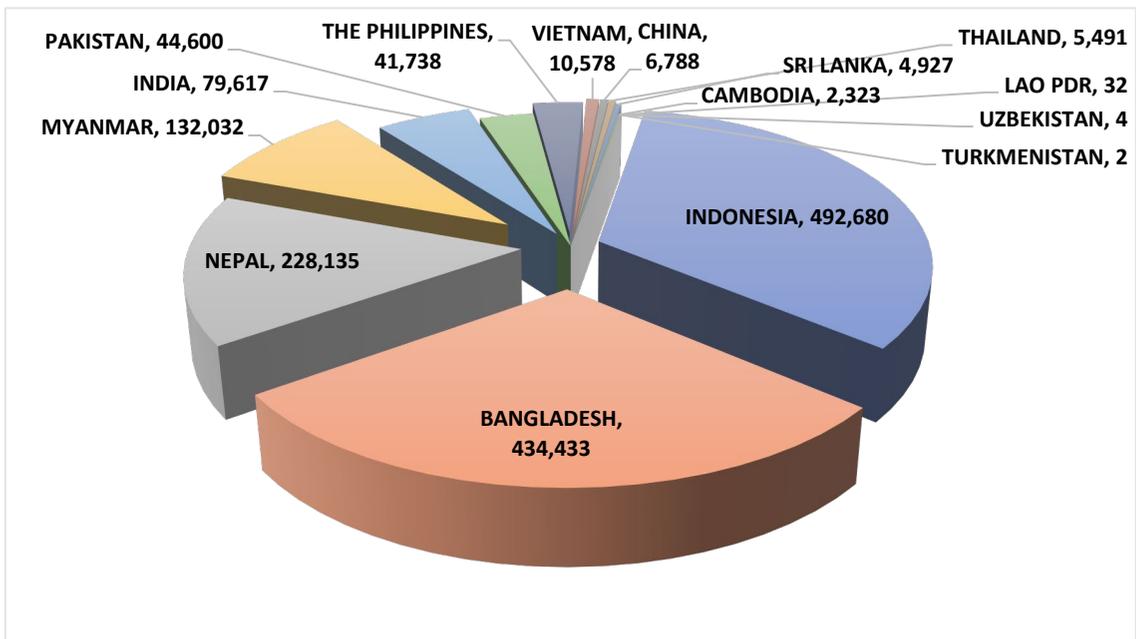
Workers Medical Examination Monitoring Agency (FOMEMA) and the payment of levy amounting to RM10,000 after the 10th year (World Bank, 2019). Meanwhile, for the informal sector, namely the employment of foreign maids, there is no limit on the period of employment. The table below shows the source countries of the workers and the sectoral and gender-based restrictions that apply to the workers.

**Table 1: Source Countries of Foreign Workers (PLKS)**

No.	Country	Gender		Sector
		Male	Female	
1	Thailand	/	/	Manufacturing, Plantation, Agriculture, Services, Construction, Mining and Quarry
2	Cambodia	/	/	
3	Nepal	/	/	
4	Myanmar	/	/	
5	Laos	/	/	
6	Vietnam	/	/	
7	The Philippines	/	X	
8	Pakistan	/	/	
9	Sri Lanka	/	/	
10	Bangladesh	/	/	
11	Turkmenistan	/	/	
12	Uzbekistan	/	/	
13	Kazakhstan	/	/	

14	India	/	/	Services (Indian community-related businesses), Construction ( <i>High Tension Cable</i> ), Agriculture and Plantation
15	Indonesia	/	/	Manufacturing (Female), Services, Agriculture, Plantation, Construction, Mining and Quarry

**Figure 2: Figures of Active PLKS Holders according to Source Country and Sector (31 December 2020)**



The Government is charged with the responsibility to maintain public order and security by ensuring external and internal threats are effectively controlled, mitigated and eliminated. However, there is no specific definition of the term public order and security that is universally accepted. According to Wolfers (1982), the term ‘security’ covers a wide range of purposes relating to security policy. In some cases, it is adapted to the changing challenges and threats that arise within the local and international environment. Samuel Makinda (1998) argues that security is preserving societal norms, rules,

institutions, and values from military and non-military threats. Definitions in the literature generally describe national security by measuring the ability of a country to protect its internal values from domestic and foreign threats. According to Buzan (1991), universal human security is affected by military, political, economic, social and environmental factors. The presence of foreign workers is often seen to be accompanied by threats at the national level as discussed by Thomas Hobbes (1909), C Fjader (2014) and Mogenthau (1982), including individual or cumulative threats of infectious diseases, social threats, human trafficking, migrant smuggling and economic stability.

Public order and security in the Malaysian context comprises firstly internal security and public order under the responsibility of MOHA, and secondly, national defence, placed under the responsibility of the Ministry of Defence (MINDEF). Both of these sectoral elements are fully addressed by the National Security Policy led and coordinated by the National Security Council (MKN). National security policy is guided by six thrusts that make up the Security and Public Order Policy/ *Dasar Keselamatan dan Ketenteraman Awam* (DKKA). *Dasar Keselamatan Negara* (2016) and DKKA (2019) recognise the transition of a state centric security approach to a human centric security approach (Prime Minister's Office of Malaysia website, 2019). DKKA presently emphasizes the basic principle of the formation of a democratic state based on the supremacy of the constitution and rule of law that also guarantees human safety and human rights to the extent that national security and the greater public interest are not compromised. The safety and protection of citizens is not only limited to Malaysian citizens but also non-citizens residing in the country, such as migrant workers and international students. National security policy embedded in DKKA is to provide guidance on the management of risks associated with challenges or threats to the country. The diagram below depicts the six thrusts of DKKA and the subsequent table draws the correlation between Sustainable Development Goals (SDG) 2030 and DKKA.

It is against this background, that this article reports on the impact of the employment and presence of foreign workers on the security and public order in this country and what the key lessons are moving forward. While

acknowledging that the consequences of employment extend to and overlap with those that fall within the scope of human security, this article will present selected findings mainly from the lens of security and public order. It shall be followed by another publication that will focus on the human security implications of the employment and presence of low-skilled foreign workers in Peninsular Malaysia, in particular, security issues that are also addressed by Target 8.7 of SDG, namely, forced labour, modern slavery and human trafficking.

**Diagram 1: Main Thrusts of Security and Public Order Policy (DKKA)**



Source: KDN, 2020

**Table 2: Correlation between Sustainable Development Goals (SDG) 2030 and DKKA 2019**

SDG 2030	DKKA 2019
<p><b>Target 8:</b></p> <p>Promote sustainable, inclusive and sustainable economic growth, full and productive employment and decent work for all.</p> <p>A human centric security approach is on the agenda in the Sustainable Development Goals (SDGs) without denying the need for national security</p>	<p><b>Thrust 1: Defending the Supremacy of the Constitution, the Rule of Law and Key Institutions</b></p> <p>Thrust 1 emphasizes the basic principles of nation-building based on the supremacy of the Constitution and the rule of law to ensure human safety and human rights so long as they do not threaten national security and the greater public interest</p>
<p><b>Target 8.7</b></p> <p>Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and guarantee the prohibition and elimination of the worst forms of child labour, including the recruitment and use of child soldiers, and by 2025 the final child labour in all its forms.</p>	<p><b>Thrust 4: Ensuring Public Safety and Order</b></p> <p>Aspects of security and public order must always be maintained to ensure a better standard of living and well-being of the people. Security prevention, suppression and enforcement efforts must be carried out fairly and equitably based on the rule of law. The government service delivery system at every level should also be improved for customer satisfaction. The involvement of all parties in this matter is critical to ensure the prosperity and harmony of community life is achieved.</p>
<p><b>Target 8.8</b></p> <p>Protect workers' rights and promote</p>	<p></p>

a safe and secure working environment for all workers, including migrant workers, particularly women migrants, and those in precarious employment.

## **METHODOLOGY**

This paper is based on the findings of a joint research project conducted from February 2020 to March 2021 by the Institute of Public Security of Malaysia (IPSOM) and Foreign Worker Management Division (BPPA) of Ministry of Home Affairs (MOHA) and Universiti Sains Islam Malaysia (USIM) within a strategic framework of policy research partnership. The research project re-examines a number of policies on the employment of foreign workers holding PLKS, in particular (i) selection of source countries, (ii) age of employment and (iii) period of employment. Secondly, it explores the public and human security implications of the employment and presence of such workers in Malaysia following which, recommendations for improvement of the policies are presented. In this paper, the findings addressing the second objective of this research are discussed, namely, the security impact of the employment of PLKS holders in Peninsular Malaysia. The data collection methods employed include desk review through content analysis of various datasets, statutes and official documents, statistics from key government agencies, research reports and scientific literature, as well as books and articles related to employment policies of foreign workers in Malaysia. In addition, the discussion will also be informed by selected findings of thematic analyses of transcriptions of FGDs and RTDs conducted with different agencies.

Forty-eight participants representing various government, semi-government and non-governmental organisations with portfolios addressing the employment of foreign workers in the category of PLKS holders were invited to several sessions of the FGDs on 22 and 23 July 2020. The agencies involved are listed in the table below.

**Table 3: List of FGD Participants**

Royal Malaysia Police (PDRM)
Immigration Department of Malaysia (JIM)
Malaysian Maritime Enforcement Agency (APMM)
National Anti-Drugs Agency (AADK)
Anti-Trafficking to Persons and Anti-Smuggling of Migrants Council (MAPO)
Foreign Worker Management Division (BPPA)
Ministry of Health (KKM)
The Ministry of Housing and Local Government (KPKT)
Ministry of Federal Territories
National Security Council (MKN)
Department of Labour Peninsular Malaysia (JTKSM)
Institute of Labour Market Information and Analysis (ILMIA)
Kuala Lumpur City Hall (DBKL)
Selayang Municipal Council
Subang Jaya Municipal Council
Seremban Municipal Council
Human Rights Commission of Malaysia (SUHAKAM)
Social Security Organization (PERKESO)
Malaysia Employer Federation
Malaysian Agricultural Producers' Association (MAPA)
Federation of Malaysian Manufacturers (FMM)
Union of Plantation Workers (NUPW)
Malaysian Trades Union Congress
North South Initiative (NSI)
Construction Labour Exchange Centre BHD (CLAB)
Tenaganita Sdn Bhd

The FGDs were held to discuss and elicit views on the implications of the employment of PLKS holders from several perspectives; foreign workers and crimes, public health implications and socio-economic impact. A roundtable discussion or RTD was held on 6 March 2020 in which twenty-four respondents consisting of officials responsible for the policy making and

execution of policies and laws concerning PLKS holders were involved and feedback was collected from key public agencies, including the Ministry of Human Resources (MOHR), Immigration Department and PDRM.

The themes addressed in the RTD concerning public security and their relevance to the thrusts of DKKA are outlined below:

**Table 4: Correlation between Themes Discussed in RTD with DKKA’s Thrusts**

Theme	DKKA’s Thrust
Theme 1: Foreign worker employment policy in Malaysia: rationale, process and challenges	Thrust 2: Improving the Governance and Integrity of Security Enforcement Agencies Thrust 3: Strengthening Border Security Control (as per in diagram)
Theme 2: Implications of employment policies for foreign workers on aspects of public safety: The experience of the Immigration Department	Thrust 1: Defending the Supremacy of the Constitution, the Rules of Law and the key Institutions of the Nation Thrust 4: Ensuring Security and Public
Theme 3: Implications of employment policies for foreign workers on aspects of public safety: The experience of PDRM	
Theme 4: The importance and challenges of the employment policy of foreign workers to the employment/labour sector in Malaysia	

## **FOREIGN WORKER POLICY CHANGES IN THE CONTEXT OF SECURITISATION: AN OVERVIEW**

The presence of migrants has both positive and negative implications for public order and human security. The securitisation approach generally termed the Copenhagen School suggests that restrictive border controls and immigration measures necessitate political actors framing migration issues in terms of 'existential threats to societal security'. However, this framing has been criticised due to among others, its failure in justifying why migrants are constructed as security threats. (McGahan, 2009). Annual posits that international migration ushers in a great impact on the national security of a country when the country loses control over a huge influx of foreign workers crossing into its territory, causing violation of rights, ethnic clashes, xenophobia and other threats to social stability and demographic security (as cited in Kicinger, 2004 and Mohd Na'eim Ajis, et al., 2014). Other scholar's express concerns that such conception can be a tool to legitimise the framing of an ethnic or religious minority in a particular society as a 'potential enemy' and resulting in an exclusionary policy that targets such groups (Arifianto, 2009, 617).

Foreign workers in the low-skilled sector are generally perceived as groups that present significant challenges in the context of Malaysia's economy, border security and internal security (Kassim in Mazlan et al., 2017; Ullah, 2013). In the 1960's, the country did not have a system or structure to manage the intake of semi-skilled and unskilled foreign workers. Informal hiring of such workers through middlemen was allowed for employers. Workers mostly were sourced from Indonesia and Thailand, two neighbouring countries with common cultural and religious values (Kaur, 2008; Ajis, et al., 2014). In the 1980's, systematised recruitment procedures and channels were introduced, including through labour accords with Indonesia, the Philippines and subsequently Bangladesh. Internal security and threats were the main rationale underlying the formulation of foreign worker policy from 1981 to 1991. Deteriorating economic conditions of the country in the mid-1980's led to the setting up of a special unit, Task Force VII, to supervise Malaysian waters and prevent illegal Indonesian boat landings, with the earlier version of

the task force set up in the 1970s to prevent illegal landings by Vietnamese boat people (Kaur in Pietsch and Clark, 2015, 85-86). The securitisation of Indonesian migrants began in the mid 1980's following concerns by the Chinese and Malays over the increasing presence of Indonesians with more visible segregated settlements of their own communities (Arifianto, 2009, 622).

Nesadurai (2013) examines the relationship between labour as a source of economic security or insecurity and conflicts between countries that arise in the context of migration, labour and national security. Several other researchers who place economic security in the framework of national security are Walt (1991) and Baldwin (1993). Acharya (2001) labels the concept of national security and regime based on economic performance as the concept of 'comprehensive security'. According to him, this concept dominates the security paradigm in Southeast Asia and is used in countries such as Malaysia, Indonesia and Singapore. Besides security considerations, economic performance has largely influenced Malaysia's foreign worker policies since 1991 (Kassim, 2012).

Instead of being a temporary feature and 'stop-gap' measure, the hiring of foreign workers has been going on for over many decades in Malaysia (Kassim & Mat Zin, 2011). The Seventh Malaysia Plan was introduced between 1996 and 2000 under which labour market policies promoted employment of local workers through flexible work arrangements, re-hiring of qualified retirees, incentives of transportation to support labour mobility into sectors with high labour demands and replacing and repatriating expatriate workers. Economic threat was heightened with the growing number of Indonesians over the years, particularly in the aftermath of the Asian economic crisis. In the third wave of migration, there were fears that the Indonesian migrants 'would significantly disturb or even rupture the fabric of Malaysian society' (Kaur in Pietsch & Clark, 2015, 105).

In 2002, the policy of 'Hire Indonesian Last' was introduced as a reaction to a riot in a factory in the state of Negeri Sembilan in January the same year. Four hundred Indonesian workers in a textile factory rioted and

set fire to the factory and surrounding buildings. The resulting negative sentiment against the employment of Indonesians was additionally fuelled by the 9/11 terrorist attacks and the Bali bombings of 2002, which grew public fears around the idea that irregular Indonesian migrant worker network could be linked to Islamist terrorism (Afrianto, 2009, 108-109). With over two million foreign workers present in the country in 2007 and 2008, they eventually outnumbered the third largest ethnic group in Malaysia (Malaysian Indian), which stood at around 1.9 million people in 2008 (Aziz et. al, 2017, 354). The threat of terrorism and extremist ideology were part of the security aspects considered in relation to other source countries. In this context, the Malaysian Government rejected Pakistan's application for its workers to be employed as security guards. The threat of human trafficking, which simultaneously invokes human security concerns is one of the key factors behind the Government's decision to suspend Bangladesh as a source country (MOHR and BPPA, 11 December 2020). The controversial aspect of Malaysia's foreign labour employment policy is its labour outsourcing system, which has spawned a huge recruitment industry comprising labour outsourcing companies. The outsourcing industry that engaged in contract negotiation, arrangement of visas, workers' pay, accommodation, food and insurance was responsible for exorbitant placement and recruitment fees resulting in debt bondage and oversupply of foreign workers (Devadason, 2020, 4-5).

Irregular migration has been described as a persistent phenomenon in Malaysia due to policy gaps and shortcomings, as well as the country's continued dependence on low-skilled foreign workers in certain economic sectors (Kaur in Pietsh and Clark, 2015, 76). The lack of integration in the overall system for admitting and regulating foreign workers has additionally contributed to foreign workers turning undocumented or irregular (World Bank, 2019, 12). Foreign workers, including the undocumented/ irregular ones are said to pose economic threats owing to suppression of wages of the locals and socio-economic threats linked to pressure they impose on public resources and risks of communicable diseases associated with their presence (Kanapathy, 2006; World Bank, 2019). Migration control measures through amnesty and legalisation were adopted to deal with the crisis of irregular

migrants, such as through the launching of Ops Nyah I and OP Nyah II between December 1991 and June 1992 (Devadason, 2020, 14). According to Low (2020), the root cause of irregular migration is nonetheless tied to serious labour shortages and therefore, the problem may not be cured by legalisation alone. She views that this kind of exercise mutually works with ‘the hard approach of arrests, detention, and deportation’, which lowers the associated costs of managing irregular migrants besides addressing the overcrowding of detention camps.

The 11th Malaysia Plan (2016-2020) (RMK 11) introduces a comprehensive immigration and employment policy for foreign workers by considering the needs of the industry and the welfare of foreign workers. In addition, the Government commits to reducing the high dependence on foreign workers and limiting the percentage of foreign workers to no more than 15% by 2020 through automation of labour-intensive activities and migration to knowledge-intensive activities (RMK-11, 2015: 5-21).

Considering that public security is the most important contributor to the development of a viable and prosperous society, one of the focus areas is to create a safer living environment for society. Strategies to achieve this goal include, tightening the relevant regulations and increasing enforcement to combat crimes. Such strategies require improving the management of foreign workers and battling transnational crimes. Generally, MOHA is responsible for ensuring the fulfilment of human security aspects in the policy and management of foreign workers, such as the protection of the workers’ rights based on applicable laws and regulations. In contrast, issues relating to public security are under the jurisdiction of MOHA. Issues affecting public security such as robbery, undocumented entry, forgery of identity/travel documents, smuggling and human trafficking syndicates, labour exploitation, as well as the involvement of foreigners in terrorist activities, require effective internal monitoring, security and enforcement system in the management of foreign workers (Kassim, 1998; Nor Azizan & Zarina, 2015).

## RESEARCH FINDINGS

### Foreign Citizens and Crimes

The following table shows the number of arrests of foreigners by source country for violent crimes, including robbery, causing hurt, murder, and rape followed by property crimes comprising theft, snatch theft, and house breaking for 2017-2020. The crime statistics show that rates of arrests were the highest among Indonesians for the three years (2017 to 2020), followed by citizens of Bangladesh and Myanmar (PDRM, 2020). The gaps between the figures recorded by Indonesia nationals and other nationalities are large although these numbers can be suggested to correlate to their larger presence compared to foreigners from other countries. The low level of arrests of citizens from countries such as Uzbekistan, Kazakhstan and Turkmenistan and their small population in the country likewise, appear more than coincidental.

**Table 5: Total Arrests of Foreigners by Type of Case and Country (2017-2020)**

	Country		Year	Violent Crimes (Robbery/ Causing Hurt/ Murder/ Rape)	Property Crimes Theft/ Snatch Theft/ House breaking	Yearly Figures	Total Figures of Arrests
1	Indonesia		2017	990	3667	4,657	13,282
			2018	827	2873	3,700	
			2019	792	3415	4,207	
			2020	198	520	718	
2	Bangladesh		2017	525	952	1,477	4,795
			2018	410	1172	1,582	
			2019	431	992	1,423	
			2020	153	160	313	
3	Myanmar		2017	542	853	1,395	4,591
			2018	445	889	1,334	
			2019	478	821	1,400	

			2020	255	198	453	
<b>4</b>	<b>The Philippines</b>		2017	154	990	1,144	<b>4,310</b>
			2018	161	1326	1,487	
			2019	121	1219	1,340	
			2020	63	276	339	
<b>5</b>	<b>India</b>		2017	121	356	477	<b>1,627</b>
			2018	166	345	511	
			2019	168	328	496	
			2020	46	97	143	
<b>6</b>	<b>Nepal</b>		2017	260	298	558	<b>1,327</b>
			2018	147	221	368	
			2019	144	127	271	
			2020	87	43	130	
<b>7</b>	<b>Vietnam</b>		2017	96	292	388	<b>1,300</b>
			2018	68	552	620	
			2019	35	206	241	
			2020	17	35	52	
<b>8</b>	<b>Pakistan</b>		2017	120	307	427	<b>1,200</b>
			2018	117	199	316	
			2019	125	239	364	
<b>9</b>	<b>Thailand</b>		2017	48	231	279	<b>765</b>
			2018	51	175	226	
			2019	52	148	200	
			2020	35	25	60	
<b>10</b>	<b>Cambodia</b>		2017	8	46	54	<b>171</b>
			2018	21	35	56	
			2019	10	39	49	
			2020	2	10	12	
<b>11</b>	<b>Sri Lanka</b>		2017	20	49	69	<b>163</b>
			2018	13	19	32	
			2019	14	27	41	
			2020	4	17	21	
<b>12</b>	<b>Laos</b>		2017	2	5	7	<b>14</b>
			2018	1	3	4	
			2019	-	3	3	
			2020	-	-	-	
<b>13</b>	<b>Uzbekistan</b>		2017	6	4	10	<b>13</b>
			2018	-	-	-	
			2019	-	3	3	
			2020	-	-	-	
<b>14</b>	<b>Kazakhstan</b>		2017	-	4	4	<b>5</b>

			2018	-	-	-	
			2019	-	-	-	
			2020	-	1	1	
<b>15</b>	<b>Turkmenistan</b>		2017	-	-	-	<b>0</b>
			2018	-	-	-	
			2019	-	-	-	
			2020	-	-	-	

Source: PDRM, 2021 (April)

Overall, the yearly figures of arrests between 2017 and 2020 as seen in the table above do not generally exhibit an uptrend in their patterns. According to a crime analyst, Kamal Affendi Hashim, burglary, robbery and snatch theft are among the crimes often associated with foreigners. However, their level of involvement is still in check. (Sinar Harian, 2 September 2020). As shown in Table 6, between 2017 and May 2020, the percentages of arrests of foreigners for indexed crimes range between 10% and 14.4% of total arrests for each year.

**Table 6: Percentages of Arrests involving Foreigners compared to Total Arrests for Indexed Crimes between 2017 and 2020**

<b>Year</b>	<b>Overall Arrest</b>	<b>Arrest of Foreigners</b>	<b>Percentage of Arrest of Foreigners</b>
<b>2017</b>	85,973	11,441	<b>13.3%</b>
<b>2018</b>	79,966	10,781	<b>13.5%</b>
<b>2019</b>	73,310	10,548	<b>14.4%</b>
<b>May 2020</b>	10,776	1,104	<b>10.2%</b>

Source: PDRM, 2020

In the FGD sessions with enforcement officers, PDRM representatives observed that non-citizens involved in crimes such as property crimes – robbery, house breaking, theft of motorcycles and snatch theft – are usually undocumented foreigners or ‘irregular’ immigrants who do not have a permanent job. Foreign workers who are legally working in the country are rarely incriminated. The PDRM officer was of the opinion that:

legal foreign workers are looking for money to send to their families. Their income, accommodation and livelihood are guaranteed. They do not have implications for national security (PDRM, FGD, 22-23 July 2020).

There is nevertheless no basis to attribute crime rates among foreigners to foreign workers, including holders of PLKS in Malaysia. A significant data challenge identified by the authorities is that data concerning offences involving foreign workers have not been disaggregated according to types of passes or documents held by the foreigners. This makes it difficult to measure the extent of their involvement based on the workers' immigration status.

We can ask for more detailed statistics from the Bukit Aman CID. Even if those involved in committing crimes are foreigners, we have to differentiate whether they are part of the workforce who come legally or 'illegally'. Not all foreign workers have valid employment passes. Those who get valid work passes and commit crimes and those who do not have work passes here or are 'illegal' and commit crimes must be differentiated (PDRM, FGD, 22-23 July 2020).

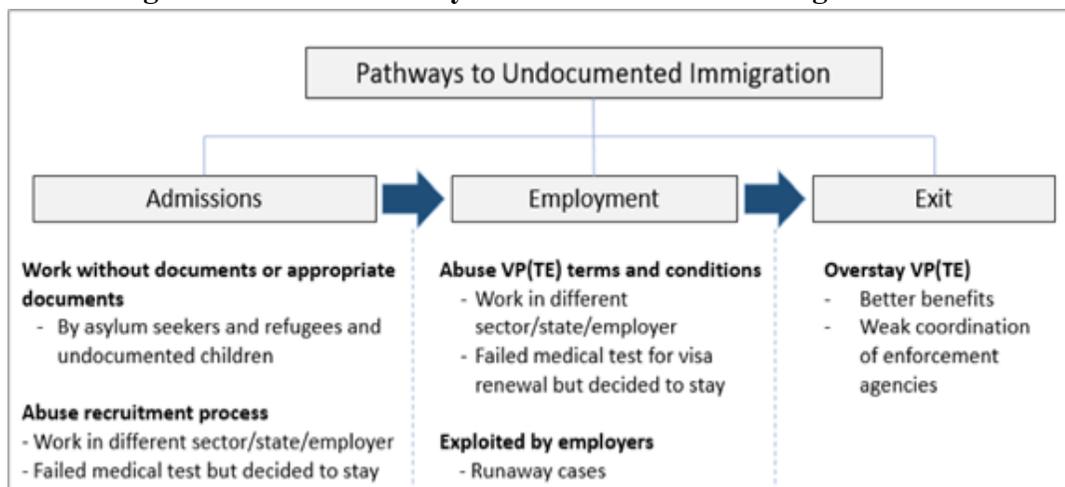
### **Foreign Workers and 'Irregular' Migrants**

In Malaysia, the term 'irregular migrants' is attributed to both irregular economic migrants and refugees (Kassim and Mat Zin, 2011). The term 'irregular migrant' generally refers to 'persons who do not fulfil the requirements established by the country of destination to enter, stay or exercise an economic activity' (Programme of Action on the International Conference on Population and Development (ICPD), Cairo, 1994). Apart from foreign workers entering and working legally in the country, there are irregular migrant workers whose real size and whereabouts are difficult to ascertain. In one of the FGD sessions, concerns were raised that the current employment period of 10+3 years may in fact encourage family formation, reunion, and expansion of foreign settlements, increasing the risk of more workers turning irregular (FGD, 22-23 July 2020).

The Department of Statistics Malaysia recorded 15.87 million labourers working in the country as of February 2020 (DOSM, 2020a). Of these, a total of 2.3 million were non-citizen workforce (DOSM, 2020b) with 1,545,101 being PLKS holders in various employment sectors (Harian Metro, 2020). Including irregular immigrants, data from various other sources estimate the total number of foreign workers in Malaysia to be in the range of 4 million (Malay Mail 2016) to 7 million (Utusan Malaysia, 2016; Embun, 2017; Malay Mail 2016 & Lee, E. et. Al, 2018). According to Arutchelvan (2020), as of 19 April 2020, there were approximately 3.3 million irregular immigrants compared to 2.2 million documented workers. In other words, for every documented employee, 1.5 were undocumented or irregular. The overall percentage of foreign workers in Malaysia, including irregular immigrants, was between 25% and 44% of the official figure of all employees in the country. This number far exceeds the RMK 11 target of only 15% foreign workers by 2020 (EPU, 2015).

The common pathways to foreign workers becoming irregular/undocumented are depicted in the diagram below.

**Diagram 2: Three Pathways to Undocumented Immigration**



Source: World Bank (2019)

Espein and Heizler (2013) argue that the main motivation to migrate can be explained by earnings in the destination country and migration costs.

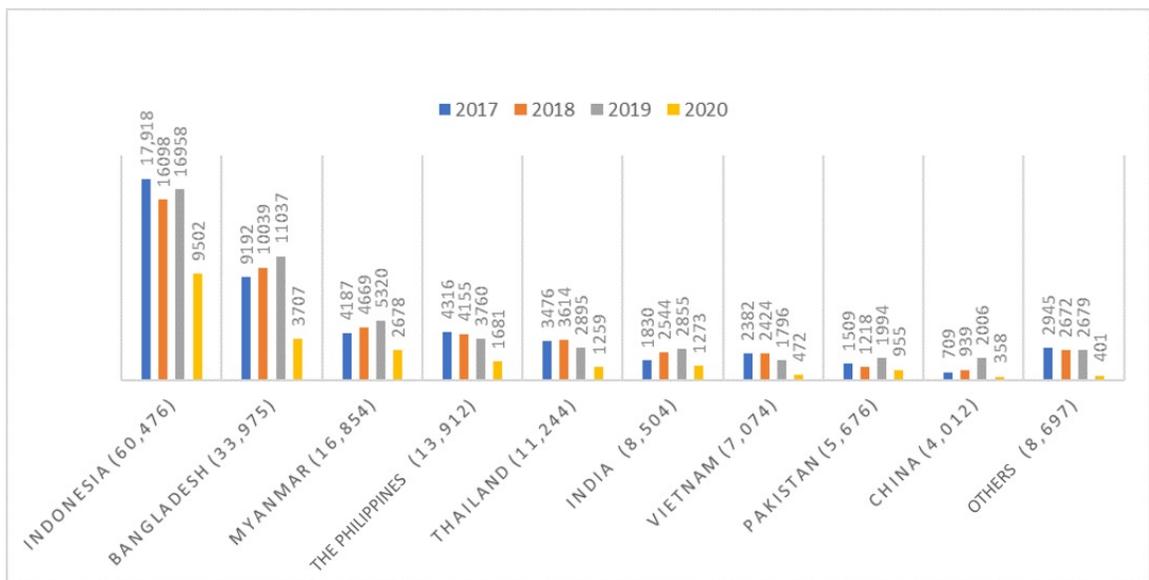
Using the assumption that the pay in the destination country is higher than that in the source country, a prospective immigrant may still agree to immigrate irregularly despite adjustment costs and potential costs of apprehension and deportation (penalty and income loss) (Epstein & Heizler, 2013). There are reported incidents of workers who paid high recruitment fees and subsequently were left stranded in Kuala Lumpur without employment, placed in forced labour situations and faced with debt bondage, or sent back to their countries of origin (Palma, 2015; Tenaganita cited in Robertson, 2008; Wickramasekara, 2016). According to Ethical Trading Initiatives:

There are also recent reports that suggest migrant workers are being traded between employers in the retail sector and among SMEs, in clear violations of Malaysian labour laws and international conventions. According to these reports, migrants are sent to work for different employers when they arrive in Malaysia which effectively turns them into illegal or irregular workers, as their work permits are only valid for the specified employer (2020, 18).

The International Labor Organization (ILO) found increasing cases of migrant workers being unfairly terminated or not getting paid during Malaysia's nationwide coronavirus lockdown in March (Lee, 2020). Other than running away from or changing one's employer in contravention of the immigration pass/ work permit, a foreign worker holding PLKS may turn irregular if found guilty of committing immigration offences, typically relating to overstaying and not having a valid pass/work permit. Foreign workers who fail health screening also need to be deported to their source countries. There are cases of unsuitable workers or prospective employees who ran away from their employers and became irregular immigrants because they wanted to stay and work in Malaysia as a result of having spent a lot of money on middlemen, fares and 'process' fees to come and work here. It was also reported that no information exists on whether the 29,288 foreign workers who had failed their medical tests were deported through the required procedure of submitting the 'Check Out Memo' (Com) (MyMetro, 16 July 2019).

Shortcomings in what is described as ‘incomprehensive’ digital system relating to the management of foreign workers, which does not cover data such as biometric registration of employers and that in practice still relies on physical documents, have been cited as one of the key gaps through which workers slip into irregularity and become untraceable. From 2016 to 2018, it was found that the movement of foreigners could not be detected due to system disruption or 4,489 ‘downtimes’. The Auditor-General’s Report 2018 Series 1 subsequently revealed fraudulent approvals of 32,424 foreign workers through MyIMMS worth of RM 40.79 million in levy payment. A new system – the Immigration Integrated System (IIS) – is now being developed to address these shortcomings through better security control (Chan, 15 July 2019) (Chan, Julia. 15 July 2019).

**Figure 5: Arrests of Irregular Migrants from 1 January 2017- 26 February 2020**



Source: Immigration Department (2020)

The above statistics record the number of arrests of irregular migrants each year from 2017 to 2020. The number of arrests of irregular migrants from Indonesia is the highest (60,476), followed by arrests of irregular migrants from Bangladesh (33,975), Myanmar (16,854), the Philippines (13,912)

Thailand (11,244), India (8,504), Vietnam (7,074), Pakistan (5,676), China (4,012) and others (8,697). Despite Nepal being the third biggest source country after Indonesia and Bangladesh, the statistics show that it is not among the major contributors of arrested irregular migrants in this country in these four years.

**Table 7: Immigration Offences from 18 March 2020 to 31 December 2020**

Countries of origin (also source countries of foreign workers in the PLKS category)	Immigration Offence				Total
	Section 6(1)(c) Immigration Act 1959/63 [Not in possession of a valid Pass/Entry Permit]	Section 15(1)(c) Immigration Act 1959/63 [overstaying/ being present in the country after the expiration of any Pass issued]	Regulation 39(b) Immigration Regulations 1963 [Contravening/failing to comply with conditions of pass/ permit]	Others	
Indonesia	2,131	1,517	101	131	3,880
Myanmar	1,020	29	7	14	1,070
Bangladesh	770	117	130	40	1,057
India	292	197	32	16	537
Pakistan	167	101	21	41	330
The Philippines	219	11	1	6	237
Vietnam	35	73	2	26	136
Nepal	75	12	2	2	91
Thailand	57	23	2	0	82
Cambodia	36	21	2	0	59
Sri Lanka	11	3	0	0	14
Laos	0	3	0	0	3
<b>Other than Source Countries of Migrant Workers</b>					
China	46	10	13	1	70
Nigeria	4	1	0	0	5
Others	13	3	1	0	17
<b>Total</b>	<b>4,876</b>	<b>2,121</b>	<b>314</b>	<b>277</b>	<b>7,588</b>

Source: Immigration Department (2021)

According to the Immigration Department, between March and December 2020, the most prevalent offence committed by irregular immigrants was under section 6 (1) (c) of the Immigration Act 1959/63 (Act 155), namely of entering and staying in the country without having a pass or valid permit. About 64.3% or 4,876 were charged under this section. The offence carries the punishment of a fine not exceeding RM10,000 or imprisonment not exceeding five years or both and a whipping of not more than six strokes under section 6 (3) of Act 155. The second highest offence was overstaying after the expiration of the period of any pass issued, as provided in section 15 (1) (c) of Act 155. A total of 2,121 persons or 28% of them were charged under this section, which carries a fine of not less than RM10,000 or an imprisonment for a term not more than five years or both. Three hundred and fourteen or 4.1% were charged under Regulation 39 (b) of the Immigration Rules 1963 for failing to comply with one or more conditions imposed by a pass or permit issued by the immigration authority, which carries an imprisonment sentence not exceeding six months or a fine not exceeding RM 1,000 or both.

In terms of economic implications, the large presence of foreign workers including irregular migrants is seen a cause for concern as it is said to contribute to keeping the country in the middle-income trap with low-wage and low-productivity levels (Athukorala & Devadason, 2011; Wei et.al, 2018). Most foreign workers are willing to accept low wages in return of long and more flexible hours of work compared to the locals (Ajis et.al, 2014). This attitude induces employers who are highly dependent on a constant labour supply to continue recruiting foreign workers, including through informal agents and illegal means (Kassim & Mat Zin, 2011). The readily available supply of cheap and low-skilled labour force consequently ‘distorts domestic factor prices, and thus discourages industrial upgrading’ (Wei et.al, 2018, p 2). The broader impact on the country’s economic and technological progress is stated as follows:

A key concern of this debate is that the influx of cheap foreign labour suppresses domestic wage growth, with adverse implications for long-term growth and improvement of economic welfare of native workers.

In this view, availability of low-wage immigrant labour forestalls skill upgrading and modernization of technology in the domestic economy that might have occurred otherwise (Athukorala & Devadason, 2011).

### **Foreign Workers and Terrorism**

Malaysia is considered a transit country for terrorist groups especially from the Middle East and Africa (Zolkepli, 2019). The Country Reports on Terrorism 2018 state that Malaysia remains a 'source and transit point' of terrorist groups such as Islamic State (IS), Abu Sayyaf, al-Qaeda and Jemaah Islamiyyah. Between January 2013 and April 2017, the police reported 300 arrests of suspects having ties to the Islamic State (PDRM, 2017 as cited in Mohamad Ismail Mohamad Yunus et al, 2017, 56). An integrated operation carried out at Nilai 3 Wholesale Centre in 2017 had led to an arrest of 350 foreigners for various offences, including suspicions of having links with international terrorist groups from Pakistan, Afghanistan, Bangladesh, and Nepal (Berita Harian, August 2017). From July to September 2019, 16 suspects were arrested nationwide for attempting to set up an ISIS cell in Malaysia and planning several attacks in Malaysia and Indonesia (US Department of States, 2019). The suspects included 12 Indonesians, three Malaysians and one Indian.

According to the authority, foreign terror suspects usually hold fake travel papers or marry locals in order to get through immigration checks unnoticed. The integrity of the immigration system known as MyIMMS was severely compromised when some 37 officers were found guilty of interfering with the online system. The fault in the system had enabled travellers to dodge security and passport authenticity screening, and to avoid having their records checked against international terror databases. The government admitted that Malaysian passports for sale were still available via a 'bypass function' through the said online system for passport issuance, allowing corrupt officials and syndicates to exploit it to their advantage. (Abdul Nasir, et.al, 2020).

**Table 8: Foreign Nationals arrested under SOSMA 2012 and charged under Chapter VIA, Penal Code, Prevention of Crime Act 1959 (POCA) and Prevention of Terrorism Act (POTA) 2015 (5 April 2015-31 December 2020)**

No.	COUNTRY OF CITIZENSHIP	TYPE OF PASS						TOTAL
		PLKS holder	Social Visit Pass	Permanent Resident	Without Pass	Irregular Migrant	Refugee	
1	Indonesia	5	9	1	6	9	30	
2	Bangladesh		1				1	
3	The Philippines		1			11	12	
4	Myanmar						2	
5	Turkey		1				1	
<b>TOTAL</b>							<b>46</b>	

Source: PDRM (2021)

Table 8 compiles relevant data of foreign nationals charged with offences under Chapter VIA of the Penal Code, the Prevention of Terrorism Act 2015 (POTA) and the Prevention of Crime Act 1959 (POCA) between 5 April 2015 and 31 December 2020. Indonesian nationals were the highest charged for the terrorism-related offences (30), followed by Filipinos (12) and Burmese (2). Among the implicated Indonesian nationals, nine were irregular immigrants, nine were holders of Social Visit Passes and six were without their pass information. Throughout these five years, only five holders of PLKS were charged, all of whom were Indonesian nationals. The majority of Filipinos arrested were irregular migrants while one was a holder of a Social Visit Pass. The remaining two were refugees from Myanmar followed by one from Bangladesh and another from Turkey, each holding a social visit pass. Although the involvement of PLKS holders is equivalent to 10.86 % of the total foreign nationals charged, the figure is still relatively low in comparison to their number in Malaysia.

## Foreign Workers and Socio-Economic Issues

Economic rationale is claimed to be at the centre of the policy of a long employment period for PLKS holders i.e., 10+3 years. The substantial period would also allow workers to recover recruitment and levy costs often informally deducted from their salaries (RTD, 6 March 2020). However, expanded social networks and communities, as well as business activities conducted in violation of pass conditions, are among the socio-economic issues that come with the long employment period (FGD, July 22-23, 2020). The views expressed by FGD participants lean in favour of reducing the undesirable impact in terms of unhealthy competition with local traders and cultural influence that may conflict with local norms (FGD, July 22-23, 2020). Foreigners from certain countries such as Indonesia, Bangladesh, India and Pakistan are more often reported to be involved in commercial activities.

Economic activities frequently engaged in by foreigners are wholesaling, trading at night markets, and opening grocery stores, carpet shops and barbershops. Garces-Mascarenas (2015) recounts the resistance among the locals in the 1980's against Indonesian irregular workers fearing the threat of economic displacement:

[i]n the mid-1980's, Malay petty traders, fearing economic displacement, staged vociferous protests against the irregular Indonesian workers. Moreover, non-Malay communities accused the state of turning a blind eye to the inflow of Indonesian migrants and hence surreptitiously increasing the Malay share in the overall population (at 131).

According to an interview podcast titled 'Selangor Will Stop Giving Hawker Licences to Foreigners':

Foreign wet market operators have been an issue in the past in parts of Selangor like Shah Alam. In 2017, the Selangor Shah Alam City Council had to address complaints by local wet market operators saying that it is not fair for them to compete with immigrants running the businesses without documents/permits (Mohammed, 2020).

The Secretary General of the Coalition of Malay Hawkers and Petty Traders' Association of Malaysia commented on cases of foreign workers hired to work eventually taking over the businesses of some local entrepreneurs:

Although local workers are not allowed to hire (foreign) workers, there have been traders who hired (foreign) workers on the assumption that it is more cost-effective. By hiring local workers, they have to pay more while local workers do not stay for a long time... eventually these foreign workers (hired by local traders) become 'taukeh' (the boss) (Mohammed, 2020).

**Picture 1: 'Acehnese traders conquer retail sector'**



Source: Berita Harian (21 May 2019)

A business is usually run in the name of a licensed local business owner by paying a specific amount of monthly rental fee to the licensed owner or operator. Some foreigners marry local women to make it easier for them to operate their businesses (RTD, 6 March 2020). Nevertheless, there exist no figures to show whether and to what extent PLKS holders are involved in businesses in violation of their pass conditions.

The local authorities expressed that they have limited enforcement capacity, which largely extend to ensuring compliance with trade licensing and premise-related requirements. Low capacity in terms of the number of enforcement officials is another challenge cited. The Local Government Act

1976 (Act 171), which enables Parliament to legislate on local government for purposes of ensuring uniformity of law and policy merely provides for a maximum penalty not exceeding RM2,000 or an imprisonment of not more than a year or both (Section 38). The minimal compound and term of imprisonment would render the current enforcement framework less effective, resulting in a lack of deterrent effect on locals and foreigners who break the law (FGD, 22-23 July 2020).

Some researchers allude to foreigners taking up certain jobs where the risk of arrest is low, such as in domestic services and plantations, which are sectors that are remote from public spaces (Kassim and Mat Zin, 2011). Another social issue raised is marriages between foreigners and locals or with other foreigners (RTD, 6 March 2020; FGD, 22-23 July 2020). As PLKS holders are not allowed to get married, breaching this condition results in their passes being invalidated, consequently rendering their status irregular. Informal marriages further contribute to births of children outside of registered marriages, which often lead to unregistered births. Children who are unregistered are at a risk of being stateless. Statelessness is a phenomenon that deprives children from a host of basic rights, primarily access to formal education and affordable healthcare (Kassim, 2015). Foreseeably, this is one way that the seeds of future problem and social inequity are being sown in the host country and to the detriment of the children and their parents themselves.

### **Power Abuse and Corruption in connection to Foreign Workers**

Despite efforts to eradicate corruption, abuse of power among civil servants in collusion with members of the general public is still rampant. A newspaper reported that the Malaysian Anti-Corruption Commission (MACC) had detained a total of 59 individuals in November 2020 for corruption in relation to a passport forgery syndicate during an operation called 'Ops Selat', (MhDaily, 26 November 2020). The detained persons include 34 immigration officers on duty at KLIA, KLIA2, Customs, Immigration and Quarantine Complex of the Sultan Iskandar Building in Johor Bahru, 15 foreign workers' agents and 10 civilians suspected of acting as 'keldai akaun'. They were remanded under Section 117 of the Criminal Procedure Code.

One of the detained suspects was the Deputy Director of Immigration Department stationed at KLIA. He was said to be involved in the ‘flying passport’ and ‘counter setting’ syndicates. The so-called ‘flying passports’ were issued to those who entered Malaysia using social visit passes but whose actual status was irregular. The modus operandi also involved agents collecting the passports of the foreign workers and bribing the immigration officers for their official stamps to prove that the passport holders had already left and re-entered the country legally after three months. The next method was the setting up of a special counter at KLIA and KLIA2 to help admit foreign workers or visitors and allow blacklisted visitors, expired tour passes, or fake passport holders to leave the country. The fee charged for the ‘services’ could be up to RM6,000 (MhDaily, 2020). It was also revealed that the syndicate was part of a network of criminal activities of international smuggling connected to several countries like China, Vietnam, Indonesia and Bangladesh.

The ‘Op Blue Devil’ conducted within each police contingent starting 13 August 2020 uncovered more than 100 policemen who tested positive for drugs. The then Police Chief, Abdul Hamid Bador, described that those implicated were also involved in extortion cases, corruption and making foreign workers their victims. He said the initiative was carried out to clean up the PDRM from elements of corruption, to increase integrity of the police force and combat drug abuse among its members.

The Public Accounts Committee (PAC) report presented to the Dewan Rakyat on 25 November 2020 additionally exposed another finding that could undermine public trust and confidence in the foreign worker management system. The report found that the number of ‘special approvals’ to bring in foreign workers was higher than the approvals for applications through the regular procedures. In the report, 512,315 special approvals were given to foreign workers from 2016 to 2018, compared to 416,510 approvals issued in relation to regular applications (PAC Report, 2019). The PAC also reported an apparent intermediary behind the existing system. According to the news:

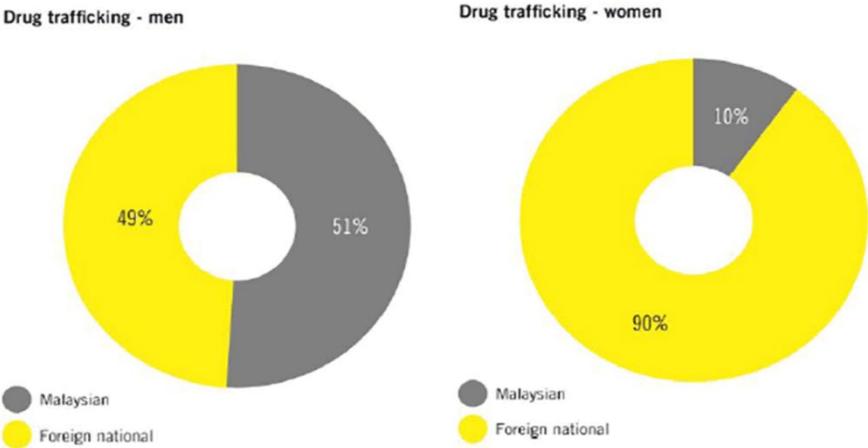
the use of ‘special applications’ for foreign workers was also found in sectors where an intake freeze was in place, adding that the role of middlemen in the application process had also made the existing system ineffective (Martin et al., 2020).

The U.S. Department of State in its Trafficking in Persons Reports (TIP) for 2021 reiterated its finding in the 2020 report (U.S. Department of States, 2020) that the government did not make adequate efforts to charge official complicity in trafficking-related crimes or publicly report the outcomes of investigations into such crimes (The U.S. Department of States, 2021). Coupled with credible evidence of forced labour that were not sufficiently addressed or criminally pursued and conflation of human trafficking and smuggling crimes, Malaysia saw itself being downgraded to the worst place on the trafficking watch list, i.e., Tier 3 in 2021.

### **Foreign Workers and Drug Trafficking and Abuse**

Drug trafficking is a complex trans-border crime while drug abuse is a serious public health issue in Malaysia. As of 6 July 2020, 2,391 foreigners were involved in drug abuse-related offences (FGD, 22-23 July 2020). According to Amnesty International in its 2020 report, 44% of 1,281 inmates waiting for their death sentence in Malaysia as of February 2019 were foreigners from countries such as Nigeria, Indonesia, Iran, India and Thailand. The majority of death row inmates in the country were convicted of drug trafficking with two-fifths of them being foreign nationals. Similarly, the majority of 141 women on death row who were mostly convicted of trafficking drugs into Malaysia were all foreign nationals (Staff, 2020; Malaysiakini, October 10, 2019).

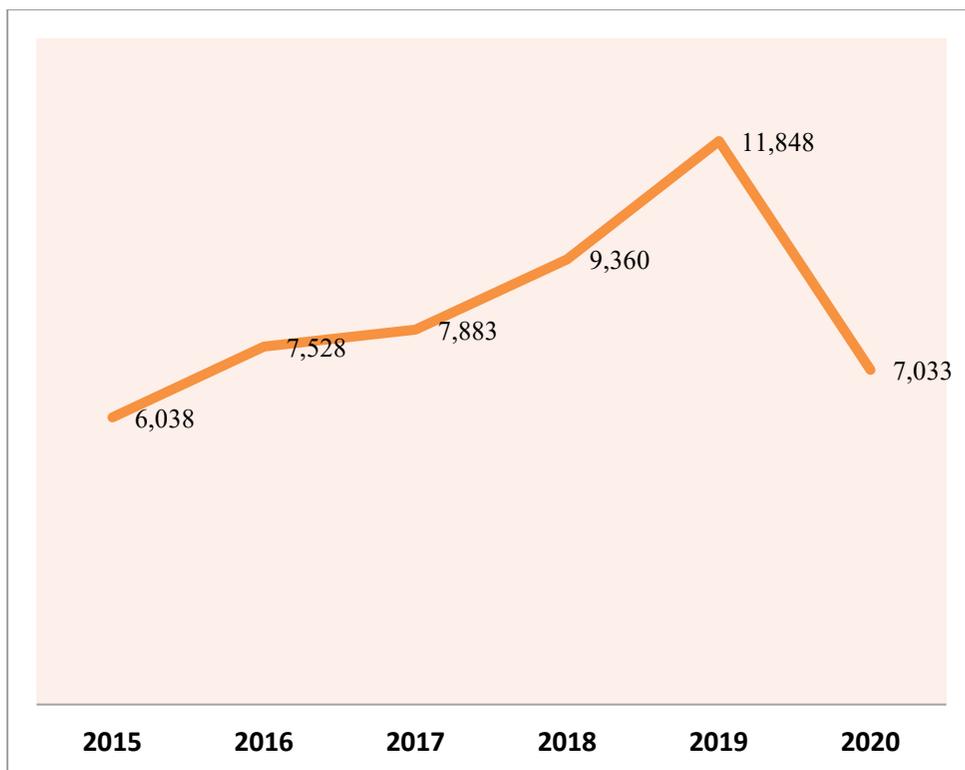
**Figure 6: Percentages of Inmates Sentenced for Drug Trafficking as of 2019**



Source: Malaysiakini, October 10, 2019

Cases highlighting the involvement of foreign workers especially among the holders of PLKS are rarely reported. In Malaysia, drug-related offences can be charged under the Dangerous Drugs Act 1952 (ADB), Poisons Act 1952, Drug Dependents (Treatment and Rehabilitation) Act 1983 (APD [R&P]) and the Dangerous Drugs (Special Preventive Measures) Act 1985 (ADB [LLPK]).

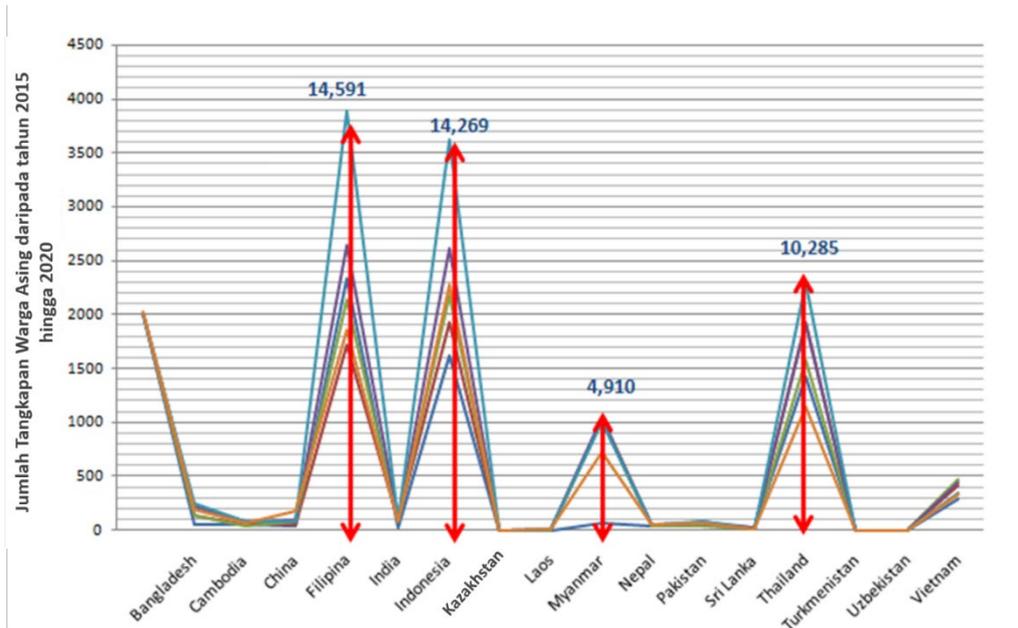
**Figure 7: Trends in the Number of Arrests of Foreigners from Source Countries (including China) from 2015 to 2020**



Source: Narcotics Criminal Investigation Department, PDRM (June 2021)

The diagram above shows a steady increase in the number of arrests related to drug offences from 2015 to 2019. However, from 2019 to 2020, arrests of foreigners fell sharply by 4,815 cases.

**Figure 8: Number of Arrests of Foreigners by Source Country (including China) related to Drug Offences from 2015 to 2020**



Source: Narcotics Criminal Investigation Department, PDRM (June 2021)

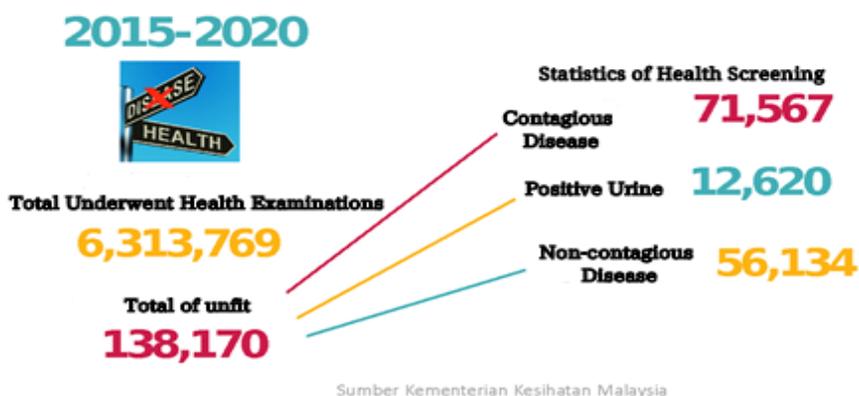
The statistics above represent the number of arrests related to drug offences by source country of the arrested persons. The highest number of arrests were among Filipinos with a rate of 29.4% of total arrests in five years. The second highest arrests were among Indonesians (28.7%), followed by Thais (20.7%) and Burmese (9.9%). It should be pointed out that the data provided involve all people of foreign nationality and are not specific to foreign workers, and thus specific conclusions on the involvement of PLKS holders could not be drawn.

## FOREIGN WORKERS AND INFECTIOUS DISEASES

### Common Infectious Diseases

One of the security risks associated with entry of foreigners into the country is the spread of infectious diseases (Kanapathy, 2008; Hamzah Abdul Rahman et.al, 2012). Among the common infectious diseases are Tuberculosis (TB), Hepatitis B and HIV (MOH, 2020). As shown below, between 2015 and 2020, out of 6,313,769 foreign workers who completed their health examinations, contagious diseases recorded the highest results compared to non-contagious diseases and positive urine.

**Figure 9: Statistics on Health Screening of Foreign Workers (2015 to May 2020)**



Source: Ministry of Health, 2020

In the 1990's, the Malaysian Government introduced mandatory health screening to detect infectious diseases among foreign workers (Pantai FOMEMA, 2011). FOMEMA was established in 1997 to oversee health screenings for all foreign workers.

All foreign workers must undergo a medical examination in their respective countries of origin, followed by another examination within a month of entering Malaysia, and then annually for the first three years of

employment. Starting 2018 onwards, after the third year of employment, foreign workers are required to undergo an annual health check-up at FOMEMA panel clinics until they return home. Through this annual examination, they are tested for diseases such as TB, Cancer and HIV as well as for drug abuse and pregnancy.

Although they must undergo the screening before being issued a valid pass there is still a risk of infections going unnoticed. The possibility of infections spreading pending the issuance of medical results or due to fraudulent medical records was cited as a public health risk that should not be downplayed (FGD, 22-23 July 2020). Diseases such as HIV and Hepatitis B will require a time gap of two weeks to several months or even a year and more before another confirmatory examination is conducted. An application for Visa by Reference (VDR) can only be made after a prospective employee passes a biomedical health examination in his/her country and obtains Malaysia's Immigration Security Clearance (ISC) (Immigration Department, 2020).

The statistics by FOMEMA for 2019 show that Indian workers were the highest to have been confirmed as unsuitable at 1.9 %, followed by Pakistanis, Cambodians and Indonesians, at 1.8% respectively. Meanwhile, workers with the most TB cases were from Indonesia (1,783), followed by Bangladesh (1,767), Nepal (726), Myanmar (420), and India (340). As for Hepatitis B, Indonesia held the highest record at 907, followed by Bangladesh (528), and Myanmar (229). HIV cases exhibit a parallel trend with that of TB. For mental illness, workers from India recorded the highest cases at 34 (FOMEMA, 2020).

**Table 6: FOMEMA Health Screening Statistics on Foreign Workers in Peninsula Malaysia by Country and Reasons for Unsuitability in 2019**

Country of Origin	Total checked	Suitable	Not suitable	% Not suitable	Reasons for Unsuitability													Total
					Tibi	Hepatitis-B	Sifilis	HIV	Pregnant	Urine Opiate	Urine Cannabis	Psikiatrik	Malaria	Epilepsi	Leptosy	Cancer	Others	
Bangladesh	487,888	480,914	6,974	1.4%	1,767	528	126	83	4	108	286	14	0	3	1	1	4,180	7,101
Indonesia	331,996	325,493	6,503	2.0%	1,783	907	260	204	428	95	17	26	0	2	0	2	2,952	6,676
Nepal	202,681	199,774	2,907	1.4%	726	59	38	56	28	58	278	7	1	6	0	0	1,711	2,968
Myanmar	129,474	127,801	1,673	1.3%	420	229	52	40	102	36	23	10	1	1	0	1	790	1,705
India	92,784	90,681	2,103	2.3%	340	130	60	53	13	78	156	34	1	4	0	1	1,299	2,169
Pakistan	48,689	47,740	949	1.9%	162	75	67	18	2	26	114	4	2	1	0	0	503	974
Philippines	28,437	28,087	350	1.2%	103	44	15	10	32	4	0	1	0	0	0	0	147	356
Vietnam	10,904	10,741	163	1.5%	27	40	3	5	20	8	1	3	0	1	0	0	58	166
Sri Lanka	5,936	5,857	79	1.3%	11	1	3	2	5	5	8	0	0	0	0	0	49	84
China	5,373	5,259	114	2.1%	23	43	3	2	4	6	0	0	0	0	0	0	34	115
Cambodia	2,006	1,959	47	2.3%	18	5	0	1	8	3	0	0	0	0	0	0	13	48
Thailand	1,995	1,967	28	1.4%	11	4	1	0	1	1	0	0	0	0	0	0	12	30
Lain-lain	201	193	8	4.0%	1	4	1	0	0	0	0	0	0	0	0	0	3	9
<b>Jumlah</b>	<b>1,348,364</b>	<b>1,326,466</b>	<b>21,898</b>	<b>1.6%</b>	<b>5,392</b>	<b>2,069</b>	<b>629</b>	<b>474</b>	<b>647</b>	<b>428</b>	<b>883</b>	<b>99</b>	<b>5</b>	<b>18</b>	<b>1</b>	<b>5</b>	<b>11,751</b>	<b>22,401</b>

Source: FOMEMA, 2020

It is important to note that FOMEMA only conduct medical tests on foreign workers who enter legally. Another valid concern lies with irregular foreign workers and refugees. Their chances of getting and spreading infectious diseases are high if they congregate in the same house or residence. The risks are worrying if they work in the food industry, such as at restaurants, cafes and food stalls (Alias & Parzi, 2015).

### Covid-19 Pandemic

According to the Ministry of Health, as of February 8, 2021, there were 908 clusters of Covid-19 cases consisting of active clusters (451) and expired clusters (457). Meanwhile, 508 workplace clusters were reported in the second wave (starting 27 February 2020) and the third (starting 8 September 2020). The three main sectors of foreign workers contributing to the spread of the workplace clusters are manufacturing, services and construction (KKM, 2021). Significant observations that link these three sectors and the workplace clusters are the provisions of workers' accommodations that do not meet the standards of Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446). Crowded spaces (without physical distancing) and dirty

accommodation drive the infection rates up among the foreign workers (Hassan, 4 December 2020).

The Ministry of Human Resource (MOHR) carried out a total of 3,223 enforcement activities pursuant to Act 446 between 1 September 2020 and 31 January 2021. This enforcement covers all sectors of employment of foreign workers – manufacturing, services, agriculture, construction and others (MOHR and BPPA, 2020). A total of 47 investigation papers were opened for offences under Act 446 and the applicable regulations involving employers from the manufacturing and construction sectors. The types of offences investigated include the following:

- a) failure to obtain a Certificate of Accommodation under Section 24D of Act 446;
- b) failure to comply with the conditions of the local authority (PBT) under Section 24H of Act 446; and
- c) other offences under Act 446 and Regulations thereunder (MOHR and BPPA, 2020).

**Table 7: Figures of Non-Citizens Infected by Covid-19 in the Third Wave according to Sectors of Employment of Foreign Workers**

No.	Category	No. of clusters	No. of cases	Amount vetted	Positive rate (%)	Total of Non-Citizen	Percentage of Non-Citizens (%)
1	Manufacturing	171	41,433	152,922	27.09	32,161	77.62
2	Service	167	11,210	63,635	17.62	4,575	40.81
3	Construction	89	16,762	48,611	34.48	16,072	95.88
4	Public administration	37	1,569	10,392	15.10	79	5.04
5	Agriculture	11	1,670	9,767	17.10	1319	78.98

6	Mining	8	740	8,519	8.69	393	53.11
<b>Total</b>		<b>483</b>	<b>73,384</b>	<b>293,846</b>	<b>24.97</b>	<b>54,599</b>	<b>74.40</b>

Source: Ministry of Human Resource, 2021

Out of a total of 97,682 foreign workers identified by the Covid-19 Health Screening Program Task Force (TF-PSKC-19) up to 28 January 2021, only 36.95% (36,089) of the workers were screened. There were still 61,773 foreign workers who had not taken the Covid-19 screening tests. This implies a major non-compliance of the government's directive by employers (Muhamed & Ali, 2021).

## CONCLUSION

This article examines several key policy changes concerning the management and regulation of foreign workers in the PLKS category and how they were shaped and influenced by the country's public security concerns at different times. It then analyses the implications of the employment and presence of these workers for national security and public order. As the leading agency responsible for national security and public order, the Ministry of Home Affairs or MOHA bears the responsibility to ensure that the thrusts of DKKA are fulfilled, including in the execution of policies concerning foreign workers in this country. One of the key factors of effective planning and implementation of policies on foreign workers, including decisions over intervention strategies, lies in the availability, currency and accuracy of both industry-level and public administrative and enforcement-level data. Much of the enforcement data have not been disaggregated or categorised according to the types of passes and immigration status thus affording general conclusions to be made in many cases. Overall, the crime statistics do not suggest that PLKS holders pose a public security threat at a level that is concerning. Again, it is not possible to quantify the extent of the workers' contribution to the crime rates without the disaggregated data. At the same time, data concerning public health risks must be analysed more comprehensively to allow for a better mapping of risks across sectors, including of those arising from Covid-19. Interventions through the Prevention and Control of Infectious Diseases Act

1988 (Act 342) are necessary to ensure every foreign worker undergo a Covid-19 screening test. Stricter enforcement of Act 446 on the standards of workers' accommodation is crucial in breaking the chains of Covid-19, as well as in guarding against elements of forced labour. Other glaring shortcomings in managing the negative impact associated with foreign workers stem from the absence of data on undocumented and irregular migrants and weaknesses in the digital system that monitors the entry, presence and departure of foreign workers in this country. A recurring area of concern moving forward is finding effective ways to ensure the strengthening of Malaysia's enforcement framework to combat corrupt practices that stand in the way of its efforts to regulate and manage the country's temporary foreign workers with high levels of integrity.

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