

## **MALAYSIA'S POLICY ON IMMIGRATION ISSUES (2000-2015)**

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### *Abstract*

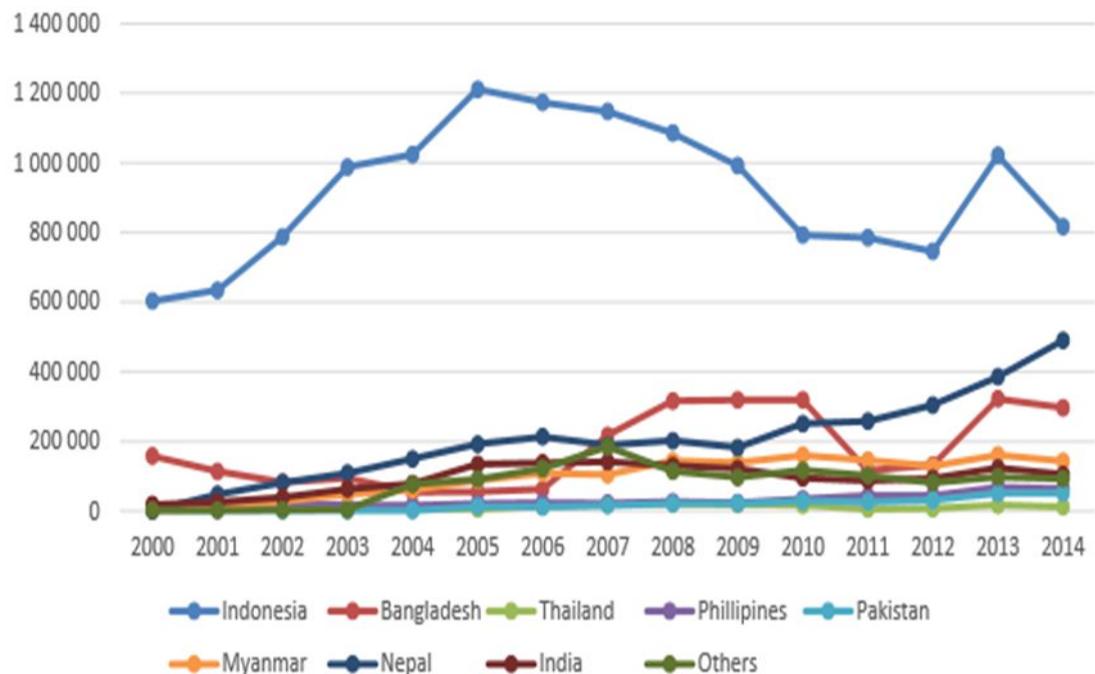
*Malaysia is developing country with peaceful multi-ethnic and English as Second Language (ESL) that attract immigrant to come to the country for better life. Since the influx of immigrant to Malaysia the security situation of the country was decreased which was allegedly due to the involvement of foreign migrants. Crimes rate increased following the enhancement of migration number in Malaysia. In 20th century Malaysia create an institutional law and policy enforcements to control immigration flows. As a result, the crimes rate in Malaysia was frequently decreased. This thesis will mainly talk about how Malaysia decreased the crime rates.*

**Keywords:** *Malaysia, immigrant, multi-ethnic, crimes by immigrant, foreign workers, security*

## **A. Introduction**

Malaysia is multi-ethnic nation consist of three main races living together namely Malays, Chinese and India (Richburg, Malaysia's Ethnic Chinese, Indians Fear Cultural Domination by Malays, 1987). Despite the fact that Malaysia has many ethnic and different cultures, they also have diversity in religion. Islam is the major religion with almost 60.4 percent of the population, Buddhism about 19.2, Christianity about 9.1, Hinduism about 6.3 percent, and 2.6 percent is traditional Chinese religions other or unknown 1.5 percent, and none 0.8 percent of the total population of Malaysia (Hays, Religion in Malaysia, 2015).

Immigration is the movement of people from one country to another country, through land, sea and air. Immigration also can be refers to the place where authorities check the documents of people entering a country. Malaysia is one of the destinations to migrant because a lot of ethnics there can live among each other peacefully and use English as Second Language (ESL) that make immigrant easy to communicate with Malaysian people. This multiculturalism of Malaysia can accept anybody those who want to migrate to Malaysia. They try to improve and get better life, as well as better job. Generally the migrants are refugees, however non-refugee also interest to come although through legal or illegal ways. The majority of immigrants in Malaysia are from neighboring countries particularly based on ethnic and religion similarity with Malaysia culture.



Source: Ministry of Home Affairs (2015).

**Figure 1 : Number of migrant workers in Malaysia by country of origin  
(2000-2014)**

From the above figure depicts, mostly the migration flow in Malaysia from 2000 to 2014 was from Indonesia followed by Bangladesh, Nepal, Myanmar, India, Philippines, Pakistan and Thailand. Indonesia migrant workers since 2000 always increase, but in 2005 - 2012 the migrations flow slightly decreased, but regularly increase in 2013 and decrease in 2014. The most unstable trend of migrant workers is Bangladesh and Nepal followed by, Thailand, the Philippines, Pakistan, Myanmar, and India since 2011 both of them always increase except in 2014 Bangladesh slightly decrease (Harkins, 2016).

Sector	Year				
	1999	2002	2005	2008	2011
Maid	94,192 (23.0)	232,282 (22.0)	320,171 (17.6)	293,359 (14.2)	184,092 (11.7)
Manufacturing	155,277 (37.9)	323,299 (30.6)	581,379 (32.0)	728,867 (35.3)	580,820 (36.9)
Plantation	74,501 (18.2)	298,325 (28.2)	472,246 (26.0)	333,900 (16.2)	299,217 (19)
Construction	49,080 (12.0)	149,342 (14.1)	281,780 (15.5)	306,873 (14.9)	223,688 (14.2)
Services	36,610 (8.9)	64,281 (6.1)	159,662 (8.8)	211,630 (10.3)	132,919 (8.4)
Agriculture	na	na	na	186,967 (9.1)	152,325 (9.6)
Total	409,660 (100.0)	1,067,529 (100.0)	1,815,238 (100.0)	2,062,596 (100.0)	1,5730,61 (100.0)

(Source) Ministry of Home Affairs, Malaysia, 2008, 2011.

**Table 1 : Number of migrant workers in Malaysia by sector**

Table 1 demonstrates that majority of the migrant workers are manufacturing sector followed by, plantation sector, and the services and agriculture sectors.

Malaysia had faced immigrant problem in 1969, about racial issue between Chinese and Malays. In 2015, approximately 10.000 refugees from Rohingya refuges flew from Myanmar to Malaysia, which made the rise of labor issues became a serious challenge to Malaysian government. As a result, the Malaysian employers prefer to select migrant workers rather than local labors. This is because the migrant workers are cheaper compared to local workers in terms of wages and conditions. The high demand on migrant workers made Malaysian job sectors was filled with high number of low-skilled, low-wage migrant workers. It means that 25% to 30% of the work force is composed of migrants workers. Local workers have also to compete with migrant workers for high income jobs. This is the fact that most of Malaysian middle class do not want to build their career in so called 3D (Dirty, Difficult, and Dangerous). As

consequence, the 3D sector was dominated by migrant workers. The refugees and undocumented immigrant also contribute to the increase of sex workers industry in Malaysia (Keong, 2017) as well as human trafficking. A report reveals about 79 human trafficking cases in 2016 where 403 cases finally were sentenced in the court up to 2016 (Bakar, 2017).

In 2006 foreign workers in Malaysia responsible for around 5,000 criminal cases as government report (Hays, Foreign Workers in Malaysia, 2015). In 2014 Home Minister of Malaysia Datuk Seri Dr Ahmad Zahid Hamidi mentioned that almost 9,496 criminal cases involving foreigners. He also added that 2,306 of the cases involving the foreigners were related to serious crimes, such rape (138), unarmed gang robbery (1,008), armed gang robbery (108), murder (167), unarmed robbery (377), armed robbery (10) and causing hurt (498). While the rest of 7,190 cases were related to property crimes, namely theft (1,871), snatch theft (318), car-theft (568), heavy vehicle-theft (78), motorcycle-theft (1,252) and house break in (3,103) (SunDaily, 2014).

The Minister of Natural Resources and Environment of Malaysia Datuk Dr. Haji Wan Junaidi in 2013 said that, 19,056 foreign workers were caught because of criminal cases that accounted 12 per cent of the total 147,062 criminal cases in the Malaysia. Then until September 2014, 14,143 foreign workers were caught and their cases made up 14 per cent of the 97,393 cases reported (Bernama, 2014).

Economy factor also infected by the immigrants, the money that goes out to immigrants higher than the money that spent by immigrants that used in Malaysia. It will make inflation to the country because usually the immigrants sent their money to their family in home country. Ringgit value will decrease because of that.

## **B. Theoretical Framework**

To answer the research question, this thesis will employ securitization of migration concepts by Philippe Bourbeau.

The concept explains about movement of people and the system of order underpinning the movement. This concept is the application of security frameworks related to migration. This combination that emphasizes policy and defense come from the process of discursively and institutionally integrating international migration.

Philippe Bourbeau argues there are two categories that evaluate the migration are securitized or not. The categories are institutional category that divided into three indicators that are legal, government policy and saliency indicator. The second category is indicators of securitized migration concern the security practices relating to the migration–security nexus.

First indicator, **institutional category** is legal indicator. Every country have own law system that have important role without exception including immigration. The law system should concede securitization of migration that deal with migration flows that possibly can be a threat to the country.

The second indicator from Bourbeau is government policy related to security, foreign affairs, and immigration. This is because immigration have strong relation with violence, terrorism trafficking, illegal migrant that can threat the country and causes of security problems.

The third indicator in institutional category is saliency. Saliency indicator is a connection between migration and the government policy. This indicator shows how strong the government policy to tackle migration issues or how the government join an organization or to get assistance from other countries to tackling the immigration issue that can be the serious security problem and threatened the stability of the country (Bourbeau, 2011). A migration scholar argues, that migration and security were linked with immigrants and are more involved in criminal activities than “local” people (Virginie Guiraudon Joppke and Christian, 2001).

The second category is **indicators of securitized migration** concern on security practices related to connection between migration and security. This security action based on the securitization of migration. Security needs practices not only from policy and law. Philippe Bourbeau divided the indicators of securitized migration that concern in security practices in two that are interdiction and detention of immigrants. Interdiction is an activity that preventing the movement of people that in this case is to tightening the flow of migration by prohibiting, intercepting, and/or deflecting them. The detention is security action that will be useful in the criminal, and violations cases by migrants. Detention will help to solve the issue by action with procedures and codes of conduct to tackling the issue (Bourbeau, 2011).

In this term of institutional category that divided into 3 indicators namely legal, government policy and saliency is implemented by Malaysia government to secure their country. Malaysia creates institutional to formulate a law, government policy and connect it with migration security policy. From second category Malaysia practices the laws that already created and make sure the law and policy have securitized the country. The author tends to use this concept because suitable with this thesis, concerning elements of securitization of migration in Malaysia. This concept will describe the process of securitization of immigration and the purpose establishing such law for immigrant.

### C. Result and Analyses

Malaysia faced many problems such as security, politic, social and economy that will give an impact to the future of Malaysia. Million foreign workers come to Malaysia to get better life, as well as better job. With low wages and placed in 3D (Dirty, Difficult, and Dangerous) will impact to local workers jealousy. It happened because the local workers usually seek to higher wages and good place and work in safety area. 3D (Dirty, Difficult, and Dangerous) can become 4D, the fourth D referred to Diseases. Dirty, Difficult and Dangerous work can bring Diseases to the foreign workers. Moreover, most of employers did not have responsibility on the health care of the workers that made them can

easily contracted with diseases. The disease can influence local people through daily contact and will proceed social problems.

The incoming of immigrant can bring security issues, it emerged cause the difference of understanding and behavior in their home country. Mostly, the immigrant use illegal way to reach Malaysia due to financially cheaper than through legal way despite more dangerous. After they arrived in Malaysia they will face many rules that controlled the people activity. Every country has their own rules that ruled by the government and should obey by the people to increase the quality of the country. Uneducated immigrant mostly ignores the rules, and then they will face a trouble. The immigrant will place in somewhere where they are condemned for their action. For legal immigrant, usually they just get an earful from the officer. However, the illegal immigrant usually gets a punishment and can get kicked out of the country. In this moment some bad politicians have deals to illegal immigrant. They will obtain citizenship if the willingly to votes particular political party in the election. This case can bring the impact to the vote result. However Malaysia's government already taken a serious action to create a policy. If the policies work properly, it will strengthen the accountability political representatives in Malaysia. Thus, the representative is from educated people, proper and good attitudes.

From this problem the author put a securitization migration concept from Philippe Bourbeau to analyze migrant workers issues in Malaysia. Malaysia uses two policies to secure the country from immigration issues. The first policy imposed to before the departure of migrants to Malaysia. It will help Malaysia's government to control immigration flows whether inflow and outflow from Malaysia. The second policy is to give a punishment to the immigrant who already entered and make a trouble in Malaysia. The policy will punish the immigrant in detention house and then kick out of the country, so it will not destroy the social stability in the country.

Malaysia launches foreign worker Immigration Security Clearance (ISC) in 2014 for Bangladesh migrants looking to work in Malaysia. ISC is the key security step to be implemented on migrant workers before any work application process such as application for Visa/Calling Visa can begin. ISC acts as the first level of security measure by verifying the identity and status of migrants/candidates against its security database. ISC is launched with the inking of an agreement between VFS Global and S5 Biotech.

#### **A. Policy to Tightening Migration**

Philippe Bourbeau said that to secure the country, the country should create a policy to security, foreign affairs, and immigration. One of the indicators is interdiction means an activity that preventing the movement of people by prohibiting, intercepting, and/or deflecting them.

The legal framework of this policy is Laws of Malaysia act 155 immigration act 1959/63 it was amendments in 1 January 2006. The major most vital framework to tighten the migration is in part II about Admission Into and Departure from Malaysia and part III about Entry Permits. Part II that consists of:

1. Entry into or departure from Malaysia
2. Control of entry into Malaysia
3. Right of entry
4. Prohibited immigrants
5. Director General's power to prohibit entry, or cancel any Pass or Permit
  - a. Director General's power to limit entry into Malaysia (The Commissioner of Law Revision M. , Laws of Malaysia, 2006)

Above laws conclude that every entry and departure Malaysia should be controlled. Malaysia's government controlled landing places, airports or points of entry, authorized landing places, authorized airports or authorized points of entry, as the case may be, and no person shall, unless compelled by accident or other reasonable cause, enter or leave Malaysia except at an authorized landing place, airport or point of entry.

Part III consists of:

1. Entry Permits
2. Endorsement of name of wife and children on Permits, Passes and Certificates
3. Power to make inquiries
4. Cancellation of, and declarations regarding Permits and Certificates
5. Unlawful entry or presence in Malaysia

Above laws conclude that any person seeking to enter Malaysia who is not entitled so to enter as a citizen or by virtue of a valid Pass to enter Malaysia issued to him or seeking to remain in Malaysia after the expiry of such a Pass may make application in that behalf in the manner prescribed to the Director General or to such other person whether within or outside Malaysia as the Director General may, from time to time, appoint for the purpose.

In 2011, Malaysia government start to use biometric data to control the flow of immigration (Indonesia, 2011). In 1 June biometric data inaugurated by Malaysia's National Enforcement and Registration System (NERS) said the embassy by the Department of Foreign Affairs. Biometric data is a general term used to refer to any computer data that is created during a biometric process. The system is created to scan subject's thumb prints, and then input and compare the data that already records by the Malaysian Immigration System, make sure that foreign workers are legal like what they said when undergoing the screening (Beal, 2017).

The process in using biometric data foreigners are asked to place their two index fingers on the glass plates of the electronic fingerprint scanning machines at immigration office. The data from biometric process will be saved in the Department of Immigration's database. The data will be used for the security of the country, the immigrants will get verification process upon exiting the country. Malaysia had amended the Immigration Law and Regulations to support the operation of new biometric registration requirement at entry points. Under the

new system, all immigrants from 12 years and above should submit to the biometric procedure to control the flows of migration more secure (Team I. , 2011).

Malaysia Immigration general director Datuk Seri Mustafar Ali, said that Immigration department identified the percentage of immigrant especially foreign workers who have tried to fake their medical screenings and the using of the biometric screening system represents the seriousness the Malaysia's government authorities to overcome the issues. From 400.000 foreign workers who came to Malaysia about 2.6 percent failed their medical exams, leading to their disbarment from working in the country.

The Malaysia's government starts to develop the biometric data so it can used to identify the refugee. The reason of Malaysia's government to develop biometric data system is to tackle the terrorism as well as to weeding out potential Islamic State terrorists (Perala, 2017).

However Malaysia's government increase the quality of biometric data to control the immigrant for the medical screening of foreign workers is scheduled to go into action starting from October 2017. It will increase the security of the country and make the flows of immigration to Malaysia tighter than before. It will help to maintaining a central database would discourage the immigrants using fake documents by using other people identity to get permission to work, reside or study in the Malaysia. Fingerprints every person is different so it will make easier to reliably match immigrants to their personal identification data and documentation.

Database would make the Police to help Immigration department and Naturalization Service. The Police will check the identity of immigrants especially the foreign workers because mostly the problem comes from the illegal foreign workers. Foreigners also have benefit from the use of biometric data that it could prevent their falling victim to identity theft, which can be a serious problem.

Biometric data also make Malaysia's government easier to track down visa over stayers living and working illegally in the country. Malaysian immigration officials said that a new and unique 'Biometric Tracking System' will introduce in the country's immigration department. Through this system officers could easily looking for the exact location of illegal immigrants that already broke the rule of the country due to not extend validity of their visa terms. Immigration department claimed that the new system will extensively reduce illegal immigration in the country, which rose to almost 700,000 in 2011. Immigrant department officials also said that the new system is a sustaining process from previously implemented system, to decrease or even eradicate criminal cases like people and narcotics smuggling, called the Advanced Passenger Processing System (APPS).

The visa over stayers was one of the major concerns of the authorities as they have been continuously increasing in numbers. The number of over stayers, living in the country as of 2011 was 694,000. Usually the over stayers are from Indian and Chinese immigrants who had decided to remain in Malaysia. Indian and Chinese after their visa expired they will not extend the validity period however they work illegally in local companies. The main issue in this case for immigration department was that, due to the absence of any registering documents except for their passports, the over stayers sometimes they don't feel that they involved in criminal activities and they enjoyed it.

Biometric system would assist the authorities in tracking down and getting rid of such offenders in a much timely manner said Alias Ahmad, head of the Malaysian immigration department. He said that immigration department will maximize the function of biometric data to the offenders. Biometric data will give the immigrants that have a problem and detect the location that automatically already active in the system. The immigration data will use all the offenders' access to get the location, by:

1. From bank account that they have, in registration they would need to provide their fingerprint

2. From the first offenders visiting the country, they should have to use their passports while checking in at any hotel. This will allow the authorities to immediately determine any immigration offender's location as soon as the hotel scans their passport through their computers, which will be linked with the authorities.

Alias Ahmad said that the system that already developed is far better than the current system, under which the over stayers can only be detected while they are exiting the country, or during any other action particularly for this purpose.

The officials wish that system would work properly and actually be the continuation of Advanced Passenger Processing System. The system will used for cracking down on human trafficking, people smugglers and drug dealers. Under the Advanced Passenger Processing System, the foreigner checked and conducted by the immigration authorities to ascertain if they had any criminal links or records (Preet, 2012).

#### **B. Institutional Immigration in Malaysia**

The legal framework of this policy is Laws of Malaysia act 155 immigration act 1959/63 it was amendments in 1 January 2006. The major most vital framework to tighten the migration is in part V about Removal from Malaysia that consists of:

1. Removal of prohibited immigrants from Malaysia
2. Removal of illegal immigrants
3. Removal of persons unlawfully remaining in Malaysia
4. Detention of persons ordered to be removed
5. Power to arrest person liable to removal
6. Unlawful return after removal (The Commissioner of Law Revision M. , Laws of Malaysia, 2006)

The institutional Immigration in Malaysia make Malaysia social order more organized. That will creates peacefully Malaysia without any immigrant issues. It happened because the detention house did a great job that controls the

immigrant to not make harmful condition. Before the detention Malaysia immigration were crowded and uncontrolled after detention house the crowded reduce and the immigrant that involved in some issues, they have their place in detention house. It make the deviant behavior in foreigner decrease, now should follow the Malaysian law. Because law is a must, so the immigrant who broke the law they will get jailed in detention house before they deported.

As a magnet for immigrants despite the country have failure to ratify key human rights treaties and poor human rights record. Illegal entry and stay without any permission is criminalized and Malaysia already solve the problem, the illegal migrants often serve prison sentences before being transferred to one of twelve detention house while awaiting deportation. Caning, a legacy of British colonial rule, is widespread. In 2013, more than 5,000 foreigners were caned.

The immigrant that have serious problem that related to the security, social, politic and economic issues to the country usually caned in detention house. Detention house is a place maintained by the civil authorities for persons charged with a crime, and sometimes for witnesses, awaiting trial.

Malaysia is one of the more vibrant economies in Southeast Asia. All unauthorized foreigners, including Rohingyas that fleeing from Myanmar also considered as illegal or prohibited immigrants under the Immigration Act (The Commissioner of Law Revision, 2006). Immigration detention in Malaysia includes various unique and brutal features such as caning and detention aboard vessels.

Illegal immigrants that stay in Malaysia considered as criminal action. The illegal immigrants often serve time in prisons before being transferred to one of the twelve administrative detention houses while awaiting deportation. Legacy from British rule that is caning still remains a judicial punishment for criminal offences in the Malaysian Criminal Procedure Code. It was introduced in the Immigration Act in 2002 to deter unlawful migration. According to the Home

Minister, 8,481 prisoners were caned in 2013, of which 5,968 were non-citizens (Meikeng, 2014).

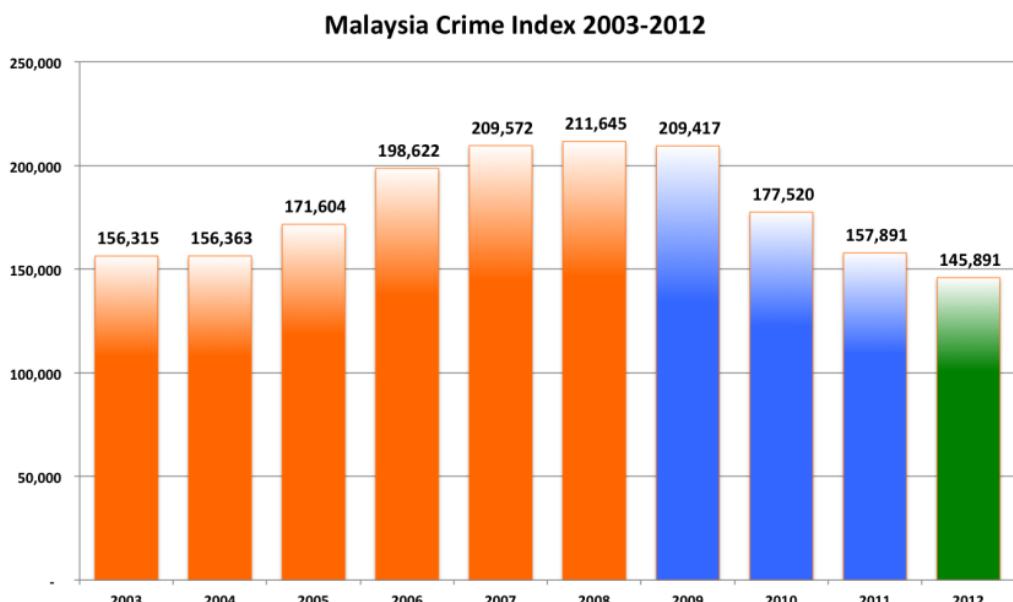
About 68,000 people were placed in immigration detention house in 2013, mostly people are from Indonesians, Burmese and Bangladeshis. Suruhanjaya Hak Asasi Manusia (SUHAKAM) as the national human rights institution reported that about 1,406 children were arrested in detention house from January to October 2013 (Team S. , 2013). From section 34(1) of the Immigration Act provides that persons may be arrested for an urgent or necessary period usually detention house is a place for immigrants that have a problem before deportation. The immigrants generally spend between two months and two years in detention.

The procedures of deporting immigrations are reportedly very poor. Generally immigration detainees are rarely having information of the reasons for detention in a language they understand. Moreover the authority limits the migrants right to get access to legal counsel. There are no alternatives to immigration detention. Some United Nations High Commissioner for Refugees (UNHCR) refugee cardholders that detained in detention house can be released due to the government's discretion however the UN refugee agency only has access to them after they are transferred to the detention house from prisons.

The deportation in Malaysia already have significant improvement, the witnesses of state's improve the ability to deport, through diplomatic partnerships, and the involvement of the International Committee of the Red Cross (ICRC), international NGOs (such as the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM)). By partnership, it will overcome the geopolitical stalemate. International collaboration is pertinent, as enforcement is often limited by "geopolitical difficulties," which refers to the states of origin being unwilling to accept their own returned nationals. If the immigrants have no money, the officer will ask if he has friends or relatives in Malaysia or his home country who are able to pay the ticket cost. If the funds cannot be secured, the detainee's embassy or ex employer

would then be asked to find a suitable solution (Choo Chin Low and Khairiah Salwa Mokhtar, 2017).

The implication of the policies since the crime index rate for Malaysia has decreased between 4.2 per to 12.6 per cent from 2011 until 2015 (Nokman, 2016). This is mean that the policies that run from Malaysia's government work properly as they wish. It will make the country secure from politic, security, economy and social issues that happened caused by immigrants.



**Figures 5: Malaysia Crime Index (2003-2012)**

Above figure conclude after Malaysia's policy the crime index in Malaysia decrease (Hays, Police and Crime in Malaysia, 2015)

#### D. Conclusion

Malaysia is multi-ethnic nation consist of three main races living together namely Malays, Chinese and India. It happened since British colonial era that employed in plantation and mining sectors. There are such a push and pull factor that attract the immigrant to come to Malaysia especially tolerance behavior of the people of Malaysia on foreigners. They used English as Second Language (ESL)

that make immigrant easy to communicate with local people. The stable political alliance that makes political situation under control.

The push and pull factors make a lot of immigrant migrate to Malaysia to improve and get better life, as well as better job. A lot of immigrants in Malaysia have made some socio economic, politics and security problems. Capital flow, social gap and diseases problems in Malaysia also emerged as a new threat. The money that paid to the immigrant will send to their home country. The job opportunity decrease because of the immigrant acceptance as low wages workers and placed in the 3D sectors. 3D can creates diseases, moreover the employers do not treat them like a human. Mostly because of this some violations emerged and become domestic security problems. When they are arrested in detention house, some political parties taken advantages to influence local political competition. The immigrant that has willingly to follow this scenario will be given a reward as citizen or permanent resident of Malaysia.

Malaysia's policy to solve immigration issues are by tightening the immigration flows through biometric data and Institutional Immigration especially the establishment of detention house. Biometric data can filter immigrants and decrease illegal migration problems. If there are illegal immigrants can entry to Malaysia, the Malaysia's government cannot trace the location.

The immigrants that involved in criminal cases, Malaysia's government directly place the immigrants into detention house and deport them and will be blacklisted to enter to Malaysia. If there are legal migrant that involved in criminal cases, the government can easily be traced through:

1. Bank account that they have, in registration they would need to provide their fingerprint.
2. The first immigrant come to country they should have to use their passports while checking in at any hotel. This will allow the authorities to immediately determine any immigration offender's location as soon as the hotel

scans their passport through their computers, which will be linked with the authorities.

After they have successfully been tracked, they will be arrested in detention house. Before immigrants deported from Malaysia they will get access to legal counsel, although it is very hard. Then, if the immigrant proven guilty, the government will deport the immigrant to their home country. If the immigrants have no money, the officer will ask if he has friends or relatives in Malaysia or his home country who are able to pay the ticket cost.

### **E. Acknowledgement**

Most of employer do not treat the migrant workers as human, their rights are limited by the employer. This is the reason why most of migrants infected by diseases, if the diseases spread and infected the local people it will become the social and security issues. The author wishes that the employer should increase the quality of the work place. Thus, basically the immigrant did not want to work in 3D (Dirty, Difficult, and Dangerous) anymore and expected to not become 4D (Dirty, Difficult, Dangerous and Disease).

This thesis has limitation in terms of data proving because of the usage of qualitative data without directs observation in Malaysia. This thesis using weak data due to most of the data taken from secondary data.

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