

“THE POSITION OF THE ILLEGAL IMMIGRANTS IN
MALAYSIA; PROBLEMS AND CHALLENGES”

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KOLEJ UNIVERSITI ISLAM MALAYSIA

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MALAYSIA; PROBLEMS AND CHALLENGES”**

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Thanks a lot to my supervisor Mr. Abd. Hamid Bin Abd Murad..

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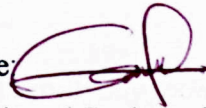
*As well to any persons who were embroiled making this paper project...
Thank you very much May Allah's SWT Peace Be Upon All Of you.*

AUTHOR DECLARATION

“I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged”.

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ABSTRAK

Projek ilmiah ini adalah berorientasikan kepada penekanan isu pendatang tanpa izin yang hadir ke Malaysia di antara penghujung tahun 2004 – 30 MEI 2005. Jikalau dilihat daripada sudut kajian yang dikeluarkan oleh *Jabatan Imigresen Malaysia* menunjukkan perangkaan jumlah kebanjiran mereka ini meningkat dari tahun ke tahun. Diantara modus operandi mereka datang ke negara kita adalah bertujuan untuk mencari rezeki, tetapi persoalannya disini adakah kedatangan mereka ini didaftar secara sah mahupun sebaliknya. Oleh itu, penulis ingin melihat posisi ataupun kedudukan pendatang tanpa izin ini di Malaysia menurut perspektif cabaran dan polemik yang dihadapi oleh mereka dan penduduk tempatan khususnya warga tempatan. Sementara itu juga, penulis ingin menghuraikan dengan lebih jitu dan padat mengenai polemik ini di dalam bab – bab yang ingin saya perkatakan nanti. Bab yang pertama penulis ingin menitikberatkan mengenai definasi pendatang asing menurut pelbagai perspektif masa kini. Bab kedua pula menekankan mengenai kedudukan sebenar pekerja – pekerja asing ini di sektor – sektor pertanian, perladangan, perkilangan, pembantu rumah dan lain – lain lagi. Bab ketiga adalah berkisarkan masalah yang acapkali timbul dengan kehadiran pendatang asing. Seterusnya, bab yang keempat menekankan tentang cabaran – cabaran yang dihadapi oleh kerajaan Malaysia di dalam menangani masalah pendatang tanpa izin di negara kita. Bab yang kelima ataupun merangkap terakhir, penulis akan menyimpul secara keseluruhan bab – bab yang telah diperjelaskan secara panjang lebar dari satu bab ke bab yang lain.

ABSTRACT

The orientation of this paper project is more to the illegal immigrant in Malaysia around in the end of the *October 2004 until 30 May 2005*. Perhaps, if we were looking a report from the Immigration Department of Malaysian, the research of the illegal immigrant came to our country very rapidly. The main objective cause they came to Malaysian to earn themselves and their family in own country. Nevertheless, the writer shall be focus on the position of the illegal immigrant in Malaysian in term of the problems and challenges. Therefore, the writer wants to clarify with aptly regarding to these problems by five's chapters. So, the first chapter, the writer shall be highlight on the definitions and as well supported with many sources for instances from a dictionary, legal perspectives, legal opinion, Islamic perspectives and so on. Thus, the second chapter, the writer will stress about the real position of illegal immigrant workers in factories, construction sites, farms, domestic maids and many more. Then, the third chapter, the writer will elaborate the problems are usually took place upon to the public after they were come to Malaysian. The fourth chapter, the writer will discuss about the challenges have been facing by our government to prevent the illegal immigrants hail to our country. Last chapter, the writer will conclude these negotiated before.

ملخص البحث

هذه المقالة العلمية تتحن إلى التركيز على قضية الاستغراب في غير إذن من اتى إلى ماليزيا منذ أواخر سنة 2004 إلى 30 مايو 2005 ميلادية. إذا نظرنا إلى الدراسة التي قد أخرجها عكتب الجوازات الماليزي تدل على أن التخطيط المعمول هولاء المستغرين يزيد من سنة إلى سنة أخرى. ومن خططهم المعمولة التي إستخدموها الدخول ماليزيا البحث عن العمل لطلب الرزق. ولكن التساؤلات ظهرت مل كان مجيئهم مسجلا بالطريقة الصحيحة أو بالتاشيرات المسموحة أو عكسه. وبهذا فإن الباحث يريد أن ينظر إلى مكانة حقيقية عن هولاء المستغرين الذين قد اتوا من غير إذن ينفرات التحديات العواقب التي سيواجهونها والمجتمع المحلى وخاصة الشعب الوطنى . وإضافة إلى ذلك, فإن الباحث يريد أن يوضح بصراحة عن تلك العواقب فى الأبواب عنها الباحث فى هذا البحث. ففى الباب الأول قدم الباحث الإهتمام بتعريف الإستغراب فى المنظورات المعاصرة. والباب الثانى بيان مكانة المستغرين فى القطاعات الزراعية, وربة البيت, والقطاعات لينائية وغير ذلك. والباب الثالث, يتحدث لباحث عن القضايا بالواقعة بحضور هولاء المستغرين. والباب الرابع يسرد فيه الباحث حول التحديات التي تواجهها الحكومة بماليزة لمنع حضور المستغرين فى أرض ماليزيا. وكذلك أتبع الباحث هذه المسائل بقضية برنامج المساحة التي منحستها الحكومة بماليزيا هولاء المستغرين. أما الباب الخامس والآخر يعتبر تمة عن المعلومات التي قد بينها الباحث فى الأبواب السابقة عنه كايضاح للموضوع.

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TRANSLITERATION

1. Alphabet

<u>Arabic</u>	<u>Latin</u>	<u>Example</u>	<u>Transliteration</u>
ء	'	النساء	An-Nisā'
ب	b	بدري	Badri
ت	t	تفكر	Tafakkur
ث	th	مباحث	Mabāhith
ج	j	جيلاني	Jālānī
ح	h	حديد	Hadīd
خ	kh	خليل	Khalīl
د	d	داعي	Dā'i
ذ	dz	ذكر	Dzikr
ر	r	رابطة	Rābiṭah
ز	z	زكير	Zakīr
س	s	سيد	Said
ش	sy	شيخ	Syeikh
ص	ṣ	صبر	Sabr
ض	ḍ	ضعيف	Dai'f
ط	ṭ	الطور	At-Tur
ظ	ẓ	عظيم	'Azīm
ع	'	عمان	'Ammān
غ	gh	غافر	Ghāfir
ف	f	فتح الله	Fethullah
ق	q	القسطون	Al-Qāsītūn
ك	k	كثير	Kathīr
ل	l	لم	Lam
م	m	مسلم	Muslim
ن	n	نطفة	Nutfah
و	w	وجودية	Wujūdiah

هـ	h	هريرة	Hurayrah
ي	y	يوسف	Yūsuf

2. Short Vowel

<u>Arabic Vocal</u>	<u>Latin Vocal</u>	<u>Example</u>	<u>Transliteration</u>
----- -----	a	أمر	Amr
----- -----	i	عاصم	‘Aṣim
----- -----	u	صبر	Sabr

3. Long Vowel

<u>Arabic Vocal</u>	<u>Latin Vocal</u>	<u>Example</u>	<u>Transliteration</u>
ا	ā	مذاكرة	Muzākarah
و	ū	المتقون	Al-Muttaqūn
ي	ī	علمين	‘Ālamīn

4. Diphthong

<u>Arabic Vocal</u>	<u>Latin Vocal</u>	<u>Example</u>	<u>Transliteration</u>
و	ww	متورة	Munawwarah
ي	yy	تيمية	Taimiyyah
يَّ	iyy	البحاري	Al-Bukhāriyy

5. Exemption

5.1. Arabic letter ء (hamzah) found at the beginning of a word is transliterated to the letter “a” not to ‘, example:

<u>Example</u>	<u>Transliterated</u>
أحد	Ahmad

ABBREVIATIONS

AS	alayh al – salam
Comp.	Compiler / compiled by
Def.	Definition
Ed.	Editor / edition / edited by
H	hijriyyah
M	miladiyyah
n.a	no author / no artist
narr.	Narrated by
n.d	No date / no year
n.pl	no place
n.pb	no publisher
p.	page
pp.	Pages
perf.	Performers
trans.	Translator / translated by
RA	radiya Allah anhu / anha / anhum
Rev.	Review / revision of
SAW	salla Allah alayh Wa sallam
SWT	subhanahu wa taala
Vers.	Version
Vol.	Volume
Writ.	Written by
ATM	ANGKATAN TENTERA MALAYSIA
JAKIM	JABATAN KEMAJUAN ISLAM MALAYSIA
JHEOA	JABATAN HAL EHWAL ORANG ASLI
J.I.M	JABATAN IMIGRESEN MALAYSIA
KDNM	KEMENTERIAN DALAM NEGERI MALAYSIA
KKM	KEMENTERIAN KESIHATAN MALAYSIA
NGO	NON GOVERNMENT ORGANIZATION
PDRM	POLIS DIRAJA MALAYSIA
SUHAKAM	SURUHUNJAYA HAK ASASI MANUSIA

FIRST CHAPTER

CHAPTER ONE

1.0 INTRODUCTION

In the first chapter, the writer shall be stress about the definition of this topic. Almost of the definitions the writer found from a dictionaries, magazines, Immigration Act 1959/63, articles, academician view and many more. Then, the writer will touch the punishment a civil and Islamic view and as well new statistic begun **29th October 2004 until 30 May 2005**.

1.1.1 DEFINITIONS

1. **Illegal:** Means contrary to or forbidden by law.
2. **Illegal Immigrant:** A person unlawfully entering or seeking to enter in breach of a deportation order or of the immigration laws includes a person who has so entered¹.
3. **Illegal Immigration:** The act number of group or people who are prohibited to entering a country other than one's native country with the intention of living there permanently².
4. **Illegal Immigrant:** Their action was judged illegal by the international court because they had came to live in a country. With in valid permit³.
5. **Illegal Immigrant:** A person who comes to live permanently in a foreign country but contrary to or forbidden by law.
6. **Illegal Immigrant:** A person or group people are came to our country without valid permit and lived beyond the time (*Ishak Mohamed, 2005: 09*)⁴
7. **Foreign Employee:** The words "foreign employee" does not include a foreign employee who has obtained Malaysian permanent resident status⁵.
8. **Entry Permit:** Means a permit to enter and remain in Malaysia issued under Section 10⁶.

¹ L.B Curzon, 1993, *Dictionary of Law*, Kuala Lumpur, ILBS, Fourth Edition, p. 185.

² Elizabeth A. Martin, 1990, *Oxford Dictionary of Law*, London, Oxford University, Fifth Edition, p. 24.

³ Elizabeth A. Martin, 2002, *Oxford Collocations Dictionary for Students of English*, United State, Oxford University Press, Second Impression, p. 391 – 395.

⁴ Ishak Mohamed, 2005, "*Imigresen Beri Amaran Keras*" Berita Harian, Malaysia. 20 June 2005.

⁵ Goh Chen Chuan, 2000, *Guide To The Employment Act And Labour Laws of Malaysia*, Kuala Lumpur, Leeds Publications, Third Impression, p. 124.

⁶ Malaysia.n.d. *Immigration Act 1959/63 (Act 155) & Regulations and Orders*. Section 2. P. 2

9. **Pass:** Means any pass issued under any regulations made under this act entitling the holder thereof to enter and remain temporarily in Malaysia⁷.
10. **Prohibited Immigrant:** Means a person declared to be a prohibited immigrant under Section 8⁸.
11. **Permit:** Includes an Entry Permit.
12. **Prohibited Immigrants:** Means any person whose entry into Malaysia is, or at the time of his entry was, unlawful under this or any other written law for the time being in force⁹.
13. **Section 15** means unlawful entry or presence in Malaysia. **Subsection one (1)** without prejudice to any other provisions of this act prohibiting a person from remaining in Malaysia, a person shall not remain in Malaysia¹⁰:
- a) After the cancellation of any permit or certificate under this part.
 - b) After the expiration of the period of any pass relating to or issued to him.
- Unless he is authorized to remain in Malaysia under this act.
14. **The government of Sabah** defines foreign migrant into three groups: They are as follow¹¹;
- a) **Illegal Immigrants:** They are consisting of all of the citizens who came to our country without valid permit or lived in this state beyond the time.
 - b) **Foreign Slavery:** They are consisting of Indonesian and Filipina workers who are entered by workers pass or social pass (*permanently*) into variety sector in that state.
 - c) **Refugee:** They are consisting of Filipina citizens who are come from south that country and were entered to this state around on 1970.

⁷ *Ibid*, p. 6.

⁸ *Ibid*, p. 7.

⁹ *Ibid*, p. 10 Section 8.

¹⁰ *Ibid*, p. 18 Section 15.

¹¹ n.a. 15 August 2005, "*Apa Yang Anda Perlu Tahu Mengenai Pendatang Luar Negeri*".

<http://www.p.sabah.gov.my/ppk/faq.asp#J1>.

1.2.2 LEGAL RULE BASED ON THE HOLY QURAN ABOUT THE ILLEGAL IMMIGRANT

Surah Al – Baqarah: 218:

“Those who believed and those who sufficient exile and fought in the path of Allah SWT, they have the hope of the mercy of Allah SWT and Allah SWT is often forgiving, most merciful¹²”

Actually, this ayah stressed to all Muslims and Non – Muslims migrant from one place to another place. If someone wants to migrant, he deserves to follow what are the rules of that country. That is why to get a blessing from our god (Allah SWT).

Surah Al – Kahfi: 06

“You will only sadden yourself to death, in case (you are) following after them, in grief, if they do not believe in this message¹³”

Meanwhile that, this ayah also similar with the meaning in the *Surah Al – Baqarah: 218*. Every country has their rules might be followed. The punishment shall be take effect if any person breach of their rules. For instance in Malaysia, illegal immigrants can be imposed a punishment like fine or stroke after civil court make a decision.

¹² Syed Vickar Ahamed, 1999, *Surah Al – Baqarah: 218, Interpretation of The Meaning of The Glorious Quran, Kuala Lumpur*, Terengganu Islamic Foundation, First Edition, p. 39.

¹³ Syed Vickar Ahamed, 1999, *Surah Al – Kahfi: 06, Interpretation of The Meaning of The Glorious Quran, Kuala Lumpur*, Terengganu Islamic Foundation, First Edition, p.

1.3.3 PUNISHMENT REGARDING TO CIVIL LAWS IN MALAYSIA

Section 6 (3) of Immigration Act 1959/63 stressed *“Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to both, shall also be liable to whipping of not more than six strokes¹⁴”*.

Then, Section 15 as regard Unlawful entry or presence in Malaysia, Subsection(4) stated *“Any person who without reasonable cause contravenes this section shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit or to imprisonment for a term not exceeding five years or to both¹⁵”*.

Refer to Section 36 of Immigration Act 1959/63 stated *“any person who, having been lawfully removed or otherwise sent out of Malaysia, unlawfully enters Malaysia or unlawfully resides in Malaysia shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to whipping of not more than six strokes, and shall, in addition to any penalty for the offence, be removed or again removed, as the case may be, from Malaysia¹⁶”*.

Thus, in Section 55B of Immigration Act 1959/63 mentioned about *employing a person who is not in possession of a Valid Pass*. Subsection one (1) *“Any person who employs one or more persons, other than a citizen or a holder of an Entry Permit, who is not in possession of a Valid Pass shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each such employee¹⁷”*.

¹⁴ Malaysia.n.d. *Immigration Act 1959/63 (Act 155) & Regulations and Orders, Section 6 (3)*, p. 10.

¹⁵ *Ibid*, Section 15 (4), p. 19.

¹⁶ *Ibid*, Section 36, p. 31.

¹⁷ *Ibid*, Section 55B, P. 47.

Under Subsection (3), *“Where, in the case of an offence under subsection (1), it is proved to the satisfaction of the court that the person has at the same time employed more than five such employees that person shall, on conviction be liable to imprisonment for a term of not less than six months but not more than five years and shall also be liable to whipping of not more than six strokes¹⁸”*.

Under Section 55E Occupier not to permit illegal immigrant to enter or remain at premises. This Subsection (2) stated *“An occupier who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each illegal immigrant found at the premises and, in the case of a second or subsequent conviction, to a fine of not less than ten thousand ringgit and not more than sixty thousand ringgit or to imprisonment for a term not exceeding two years or to both for each illegal immigrant found at the premises¹⁹”*.

Section 55A is about Conveying a person to Malaysia contrary to this Act. Subsection (1) stated *“Any person involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person contrary to this Act shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit and to imprisonment for a term of not less than two years but not more than five years and shall also be liable to whipping of not more than six strokes²⁰”*.

Section 56 of Immigration Act 1959/63 addressed about offences. Subsection (1) *any person who (d) harbours any person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act, except Section 55E shall be guilty of an offence and shall, on conviction –*
(aa) except for an offence under paragraph (d), be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years.

¹⁸ *Ibid*, Section 55B (3), P. 47.

¹⁹ *Ibid*, Section 55E (2), P. 48.

²⁰ *Ibid*, Section 55A (1), P. 46.

(bb) in the case of an offence under paragraph (d), be liable to a fine of not less than ten thousand ringgit and not more than fifty thousand ringgit for each person harbored and where it is proved to the satisfaction of the court that the person at the same time harbored more than five such persons that person shall be liable to imprisonment for a term of not less than six months but not more than five years and shall also be liable to whipping of not more than six strokes²¹”.

²¹ *Ibid*, Section 56 (1), P. 50 – 51.

1.4.4 PUNISHMENT ASSOCIATED WITH THE ISLAMIC LAWS

*Surah Al – Maidah: 33*²²

“For those who act if to war against Allah SWT and his prophet SAW, and work hard with strength and taste for mischief through the land. The punishment is execution, or crucifixion, or cutting off of hands and feet from opposite sides, or exile from the land.

That is their disagree in this world, and their punishment is heavy is heavy in the hereafter”.

So, in this ayah, Allah SWT revealed to all Muslims and to Non – Muslims were made a mistakes. Actually, a punishment wants to make someone realize about his mistakes. In the punishment of Islam religion had been divided to four types. There are as follow:

- 1) *Hudud*
- 2) *Qisas*
- 3) *Takzir*
- 4) *Diat*

For instance in the illegal immigrants case like entered to Malaysia without a passport, a leader of that states may be ascertain the suit punishment. Nowadays, we have Immigration department and also has their own act to protect illegal immigrants. For example “***Immigration Act 1959/63 (Act 155) & Regulations and Orders***”. A lot of suit punishment stated in this act.

²² Syed Vickar Ahamed, 1999, *Surah Al – Maidah: 33, Interpretation of The Meaning of The Glorious Quran, Kuala Lumpur*, Terengganu Islamic Foundation, First Edition, p.

1.5.5 THE STATISTIC EXIT AND RE – ENTER ASSOCIATED WITH THE CITIZEN.

➤ Year 2003 – 04 ²³

NO.	WARGANEGARA	MASUK	KELUAR
1	ARUBA	117	29
2	AFGANISTAN	183	135
3	ANGOLA	52	35
4	ANGUILLA	2	4
5	ALBANIA	165	113
6	ANDORRA	34	17
7	NETHERLANDS ANTILLES	14	6
8	UNITED ARAB EMIRATES	5851	5326
9	ARGENTINA	2706	2300
10	ARMENIA	44	25
11	AMERICAN SAMOA	8	1
12	ANTARCTICA	4	5
13	FRENCH SOUTHERN TERRITORIES	1	0
14	ANTIGUA AND BARBUDA	2	4
15	AUSTRALIA	197405	167155
16	AUSTRIA	8410	7020
17	AZERBAIJAN	91	80
18	BURUNDI	18	8
19	BELGIUM	9595	7718
20	BENIM	50	42
21	BURKINA FASO	42	41
22	BANGLADESH	36438	31411
23	BULGARIA	718	510
24	BAHRAIN	2442	2150
25	BAHAMAS	30	23
26	BOSNIA AND HERZEGOVINA	548	428
27	BELARUS	279	211
28	BELIZE	116	65
29	BERMUDA	1	1
30	BOLIVIA	154	106
31	BRAZIL	2294	1319
32	BARBADOS	74	54
33	BRUNEI DARUSSALAM	266773	133585
34	BHUTAN	224	144
35	BOUVET ISLAND	2	1
36	BOTSWANA	346	198
37	CENTRAL AFRICAN REPUBLIC	8	7
38	CANADA	46834	37815
39	COCOS(KEELING) ISLANDS	1	0
40	SWITZERLAND	16724	13427
41	CHILE	690	489

²³ [http:// www.imi.gov.my/BM/Statistik / KeluarMasuk Warganegara 2003. htm](http://www.imi.gov.my/BM/Statistik/KeluarMasukWarganegara2003.htm) 16/8/2005.

42	CHINA	469772	321133
43	COTE D'IVOIRE/IVORY COAST	40	22
44	CAMEROON	133	64
45	CONGO	45	26
46	COLOMBIA	1099	680
47	COMOROS	64	35
48	CAPE VERDE	23	13
49	COSTA RICA	365	235
50	CUBA	184	140
51	CHRISTMAS ISLAND	2	0
52	CYPRUS	225	174
53	CZECH REPUBLIC	2146	1400
54	GERMANY	73364	59518
55	DJIBOUTI	94	36
56	DOMINICA	73	38
57	DENMARK	14232	11133
58	DOMINICAN REPUBLIC	91	62
59	ALGERIA	740	428
60	ECUADOR	232	127
61	EGYPT	3549	2595
62	ERITREA	109	82
63	WESTERN SAHARA	2	1
64	SPAIN	5144	3389
65	ESTONIA	249	196
66	ETHIOPIA	137	82
67	FINLAND	8941	7512
68	FIJI	746	567
69	FALKLAND ISLAND (MALVINAS)	2	0
70	FRANCE	39424	29823
71	FAROE ISLANDS	3	0
72	MICRONESIA, FEDERATED STATES OF	3	0
73	GABON	128	36
74	UK-DEPENDENT TERRITORIES CIT	78	80
75	UK-NATIONAL OVERSEAS	58212	46578
76	UK-OVERSEAN CITIZEN	630	437
77	UK-PROTECTED PERSON	106	76
78	UNITED KINGDOM	292118	242182
79	UK-SUBJECT	214	187
80	GEORGIA	36	29
81	GHANA	377	240
82	GUINEA	230	170
83	GUADELOUPE	8	0
84	GAMBIA	116	67
85	GUIENA-BISSAU	19	10
86	EQUATORIAL GUINEA	2	4
87	GREECE	1296	942
88	GRENADA	23	10
89	GREENLAND	2	3
90	GUATEMALA	76	70

91	FRENCH GUIANA	19	0
92	GUYANA	40	30
93	HONGKONG	1717	1266
94	HEARD AND MCDONALD ISLANDS	2	0
95	HONDURAS	89	44
96	CROATIA	1210	923
97	HAITI	11	8
98	HUNGARY	1856	1520
99	INDONESIA	1557240	856610
100	INDIA	270074	155649
101	BRITISH INDIAN OCEAN TERRITORY	17	11
102	IRELAND	15137	12344
103	IRAN	14876	11703
104	IRAQ	1236	980
105	ICELAND	581	454
106	ISRAEL	15	11
107	ITALY	19513	15321
108	JAMAICA	101	68
109	JORDAN	2802	2229
110	JAPAN	346912	267111
111	KAZAKHSTAN	777	567
112	KENYA	1084	711
113	KYRGYZSTAN	252	166
114	CAMBODIA	17349	10028
115	KIRIBATI	72	53
116	SAINT KITTS AND NEVIS	5	5
117	KOREA SELATAN	151441	81326
118	KUWAIT	4958	4178
119	LAO PEOPLE'S DEMOCRATIC REP	1168	765
120	LEBANON	2549	2087
121	LIBERIA	65	43
122	LIBYAN ARAB JAMAHIRIYA	819	567
123	SAINT LUCIA	14	10
124	LIECHTENSTEIN	63	30
125	SRI LANKA	19987	14694
126	LESOTHO	57	50
127	LITHUANIA	220	157
128	LUXEMBOURG	254	208
129	LATVIA	205	160
130	MACAU	128	62
131	MOROCCO	1396	853
132	MONACO	22	19
133	REP OF MOLDOVA	74	50
134	MADAGASCAR	177	129
135	MALDIVES	3470	2740
136	MEXICO	2223	1751
137	MARSHALL ISLANDS	28	15
138	THE FORMER YUGOSLAV REP OF MACEDONIA	154	120
139	MALI	121	97

140	MALTA	268	209
141	MYANMAR	33307	5166
142	MONGOLIA	906	584
143	NORTHERN MARIANA ISLANDS	3	2
144	MOZAMBIQUE	119	81
145	MAURITANIA	53	65
146	MONTSERRAT	1	1
147	MAURITIUS	5594	4220
148	MALAWI	161	114
149	MAYOTTE	1	0
150	NAMIBIA	149	98
151	NEW CELEDONIA	0	1
152	NIGER	33	30
153	NIGERIA	1412	1022
154	NICARAGUA	33	35
155	NIUE	1	0
156	NETHERLANDS	55159	46681
157	NORWAY	9944	6790
158	NEPAL	31451	7017
159	NAURU	108	60
160	NEUTRAL ZONE	2	0
161	NEW ZEALAND	34059	27583
162	OMAN	3721	3266
163	PAKISTAN	22832	13725
164	PANAMA	112	79
165	PITCAIRN	1	1
166	PERU	468	300
167	PHILIPPINES	159879	97031
168	PALAU	16	12
169	PAPUA NEW GUINEA	392	310
170	POLAND	2461	2310
171	PUERTO RICO	6	1
172	KOREA UTARA	354	147
173	PORTUGAL	3786	2944
174	PARAGUAY	77	60
175	FRENCH POLYNESIA	4	0
176	QATAR	1488	1266
177	REUNION	7	4
178	ROMANIA	933	665
179	RUSSIAN FEDERATION	8254	6366
180	RWANDA	12	12
181	SAUDI ARABIA	18604	15791
182	SUDAN	1895	1396
183	SENEGAL	190	100
184	SERBIA	9	4
185	SINGAPORE	5463552	1630128
186	SOUTH GEORGIA & THE SOUTH SANDWICH IS	24	9
187	SAINT HELENA	14	11
188	SVALBARD AND JAN MAYEN ISLANDS	2	2

189	SOLOMON ISLANDS	42	26
190	SIERRA LEONE	114	78
191	EL SALVADOR	37	26
192	SAN MARINO	18	10
193	SOMALIA	264	177
194	SAINT PIERRE AND MIQUELON	0	2
195	SAO TOME AND PRINCIPE	9	6
196	SURINAME	53	32
197	SLOVAKIA	1223	1049
198	SLOVENIA	867	748
199	SWEDEN	27381	22643
200	SWAZILAND	441	223
201	SEYCHELLES	363	249
202	SYRIAN ARAB REPUBLIC	1744	1229
203	TURKS AND CAICOS ISLANDS	19	12
204	CHAD	47	22
205	TOGO	30	20
206	THAILAND	906790	641540
207	TAJIKISTAN	74	42
208	TOKELAU	0	1
209	TURKMENISTAN	91	52
210	DEMOKRATIK REPUBLIK TIMUR - LESTE	134	86
211	TONGA	75	42
212	TRINIDAD AND TOBAGO	237	166
213	TUNISIA	534	501
214	TURKEY	4397	2928
215	TUVALU	8	4
216	TAIWAN	148590	132056
217	UNITED REPUBLIC OF TANZANIA	356	236
218	UGANDA	174	161
219	UKRAINE	1038	755
220	UNITED STATES MINOR OUTLYING ISLANDS	6	0
221	UN SPECIALIZED AGENCY	133	109
222	UNITED NATIONS ORGANIZATION	246	225
223	URUGUAY	146	114
224	USA	132518	107310
225	UZBEKISTAN	2838	2041
226	HOLY SEE (VATICAN CITY STATE)	4	2
227	SAINT VINCENT AND THE GRENADINES	7	7
228	VENEZUELA	376	273
229	VIRGIN ISLANDS (BRITISH)	0	7
230	VIRGIN ISLANDS (USA)	1	2
231	VIETNAM	67982	17741
232	VANUATU	27	15
233	WALLIS AND FUTURA ISLANDS	0	1
234	SAMOA	66	51
235	STATELESS PERSON ARTICLE 1/1954	409	137
236	REFUGEE ARTICLE 1/1951	51	33
237	REFUGEE	11	9

238	UNSPECIFIED NATIONALITY	115	93
239	YEMEN	3606	3002
240	YUGOSLAVIA	25	16
241	SOUTH AFRICA	18625	15570
242	ZAIRE	8	5
243	ZAMBIA	217	167
244	ZIMBABWE	694	478
245	STATELESS	11605	8907
246	DID NOT STATED	14662	10552
TOTAL		11228359	5438251

Sources: Malaysia Immigration Department

1.6.6 THE STATISTIC OF WHOLE POSITION OF THE ILLEGAL IMMIGRANTS, EMPLOYERS AND PROTECTERS

➤ 01 MARCH UNTIL 13 JUNE 2005²⁴

STATE	ARRESTED PERSON			AMOUNT
	ILLEGAL IMMIGRANT	EMPLOYEE	PROTECTOR	
SELANGOR	1714	2	4	1720
KUALA LUMPUR	828	2	0	830
NEGERISEMBILAN	563	3	0	566
JOHOR	576	13	3	592
MELAKA	331	25	0	356
PERLIS	21	1	0	22
KEDAH	349	14	7	370
PAHANG	298	4	6	308
TERENGGANU	198	7	2	207
KELANTAN	143	0	16	159
PULAU PINANG	330	25	0	355
PERAK	543	3	0	546
LABUAN	5	0	0	5
SABAH	1561	9	0	1570
SARAWAK	97	0	1	98
TOTAL	7557	108	39	7704

Sources: Malaysia Immigration department

²⁴ n.a 2005. "Kedudukan Keseluruhan Pendatang Asing Tanpa Izin, Majikan dan pelindung". Berita Harian 20 Jun. P. 09.

1.77 THE WHOLE TOTAL OF THE ILLEGAL IMMIGRANTS INVOLVED IN SPECIAL PROGRAM

1. 29 OCTOBER UNTIL 14 NOVEMBER 2004	: 98,070 PERSONS
2. 15 NOVEMBER UNTIL 31 DISEMBER 2004	: 211,178 PERSONS
3. 1 UNTIL 31 JANUARY 2005	: 72,834 PERSONS
4. 1 UNTIL 28 FEBRUARY 2005	: 16, 676 PERSONS

(OPS NASIHAT)

5. TOTAL : 398,758 PERSONS²⁵

Sources: Malaysia Immigration department

²⁵ *Ibid.* p. 09.

**1.8.8 PATI FROM INDONESIA & FILIPHINA IN THE
PERMANENT DETENTION (DEPOT) FROM (23 FEB UNTIL 30
MAY 2005)²⁶**

PLACE	OVERALL		TOTAL
	MALE	FEMALE	
INDONESIA BELAWAN - MEDAN 15/05/05	1304	455	1759
DUMAI - PEKAN BARU 15/05/05	1444	339	1783
TG. UBAN - BATAM 15/05/05	3228	676	3904
NUNUKAN 27/05/05	15445	6892	22337
ENTIKONG	165	97	262
JAKARTA 29/04/05	99	47	146
SURABAYA 27/05/05	3909	676	3904
MATARAM 29/04/05	501	3	504
KUPANG 29/04/05	0	0	0
SEMARANG 29/04/05	37	3	40
PARE - PARE 29/04/05	0	0	0

²⁶ *Ibid.* p. 09.

FILIPHINA			
ZAMBOANGA	339	184	523
TAWI - TAWI	7	10	17
TOTAL	26,478	9,149	35,627

SECOND CHAPTER

CHAPTER TWO

2.0 INTRODUCTION

In this chapter, the writer will discuss regarding to the position of illegal immigrants in the private sector and as well in the government sector. Almost of them who were working in the farms, plantations, factories, construction sites, restaurants and as well domestic maids. Nevertheless, the ratio an immigrant who were still working in our country have been a permit are less rather than illegal immigrants. Just have 1.49 million foreign workers had been the permit and social pass are working in Malaysia²⁷.

2.1.1 DIAGRAM ASSOCIATED WITH ILLEGAL IMMIGRANT BASED ON TYPES OF WORKING IN MALAYSIA AND ORIGIN COUNTRY.

NUMBER	ORIGIN COUNTRY	TYPES OF WORK			TOTAL	
		D.M	PT.	CS.	BIL	PERCENT
	SOUTH ASEAN				342,226	91.93
1	INDONESIA	39,087	88,681	182,137	309,905	83.24
2	THAILAND	3,563	14,029	4,926	22,518	6.05
3	MYANMAR	99	500	8,790	9,389	2.52
4	FILIPHINA	117	5	289	411	-
5	SINGAPORE	-	-	2	2	-
6	BRUNEI	-	-	1	1	-

Notes²⁸: D.M: Domestic Maids

: P.T: Plantation

: C.S: Construction sites

Sources: Malaysia Immigration Department

²⁷ Ishak Mohammad. 2006. "Illegal Immigrants in Malaysia". Interview. 4 February.

²⁸ Hugo, G.J (1993), *Indonesian Labour Migration to Malaysia: Trends and Policy Implication*. Southeast Asian Journal of Social Sciences, Jilid 21, Number one, p. 36 – 70.

According to this diagram indicated an overall the illegal immigrants were registered as much 500,000 persons. This range was quite biggest (83.24%) from whole of illegal immigrants after registered to government sides²⁹.

First country; Indonesian was bigger contributed illegal immigrants to our country. Domestic maids as much 39, 087, plantation 88,681, construction sites 182,137. Among that field, construction sites was very much illegal immigrants who were working in our country. So, total was 309,905 and 83.24% percent³⁰.

Second country; Thailand was second biggest country illegal immigrant in Malaysia. Domestic maids as much 3,563, plantation 14,029, construction sites 4,926. Thus, plantation was quite highest rather than others. Total was 22,518 and 6.05% percent.

Third country; Myanmar was third county followed by Thailand. The illegal immigrants who were involved in the domestic maids as much 99, plantation 500, construction sites 8790. So, total was 9389 and 2.52% percent.

Fourth country; Filipina was fourth country after Myanmar. The illegal immigrants who were actives in domestic maids as much 117, plantation 5, construction sites 289. Total was 411 and did not state the percent.

Fifth country; Singapore was second last country after Filipina. This country and also Brunei was lowest in took the illegal immigrants in various sectors like domestic maids and plantation. Then, construction sites were stated 2 and total was two³¹.

Last country was Brunei. In this country, the domestic maids and plantation just stated one.

²⁹ *Ibid.* p.37.

³⁰ *Ibid.* p.37

³¹ *Ibid.* p. 38

Thus, total was one³². As information, the attendance them to our country especially Indonesia had been stimulated by certain factors.

First view has stated by *(Hugo) (1993)*; It was stimulated by senior illegal immigrants were came to Malaysia and had the temporary pass. That is why; they had been come very easier without any detention³³. **According to Section 56 (1) (D) Immigration Act 1959/ 63 (Act 155)** said “*harbors any person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act, except Section 55E*”. Shall be guilty of an offence and shall, on conviction *(aa)*” **Except for an offence under paragraph (d), be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years³⁴”.**

Second view was stated by *M. Arif Nasution (1996)*, the presence of illegal immigrants assisted by the society surrounding or occupier. Regarding to **Section 55E Immigration Act 1959/ 63 (Act 155) Occupier not to permit illegal immigrant to enter or remain at premises. Subsection (1) said No occupier shall permit any illegal immigrant to enter or remain at any premises.** . This Subsection (2) stated “**An occupier who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each illegal immigrant found at the premises and, in the case of a second or subsequent conviction, to a fine of not less than ten thousand ringgit and not more than sixty thousand ringgit or to imprisonment for a term not exceeding two years or to both for each illegal immigrant found at the premises³⁵”.**

³² *Ibid.* p. 38

³³ *Ibid.* p. 39

³⁴ ILBS, 2004, *Immigration Act 1959/63 (Act 155) & Regulations And Orders*, ILBS, Bandar Damansara, p. 50 – 51.

³⁵ *Ibid.*,p. 48 – 49.

Third view by *Muhammad Salleh; (December 2001)*; presence the Officer of government of Sabah who were involved assist the illegal immigrants came to Sabah and established them to get valid residences³⁶. Nevertheless, the society surrounding assisted them to came and protecting very well. According to *Section 55E Immigration Act 1959/ 63 (Act 155) Occupier not to permit illegal immigrant to enter or remain at premises. Subsection (1) said No occupier shall permit any illegal immigrant to enter or remain at any premises.* . This Subsection (2) stated “*An occupier who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each illegal immigrant found at the premises and, in the case of a second or subsequent conviction, to a fine of not less than ten thousand ringgit and not more than sixty thousand ringgit or to imprisonment for a term not exceeding two years or to both for each illegal immigrant found at the premises*”³⁷.

³⁶ Hugo, G.J (1993), *Indonesian Labour Migration to Malaysia: Trends and Policy Implication*. Southeast Asian Journal of Social Sciences, Jilid 21, Number one, p. 47 – 49.

³⁷ ILBS, 2004, *Immigration Act 1959/63 (Act 155) & Regulations And Orders*, ILBS, Bandar Damansara, p. 48 – 49

2.2.2 THE POSITION OF THE ILLEGAL IMMIGRANTS IN THE FARMS SECTOR

Nowadays, the Malaysia government needs to provide any foreign workers in farms sector³⁸. Farm sectors are one of productive in our country after factory and plantation. Previously, after the programmed *“Ops Nasihat”* almost of illegal immigrants was prefer to return to own country. Malaysia Government would be accepting any foreign workers if they had valid permit. Regarding to Dr. Fong Chan Onn as Human Resources Minister said *“Farm sectors had been problems in terms of lack of workers. So, our government has prepared to provide any valid workers from Thailand, Filipina and as well Vietnam”*.

After last programs, our government did not want to pay their salary if they worked. Prior the *“Ops Nasihat”* Indonesian workers are very much worked in various sectors like farm, plantation, construction sites and also domestic maids rather than other citizens.

Meanwhile that at Sabah, this states need to providing legal foreign workers in term of manages of all works at the farm after *“Ops’ Nasihat and Tegas”*. By and large, the Sabahan people were never interested to work in that field³⁹. Addition that, a salary had been given by our government was cheapest. There were interested more to the business and work in the factories field. Additional information, an estimated perhaps around more than one million hectares planted palm oil in this state. It was conquered by the big companies’ names in the rank of stock market (BSKL) in the Kuala Lumpur. So, when the lands were widely, the workers are need very much.

³⁸ n.a 2005, *“Khidmat Pekerja Pakistan Untuk Pertanian, Pembinaan”*, Berita Harian, 17 Februari. P. 12.

³⁹ n.a 2005, *“Ketiadaan Pekerja Asing Jejas Sektor Perladangan”*, Utusan Malaysia, 15 Mac, p. 15.

In Sabah, an estimated may be around 700,000 illegal immigrants were work there. From these amounts, an estimated perhaps 400,000 illegal immigrants were working in farm and plantation sectors⁴⁰. So, from that balance, there were worked in the domestic maids and construction sides. Indonesian workers were paid as much RM 7 to 9 Dollars per days. In this state, Tawau was centralization area to foreign workers from Indonesian come to Sabah. According to reported from Tawau of Immigration Department may be around 42,873 illegal immigrants before “*Ops Nasihat*” last time. A half from these amounts was lived at Nunukan and return home of their villages.

According to *Yakuldin Abd. Rahim* as estate manager in *Lahad Datu, Sabah* said; after “*Ops Nasihat programs*” he wants to take again his workers from Indonesian to work again⁴¹. He also urged after this program, his factory had been facing decreased of foreign workers. Affect that, his factory become flinch day to another day.

Regarding to the survey stated many of the Indonesian workers want enter to Sabah by legal rules. But, actually took place the bureaucracy from republican Indonesian stimulated they were used wrong way come to Malaysia. According to *Mr. Abdul Razak B. Abd. Ghani* as vice of *Malaysia Immigration Department* said “*enter to our country is very easy but any person must be completed a documents to making a visa*”. He urged many of foreign workers especially from Indonesian republican were still detained to waiting a valid pass to enter to Sabah.

⁴⁰ *Ibid*, p. 15.

⁴¹ *Ibid*, p. 15

So, the Malaysia government needs them to work again and hopefully the Indonesian Republican will consider managing their workers before coming to our country. That republican suppose be not stated many requirements to bring their workers.

2.3.3 THE POSITION OF THE ILLEGAL IMMIGRANTS IN THE FARM SECTOR IN RAUB, PAHANG DARUL MAKMUR

Nowadays, many of the illegal immigrants are still run away from the police, RELA and Immigration department. So, in the area of Raub, Pahang Darul Makmur, the police was implemented one program to clean up the illegal immigrants. The name of that program was "*Ops Nyah II*"⁴². This program was focus on the area around coco farm, palm oil farm, durian farm, estates and many more.

This program was implemented on midnight around 12.00 o clock and in the end around 6.00 a.m. The area of this program was divided to four areas. It was like Tras, Cheroh, Sg. Ruan and Raub (City) areas.

Thus, first area, the Raub Police detained as much 100 of illegal immigrants and charged in front of Raub Magistrate tomorrow morning. Then, second area the Raub Police detained 35 of illegal immigrants and also charged in front of Raub Magistrate tomorrow morning.

Third area, the Raub Police detained as much 170 of illegal immigrants. This area was quite much rather than other places. All of the illegal immigrants charged in front of Raub Magistrate tomorrow morning. After that, last area around Raub town. The Raub Police and RELA just made detention around construction sites and housing area⁴³.

⁴² 2004. "*Laporan Ops' Nyah II – Statistik Taburan Pendatang Tanpa Izin*", IPD Raub Report. 17 Februari. P. 2.

⁴³ *Ibid.* p. 2