Implementation of Biometric System Against Immigrant Workers in Malaysia: An Appraisal for National Security

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ABSTRACT

Despite foreseen problem associated with the lenient policy of unrelentingly engaging foreign workers in Malaysia, the government is not ready to stop or prohibited the dependence on this immigrant totally. The initiative of implementing the biometric system is timely in order to ensure the national security is not threatened by the influx of illegal immigrant workers to Malaysia. The paper begins with the background study of foreign immigrant in Malaysia and several biometric technologies that already been implemented. It then studies the history of biometric system before deliberating the issues surrounding foreign workers and illegal immigrant. Then, the central issue on the important of having biometric system for the purpose of tightening national security is examined. Finally the paper concludes with suggestion of weighing the national interest and immigrant's rights and privacy, while upholding integrity of the officers responsible in implementing the system.

Key Words: Biometric system, national security and foreign workers.

INTRODUCTION

The wake of September 11 on terrorism, identity fraud and existing shortfalls in the verification process had prompted an urgent need of states to seek and apply more stringent system especially at state border entrance. Identity verification is vital especially to the state whose dependency on the immigrant workers is equally important.

For Malaysia, the promise of employment serves as one of the strongest reasons drawing many illegal immigrants to the country. The total numbers of the foreign workers have multiple every year, however the existing numbers of those work illegally have not known exactly. Thus, the systematic procedure for issuance of working permits for the migrant workers must be reviewed to avoid threat to the national security as a result of the escalation numbers of the immigrant in the country.

It is praiseworthy when Malaysia was reported to be the first country in Asia that engaging the biometric system for identity verification. However the implementation is rather slow and the full appreciation of the system is yet to be seen. Particular interest has focused on the areas of visa and immigration documentation and government-issued identification card programs. There are at least four different fingerprint databases have been in Malaysia. There are namely; PDRM-MAFIS, PDRM-BIOFIS, NRD-AFIS and NERS.

This paper will introduce briefly what are biometric system and the important of having biometric databases in Malaysia. It will then examine the issues and challenges surrounding the application of biometric system against foreign workers. And finally, although this work is not sufficient to solve the problems that currently facing at the border entrance and the over-flowing of the immigrant workers whether legally or not, it is hope that the issues which are highlighted in this paper may assist and contribute to the knowledge in this area.

HISTORY OF BIOMETRIC FINGERPRINTS SYSTEM

The words 'biometric' comes from the Greeek language and is derived from the words bio (life) and metric (to measure). John Moore in its article defined biometric as the 'measuring of physical or behavioral characteristics to verify identity of a person.' It is regarded as the 'oldest and most widely used biometric identifier.' In biometric process, a mathematical template is stored after the image is scanned and scoured for unique features.

Fingerprints are the first biometric data, which is easily, be captured, stored and compared for recognition of an individual. Indeed it is reliable and efficient to prove a person's identity. It is noteworthy, according to the history, that fingerprints data have been used as early as 17th century. Sir William James Herschel, in 1858 used fingerprints on contracts in India as a proof of identity. Likewise Gilbert Thompson used his fingerprints set in order to prevent forgery of documents in 1892. Moreover, apart from the acceptable and recognised alternative to signature in legal documents, it is later be used in forensic science. It is said that the fingerprint database, which was created by Juan Vucetich in 1891, has successfully used to solve a murder case in 1892.

The systematic classification of fingerprints databases was later developed by Azizul Haque and Hem Chandra Bose and known as Henry system of fingerprint classification. This is the world's first Fingerprint Bureau and Classification. It was then used extensively in the armed forces in US and UK in early 20th century. In 1924, the FBI (Federal Bureau Investigation) was authorised to establish an Identification Division, which saw the consolidation of the National Bureau of Criminal Identification and the US Justice Department's Bureau of Criminal Identification fingerprints files. The FBI's database of fingerprints has grown to 200 million records in 1971. This set of records was then computerised in 1980 to become the fingerprint identification system known as FBI-IAFIS (Integrated Automated Fingerprint Identification System). The FBI-IAFIS contains the fingerprints of 69.8 million criminals, as well as 31 million civil subjects. This record grows day by day. The criminal is identified with additional information such as past criminal record, outstanding arrest warrants and physical characteristics. The FBI-IAFIS sets the standard for fingerprint databases the world over due to its size and efficiency.

FOREIGN WORKERS V ILLEGAL IMMIGRANTS

The migration of foreign workers from other countries especially the neighbourhood states into Malaysia is not a new phenomenon. It is sometimes mentioned of a rumour that the migration of the foreigner to serve the industrial and economic development is not necessary and urgently need to be banned, as it will contribute to the escalating numbers of criminal cases in the country. However, although it is undeniable that some of the criminal cases had involved the foreign workers, the existence of foreign workers in Malaysia is almost impossible to be prohibited.

Historically, the colonialism in the last century has moved millions of people across national borders around the world. Post-independent, following the expansion of land development, the infrastructure and industrial development, the government of Malaysia allowed the influx of the immigrants to work in Malaysia. It was only in the early 80s a policy was drawn to regulate immigrant workers, beginning with Medan Agreement, which was signed between Malaysia and Indonesia in 1984. Basically, the policy on foreign workers is designed to alleviate labour shortages in economic sector. In that case, mostly the entrance of foreign workers into this country is legal. However, the problem is that this policy, i.e in controlling the influx of immigrant workers only appears when the country already inundated with illegal immigrants.

The foreign workers are divided into two categories namely skilled/professional and unskilled/semi-skilled. It is appear that the later is more problematic in terms of recruitment and employment. In Malaysia the issue relating to foreign workers fall within the job scope of the Department of Immigration in the Ministry of Home Affairs, Ministry of Human Resources as well as other ministries, such as ministry of tourism and ministry of plantation, industry and commodities whom reliance to the foreign labour is critical to their sector. In general the designated sectors for the foreign workers including domestic services, manufacturing, construction, plantation as well as agriculture. The unskilled/semi-skilled workers will be given Pas Lawatan Kerja Sementara (PLKS), while the expatriates are given work passes or pas penggajian with more rights and benefit compared to the earlier. Most of the unskilled/semi-skilled workers come from Indonesia as a largest labour source for Malaysia, followed by Bangladesh, Philippines, Nepal, Cambodia, etc. The growing numbers of foreign national become tricky when the huge numbers of them are living in Malaysia illegally. Azizah categorised illegal immigrants (Pendatang Asing tanpa Izin (PATI)) into eight categories of people who have committed legal infractions, namely:

i.   Undocumented aliens who have entered the country without proper travel documents and outside authorised port of entry;
ii.   Contract defaulters- foreign workers who have changed their work and emplyers;
iii.   Over-stayers, who may or not be in the workforce;

iv.   Visa abusers, such as those entering Malaysia on student or tourist visas engaged in employment;
v.   Holders of counterfeit documents or forged endorsement of official documents;
vi.   Holder of genuine documents obtained fraudulently;
vii.   Children of immigrants whose births are not registered;
viii.   Refugees who failed to renew their IMM13P passes (in the case of Sabah only.)

It is suggested that the lenient policy and less stringent law enforcement against the immigrant as well the act of irresponsible recruiting agencies have resulted to the uncontrolled identity fraud, fake documents and the emerging of illegal immigrant.

THE IMPORTANT OF BIOMETRIC SYSTEM FOR NATIONAL SECURITY

Undoubtedly, the policy allowing the hiring of foreign workers have contributed positively to the economic development of Malaysia. According to a report, the number of foreign workers has increased from around 1.6 million in 2005, to 2.3 million in 2014. However, the main concern over the increasing numbers of the immigrant is on the negative effect of over-flowing illegal immigrant and their threat to the national security.

Before the implementation of biometric system using National Foreigners Enforcement and Registration System (NERS) at the entry points of Malaysia, various efforts have been done to stamp out illegal immigrants. The programmes using the generic code name Ops Nyah I and Ops Nyah II as early as in 1992, Ops Sayang, Ops Pintu and Ops Bersepadu have been implemented to curtail the issues relating to immigrant. In fact, this have led to a large number of illegals being apprehended, identified, and deported to their country of origin. However, it is believe that many more are still around and untraceable. The accomplishment of 6P programme recently, which comprised of Pemutihan (regularisation) and Pengampunan (amnesty) programme have successfully invited quite a number of illegal foreign workers to have their biometric fingerprint recorded in order to get amnesty. During the 6P programmes, the illegal immigrant have chance to legalise their status as a foreign worker or to be sent to their home country safely. According to the immigration department, eighty per cent (80%) of the migrant workers who registered under the 6P programme came into Malaysia legally but some do not have passports or work permits.

The proponent of biometric modalities, cite national security needs in defense of biometrics in light of the fact that illegal immigration and terrorism have become a significant concern. In a world where obtaining false documents and identification is only a click away, biometrics offer a pricey, yet attractive, alternative-identification and verification with a higher degree of certainty than current practices. The accuracy and efficiency of biometric is praiseworthy with

its ability to conduct one-to-many matches in large databases.

The government of Malaysia has initiated more systematic measure with the main purpose to have efficient and technology-friendly security measures to control the influx of illegal immigrant in Malaysia. The biometric registration of foreigner using NERS has finally been implemented at all 96-border entrance in order to monitor the movement of foreigner in Malaysia starting from 1st June 2011. NERS is database system to collect fingerprints of non-national to determine their identity. It records the fingerprints of the right and left hand index fingers upon arrival and departure of the foreign national. According to Ho and Eswaran, as of 27th July 2011, 390,404 non-Malaysian workers were registered via 37 Immigration Department offices, with each enrolment completed in two minutes on average. It is also reported by ministry of Human Resources that the government also intended to add 250,000 non-Malaysian maids to NERS upon renewal of their permit. The extensive records of the biometric database is hoped to help manage the illegal immigrant issues and its threat to the national security. In the Country report on Terrorism 2011, Malaysia reported that NERS were linked to the police's existing Biometric Fingerprint Identification System (PDRM-BIOFIS), which will able to check for criminal history of an immigrant. Although sometimes the systems were glitches, the effort to consolidate all fingerprint databases must be continue and maintain.

In a recent newspaper report, ministry of home affairs said the foreign workers in Malaysia will have to apply for i-KAD from the immigration Departments by end of this year. The issuance of i-KAD is a continuance of the government effort to curb illegal immigrants issues using biometric system. The i-KAD will have high-technology security features such as biometric fingerprints, Nexcode and contactless chip. This would ease detecting foreign workers in various sectors and avoid forgery of documents.

CONCLUSION

It is undeniable that, despite foreseen problem associated with the lenient policy of unremittingly engaging foreign workers in Malaysia, the government is not ready to stop or prohibited the dependence on this immigrant totally. Indeed the economic development of Malaysia has much depends on foreign workers especially unskilled workers, who are willing to work in a risky sector with a low wages. Since the numbers of the foreign workers has been increasing year by year, the government have taken necessary action to control and combat immigration related issues including abuse of work permit, over-stayed, fraudulent documents and other types of act committed by illegal immigrant.

The technology-friendly and efficient system, namely biometric databases using NERS has been developed to help curb the above-mentioned issues. The implementation of biometric system recently is challenging but it promised a fruitful outcome. It is appealing to security experts because they are closely

bound to individual, and supposedly more reliable and difficult to forge, lose or falsify. The holistic application of the biometric system in Malaysia is worthwhile and it is an effective way to control and monitor the movements of non-national in Malaysia. However, concern must also be given to the central question of how the government and law enforcement could effectively manage the system while protecting the rights of the person involved including their privacy. All in all, borrowing Adkins' words; as 'one cannot avoid technology. Rather than escape it, time must be spent creating rules and guidelines for how this technology can be used to achieve legitimate governmental objectives…' Thus, it is timely to implement the biometric system against foreign workers effectively. But, the human factor such as integrity is also very important to ensure the holistic application of the system.

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