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## **Non-State Actors in Malaysia's Migration Management: Privatisation and the Rise of Immigration Contractors**

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**Abstract:** The emergence and relevance of immigration contractors in Malaysia's migration management challenge the role of intermediaries and agents. The engagement of immigration services marked a substantial transformation in the state's migration management by eliminating independent agents, whom the state could not effectively supervise, and substituting them with a few immigration contractors. In 2015, the state outsourced digital visa management to an information technology developer and in 2016, the state appointed private immigration contractors to manage the state's regularisation activities. The emergence of state contractors raised a few questions: What factors explain the rise of immigration contractors? What are the implications of this rise for Malaysia's migration governance? The analysis draws from official documents, company media statements, civil society press releases, news media, and secondary literature. There are two research findings. First, the emergence of immigration contractors can be seen as centralising immigration functions and addressing the mismanagement of individual agents, discouraging profiteering, eliminating fake agents, and protecting migrant rights. Second, instead of playing the active role of gatekeepers, private immigration contractors in the Malaysian context engage in a passive administrative role as they carry out the government's directives and do not exercise autonomy in their decision-making. This differs from the literature on outsourcing and privatisation, which demonstrated how the involvement of private actors in migration alters the processes by extending and changing the character of state power.

**Keywords:** Immigration contractor; migration management; non-state actor; privatisation; regularisation; visa management

### **Introduction**

The existing literature on privatisation and outsourcing in Malaysia has focused on foreign worker recruitment (Franck et al., 2018; Garcés-Mascareñas, 2012; Kaur, 2012; World Bank, 2015) and enforcement operations or immigration raids (Chin, 2008; Hedman, 2008; Jones, 2000; Kassim & Mat Zin, 2011). While considerable research has been devoted to the privatisation and outsourcing of foreign labour recruitment, the emergence of government-appointed contractors as new non-state actors is comparatively less known. Some aspects of Malaysia's migration privatisation remain unexplored; the rise and implications of private contractors. This paper examines the emerging role of private immigration contractors and IT developers in Malaysia's immigration functions. Private companies have been given government service contracts to handle bureaucratic tasks related to the recruitment and admission of migrant workers into Malaysia. The private immigration contractors appointed to handle various immigration functions include FOMEMA Sdn. Bhd.

(managing medical screenings for migrant workers in Malaysia), Bestinet Sdn. Bhd. (managing the Foreign Workers Centralized Management System [FWCMS], including visa applications for migrant workers), My Electronic Government Services Berhad (managing the renewal of foreign workers' permits), Akrab Makmur Sdn. Bhd. (administrating the National Foreigners Enforcement and Registration System), and a few vendors appointed to the state's regularisation programmes. The contracting agency, the Ministry of Home Affairs (MOHA), contends that these arrangements contribute to enhanced operational efficiency and have resulted in decreased waiting times (Low, 2021; Taylor-Nicholson et al., 2019).

The rise of new non-state actors are significant for two reasons. First, the rise of immigration contractors in Malaysia may be seen as the state's effort to eradicate fraudulent intermediaries, deter exploitation for financial gain, and safeguard the rights of migrants. The Malaysian state's rationale for privatising immigration functions differs from that of other states. According to the theory of burden sharing, privatisation is part of the government's strategy to avoid or share responsibility for the management of undocumented immigrants (Flynn & Cannon, 2009). A key aspect of immigration management is the inclination of states to adopt burden-sharing rules that include international, transnational, private, and local actors. This strategy is aimed at transferring the consequences of policy-making away from the central government. The movements towards private, municipal, or international agreements seek to improve the political ability of governments to control migration as well as to increase the flexibility and adaptability of states in dealing with various migratory challenges (Lahav, 1998). Privatisation is regarded as the outward shifting of liabilities onto actors outside the central government through policy delegation. Non-state actors, particularly those in the private, social, and corporate sectors, are becoming more active in sharing the burden of migration control through this outward shift (Guiraudon & Lahav, 2000).

Second, the Malaysian case study implies a passive role for private immigration contractors, who lack autonomous decision-making and they carry out instructions provided by the government. They engage in administrative duties rather than gatekeeping responsibilities. This diverges from the existing literature on privatisation and outsourcing, which specifically highlights how the involvement of private players in migration modifies and expands the scope of state authority (Lahav, 1998; Menz, 2011). This raised a question about the relationship between the government and the service providers. Industry stakeholders and trade groups expressed their opposition to the additional expenses imposed on them as a result of privatisation. The migration control sector produces profits for private immigration service providers, who pass on the higher price of their services to employers and migrant labour. However, according to the stakeholders, the government (as principal) should bear all the expenses, given that the contract is between the government and the immigration service providers (as agents) (Low, 2021). Using the principle-agent approach, the principal is a public actor who delegates tasks to another actor (the agent) and makes the agents liable for the tasks assigned (Laube & Müller, 2016). In the Malaysian context, private contractors (agents) operate in a formal environment after contracting with the government (the principal) to provide essential services for the immigration department. Some of them are primarily engaged in the task of "performing paper-shifting 'middleman' work" and effortlessly obtaining substantial profits (Sim, 2016).

Outsourcing refers to the process by which an institution transfers the execution of certain duties or services to a private entity, while potentially maintaining ownership of the infrastructure and authority. A growing number of states have delegated specific functions or duties within them to private actors, primarily companies, through contracts to provide services, technology, equipment, knowledge, or infrastructures that they own. Other instances involve the state forming partnerships with private entities or social organisations to deliver services through agreements (López-Sala & Godenau, 2022). The "outsourcing" or "contracting out" of enforcement to labour inspection agencies, security services, or police, who are responsible for safeguarding the state border from illegal border-crossing, as a result of the removal of immigration control from the central government (Lahav, 1998). There is a difference between outsourcing, in which the government subcontracts with private suppliers while maintaining overall management, and privatisation, in which authority is transferred to profit-seeking private owners (Lea, 2016). Direct privatisation methods involve the direct transfer of responsibility from the State to a private actor, while indirect privatisation involves the appointed private actor using the services of another private actor to avoid sanctions (Bloom,

2015a). Under the concept of privatisation, private actors are obligated to adhere to contractual agreements (Menz, 2011). The term “regularisation programme” denotes any process by which nonnationals who are either illegally domiciled or in violation of national immigration regulations are granted legal status. Various regularisation programmes were launched to reintegrate migrants who had entered or become illegal into the state-regulated labour system. They were established to legalise undocumented migrant labourers (Garcés-Mascareñas, 2012). The regularisation of irregular migrants is also a policy instrument that Malaysia employs to grant legal status to undocumented foreign workers (Kaur, 2014). In this paper, the term “vendor” is used synonymously with “contractor”. In the Malaysian context, the term “vendor” is widely used in official narratives and newspaper media to refer to a state-appointed company that provides services related to migration management under a contractual agreement.

This study sought to answer the following research questions: What factors explain the rise of immigration contractors? What are the implications of this rise for Malaysia’s migration governance? The outsourcing of visa management to IT contractors is in line with digitalisation while contracting out regularisation programmes is aimed at reducing irregularities caused by outsourcing agents. These efforts signified a fundamental shift in the state’s migration management by eliminating individual agents that the state could not effectively control and replacing them with a few select immigration contractors. Overhauling migration management involved centralising immigration functions and reevaluating the function of existing non-state actors in the labour migration industry.

## Literature Review

There is a growing body of literature about the role of the private sector in various immigration functions around the management of foreign workers. The role of private actors in immigration management can be categorised based on their functions in facilitating and constraining international migration (Sørensen & Gammeltoft-Hansen, 2013). The private sector’s participation in migration control is caused by several factors, including increasing efficiency, flexibility, and cost-effectiveness by restricting the state’s investment in facilities and machinery, enhancing public legitimacy with the assistance of organisations from civil society that have professional expertise, and ensuring public accountability through public participation in migration policy implementation (López-Sala & Godenau, 2022). Privatisation involves the processes of commercialisation, marketisation, and commodification. It is a political enterprise that concerns accountability in governments and the capacity of markets to deliver high-quality services. The distinctions between market and state, private and public, and political and economic actors are blurred as a result of privatisation. Martin (2017, p. 33) referred to the private-public partnership as a “technology of government”. Migration is an increasingly commodified field in which private actors’ involvement primarily serves governments’ short-term policy objectives, companies’ commercial objectives, and the interests of particular migrant categories (Sánchez-Barrueco, 2018). In the context of digital migration management, the role of immigration service providers could be conceptualised as “paper shifters” because they provide a collecting agent service, a post office service, or a front-line service (Low, 2021, pp.1619).

Immigration control in an era of globalisation undermines fundamental rights. This is further exacerbated by the absence of comprehensive legal regulations to regulate the state’s expansion, which has resulted in voids in legal protection and accountability (Mitsilegas, 2012). The global migration crisis is viewed by the states as a way to promote public-private partnerships, as they are relinquishing their responsibility to protect human rights and ceding control to the private sector through offshoring and outsourcing. Outsourcing migration management services poses ethical issues since migration management is increasingly viewed as a commercial endeavour that does not uphold human rights. Privatisation in migration management is criticised for its abuses and inefficiencies (Lethbridge, 2017; Vasanthakumar, 2018). The delegation of migration control functions to private actors is largely unregulated, and the multi-layered policy implications are not well understood. The affected individuals are vulnerable migrants and potential migrants, as the lines of responsibility and accountability, as well as liability, for decisions made and for force used, are not always evident (Bloom, 2015b).

In the Malaysian context, the labour migration system is characterised by commercialisation and privatisation, evident at the several stages of recruiting, migration control, legalisation, detention, and deportation. Because of the state's insufficient resources and expertise, it delegated the maintenance and administration of its labour migration system to private actors (Garcés-Mascareñas, 2012). The devolution of migration management to non-state actors has been partially attributed to the increasing demand for labour in Malaysia, the pressure on migration, and business interests. This has created the opportunity for private recruiters to participate in the promotion, facilitation, and regulation of labour migration to varying degrees (Spaan & van Naerssen, 2018). The factors affecting the state's reliance on foreign labour include the inadequacy of the system in promoting productivity enhancement through technology, the preference of local workers for certain jobs, the commitment of foreign workers, employers' inclination towards cheap labour, and the government's lack of assertiveness in implementing initiatives aimed at reducing dependence on foreign labour (Aziz & Saad, 2022). The foreign worker policy made by the government is a short-term policy as the government takes industry demands into account (Ajis et al., 2018). The state has delegated the responsibility of managing several immigration procedures, including foreign visa processing, passport processing, permit renewals, security screening, and health screening, to numerous service providers. During the pre-departure stage, multiple contractors are appointed to carry out immigration functions, including S5 Biotech Sdn Bhd (immigration security clearance), Bestinet Sdn Bhd (foreign worker visas and medical screening), and Ultra Kirana Sdn Bhd (Visa Luar Negara). During the migrant employment period in Malaysia, the government has appointed FOMENA Sdn Bhd to carry out medical screening and charged various medical providers with providing insurance (Institute of Labour Market Information and Analysis, 2023; Low, 2021). The issues in outsourcing are the awarding of contracts to private service providers without open tenders, unsatisfactory performance records of these providers evidenced by their violations of the Competition Act, duplication of roles among immigration service providers, inadequate system integration resulting from the presence of multiple systems operated by different service providers, and most significantly, exclusive control of a multi-billion ringgit industry by a small number of service providers (Sim, 2016). The next section analyses the emergence of immigration contractors in regularisation programmes and IT developers in digital migration management.

## Methodology

Based on two case studies, this research aimed to examine the transformation of outsourcing practices in resolving the issues of unregulated activities of agents and a range of migrant rights reforms. In Malaysia's migration privatisation, there are a few categories of immigration services being privatised such as recruitment, enforcement operation, regularisation programmes, visa management, passport processing, permit renewals, security screening, and health screening. Based on the research questions of this paper, two case studies were selected because they reflect the recent policy and bureaucratic reforms in Malaysia's migration management to digitalize immigration functions and diminish the immigration agent's role. The first case study examined the 2015 outsourcing of foreign worker visa applications to the IT company, Bestinet. The objective of the Malaysian Immigration Department's transition to a purely digital system was to enhance the efficiency of visa applications by removing middlemen and hidden fees. The electronic Visa with Reference (eVDR), which had a primary objective of facilitating the processing of foreign worker visa applications and health status clearances, was implemented through the FWCMS. The development of the FWCMS was meant to establish the connection of a migrant worker's compliance, security, well-being, and healthcare services between their home and host countries. This trend was prompted by digitalisation and the elimination of manual processes at immigration counters (FWCMS, 2023; Gelb & Krishnan, 2018; Low, 2020). The second case study looked at the use of government-appointed vendors in regularisation programmes, which was initiated to eliminate intermediaries, resulting in only a few government-appointed contractors (rather than individual agents). The contracting agency (MOHA) delegated three immigration vendors to run the Rehiring Programme (2016). International Marketing and Net (IMAN) Resources Sdn. Bhd. was made responsible for legalising Indonesian nationals, while Bukti Megah Sdn. Bhd. was put in charge of legalising Myanmar nationals, and Konsortium PMF was charged with legalising other nationalities

(Idris, 2015a; “Immigration department appoints three companies,” 2018). Both cases imply a rise of IT contractors and government-appointed contractors as new non-state actors. Through these two trends, the Malaysian government is reassessing the role of existing intermediaries and replacing them with private contractors.

This study utilised a range of primary and secondary sources, including government reports, papers from non-governmental organisations, legal texts, official papers from Malaysia, media statements of digital developers, regulations, press releases, news reports, and other secondary literature. The research approach taken was content analysis, which facilitates the generation of findings through the examination of texts in relation to their contexts of use. In content analysis, responses to research questions are obtained by drawing conclusions based on textual data (Krippendorff, 2004). In qualitative content analysis, data analysis necessitates assigning all relevant meanings in the material to the designated categories of a coding frame. From there, it entails the systematic classification of consecutive segments of the material based on these categories. The coding framework is used to code all data, which is then transformed into case-level information. The findings are then interpreted and presented (Schreier, 2012). Data analysis involves the preparation and organisation of data for analysis, then the reduction of the data into themes through the process of coding and condensing the codes. The process of coding involves the division of data into meaningful segments and the assignment of names to each segment. The primary stages in the coding process involve the combination of codes into broader categories or themes (Creswell, 2007). The research may exhibit biases due to its greater reliance on secondary sources and official publications instead of civil society organisation opinions.

## The Findings and Discussion

### 1. Regularisation Programmes: From Agents to Immigration Contractors

In the state’s privatisation efforts, regularisation (or legalisation) programmes were also outsourced to private agencies. Since the first regularisation programme (1989), private agents had handled the administration of all government-sponsored regularisation initiatives. They were compensated for their services through the collection of registration fees. However, the procedure was complicated and expensive due to intermediary participation in the registration process with inadequate field supervision (Malaysia, Hansard, 30 October 2018). The regularisation programmes in 1989, 1991, and 1996 encountered difficulties due to the mismanagement of the process by private labour recruitment agencies. The 1989 regularisation process was chaotic because middlemen used false identities to secure travel documents for dubious migrant workers at a high profit margin. During the 1991 programme, Indonesian migrant labourers became undocumented and susceptible to enforcement operations as a result of processing delays and fraudulent activities perpetrated by private agencies (Jones, 2000). The 1996 programme was plagued with significant bureaucratic obstacles in the Immigration Department. Employers were critical about some workers not obtaining approval notification cards, which prevented them from applying for their work licenses (Garcés-Mascareñas, 2012). A considerable number of migrants were unable to afford legalisation because of the financial burden imposed on migrant labourers and employers during the regularisation process, and failure to renew work permits resulted in many migrants reverting to an undocumented status (Kassim & Mat Zin, 2011).

The participation of agents in the state’s 6P regularisation programme was criticised by NGOs for profiting numerous third-party intermediaries. The 6P Programme comprised six steps – *pendaftaran* (registration), *pemutihan* (legalisation), *pengampunan* (amnesty), *pemantauan* (monitoring), *penguatkuasaan* (enforcement), and *pengusiran* (deportation). The Immigration Department selected 330 outsourcing firms to administer the programme. Legalising a worker cost the businesses between MYR 3,000 (USD 1,002) and MYR 4,000 (USD1,336), and private companies imposed exorbitant legalisation fees of up to MYR 4,000 (4.5 months’ worth of wages). Undocumented foreign labourers were subjected to police investigations when certain agents accepted payments without registering work permits. Early on, migrants in pursuit of legalisation encountered perilous circumstances due to inadequate oversight of agent activities (Fernandez, 2014). In some cases, workers who had been registered through government-commissioned agents were still

subject to arrest and deportation. Moreover, foreign workers who had registered through these agencies continued to have irregular or undocumented status (Malaysia, Hansard, 7 April 2014). It was only in 2016 that the government eliminated private agents in regularisation programmes and replaced them with immigration contractors. To prevent the exploitation of immigrant workers, the government subsequently eliminated the function of outsourcing firms in its new regularisation programme, called the Rehiring Programme. In the revised budget for 2016, the then Deputy Prime Minister, Zahid Hamidi announced the introduction of an online application process for the Rehiring Programme, which enables foreign workers without documentation to obtain valid work permits. This process bypassed the need for agents as the registration of workers could be conducted online by employers (Rahimah Abdullah, 2016).

The Immigration Department contracted three firms to manage the Rehiring Programme: Syarikat Bukti Megah Sdn. Bhd., IMAN Resources Sdn. Bhd., and Konsortium PMF. IMAN oversaw unauthorised immigrants originating from Indonesia, while Bukti Megah Sdn. Bhd. was responsible for those from Myanmar. Konsortium PMF was tasked with managing immigrants from other nations. Those who did not meet the requirements for the Rehiring Programme were expeditiously processed for repatriation to their home countries under the 3+1 programme by the vendors responsible for the registration of unauthorised migrants ("Immigration department appoints three companies," 2018). The PMF Consortium is comprised of three entities: MyEG, PDX.com Sdn Bhd, and Agensi Pekerjaan Fokas Mulia Sdn Bhd. The registration process was to be executed only through online means, with no participation of external parties or designated agents (Idris, 2015a). The Rehiring Programme was established with the dual objective of addressing labour shortages across multiple industries and mitigating the effects of an estimated two million undocumented workers. Foreign workers were subject to rigorous eligibility criteria for the programme that included lawful entry into the country, gainful employment, and the absence of a criminal record. The designated immigration vendors levied registration fees amounting to MYR 800 (USD 178) and administrative charges of MYR 400 (USD 89) for employers. In addition, the Immigration Department imposed other fees on employers that included a levy, visa processing fee, work permits, and penalties for immigration offences, amounting to a payment ranging from MYR 1,395 (USD 310) to MYR 3,485 (USD 775) (Shuaib, 2016).

The Rehiring Programme could only be administered by authorised vendors and a number of the organisation's subsidiaries, in accordance with the law. Notwithstanding the Immigration Department's declaration that the Rehiring Programme operated without the involvement of agents, there were numerous instances where unauthorised personnel oversaw the programme. The illicit activities of the Rehiring Programme syndicates' operations were detected by the Intelligence, Special Operations, and Analysis Division of the Immigration Department. News article reported that certain authorised subsidiaries of the company violated immigration laws and abused the permit that were granted to them ("Immigration Dept Busts Fake Rehiring Group," 2018; Teoh, 2018). The failure of otherwise qualified migrant labourers to extend their employment in Malaysia can be attributed to fraudulent rehiring agents posing as legitimate. A news report from Star Online depicted a scheme wherein a rehiring agent scammed 270 Bangladeshi labourers out of MYR 1.8 million (USD 0.445 million). Prior to the Rehiring Programme deadline, the Bangladeshi victims were issued authentic work permits when they presented their passports and remitted MYR 8,000 (USD 1,980) each to the agent. The migrants were compelled to repatriate to their countries of origin because they had not been granted legalisation through the programme (Zolkepli, 2018). An even more concerning pattern was the participation of certain undocumented immigrants in the operation of these counterfeit syndicates, wherein they misled their fellow citizens by claiming they would be able to secure work permit extensions and employment. It was revealed that a company owned by Bangladeshis had been accused of clandestinely implementing the Rehiring Programme for over a year using a converted mini-market as a front. The syndicate owned by the Bangladeshi had charged undocumented migrants between MYR 5,500 (USD 1,361) and MYR 8,000 (USD 1,980) each for registration ("Immigration Dept Nab Bangladeshi," 2018).

The appointment of immigration vendors was subject to the scrutiny of critics who opposed the allocation of a monopoly to the three companies. Employers expressed their opposition to the process being outsourced to the three authorised vendors, and they considered the Immigration Department responsible for the task. Some industry participants complained that the registration process was protracted, cumbersome, and

fraught with red tape when handled by these vendors, leaving employers uncertain of the registration status. Employers demanded that the government streamline the procedure and eradicate the use of intermediaries (Rahim, 2017). According to the cases handled by Tenaganita, workers seeking rehiring under the Rehiring Programme submitted passports with MYR 6,000 (USD 1,485) to the vendors. However, not all of them were granted effective reemployment. The government declined to accept responsibility for the delayed processing, which was attributed to the vendors. As a consequence, approximately 500,000 workers were deemed to be victims of the regularisation exercise. Tenaganita characterised the privatisation of the Rehiring Programme as a means of generating financial gain for “crony vendors” (Kaur, 2019). For Tenaganita, numerous migrant workers have become undocumented, not owing to their own actions, but as a consequence of a system that penalised them. Approximately 700,000 irregular migrants had registered for the Rehiring Programme, which commenced in February 2016. Out of the total, less than 200,000 migrants were granted work permits. The human rights association attributed the predicament of foreign workers to the three government-appointed companies (Palansamy, 2019). CSOs called for the elimination of private contractors from the Rehiring Programme and for the regularisation initiatives to be handled by the Immigration Department to discourage profiteering. According to a joint statement issued by CSOs, “The rehiring process is lengthy and non-transparent, and the subcontractors and sub-agents of rehiring face little accountability. It is a privatised process driven by profiteering, fraud and deception” (Civil Society Organisations, 2018). The agreements with all three vendor companies were terminated upon the conclusion of the Rehiring Programme on June 30, 2018 (Tee, 2018). They urged the Ministry of Human Resources (MOHR) to facilitate the implementation of efficient legalisation and rehiring initiatives. The MOHR should be responsible for the management and implementation of comprehensive and effective legalisation and rehiring initiatives of undocumented workers, without the involvement of private entities. This would protect the rights of labourers and reduce the number of undocumented workers (Migrant Workers Right to Redress Coalition, 2019b).

## 2. Visa Management: From Manual Processing to IT Contractor

Foreign worker visas and medical screening were outsourced as part of the Immigration Department’s transition to a wholly electronic system. In order to enhance the efficacy of the visa processing system through the elimination of intermediaries and concealed fees, the FWCMS was implemented online beginning 15 June 2015. Its implementation aimed to streamline the processing of foreign worker visa applications, health examinations, electronic work permits, and insurance by eliminating intermediaries, concealed fees, and hidden charges (Low, 2023). The platform’s modules include health (accrediting over 210 medical centres in 12 countries), compliance (should a potential foreign worker be blacklisted by Malaysia, the system will alert them and deny them access to the medical screening), security (recording the fingerprints, faces, and passports of workers and linking this information in real time to the Immigration Department in Malaysia for security clearance), and welfare (ensuring the provision of insurance coverage for foreign workers prior to their arrival). The development of the FWCMS was delegated to and completed by Bestinet Sdn. Bhd., a private Malaysian IT company. Bestinet has a global presence in 13 countries, including Malaysia. (FWCMS, 2019). In 2011, Bestinet put forth a suggestion to establish a comprehensive system that would address the deficiencies in the current foreign labour management system to then Prime Minister Najib Razak. The company invested over MYR 5million to develop the FWCMS (Chen, 2015b).

The FWCMS is utilised to centralise foreign labour intake. As part of the government’s effort to streamline the administrative processing of Malaysia’s foreign labour intake, the system facilitates the transition from a manual to an online system. The FWCMS resolves the issue of overstaying by issuing periodic alerts regarding renewal prior to a permit’s expiration (Zolkepli, 2015). The online FWCMS has the potential to avert human trafficking as well as undocumented and forced labour. It is a registration platform for migrant labour, utilised by employers and the administrations of the countries of origin. By using the platform, they are able to oversee the entire process until the workers repatriate to their country of origin, thereby eliminating labour-intensive procedures (Bestinet, 2018; Gelb & Krishnan, 2018). The digital solution uses an automated and online approach that minimized physical encounters, hence reducing opportunities for corrupt practices, in an effort to mitigate the problem of leakages or corruption within the current system. It

effectively address the issues identified by the International Labour Organization (ILO) and the Trafficking in Persons Report (TIP) report, with the aim of safeguarding the welfare and interests of migrant workers (FWCMS, 2023).

Since the launch of the system in January 2015, employment agencies complained about increased fees as a result of the monopolistic approach implemented in the digitalisation of foreign worker visas (electronic Visa with Reference [eVDR]) and medical screening (BioMedical system) with both being handled exclusively by the immigration contractor, Bestinet. Opposition parties and employment agencies criticised the monopoly of the system and the opaque contract-awarding process and argued that the outsourcing of services by the MOHA increased the cost of employing foreign labourers (Wickramasekara, 2015; Zachariah, 2015). The implementation of the FWCMS was met with a variety of responses from employers' associations, including the Federation of Malaysian Manufacturers and the Small and Medium Enterprises Association, which questioned the necessity of delegating the system implementation to a concessionaire company. The challenge faced by the Malaysian Association of Foreign Maid Agencies was not digitalisation per se, but rather the involvement of a third party, which resulted in employers being obligated to pay increased service fees. Furthermore, industry stakeholders were not consulted prior to the implementation of the system ("Mixed reactions over new foreign workers system," 2015). A consortium of 30 business groups and chambers of trade expressing their strong opposition to the decision to outsource services to a private company published a collective statement. The compulsory implementation of these newly outsourced online visa processes resulted in an increase in their expenses, given that the visa processing fee for foreign labourers was raised from MYR 15 to MYR 250 under the FWCMS (Malayan Chinese Association, 2015). Additionally, the opposition parties were of the opinion that the increase in recruiting expenses would expose foreign workers to risks of exploitation and human trafficking, which is the exact opposite of what the online system was initially intended to achieve (Zachariah, 2015).

According to the statement made by the Associated Chinese Chambers of Commerce and Industry of Malaysia (ACCCIM), an umbrella organisation that represents more than 28,000 Malaysian Chinese enterprises, expressed support for transitioning to e-recruitment methods. However, they emphasised the need for enhanced efficiency, productivity, and cost-effectiveness in these systems (Malayan Chinese Association, 2015). The ACCCIM stated that the cost of outsourcing government services to a third party should not be borne by the public, as the industry has paid levies and licensing fees. Instead, the organisations and chambers strongly endorsed the adoption of an e-government system, but also advocated for employers to have the choice of using the in-person service offered by MOHA (Chen, 2015a). In light of the escalated visa charges, overseas recruitment agencies operating in Indonesia and Nepal, which housed the most substantial contingents of foreign labour, threatened to halt the transportation of their workers to Malaysia. The implementation of the online system prompted the government to designate private visa processing companies in Nepal and Indonesia, which imposed supplementary charges. Apjati, a recruitment association based in Indonesia, issued a statement on behalf of more than 500 agencies advocating for the termination of labour migration to Malaysia. In a similar vein, the Ministry of Labour and Employment of Nepal urged Malaysia to reduce the processing charge for visa documents ("Indonesia and Nepal threaten to stop," 2015).

Two weeks after the FWCMS went into effect on 15 January 2015, the Immigration Department suspended the foreign worker visa processing system and biometric health check. Members of parliament expressed apprehensions about the monopoly of the system, stating that the stored data pertained to immigration and border control, both of which were sensitive topics and potentially imperilled the nation's security and sovereignty. The monopolisation of the eVDR and biometric system by the private contractor would generate enormous profits, in addition to increasing the cost of employing foreign workers (Zachariah, 2015). According to Bestinet, implementing the end-to-end system could potentially result in significant cost savings for the government, including expenses related to the upkeep of the detention centre for unauthorised foreign workers and healthcare expenses associated with their repatriation and treatment within the country. In fact, the increase in visa fees was caused by a third-party business contracted by the government to handle single-entry visas, not by Bestinet (Chen, 2015b). In June 2015, the Immigration Department declared that no additional fees would be imposed for the use of the eVDR, which was fully implemented on 15 June 2015.



On 1 July 2015, the manual submission of visa applications by foreign labourers was discontinued by the Immigration Department (Idris, 2015b).

Opponents highlighted the issue of why the Immigration Department was unable to handle its own eVDR application. A member of parliament noted that Bestinet functions merely as an intermediary and earns a substantial annual income by facilitating the transfer of paperwork (or “paper shifting work”) for the Immigration Department. The government was urged to review all private vendor contracts so that the contracts could undergo open bidding processes (Sim, 2017). Bestinet, contracted in 2018 by the MOHA to create, deliver, provide, and maintain the FWCMS, was perceived by the industry as a monopolistic entity that hinders fair competition in the foreign worker recruiting industry. The private company lacks the authority to establish and enforce rules and regulations pertaining to the recruitment of foreign workers. Those activities fall within the jurisdiction of the MOHR and other pertinent ministries and regulatory organisations responsible for overseeing the foreign worker recruiting industry. The FWCMS thus operated as an enabler, facilitating the application, verification, and registration of foreign labourers (Izma, 2023). The government’s proposal for an online system was met with enthusiastic support by a human rights organisation, the North-South Initiative. However, the organisation expressed apprehensions regarding the potential for abuse of rights and the wastage of funds if the immigration function were delegated to a third-party firm. Government agencies could administer the online system without third-party agents (Ho, 2019).

## Conclusion

This study suggests that there is a growing trend towards outsourcing immigration responsibilities to a few private contractors (vendors). These contractors are appointed by the government to perform the tasks formerly (mis)handled by outsourcing agencies and recruiting agents. Based on the analysis of two examples, this study shows that private contractors are hired with the aim of enhancing the entire process, reducing corruption, easing congestion at immigration offices, and most importantly, eliminating middlemen and migrant abuses. The state’s decision to outsource visa administration to a third-party contractor was aimed at facilitating the transition to digitisation and reducing third-party intermediaries. Simultaneously, the selection of three designated contractors in regularisation programmes since 2016 seeks to eradicate intermediaries. However, the appointment of private contractors raised concerns about transparency and monopoly control. Outsourcing the regularisation programme to the three authorised contractors was met with opposition from employers, who attributed the responsibility for the task to the Immigration Department. Employers urged the government to eliminate any third-party involvement, including contractors. In a similar vein, Bestinet, the immigration contractor, has exclusively managed the digitalisation of foreign worker visas. Employment agencies and opposition parties expressed concerns regarding the increased fees resulting from the monopolistic approach and criticised the transparency of the contract-awarding process. Employers’ associations questioned the necessity of outsourcing the eVDR system implementation to a concessionaire company. Future research could be conducted on migrant experiences, policy effectiveness, and issues related to privatisation.

The contracting of immigration services represented a significant change in the state’s migration management by removing independent agents that the state could not successfully oversee and replacing them with the select few immigration contractors. The government deemed it necessary to reassess the role of intermediaries in the labour migration sector to protect migrant welfare and reduce migration costs. In Malaysia’s migration industry, the rise and relevance of immigration contractors challenges the role of intermediaries and reflects the shift to centralising immigration functions. It is an attempt to reshuffle the functions of non-state actors, discourage profiteering, and de-commercialize the industry. By delegating certain immigration functions to the appointed contractors, the state can better regulate their activities and control the service fees imposed. In following the instructions provided by the government, these private contractors in Malaysia are assuming a passive position and lack autonomous decision-making. They engage in administrative duties rather than gatekeeping duties, which require an active involvement in determining admissions and denials. This is different from the literature on privatisation and outsourcing which illustrated

how the inclusion of private actors in migration changes the processes by extending and altering the nature of state power (Lahav, 1998; Menz, 2011).

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