Markets, citizenship and rights: state regulation of labour migration in Malaysia and Spain
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2. RESEARCH DESIGN AND METHODOLOGY

2.1. RESEARCH QUESTIONS

As the literature reviewed in Chapter 1 suggests, State regulation of labour migration is confronted with a double dilemma. First, while markets require a policy of open borders to provide as many foreign workers as demanded by employers, citizenship requires some degree of closure to the outside. Second, while the exclusive character of citizenship demands closed membership, civil and human rights would seem to undermine the State capacity (or, as some would believe, the State right) to exclude foreigners once in the country. In fact, rather than two separate dilemmas, the different factors involved shape a trilemma between markets, citizenship and rights, the characteristics of which have been analysed in relation to specific historical events, for example the introduction of guestworker programmes in Western Europe. As we have seen, several scholars have signalled that post-war guestworker programmes failed because the attempt to resolve the dilemma between markets and citizenship was eventually challenged by rights. The dilemma between citizenship and rights has also been analysed with the focus on family migration and refugees in Western Europe from the 1970s onwards. In particular, it has been pointed out that liberal democracies could not stop ‘unwanted migration’ as they were constrained by an international human rights’ regime, constitutional rights and national courts.

While the relationship between markets, citizenship and rights has dominated most analysis of migration policies, three key aspects have systematically been left out of the debate. First, little research has been done on the markets-citizenship-rights trilemma after 1973. This may be explained by the fact that most studies focus on Western European countries, where the demand for foreign workers stopped (or is commonly thought to have stopped\(^8\)) with the oil crisis of 1973. Second, research done in non-Western countries has scant presence in this discussion so that little is known about the trilemma in other political settings. This lack of (more general) comparative research makes it difficult to disentangle – as Brubaker observed regarding Freeman’s work – what might be an exclusive feature of migration in liberal democracies from what could be deemed a feature of migration in general. Third and finally, this trilemma has almost exclusively referred to legal migration. However, illegal migration may result not only from the demand to create a flexible and cheap labour force but also from the contradictions underlying labour migration. In particular, it is yet to be seen to what extent illegal migration is a way of coming to some kind of compromise or uneasy balance between markets, citizenship and rights and to what extent this compromise is possible in the long run.

\(^8\) As shown both by Groenendijk and Hampsink (1995) and de Lange (2007), the demand for immigrant labour did not disappear after 1973. This need for foreign labour was met by immigrants from the former colonies, family migrants, asylum seekers, new temporary labour migrants as well as illegal migrants.
The present research aims to address these three lacunae in the literature by comparing labour migration regulations in Malaysia and Spain from the 1980s onwards. In particular, the first question of this study is, how did the Malaysian and Spanish states respond to the demand for foreign labour? This involves looking at how states regulated the entry and stay of labour migrants or, on the one hand, how they determined the number of immigrants allowed to enter the country, their origins and conditions of entry, and, on the other hand, how they defined the status of legal migrants once they were in the country and what exactly their membership consisted of in all its political, social, economic and cultural forms. The question here is whether and why restrictions were imposed on the entry and/or membership of labour migrants and how this might have worked in practice. If labour demands are covered by illegal migration, then the next question is to what extent rules on entry and stay explain the extension of illegal migration and what is done with illegal migrants once they are categorised as such. An inquiry into the situation of illegal migrants and, in particular, whether they are partially excluded, recognised (to whatever extent) via regularisation programmes or expelled through deportation drives also sheds light on the matter of how labour demands are covered in practice in the short, mid and long run.

At a more theoretical level, the second question of this study is, what do Malaysia and Spain tell us about the relationship between markets, citizenship and rights? Both Malaysia and Spain have required huge inputs of foreign labour since from the early 1990s. The market factor would therefore seem to be similar in both cases. The question then is whether differences in terms of citizenship and rights lead to different arrangements, compromises and choices in the market-citizenship-rights trilemma. In the case of Malaysia it remains to be seen whether ‘weak citizenship’, as defined by Sadiq (see next Section), leads to open borders in terms of both entry and membership. As for the role of rights, one important question that emerges is whether a less liberal State chooses a policy of high numbers and low rights and how this works in practice. In the case of Spain, one needs to ascertain, first, whether the Spanish State reached some kind of compromise or made a choice between the demand for foreign labour and the demand for closed membership and, second, given the role of rights and the rule of law in liberal states, whether the State chose (or was compelled to choose) a policy of low numbers and high rights and, if this was the case, what this meant for markets.

2.2. CASE SELECTION

This study compares the policy responses to foreign labour demands in one non-Western and one Western nation-state. Taking a non-Western and a Western nation-state seeks to fill a lacuna in immigration research, which rarely ventures beyond Western countries and, more particularly, Western Europe (often overlooking
Southern and Eastern Europe) and North America. By going beyond the traditional geographies of comparative migration research, my aim is to consider to what extent liberal democracies are unique in dealing with labour migration, especially vis-à-vis the challenges that labour migration seems to present to the nation-state. The key point at issue is to discern what is specific to liberal democracies and what is not. Moreover, I believe that this dual focus makes it possible to re-consider concepts such as citizenship and rights, which have always been defined in relation to liberal democracies.

My main reason for choosing Malaysia and Spain, instead of other non-Western and Western nation-states, is that these two countries seem to be similar in terms of markets while differing in terms of citizenship and rights. Given their similar market conditions, comparison between Malaysia and Spain allows one to consider whether different features in terms of citizenship and rights lead to different policy approaches and outcomes. In saying they are similar in terms of markets, I mean that both Malaysia and Spain have presented significant foreign labour demands since the 1990s. In the case of Malaysia, these labour demands have sprung from the unprecedented economic growth that started in the 1970s as a consequence of highly-centralised development planning and, more generally, the relocation of production plants from Western to developing countries. In the case of Spain, this demand for foreign labour arose from unprecedented economic growth since the 1990s, demographic decline and a gradual dualisation of the labour market.

While similar in terms of markets, Malaysia and Spain are rather different in the matter of citizenship. Sadiq (2005: 113) has observed that, as in other developing countries such as India, Indonesia, Bangladesh, Thailand, Ecuador, Paraguay, Nigeria and Ghana, the distinction between citizens and non-citizens is largely meaningless in Malaysia. The main reason for this is what he calls *weakly institutionalised citizenship*, which is manifested in the lack of standardised documentation for its population and hence the impossibility of classifying, categorising and monitoring citizens and distinguishing them from non-citizens. In the case of Malaysia, Sadiq argues, this weakly institutionalised citizenship would be used by elements within the Malaysian State to change the ethnic composition of the population, making it more Malay vis-à-vis the Chinese and Indian populations. In contrast with Malaysia, the distinction between citizens and non-citizens in Spain seems to be clearer. Sadiq’s argument suggests that Spain should

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9 This western bias and its effect on theory, has been particularly criticised by historians. For instance, Mongia (2005) has pointed out the urgent need for migration studies to abandon Eurocentric models. According to her, the idea that widespread state control of migration is a distinctly twentieth century phenomenon (Caestecker 1998; Lucassen 1998; Mullan 1998) ignores the fact, for instance, that historians working on indentured Indian migration have repeatedly noted that it was a *state*-regulated and *state*-managed system. McKeown (in Lucassen 2007) has contested the idea that mass migration across the Atlantic during the nineteenth century was unique, as many Western scholars seem to assume. Contrary to mainstream assumptions, he argues that the greater part of labour migrants in Asia at that time consisted of free migrants and that their reasons for moving were similar to those of migrants in Europe today.
present a more institutionalised form of citizenship as the State seems to be more capable of monitoring its citizens by means of a thoroughgoing system of identity cards, passports and different population registers. In addition, a strong welfare state and the fact that Spain is part of the EU (as well as its southern border) would make the need to distinguish citizens from non-citizens even more imperious.

Finally, Malaysia and Spain are different in terms of rights as well. While Spain fits into the category of a liberal democracy, Malaysia could be defined as a (considerably) less liberal or even authoritarian state. Lee (2003) notes that there seems to be general consensus in Malaysia that some sacrifice of the benefits of rule of law is necessary to achieve economic and social advancement, the price that must be paid in order to have a strong and powerful executive government that will assure economic growth and social stability. Moreover, democracy and human rights are often presented as being alien to cultural norms and traditional values of Eastern societies. In this regard, one opposition member of Parliament stated, ‘… whenever the government is attacked for being “undemocratic”, the standard reply is that democracy is a Western concept which has restricted relevance to an Asian context. More relevant is the concept (it is claimed) that people elect their government who then carry out whatever actions they see fit for the good of the people’ (quoted in Lee 2003: 244).

The disproportionate power of the Malaysian executive is illustrated by its constant resort to emergency powers. Since independence in 1957, the country has been subject to some or other state of emergency most of the time. As denounced by the International Bar Council, ‘… [T]he continuation of emergency after the need for it has passed [a reference to the Communist insurgency in 1948-1960, 1969-1989] can have an insidiously brutalising effect upon the administration of justice in any country. We suggest that the Malaysian malaise may be due in no small measure to the gradual acceptance of a state of emergency as the norm of Government’ (International Bar Council 2000). Apart from its reliance on emergency powers, the government has introduced several laws that have sought to curb human rights and freedoms. For example, the Internal Security Act (generally known as ISA) gives sweeping powers to the Executive (the police and the Minister of Home Affairs) to arrest and detain any person for a period of sixty days, after which the Minister can extend the detention period indefinitely (with renewals every two years) without trial or any right to legal advice or protection.

Comparison between Malaysia and Spain would thus seem to be relevant in view of their similarity in terms of markets, and differences in terms of citizenship and rights. The final aim of this research is to examine how, under similar conditions in terms of foreign labour demands, different features regarding citizenship and rights lead to different policy objectives and policy outcomes. As posed by Rose in his article on the need for comparative policy studies, the question is, ‘…[I]n what way, if any, do these institutional differences affect choices between policy alternatives, the implementation of policies or the effects of policies?’ (Rose 1973: 68). The answer to this simple yet fundamental question should enable us to
understand migration policies and outcomes in relation to the challenges that labour migration keeps throwing up to the nation-state and, in particular, in relation to the compromises or trade-offs in response to the trilemma of conflicting demands posed by markets, citizenship and rights.

2.3. ELEMENTS OF ANALYSIS

In order to consider how the Malaysian and Spanish states responded to demands for foreign labour, a focus on both migration regulation and migration control is needed. By migration regulation I mean the way the State regulates labour migrants’ entry and stay. In particular, I will consider how the State defines the number and characteristics of migrants, their conditions of entry and their status once in the country, especially with regard to their position in the labour market, taxation of the payment they receive for their work and temporality of their permits. In speaking of migration control I refer to the ways in which the State defines and responds to migrant illegality. In particular, I shall examine regularisation programmes and deportation campaigns. The term ‘regularisation programmes’ refers to any legal process (by law or in practice, explicitly or implicitly) that turns illegal migrants into legal migrants, while ‘deportation campaigns’ includes all those measures aimed at eliminating this illegality by the draconian means of physically expelling illegal migrants from the country.

It might be argued that migration control is much more than a State’s definition of and response to migrant illegality and that its scope is much broader than regularisation programmes and deportation campaigns. Indeed measures such as visa policies, border patrols and employers’ sanctions are also part of migration control. However, these measures will not be taken as central elements of analysis. The reason is simple: given the limitations of any research, my particular focus on regularisation programmes and deportation campaigns allows me to consider not only how the State attempts to control migration but also to what extent it is constrained by rights when defining the boundaries of membership. In other words, from a rights perspective, it may be possible to exclude migrants before they leave their homelands, or at the border, or even within the labour market. However, from this same rights perspective, to what extent is it possible to ignore and exclude illegal migrants indefinitely, and to what extent can they be physically removed and sent back to their countries of origin? In short, in contrast to other migration control measures, analysis of regularisation programmes and deportation campaigns permits one to inquire more deeply into the conflicting demands between markets, citizenship and rights.

This study, then, focuses on four policy measures: 1) policies regulating entry; 2) policies regulating stay; 3) regularisation programmes; and 4) deportation campaigns. In particular, I shall analyse how and why these policy measures are formulated and implemented, and what their main effects are. In terms of
The central issue is the set of reasons underlying the policymaking process. This leads to questions such as who decides the numbers and characteristics of labour migrants, to what extent and why entry or membership is restricted, why there is a need for regularisation or why and when deportation campaigns are launched. These questions mean, first, that we need to understand policies not as ‘natural instruments at our disposal’ but as bearers of values, grounded in a certain interpretation of what constitutes the social and precise notions of the mode of regulation envisaged (Lascoumes & Le Gales 2007: 4). Second, they also require one to scrutinise the different actors involved in the policymaking process. Here I shall consider not only the positions of the different ministries, institutions and political parties but also those of pertinent social actors such as employers, trade unions, NGOs or migrant organisations. As both Sciortino (2000: 220) and Boswell (2007: 78) warn, ascertaining the interests of all these actors is not something one can take for granted but, rather, analysis should be carried out in the light of specific policies and contexts.

As for implementation, in considering how these four policy measures work in practice, I shall explore the relationship between policy as written and policy in practice. The apposite questions here are whether policies regulating entry and stay work as they are supposed to, whether regularisation programmes actually succeed in regularising illegal migrants and to what extent deportation campaigns function in terms of their stated aim of removing illegal migrants from the country. The relationship between policy on the books and the policy as applied, or the gap between both, will be analysed in terms of political will and capacity because not all policies may be meant to be successfully implemented and not all can be successful. In some cases we might find a mismatch between explicit and implicit policy goals. In others policy practices might be constrained by a lack of resources, or they could clash with other policies or with the goals and actions of non-governmental actors (including the migrants themselves) involved in their implementation.

Finally, in terms of policy effects, the focus should be on the meanings and consequences of policy goals and practices. By ‘meanings’ I refer to the ways in which these policies conjure up a specific representation of reality or, to paraphrase Lascoumes and Le Gales (2007: 10), how they offer a framework for describing the social with a particular categorisation and problematisation of the situation addressed. In the context of this research, this means analysing how these policies engender reality by fixing the terms of what a labour migrant or an illegal migrant is or should be. By ‘consequences’ I mean policy effects in terms of flows and stocks of immigrants. Many authors have distinguished between intended and unintended policy consequences. While intended consequences are those effects that do in fact correspond with policy goals, unintended consequences are those that are unforeseen, or that are foreseen but with unforeseen costs which, in the overall process, might appear as dilemmas or trade-offs (Brochmann & Hammar 1999: 20). For instance, as nicely stated by Zolberg (1999: 91), ‘… [A]ffluent democracies […] must either accept as a fact of life a certain level of unregulated
immigration, over and above what they explicitly provide for in their immigration policies, or devise draconian policies that necessarily encroach on their political liberalism’.

In the context of this research, the analysis of policy effects is relevant in two different ways. First, it allows one to go beyond policy goals and discourses and therefore elaborate a more complex and nuanced picture of migration policy models. For example, if restrictive entry policies result in illegal migration and this in turn leads to frequent regularisation programmes, then the policy model that results will be far from being as restrictive as initially envisaged. Second, policy effects constitute part of the context for further decision-making. If we take policy effects as part of the (ongoing) context for policymaking, then choices or compromises between the conflicting demands imposed by markets, citizenship and rights should not be taken as final decisions but rather as particular decisions of particular moments. In other words, and following the previous example, a restrictive entry policy might indicate that the State is choosing to respond to the demands for closed membership rather than to the demands for foreign labour. However, if this policy results in an increase of illegal migration and the consequent introduction of frequent regularisation programmes, then the final result in terms of choices will turn out to be the opposite: a policy that responds to the demands for foreign labour rather than the demands for closed membership.

2.4. METHODOLOGICAL APPROACH

This research is above all comparative. As Hollifield (1992: 17) notes, this means more than a collection of national case studies with useful sources of information but few theoretical insights. ‘Comparative’ means explaining rather than describing (Sartori 1994: 15) and, in this particular case, explaining the quandaries that labour migration poses for the nation-state and how these translate into particular policies and policy outcomes. Some migration scholars have questioned the meaningfulness of cross-national comparisons by arguing that cases tend to be so dissimilar and complex that any attempt to discover commonalities and patterns of behaviour would have to be fatally flawed and, in particular, that national specificities thwart one’s ability to generalise (Miller 1986: 746). The starting point of this research is precisely the opposite. Only by comparing and, even more, by comparing what some would call the ‘incomparable’ (Detienne 2000), is it possible to formulate questions that otherwise would have never been considered and, by so doing, trace relationships and de-construct categories that are all too often taken for granted in particular historical and national contexts (see Green 1997). As Bloch so nicely puts it, ‘… [C]omparison is “a powerful magic wand” that allowed historians to see beyond local conditions to develop more comprehensive explanations’ (Bloch 1953: 501).
However, ‘to explain by comparing’ or to ‘compare to explain’ tends to imply a sacrifice in terms of understanding in context and of context. In particular, there is a clear trade-off between the level of explanation and abstraction, and the depth and solidity of description (Landman 2003: 14, 46; Sartori 1994: 24). This trade-off acquires greater dimensions when we increase the number of countries under study. The more countries we include, the more we may explain but the less we may know about the specificities and context of each case. Given the intractability of the problem, this study seeks to reach a kind of compromise between these levels of explanation and description by opting for a two-country study. While comparing and therefore having an explanatory aim, a two-country study permits historical depth and thoroughgoing examination of both cases. However, its main weakness lies in its level of representativity or the extent to which it is possible to generalise from only two cases. For instance, to what extent can we assume that Malaysia and Spain are representative of other non-Western and Western states? Malaysia and Spain might not be representative in terms of policy models but their comparison might serve to identify mechanisms and trends between specific variables. In particular, this comparison between Malaysia and Spain aims to draw conclusions (and hence generalise) on the role of citizenship and rights in a context of huge labour demands.

This research is also interdisciplinary. As observed by Brettell and Hollifield (2000: VII), ‘… [M]igration is a subject that cries out for an interdisciplinary approach’. This has also been pointed out by Castles when he called for ‘[…] the study of migration as a social science in its own right […] strongly multidisciplinary in its theory and methodology’ (1993: 30). If we describe any interdisciplinary approach in terms of borrowings, we should then say that the main borrowings of this particular inquiry come from history and the political sciences. From history, this research has taken the diachronic perspective. As argued by Pierson (2004: 2), any attempt to understand social processes requires placing politics in time and constructing ‘moving pictures rather than snapshots’. In keeping with this argument, the rules on migrants’ entry and stay, regularisation programmes and deportation campaigns will be considered in their development since the 1980s. History also matters not only for understanding how policies evolve over time but also when pondering how they are constrained by previous (and subsequent) developments. To borrow North's words (1999: 137), ‘… [H]istory is inherently path-dependent because constraints from the past impose limits on current choices’. In order to take these ‘constraints on current choices’ into account, the cases of Malaysia and Spain will start with an historical overview (from the nineteenth century on) of both labour demands and migration policies.

This research takes its main object of study – the role of the nation-state in controlling migration flows and borders or, to rephrase the matter, the impact of sovereignty and citizenship on migration – from the political sciences. In short, the State and its responses to labour migration constitute the main object of this research. It can be argued that the State, as the history of political sciences shows, can be understood in very different ways. This study is grounded in a dialectical-
structural model of the State. Hence the State will not be perceived as a neutral arena wherein different interest groups compete (pluralism), or as an instrument of the economic elite (instrumentalism), or as objectively linked to the interests of capital (structuralism), or as constrained by institutions such as bureaucracies and Courts (institutionalism). Instead, law and policy will be analysed as the State’s attempts to resolve the conflicts issuing from underlying contradictions (Calavita 1992: 174). As shown in Chapter 1, Boswell (2007: 89-91) has described these underlying contradictions in terms of four different functional imperatives of the State: security, accumulation, fairness and institutional legitimacy. In the present study, these tensions or conflicting demands are identified in terms of markets, citizenship and rights. Whatever our differences of focus, the key question for both Boswell and myself is the same: in a context of conflicting demands, how does the State manage to reconcile them?

As for research methods, the main borrowings are once again from history and the political sciences. From history, I learned to glean significant material from archival research. First, I perused the main national newspapers (especially the New Straits Times in the case of Malaysia and El País in the case of Spain) from the mid-1980s onwards. I also surveyed other newspapers. My aim was to obtain official statements from the main stakeholders (politicians, employers, trade unions, migrant organisations) on particular policies and policy outcomes (always quoted in italics). Moreover, from newspapers I also obtained official statistics on policy outcomes, for instance, figures showing how many migrants have been admitted, regularised or deported in a particular year. Second, parliamentary debates since the 1980s have also been analysed. This applies only to the Spanish case as parliamentary discussions in Malaysia are not publicly available. Again, I was in search of statements from the main political parties and official statistics on policy outcomes. Third and finally, I have also reviewed all kinds of reports written by the main stakeholders, such as particular ministries or government departments, employers’ organisations, trade unions, NGOs, and migrant and human rights organisations.

Besides this archival research, I borrowed from political science the technique of interviewing key stakeholders. In particular, I have done 36 interviews in Malaysia and 37 in Spain (as itemised in Annex 4). Although these interviews did not allow me to delve too deeply into the past, they did permit me to capture significant nuances in policy outcomes and effects that were usually lost in the written documents. Interviews were semi-structured, meaning that, although they were based on a set of questions, the interviewee was free to focus on those questions that he or she found most relevant. The reason for giving the interviewee this leeway was twofold. First, the aim was to reduce the risk of bias that specific questions might introduce. Questions were therefore formulated so as to prompt open descriptions rather than confirmations of my own conclusions. This meant posing ‘what’ or ‘how’ questions rather than ‘why’ questions. Second, another reason for choosing the format of the semi-structured interview was that of building up trust (which, in some cases, was only possible after several hours of
‘conversation’) and, by so doing, obtain not only official statements but also insights coming from off-the-cuff remarks (in many cases on illegal migration), ‘confessions’ that would have never been made in a more formal setting.

The need to build up trust was another reason for not recording the interviews. While, in the case of Malaysia, the possibility of recording was out of question, in that of Spain it would have changed the kind (and depth) of the information obtained. In consequence, the quotes (always in italics) come from transcriptions of the notes I took during the interviews. It is important to specify that I have only quoted those sentences that could be fully reproduced and, as a result, the quotes tend to be relatively brief. As it may be seen throughout this book, the attribution of quotes to interviewees is semi-anonymous, by which I mean that I only refer to the affiliation of the interviewee and place and day of the interview. The reasons for keeping some degree of anonymity are basically the sensitivity of some of the observations and the lack of relevancy in terms of ‘who said what’. Finally, this research is also based on secondary scientific literature. The academic literature becomes particularly relevant as back-up when abstraction (and comparison) demands some sacrifice in terms of description. In other words, any research done at a macro and comparative level tends to rely on previous research done at a micro level.

To recapitulate, this research is based on three different sets of sources: primary documents from archival research, interviews and secondary documents. These three sets of data were codified according to the four policy measures (rules on entry, rules on stay, regularisation programmes and deportation campaigns) and time. When analysing these data and building up my own interpretation of events, I used the triangulation method (see Yin 1994: 90-92) and therefore tried to base my observations on these three different sources of data. However, this was not always possible since each kind of source provides different kinds of information. For example, from primary data I gathered information about policy measures from the 1980s and 1990s but hardly any insight into how policies worked in practice. In contrast, from interviews I got a great deal of information about how present policies worked in practice but almost no detail about policy measures from the past. In short, the use of different sources and research methods has allowed me to contrast information in some cases and to complement it in others.

2.5. FIELDWORK IN TWO SITES

In order to pursue the archival research and interviews and collect the main academic literature in each case (most of it only available locally), I spent six months in Malaysia (from July to November 2006, and from January to February 2008) and six months in Spain (from October to December 2007, and from March to May 2008). Starting with Malaysia, the more unknown terrain for me, allowed me to delve into the specificities of this country while keeping Spain in mind and,
once I got more familiar with Malaysia, to inquire into the case of Spain by contrasting my findings and, even more important, posing my questions from the standpoint of new perspectives I was acquiring from Malaysia. The need for constant contrast and comparison of one country with the other explains why I broke each part of the fieldwork into two periods, in an alternating fashion (Malaysia, Spain, Malaysia, Spain).

Of utmost importance, then, was my return to Malaysia after having embarked on my fieldwork in Spain. This renewal of my first stretch of fieldwork in the country allowed me to pay attention to aspects that I had completely overlooked at the beginning and that only came to light during my fieldwork in Spain. This return to Malaysia made also it possible to present my first findings to local migration scholars and stakeholders, under the auspices of an international workshop on illegal migration in Asia and Europe, titled ‘Now You See Them, Now You Don’t: Defining Irregular Migrants in Europe and Asia and the Immigration Measures Applied to Them’. This workshop was funded by the Asia-Europe Foundation and the Asia Alliance, and organised by Professor Shamsul and myself with the support of the Institute for Migration and Ethnic Studies (University of Amsterdam), the Centre for Migration Law (Radboud University of Nijmegen) and the Institute of Occidental Studies (University Kenbangsaan Malaysia). One of the main criticisms I received from Malaysian scholars was that I stressed continuity rather than discontinuity. As I shall argue below, this disagreement is inseparable from the scope of our different kinds of research. Looking at Malaysia from outside, instead of focusing on its specificities, allows one to distinguish a unique migration model that, rather than changing, persists and reinforces itself over time.

While this toing and froing from one fieldwork site to the other had positive outcomes, doing research in two different worlds also presented major difficulties and challenges. The first difficulty arose from meanings. For instance, the terms legality and illegality, borders and boundaries, inclusion and exclusion, do not mean the same in Malaysia and Spain. This hitch led me to pinpoint specific policy measures and, in so doing, to consider how they ended up constructing different realities. Another major stumbling block associated with two-sited fieldwork is data. One of the first facts to emerge from any comparative research is that methodology is per se contextually bound, which is to say that sources and research methods vary in each case. In Malaysia, as I have noted, migration policies are not discussed in Parliament and they are not officially published. As a member of the Cabinet Committee for Foreign Workers stated, ‘Migration policies are somewhere in the Ministry of Home Affairs but they are confidential, they are not accessible to the public’ (interview 20 October 2006, Putrajaya). I thus had to rely almost exclusively on interviews and newspapers, which is where most press

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10 This does not differ very much from the situation of most European countries until the 1970s or 1980s. Although nowadays policies are mostly published, administrative procedures continue to be treated as ‘confidential’ or ‘internal’. This means that the specific requirements (for instance, in the case of Spain, for becoming ‘regularised’) can only be known by analysing administrative practices.
releases from the government are made public. In contrast, in the case of Spain, press sources could be complemented with parliamentary discussions, official documents and reports and other reports from the main stakeholders.

This difference in the existence and availability of official sources, compounded by a much more prolific academic literature in Spain, had a clear influence in the quality and quantity of the data obtained. It is important to recognise – without being able to change it – the fact that there is a clear imbalance between the data obtained for Malaysia and that for Spain. This has been one of my main concerns and problems, not only during my fieldwork but also in the process of writing this book. Finally, I came to two main conclusions. First, part of the imbalance was resolved by other constraints, by which I mean that the case of Spain had to be limited anyway if I wanted to keep the narrative clear and not get lost in details that were not wholly relevant for the research. Second, I accepted the imbalance as an intrinsic part of my work. In general terms, I believe that this imbalance does not affect my essential line of argument or the possibility of answering my research questions.

Another difference worthy of mention is that pertaining to the stakeholders I interviewed. A glance at the list of interviews (Annex 4) makes the disparity patent. While in both cases I interviewed people from the main government departments, employers’ organisations, trade unions and NGOs, some actors are specific and therefore unique for each case. For instance, in Malaysia, due to their essential role, I interviewed several labour recruitment agencies. However, in contrast with Spain, I did not interview members of the immigrant community in Malaysia. This was not out of negligence. As I shall show in Chapter 3, the temporality and restricted mobility of foreign labour in Malaysia undermines the capacity of these immigrants to negotiate for better conditions. As they cannot represent themselves, migrants are mainly represented by their respective governments. In other words, embassies rather than migrants’ organisations matter in the Malaysian case. In the Spanish case, it is the other way around: embassies are not relevant and therefore remained outside of the scope of my interviews. Migrants’organisations, however, played a much more important role not only in the decision-making process but particularly in policy implementation. Accordingly, I interviewed the most active immigrants’ organisations in both Barcelona and Madrid.

Also important is the question of representativity. Any comparative research runs the risk of obscuring the distinctive histories of regions and hence of homogenising differences under the rubric of the nation-state (Cohen 2004). As Tyrrell critically remarked, comparative research is all too often ‘conceived to test purely national differences rather than convey a more varied sense of the elements that make up the diversity of historical experience’ (Tyrrell 1991: 1032). My study does not set out to cover diversity within each case. In Malaysia all my interviews and most of the data obtained from the main national newspaper refer to Peninsular Malaysia and, more particularly, to the Klang Valley, an area in the Malaysian state of Selangor in which Kuala Lumpur, its suburbs, and adjoining cities and towns are
located. The reason for focusing on this area is that most ‘foreign workers’, as they are called in Malaysia, are to be found there. Nevertheless, we should not confuse the part with the whole. The situation in Peninsular Malaysia cannot be extended to all Malaysia. As I shall explain in Chapter 3, the situation in Eastern Malaysia (in the states of Sabah and Sarawak in the island of Borneo) is not comparable either in terms of migration flows or in terms of migration policies. Then again, in Spain, the interviews have been done in Barcelona and Madrid. Barcelona was chosen because it is one of the key immigration areas in the country, while Madrid was unavoidable as the centre of any decision-making process at the national level. While in Spain, in contrast to Malaysia, we see a single immigration policy model, the way policies are implemented differ slightly between regions, provinces and municipalities. Despite its not being central to my research, this diversity in policy implementation will be referred to when possible and relevant.

Finally, as for the methodology, the position of the researcher in any comparative study is contextually bound. In the case of Malaysia I was a complete outsider. To illustrate this point, suffice to say that nobody could guess my origin and, when I revealed that I had Spanish citizenship, most of the people I encountered immediately associated Spain with its Arab-influenced past so that, to my surprise, many Malaysians (particularly those with a Malay identity) identified Spain as a Muslim country. Although it is difficult to prove, I would say that my little-understood national status facilitated rather than obstructed my work. In particular, it might even have made it easier to ask questions that may have been deemed sensitive, or to approach people I might never have otherwise had access to as a non-Malay Malaysian scholar. The same logic applies to my research in Spain but the other way around. As a Catalan from Spain, my position was not neutral. While ‘classifying’ everybody much more easily, I was more quickly classified myself. Moreover, the spectrum of possible questions was much more limited. In other words, I could not ask about things that are believed to be known by everybody or simply ‘common sense’. When I did, I usually got no answer since, as my interviewees made evident, my question was thought to be rhetorical or just too obvious. This gave me the odd feeling that, in Spain, while being an insider, and therefore knowing much more in advance, I might have ‘discovered’ much less.