

Smuggling of Illegal Indonesian Workers in Malaysia

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Received: 01-06-2024

Revised: 22-06-2024

Accepted: 22-06-2024

ABSTRACT

Indonesia is a country close to Malaysia, making it easier for illegal migrant workers to enter Malaysia to work illegally. One of the factors for the occurrence of this illegal migrant worker case is the lack of education so that the surrounding community lacks jobs in Indonesia which makes them go to Malaysia to get a job even though the job is illegal. Then the next factor is the difference in higher salaries in Malaysia compared to Indonesia. The Indonesian government's efforts are to provide various ways to overcome it such as legal protection from the Indonesian Embassy which has direct responsibility for the problem of illegal migrant workers. This research discusses the smuggling of illegal Indonesian workers in Malaysia which will discuss the factors that influence the emergence of illegal workers, the impact caused by illegal workers, as well as the laws given to these illegal workers, and the government's response from both countries regarding this case. by using qualitative methods based on literature studies and online searches to obtain information.

Keywords: Indonesia, Malaysia, smuggling, illegal workers, international relations

INTRODUCTION

Indonesia is a country that has vast natural resources, Indonesia is also a strategic country because Indonesia is a country located between two continents and two oceans, that's make this country a place of the world economy ¹. But

¹ Antje Missbach and Melissa Crouch, "The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia," *Australian Journal of Asian Law* 14 No 2 (2013): 1, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ajal14&div=14&id=&page=>



behind that, there are still many people in Indonesia who don't have jobs, so they prefer to work illegally. One example of a case of illegal work is the entry of Indonesian workers into Malaysia, by smuggling carried out by irresponsible individuals who don't have a valid license.

The purpose of this journal research is to discuss the problem of illegal labor smuggling in Indonesia, which can affect bilateral relations. The causes of these illegal workers become illegal workers and the response of the governments of the two countries regarding these illegal workers. The existence of this journal research is to inform readers that illegal immigrants can threaten the security of the Indonesian state because illegal immigrants are criminal acts ².

The benefits of this journal research are for the Indonesian government to be stricter and more responsive to the problem of illegal immigrants in Malaysia, so that the level of criminal acts can decrease. And expand employment opportunities in Indonesia so that the unemployed do not need to work abroad. The salary is commensurate with the results of their work ³.

Researchers used the journals "*Kerjasama Pemerintah Indonesia dan Malaysia dalam Menangani Permasalahan TKI Ilegal*" and "*Analisis Diplomasi Indonesia-Malaysia dalam Menangani Praktek Penyelundupan Pekerja Ilegal di Perbatasan Aruk Kalimantan Barat*" which present valid data on the factors of the emergence of Indonesian illegal workers in Malaysia and the role of the government in handling this case.

Both journals are used as teaching materials or references that are in accordance with the facts to support the making of this journal. Researchers also discussed several points related to our material, namely factors, impacts, laws, and the role of the governments of the two countries in handling this case.

People smuggling is an illegal act of bringing a resident of a foreign country into the country of destination but in a way that doesn't comply with immigration rules. For this process, the person who assists the smuggling is usually rewarded. This means that the act is done consciously by the perpetrators. The act of people smuggling is a cause of concern for the entire world, which has led many countries to take criminal measures to deal with people smuggling cases as the numbers continue to rise⁴.

² Fitria Ramadhani, "Analisis Pengaruh Imigran Ilegal Terhadap Indonesia Pada Sektor Nasional," 2022, 2.

³ Putri Rahmadhani and Virtuous Setyaka, "Perubahan Kebijakan Luar Negeri Amerika Serikat Dalam Mengatasi Imigran Ilegal Di Perbatasan Dengan Meksiko," *POLITICS, HUMANITIES, LAWS, INTERNATIONAL RELATIONS AND SOCIAL Journal* 2, no. 2 (2023): 2.

⁴ Khasan Ashari, "Penyelundupan Manusia Dan Perdagangan Orang: Apa Bedanya?," *Kompasiana*, 2017, 1,

Referring to Article 1 Chapter 1 of the Law of the Republic of Indonesia No. 6 2011 on Immigration which reads: "*People smuggling is an act that is intended to obtain benefits, either directly or indirectly, for oneself or directly or indirectly, for oneself or others by bringing in a person or group of people, whether organized or not a person or group of people, either organized or unorganized, who do not have the right to enter the country. organized or unorganized, who do not have the legal right to enter or exit the territory of Indonesia. out of the territory of Indonesia. Indonesia and/or entering the territory of another country where the person does not have the legal authority to enter authority to enter, either by using original or fake documents, or without using Travel Documents, either or counterfeit, or without the use of Travel Documents, either through immigration checks or not.*"

Article 1 of Chapter 1 of the Law of the Republic of Indonesia No. 6 of 2011 explains that people smuggling must involve two parties, namely those who help smuggling and illegal immigrants who will cross into the country illegally. People smuggling is a social crime that affects many countries. This criminal act is carried out with the consent of the immigrants who want to be smuggled, meaning that the smuggling is carried out at the will of the prospective immigrants.

The people smuggling efforts are carried out to help citizens who want to work abroad but choose to go through illegal channels. The reason behind them working illegally is because of the higher salaries in other countries when compared to their home countries. As the salary given by Indonesia is not commensurate with the hard work of workers in Indonesia, and this salary is one of the reasons why Indonesian citizens smuggle. In addition, there are also reasons that make them prefer illegal route namely, the complicated document process and also the amount of money they lost because they were cheated during the document-making process.

RESEARCH METHOD

In our journal entitled Smuggling of Illegal Indonesian Workers in Malaysia, Researcher use qualitative research methods. Researchers use this method in our research because our research is based on library research to find data that will be used in our research and use internet media such as from websites and online journals as our research material.

<https://www.kompasiana.com/khasanashari/59e99733f7afdd08c26433a2/penyelundupan-manusia-dan-perdagangan-orang-apa-bedanya>.

RESULT AND DISCUSSION

Factors of Illegal Indonesian Workers Smuggling in Malaysia

The smuggling of Indonesian workers to Malaysia, which is carried out illegally, is certainly based on several things that become factors for them to smuggle workers illegally. There are several main factors that underlie them doing this, namely as follows:

1. Lack of Education

Indonesia is a country that has great natural wealth, Indonesia also has the largest population in the world which occupies the fourth position in the world. But in Indonesia there are still small salaries, then the driving factor for them to work illegally in Malaysia is the lack of education. In Indonesia, graduates from junior high school and high school get less salary in their work.

Indonesia also has a small salary and doesn't match what they get. therefore, these underpaid workers prefer a country that borders Indonesia, namely Malaysia. Indonesia is also the country that has contributed the most labor to Malaysia. Because of this, the unemployment rate in Indonesia will be even greater because of these illegal workers. To overcome these illegal workers. As a result, Indonesia and Malaysia will conduct bilateral cooperation to make legal documents with the agreement between the two countries. The document is called a MoU (Memorandum of Understanding) which will help both countries, especially help the Indonesian state to protect its citizens who work in Malaysia so that there is no conflict within the two countries ⁵.

2. Lack of Employment Opportunities

Indonesia has a lot of natural resources, but these natural resources don't guarantee the unemployed to get a job so that Indonesia produces a lot of unemployment. In Indonesia, employment is an important thing to reduce the occurrence of the most unemployment in Indonesia. This employment also provides opportunities for Indonesians who don't get a job so that they are unemployed and contribute to the country so as not to increase unemployment in the country. However, in Indonesia there is still a company that requires or minimizes people who want to work in the company to have a minimum of a Bachelor's degree and a minimum of Upper Middle or High School. So that education graduates from elementary and junior high school are less likely to get job vacancies. As a result, Indonesia still has a lot of unemployment. Then, people

⁵ Martin Rizaldi and Anin Lailatul Qodariyah, "Hubungan Bilateral Indonesia-Malaysia Dalam Persoalan TKI Ilegal Tahun 2004-2011," *Chronologia* 2, no. 3 (2021): 21–29, <https://doi.org/10.22236/jhe.v2i3.6393>.

in rural areas bordering Malaysia also have factors such as lack of information so that people in these villages prefer to work illegally in Malaysia which provides its workers with high salaries.⁶

3. Geography factor

Indonesia is an archipelago that has a large wealth of natural resources and Indonesia borders Malaysia including on land and sea as in mainland Indonesia, namely in the West Kalimantan area in Sambas, Sanggau, Sintang, Bengkayang, and Kapuas Hulu districts. Then Malaysia which borders Indonesia is Sarawak and Sabah. Then the marine areas bordering Malaysia are the Strait of Malacca, the Sulawesi Sea and the Natuna Sea. Then, the location that borders between Indonesia and Malaysia makes it easy for workers from Indonesia to enter Malaysia easily because of its proximity. These workers enter Malaysia through rural Indonesia illegally, for example the Sambas border which is the way they use to go to Malaysia⁷. Because the distance between the Indonesian and Malaysian borders is quite close, it makes it easier for people to smuggle illegal immigrants into Malaysia. There are also many hidden ways to enter the country, so it is not too difficult for people to carry out these actions.

Law of the Two Countries Governing Illegal Migrant Workers

Law In the case of Indonesian illegal workers in the Malaysian region itself, of course, the Indonesian government has laws that apply to overcome this problem, so that the perpetrators get lessons. For perpetrators involved in sending illegal workers themselves, get a criminal sentence which has been explained in Paragraph 83 Number 18 Year 2017 concerning the Protection of Indonesian Migrant Workers which contains “Every person who doesn’t meet the requirements as referred to in Article 68 who intentionally carries out the placement of Indonesian Migrant Workers shall be punished with a maximum imprisonment of 10 (ten) years or a maximum fine of Rp 15.000.000.000,00 (fifteen billion rupiah)”. In addition, Paragraph 84 Number 18 Year 2017 also discusses “Any official who intentionally dispatches Indonesian Migrant Workers who do not meet the requirements of document completeness as referred to in

⁶ Boy Dippu Tua Simbolon et al., “Dampak Pekerja Migran (TKI) Ilegal Indonesia Terhadap Hubungan Bilateral Antara Indonesia Dengan Malaysia,” *Jurnal Pendidikan Sosiologi Dan Hukum* 1, no. 2 (2023): 3.

⁷ Nur Syamsiah, “Permasalahan Pekerja Migran Indonesia Pada Kawasan Perbatasan Indonesia-Malaysia Di Kabupaten Sambas Kalimantan Barat,” *Jurnal Kajian Perbatasan Antarneegara, Diplomasi, Dan Hubungan Internasional* 3, no. 2 (2020): 4.

Article 70 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and a maximum fine of Rp 1,000,000,000,00 (one billion rupiah).⁸

Under Malaysian law on illegal immigrants, persons who pay illegal workers can be punished under section 55B of the Immigration Act 1959/63 which provides for a fine of RM10,000 - RM50,000 or imprisonment for a maximum of 12 months. Or both sanctions can be carried out according to the amount of labor taken⁹.

Impact of Both Countries of Illegal Migrant Workers

Impact can be interpreted as an influence as well as a result, in general, the impact can be divided into two, namely positive impact and negative impact. Positive impact itself means to persuade or influence someone with the aim that they want to fulfil their desires to get something that has a good purpose. Meanwhile, negative impact is the result of the influence of bad actions, which produce negative consequences. But in illegal labour smuggling, it will certainly have a negative impact on the two countries involved and also have a negative impact on the workers¹⁰.

1. Impact on Economy

The economy of both countries will also be affected, such as the loss of potential tax revenue from workers who work illegally abroad because they work without a license or are not officially registered so that there is no income to the state treasury due to no income tax contribution. Although remittances from migrant workers can be a source of foreign exchange, illegal workers tend to send money through unofficial channels and there are no records in the country's financial system. The country of origin will also lose a productive workforce that could have contributed to the economy of the country of origin, and the destination country will also lose potential tax revenue from these illegal workers who are not officially registered. So these workers have a lot of negative impacts on a country, for example in taxes. These workers of course do not pay income tax so they continue to use Malaysian goods such as health services so these workers have made a negative impact on the Malaysian government. And the income from their work is supposed to pay their income to the government.

⁸ Pemerintah Indonesia, "Undang-Undang Republik Indonesia NO. 18 2017 Perlindungan Pekerja Migran Indonesia," *Pemerintah Indonesia*, 2017.

⁹ Agus Setiawan, "Imigrasi Malaysia Ancam Hukum Berat Pelindung Pekerja Non Prosedural," *ANTARA NEWS*, 2021.

¹⁰ Iainkudus, "Kerangka Teori 9," *Journal Information* 10, no. 3 (2009): 1–16.

2. Impact on Law

Activities such as illegal labor smuggling are definitely in violation of international laws on migration and human rights. International pressure to address the situation will also arise for countries of origin and destination of illegal workers. Both countries will also face challenges in enforcing laws related to the protection of illegal workers, including prosecuting the perpetrators behind illegal smuggling and protecting the victims. Crime rates in both countries will also increase, as the smuggling of illegal workers is often linked to illegal occupations such as human trafficking, drug smuggling and money laundering.

3. Impact on Workers

The smuggled workers are not the only ones affected, they are often exploited with sometimes inhumane working conditions, long working hours and sometimes inappropriate or very low wages. They are also denied legal protection because they work illegally. Smuggled workers are not the only ones affected, they are often exploited with sometimes inhumane working conditions, long working hours, and sometimes inappropriate or very low wages. They are also denied legal protection for working illegally. So these illegal workers will suffer the consequences of their actions, as they are workers who do not have the documents to work legally there, as they are isolated to be invisible to the population. So these workers live in fear and get a lot of pressure from their work. These workers cannot do anything about it or report it to the authorities, because they are afraid that they will be charged for not having the proper documents to file complaints about their illegal work. The consequences for these workers are that they will be charged by law and given fines for violating the rules of a country.

4. Impact on the Malaysian environment due to illegal workers

The arrival of illegal workers from Indonesia to Malaysia also has a significant impact on the Malaysian environment, for example, the emergence of unplanned settlements in Malaysian territory such as building settlements in Malaysian territory that are not recorded in official documents. Environmental pollution will also arise as a result of the arrival of Indonesian illegal workers to Malaysia because these illegal workers can increase the volume of uncontrolled waste and garbage which will have an impact on the environment and the balance of ecosystems in Malaysia.

The risk of natural disasters in Malaysia such as flooding can also occur due to the increased volume of waste and deforestation carried out by illegal workers in the Malaysian territory. In addition, illegal workers from Indonesia will also make it difficult for Malaysians to get jobs because the actions of these illegal

workers make it less likely for people in Malaysia to get jobs. As a result of the actions of these illegal workers, it will also have various impacts such as increasing the unemployment rate in Malaysia, which initially these jobs were specifically for Malaysians or for Indonesian workers who have official documents to work legally in Malaysia ¹¹.

Response from the Indonesian and Malaysian governments

1. Response from the Indonesian Governments

The Indonesian president, Mr. Jokowi Dodo, has provided various ways to overcome the problems of illegal workers, including legal protection from the Republic of Indonesia government through the Republic of Indonesia Embassy (KBRI), the KBRI has direct responsibility for problems that occur to Indonesian workers. For example, if there is a case of violence against Indonesian workers that ends up involving the law, the Indonesian Embassy will take action in collaboration with the Malaysian police. In addition, President Jokowi Dodo also provides a solution by making local governments take part in preventing the sending of illegal workers to Malaysia, namely by inaugurating the Integrated National Border Crossing Post (PLBN) in West Kalimantan ¹².

The Indonesian government has also taken many steps and policies in an effort to handle or provide protection for migrant workers so that they can avoid actions that can harm them. With regard to government efforts in the protection of migrant workers, the Indonesian government passes through labor-related institutions for migrant workers, using an institutionalism approach that has special authority to deal with the problems of migrant workers, both legal and illegal. institutionalism approach that has special authority to deal with the problems of migrant workers, both legal and illegal. These institutions are the Ministry of Manpower and Transmigration (Kemenaker-trans), the National Agency for the Placement and Protection of Migrant Workers (BNP2TKI), and the Ministry of Foreign Affairs. These agencies are tasked with handling and providing protection for Indonesian workers, both legal and illegal ¹³.

¹¹ Yoseph Lentvino Satyanugra and Hermeni Susiatiningsih, “Kerjasama Pemerintah Indonesia Dan Malaysia Dalam Menangani Permasalahan TKI Ilegal,” *Journal of International Relations* 7 (2021): 7, <http://ejournal-s1.undip.ac.id/index.php/jih><http://www.fisip.undip.ac.id>.

¹² Hardi Alunaza et al., “Analisis Diplomasi Indonesia-Malaysia Dalam Menangani Praktek Penyelundupan Pekerja Ilegal Di Perbatasan Aruk Kalimantan Barat,” *Journal of International Relations (JoS)* 1, no. 1 (2022): 1–19.

¹³ Yoseph Lentvino Satyanugra and Hermeni Susiatiningsih, “Kerjasama Pemerintah Indonesia Dan Malaysia Dalam Menangani Permasalahan TKI Ilegal,” *Journal of International Relations* 7 (2021): 224–33.

2. Response from The Malaysian Governments

Malaysian government response to this problem is to protect the Malay ethnicity and Malaysia uses The *Ius Soli* citizenship principle system, these principles don't apply to migrant workers so that the Malaysian government has not implemented citizenship migration for migrant workers. Bilateral cooperation between Indonesia and Malaysia in the era of President Jokowi is to make a MoU (Moment of Understanding), strengthen the law, and establish a special agency to resolve cases of Indonesian workers which is the realization of human rights enforcement¹⁴. However, the process of upholding human rights certainly has many challenges. In addition, the governments of Indonesia and Malaysia also created a program called the "One-Stop Manpower Placement Policy". This program positions Indonesian workers legally in Malaysia, this program is also considered effective in preventing illegal labor smuggling. The Malaysian government responded well to this program, as it could reduce the arrival of illegal workers in the country. Then the Indonesian government and the Malaysian government will work together to overcome the illegal workers who have been troubling from the Malaysian side to provide law enforcement for these illegal workers. So the Malaysian government responds to illegal workers from Indonesia will be arrested by the Malaysian government and the Malaysian government will conduct raids routinely to catch illegal workers who do not have official documents so that the Malaysian government will deport these workers to return to Indonesia.

CONCLUSION

Indonesia is a country that contributes a lot of labor to Malaysia, because Indonesia is close to Malaysia so it is very easy for Indonesians to work there. But behind that, there are still many Indonesians who work in Malaysia illegally, namely by smuggling people and of course this method is not in accordance with immigration rules. Many factors cause Indonesian workers to work illegally in Malaysia, ranging from lack of education, lack of jobs that make many unemployed who will be forced to work illegally in Malaysia and prefer to work there, and geographical factors also affect the emergence of illegal labor from Indonesia to Malaysia, because of the geographical proximity between Indonesia and Malaysia which makes it easy for them to enter through unauthorized persons.

¹⁴ Aprilla P Putri Maharani and Universitas Muhammadiyah Yogyakarta, "Kerja Sama Bilateral Indonesia -Malaysia Dalam Menangani Kasus TKI Ilegal Kerja Sama Bilateral Indonesia - Malaysia Dalam Menangani Kasus TKI Ilegal Pada Masa Presiden Joko," no. December (2023).

There are several impacts of illegal labor smuggling for both countries, namely the impact on the country's economy which causes the loss of potential tax revenue from workers. Then the impact on the law of both countries, this illegal smuggling activity certainly violates international law, the crime rate of both countries will also increase, and the impact on illegal workers because they are prone to exploitation and do not get legal protection. This makes the government take action and make policies to prevent the sending of illegal workers to Malaysia by building an Integrated Cross Border Post in West Kalimantan and conducting bilateral cooperation by the two countries.

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