

# Governance and Livelihood of Indonesian Undocumented Migrant Workers in Sabah, Malaysia

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**Abstract.** Nationals and international governing institutions have implemented various policy to deter illegal migration. Nonetheless, undocumented migration, especially work-related migration remains to be an important source of livelihood for those living in developing countries including Indonesia. The number of undocumented Indonesian migrant workers ranks among the highest in ASEAN countries. Similar to the global trend, the number of Indonesian undocumented migrant increases despite harsher policy being implemented by Indonesian government. This study aims at exploring what factors drive Indonesian migrant workers to stay in Sabah, Malaysia. The research focuses on the experience of Indonesian workers in Sabah, Malaysia as Indonesian workers' biggest destination due to its near geographical location to Indonesia. The article asks what factors are influencing workers decision to remain in Sabah. The research question stems from existing literatures which shows that despite facing harsh conditions due to their lack of documentation (not having residential permit and inappropriate work permits), Indonesian workers remain to be the biggest population of undocumented migrants in Malaysia. We use qualitative approach utilizing in-depth interviews with Indonesian migrant workers in Sabah. Instead of deterring illegal migration, we argue that complex migration laws in Indonesia and Malaysia lead to increasing the number of undocumented Indonesia migrant workers remaining in Sabah.

**Keywords:** Undocumented Migrant Workers, Indonesia, Malaysia.

## 1 Introduction

The term foreign migrant refers to people moving from the country of origin to the country of destination for various reasons such as conflict, stud purposes, work-related needs and many others. The International Labor Organization (ILO) [1], predicts that in 2017 alone there are around 258 million migrants worldwide including around 19 millions of refugee and 234 millions of above 15 years old active migrants.

The acceleration of economic globalization has generated more migrant workers. ILO [1] suggest there was 232 million migrants in 2013. The number increased in 2017 to 258 million international migrants. The number of migrant workers in 2017 is around 164 million and is an increase of 150 million migrant workers in 2013 [1]. There are three prominent regions for migrant workers namely the Arab States, European states (Southern Europe, Western Europe) and North America. Among the 163.8 million migrant workers, 23 per cent were in North America, while 23.9 per cent were in Northern Europe, Southern Europe, Western Europe and 13.9 per cent were in Arab states. Certain areas that host ranges of migrant workers (between 5 and 7 per cent) are Eastern Europe, Sub-Saharan Africa, Southeast Asia and the

Caribbean, and the Central and Western Asia. North Africa is the smallest destination for migrant workers as it only accommodates less than 1 percent of migrant workers. If we pay close attention, the regional area which is the most popular destination of migrant workers are in the developed countries that have relatively high welfare (Arab, Europe and America). To work in that region, it requires a high level of competition and sufficient skills as well as adequate education. For migrant workers who do not meet those requirements, they will work in areas that has no high competition and in turn, become unskilled labors.

Migration undeniably contributes to the Indonesian economy. For example, in 2016 migrant workers sent remittances worth more than Rp. 118 trillion (US\$ 8.9 billion), or equivalent to 1 per cent of Indonesia's total GDP (World Bank, 2017). However, at the same time, migration also raises new problems related to the economic, political and legal fields. For instance, Malaysia as Indonesia's closest neighbor and the biggest host country for Indonesian migrant country faces tremendous dilemma. On the one hand, a large number of migrant workers are required by Malaysian labor market particularly low skilled migrant workers and unskilled migrant workers. At the same time, low skilled migrant workers also create additional issues, particularly in regard to their documentation status [2].

The majority of unskilled migrant workers work as janitors, agricultural workers, construction workers, drivers, servants, and the like. What stands out from the work done by migrant workers is categorized as 3D (Dirty, Difficult and Dangerous) [1][3]. Based on statistical data from the Indonesian National Agency for the Placement and Safety of Workers (BNP2TKI), there were 429,872 Indonesian migrant workers in 2014 and as many as 275,736 left abroad in 2015. As many as 127,827 and 97,635 Indonesian migrant workers left for Malaysia during the same time [4].

The number of Indonesian migrant workers has always increased every year with the number of migrant workers in 2018 increased significantly when compared to the number of migrant workers in 2016 which was calculated around 234,451 workers (bnp2tki.go.id). Based on the data, we cannot draw exact number of Indonesian irregular migrants. And yet, this increased trend may suggest an increase in the number of Indonesian migrant workers.

Through our field work, we also note that the placement of Indonesian migrant workers a broad is not implemented through the official job placement mechanisms which has the government's strict supervision, but also through unofficial channels such as through local brokers.

The Governments of Indonesia and Malaysia have taken various measures to deal with undocumented migrant workers. In June 2009, the Indonesian government was barred from sending of Indonesian workers to Malaysia. This policy ended in 2011 when a Memorandum of Understanding was signed by the Government of Indonesia and the Government of Malaysia. The MoU regulates the recruitment process of workers [5]. Since the signing of this MoU, in addition to deportation, they have also tried to regularize irregular Indonesian migrant workers by giving amnesty to irregular migrant workers who want to register themselves with Malaysian immigration agencies [6]. Based on this background, the paper is interested to explain factors influencing illegal (undocumented) migration to Sabah.

## **2 Research Method**

This research is conducted through qualitative approach. In this study, our sample of research is the policy implementer in Sabah Malaysia and representatives of undocumented

migrant workers from several regions in Indonesia. The data is collected through in-depth interviews with policy implementors in Indonesia as well as Sabah Malaysia such as the Office of Manpower and Transmigration (Disnakertrans), Overseas work training centers (BLKLN), Indonesian Manpower Services Company (PJTKI), National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), the Indonesian Embassy in Malaysia, the Malaysian Embassy in Indonesia.

### 3 Result and Discussion

There are several theories in global migration studies such as by Hammar *et al.* [7]. They have attempted to identify theories using various migration scales. According to Hammar *et al.* [7] and Faist [8] migration theory is divided into three main categories, namely micro, macro, and meso levels. The micro level theory considers the migration of decisions from an individual perspective, such as one's desires and expectations, whereas, macro level theory considers decision to migrate from an aggregate point of view, namely the structure of the country's economy. At the meso level, it is where migration decisions lie between the two previous theories, namely family ties, social networks, isolated minority groups and communities.

In Neoclassical Economic Theory explains that people migrate on the grounds of differences in wages in two different geographical regions. This wage difference is generally due to labor demand and supply in two different regions. In areas where the number of labors is limited but the capital is excessive, the wages of labor will be relatively high. Whereas in areas where the number of labors is large while the amount of capital is not large, the labor wages are usually low. Workers tend to move from low-paid areas to areas that provide high wages. This theory is very useful to explain the broader factors around transnational migration occurs because this theory does not only discuss global migration in the realm of international immigration laws and governmental regulations.

Furthermore, in our case study we argue that relative deprivation theory is useful to explain factors behind migration to Malaysia. The theory explains income difference between households in the community of migrant workers is an important factor that driving the migration. Stimulation to migrate shows higher rates in areas where economic/income inequality is very high. Money sent by migrant workers abroad to their families in the country of origin will result in economic inequality in the short term, however, in the long run, the economic inequality will decrease. There are two stages of migration for these workers: first, they use their income to develop the quality of the human resources of their family members, and then they use their money to perform business. In this way, the successful migrant workers make use of their income to pay for their families to get higher education and to pay for their household needs. Migrants who have the skills and success at work can be an example for their neighbors and encouragement for prospective migrant workers who hope to be able to live successfully as well.

In Indonesia, with limited employment opportunities at home, low-skilled Indonesian workers are looking for work abroad. Neighboring countries, such as Malaysia, Singapore and the Republic of Korea have succeeded in turning economic growth into the expansion of employment. The appeal of these countries was also supported by increased economic integration and reduced barriers to migration. It opens up opportunities to find work abroad

for Indonesian migrant workers. As a result, more than 9 million Indonesian people currently work outside the country with more than three-quarters of them are low-skilled workers.

In these countries, Indonesian migrant workers can earn up to six times their wages domestically. For some 70 per cent of migrant workers, working abroad is a positive experience that helps them improving their welfare. Migration also provides opportunities for migrant workers to gain skills and work experience. In addition, for nearly 80 per cent of female migrant workers, migration is an entry point into the labor market.

Among migration studies using the irregular migrants as theoretical approach, Indonesian migrant workers crossing the border between Indonesia and Malaysia are always at the crossroads between policy regimes which formally regulate their position. They are also entangled in informal practices which always accompany cross-border human movements [9] [10]. In Kaur and Juliawan [9][10], they argue that policy changes in the country of origin and the destination country makes workers who cross the boundaries of the two countries either through formal or informal processes (undocumented by the state) are always in a precarious position. This condition makes them to be in constant limbo of being included in the category of regular (registered) and irregular.

In the current regulatory regime, migrant workers are required to submit various documents to Indonesian authorities in Jakarta as well as in Sabah. The required documents are 1) a valid Indonesian passport, 2) evidence of age, aged 18-38 years or for migrant workers who work as domestic workers (TKI PLRT) aged 21-45 years, 3) a letter that states legal status of migrant workers such as letter explaining whether the migrant workers come to Malaysia legally by utilizing Government or Private Migrant Workers Placement Agency (PPTKIS-formerly PJTKI) registered with the Republic of Indonesia Ministry of Manpower, 4) Signed employment contract with the employer, 5) health examination at a cost of RM180 (for male) and RM190 (for female migrant workers). These costs must be paid by the employer, 6) Have a work pass (permission for work) which is managed by the employer and subject to payment per year (levy), 7) Migrant workers must have or manage to have a Foreign Worker Identification Card/Card issued by the Malaysian Government, 8) They have to have work permit which clearly state the name and address of the registered employer, 9) they also have to be included in the insurance program in Malaysia. The obligation is based on the Workmen Compensation Act 1952.

Furthermore, they are also required to obtain employment contract with government standards. The employment contracts are legally binding agreements between workers and employers that contain the rights and obligations of Workers and Employers. Employment Contracts must include type/form of work and place of work, Length of contract, Working time, Total salary, leave and benefits, Facilities provided by the employers, Rights and obligations of both parties, Termination of contract and settlement of disputes, A copy of the Work Contract should be requested and kept by the TKI so that it can be used as a basis for action if needed.

#### **4 Conclusion**

The article asks what factors are influencing workers decision to remain in the host country. The research question stems from existing literatures which shows that despite facing harsh conditions due to their lack of documentation (not having residential permit and inappropriate work permits), Indonesian workers remain to be the biggest population of

undocumented migrants in Malaysia. Based on the assumption, we explain factors that push Indonesians migrant workers to stay in Sabah, Malaysia. Research was conducted using qualitative approach utilizing in-depth interviews with Indonesian migrant workers in Sabah. We argue that complex migration regulation in both countries contributes in the increase number of Indonesian undocumented migrant workers to stay in Sabah.

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