

Category: International Collaborative Research

RESEARCH REPORT

LEGAL DILEMMA OF UNDOCUMENTED INDONESIAN MIGRANT WORKERS IN MALAYSIA

**(Resistance and Legal Compliance Towards Recalibration and Repatriation
Policies)**



Dr. Trianah Sofiani, SH. M.H.
Iqbal Kamaludin, MH
PN. Norhamidah Binti Jarimal @ Safri

**FACULTY OF SHARIA
UNIVERSITAS ISLAM NEGARI (UIN) KH. ABDURRAHMAN WAHID
PEKALONGAN
2024**

STATEMENT OF PLAGIARISM

The signed below:

Name : Dr. Triandh Sofiani, S.H., M.H.
NIP : 196806082000032001
Institution : UIN KH. Abdurrahman Wahid Pekalongan
Functional Position : Lektor Kepala
Address : Jl. KH.Mas. Mansyur Gg.8/No.5 RT.05/05 Benda Kkergon,
Pekalongan Barat Kota Pekalongan

Hereby declares truthfully that:

1. The research titled "*Dilemma of Undocumented Indonesian Migrant Workers in Malaysia (Resistance and Legal Compliance Towards Recalibration and Repatriation Policies)*" is an original work research, not the result of plagiarism by others and is not a research theme that is being researched or submitted to a donor institution. To our knowledge, no work paper has ever been published by anyone else, except those expressly referred to in this manuscript and mentioned in the bibliography.
2. If in the future it is found that the title, results or part of my research report is the work of others or plagiarism, then we are ready to accept sanctions by applicable regulations.

Thus this statement is made to be used as appropriate.

Pekalongan, September 12, 2024

Chief Researcher



Dr. Triandh Sofiani, S.H., M.H.
NIP.196806082000032001

ABSTRACT

This study aims to explore the legal dilemma of undocumented Indonesian Migrant Workers in Malaysia in determining the choice between legal compliance with or resisting the recalibration and repatriation policies. To identify the patterns and characteristics of resistance and compliance of undocumented Indonesian Migrant Workers to the policy. Exploring and finding strategies and policies that have been and should be implemented by the Indonesian government towards undocumented Indonesian Migrant Workers in Malaysia. The theories used as analytical knives are the theory of legal obedience, the theory of rational choice, the theory of rational action and the theory of resistance. Legal sociology research with a qualitative approach. The key informants are undocumented Indonesia Migrant Workers who are or have worked in Malaysia. The data collection technique uses observations, interviews, questionnaires and document studies. The analysis technique uses an interactive model.

The results of the study show that the dilemma of the undocumented Indonesia Migrant Worker Law in Malaysia related to the recalibration and repatriation program occurs because of the rationality based on motive or goal by considering the consequences of various options before taking action. The consequences and options that exist, namely: 1) the program registration process is complicated and long, so taking care of registration will take time; 2) the registration fee for the recalibration and repatriation program, if calculated, is more expensive than the cost through the back line or other unofficial routes; 3) There is a fear that Indonesia Migrant Workers are undocumented where if they register for the recalibration and repatriation program, they will be arrested, in prison, in deportation and on the blacklist so that they can no longer work in Malaysia. The patterns and characteristics of resistance of Indonesia Migrant Workers are undocumented, namely closed or covert patterns, and semi-open patterns. The two patterns that are most commonly carried out by undocumented Indonesia Migrant Workers are closed or covert patterns, namely by going through the back lane of the aisle. Semi-open patterns and characteristics are carried out in an organized manner but in a stealthy way. The pattern and characteristics of legal compliance for undocumented Indonesia Migrant Workers are compliance and internalization. Compliance is legal compliance based on the expectation of a reward or avoiding a punishment. The internalization pattern is legal compliance that occurs if a person complies with a legal method intrinsically based on belief in the purpose of the legal method. Strategies and policies to deal with Indonesia Migrant Workers are not documented by the Government of Indonesia, related to recalibration and repatriation policies, namely: 1) massive socialization from the Indonesian Embassy through social media and other channels; 2) providing maximum service to Indonesia migrant workers related to the necessary documents to support the recalibration and repatriation program; 3) forming a task force in improving surveillance and security in the Indonesia-Malaysia border areas; 4) carrying out various operations in border areas and other areas that are suspected to be areas for departure and return, including the detention of undocumented migrant workers; 5) Amnesty for illegal migrant workers, through Diplomacy; and 6) establishing a one roof system for handling migrants. The strategy and policy of the Indonesia government that should be carried out to deal with undocumented Indonesia Migrant Workers in Malaysia is a problem-based strategy for Migrant Workers that is carried out in a planned and coordinated manner by involving various elements of the government and non-governmental institutions at the regional, national and international levels, including Indonesia migrant worker communities in Malaysia.

Keywords: *Legal dilemma; Undocumented Migrant Workers; Recalibration, Repatriation.*

FOREWORD

Alhamdulillah, praise and gratitude to the presence of Allah SWT for the abundance of Blessings and Grace, the researcher can complete the Research Report entitled: "*Dilemma of Undocumented Indonesian Migrant Workers in Malaysia (Resistance and Legal Compliance Towards Recalibration and Repatriation Policies)*" This research report is compiled as a form of scientific accountability of the researcher.

On this occasion, the researcher would like to express his deepest gratitude to:

1. Honourable, Rector of UIN K.H. Abdurrahman Wahid Pekalongan who has given trust and support to the researcher to conduct the research.
2. Honourable, Vice Rector I of UIN K.H. Abdurrahman Wahid Pekalongan for the trust and support to the researcher to conduct the research.
3. Honourable, Dean of the Faculty of Sharia UIN K.H. Abdurrahman Wahid Pekalongan who has given the opportunity and trust to the researcher to conduct the research.
4. Honourable, Dean of the Faculty of Psychology and Education, Universiti Malaysia Sabah, Malaysia who has given a Memorandum of Approval for this research collaboration.
5. To the Informants who cannot be mentioned one by one, our deepest gratitude is conveyed for giving their time and very valuable information in this research.

Finally, the researcher hopes that this Research Report can fulfil its function as a treasure trove of knowledge. The researcher realizes that this Research Report is still far from perfect. Therefore, constructive criticism and suggestions are highly expected, in order to improve and perfect this Research Report. The researcher does not forget to apologize if in writing this Research Report there are mistakes and deficiencies. Thank you.

Pekalongan, October 12, 2024

Research Team,

LIST OF CONTENTS

COVER	i
STATEMENT OF PLAGIARISM	ii
ABSTRACT	iii
FOREWORD	iv
LIST OF CONTENTS	v
LIST OF TABLES	vi
LIST OF FIGURES	vii
 CHAPTER I INTRODUCTION	 1
A. Background	1
B. Research Problem	3
C. Research objectives	4
D. Research Significance	4
E. Theoretical Framework	4
F. Previous Research	6
G. Research Methods	9
H. Discussion Plan	11
 CHAPTER II THEORETICAL AND CONCEPTUAL FRAMEWORK	 13
A. Theoretical Framework	13
1. Legal Compliance Theory	13
2. Rational Choice Theory	16
3. Theory of Rational Action	20
4. Resistance Theory	23
B. Conceptual framework	25
1. The concept of undocumented migrants	25
2. Concept of Recalibration and Repatriation	28
 CHAPTER III RESEARCH RESULTS	 31
A. Overview of Indonesia Migrant Workers in Malaysia	31
B. Undocumented Indonesia migrant workers in Malaysia	36
C. The Case of Undocumented Indonesia Migrant Workers in Malaysia	41
D. Experience of undocumented Indonesia Migrant Workers in Malaysia	47
E. Undocumented Indonesian Migrant Workers' knowledge of Recalibration and Repatriation Policies	51
F. Malaysia's Recalibration and Repatriation Process	54
 CHAPTER IV DISCUSSION	 62
A. Legal Dilemma of Undocumented Indonesian Migrant Workers in Malaysia: Rational Choice between Legal Compliance or Resistance	62
B. Patterns and Characteristics of Resistance and Legal Compliance of Undocumented Indonesian Migrant Workers	71
C. Indonesian government strategies and policies towards undocumented migrant workers in Malaysia	77
 CHAPTER V CLOSING	 86
A. Conclusion	86
B. Recommendation	88
 BIBLIOGRAPHY	

LIST OF TABLES

Table 1. Data of Placement of Indonesia Migrant Workers	33
Table 2. Data of Indonesian Migrant Workers Complaint	37
Table 3. Data of Indonesian Migrant Workers' Complaints in Malaysia Based on Category	37
Table 4. Data of Indonesian Migrant Workers' Complaints in Malaysia Based on Cases	42
Table 5: Data of Repatriation Program Payments	60

LIST OF FIGURES

Figure 1. The relationship between micro and macro levels when norms emerge	19
Figure 2. Indonesian Migrant Workers' Knowledge about the Recalibration and Repatriation	51
Figure 3. Recalibration and Repatriation Program Information	52
Figure 4. Documented Indonesian Migrant Workers Knowledge	53
Figure 5. Documented Indonesian Migrant Workers obtain information about Recalibration and Repatriation	53
Figure 6. Indonesian Migrant Workers registered and did not register for program	67
Figure 7. Reason Indonesian Migrant Workers not registering for Program	67
Figure 8. Reasons to register for the Recalculation and Repatriation Program	68

CHAPTER I

INTRODUCTION

A. Background

Undocumented or illegal migrant workers are a classic problem that continues to recur and are difficult to overcome, especially in Malaysia as the most favourite destination country for illegal migrant workers compared to other countries in Southeast Asia.¹ The number of undocumented migrant workers in Malaysia in 2021 is approximately 50% of the total number of Indonesia Migrant Workers.² Since January 2022, the number of undocumented migrant workers departing for Malaysia has increased by 146% compared to the previous year.³ If you look at the data on PMI complaints in Malaysia, from 2021 to 2023, the number of PMI complaints was 1,235, and as many as 92.11% of complaints came from undocumented PMI.⁴ Based on data on the issuance of the Certificate of Indonesia Citizenship Status (SKSKI) at the Indonesian Embassy in Kuala Lumpur from October 2022 to September 2023, the number of applicants is 13,775.⁵ This fact has not been added to the undocumented PMI that has not been recorded. This means the number of undocumented PMIs in Malaysia is still very high. The high interest of Indonesia Migrant Workers in Malaysia is due to factors, namely geographical location, cultural, religious and language harmony so as to facilitate PMI access to Malaysia.⁶

¹ Nengsi, Fitriani, and Ali Maksum. "Mainstreaming Realism Paradigm in Handling Illegal Immigrants in Malaysia." *Revista UNISCI* 53 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. <http://dx.doi.org/10.24269/ars.v12i2.8207>

² Lusius Genik Ndau Lendong "Dubes RI Sebut Ada 2,7 Juta Pekerja Migran Indonesia di Malaysia , 50% Diantaranya Ilegal" Kuala Lumpur 2021. [Tribunnews.com](https://tribunnews.com)

³ Mutia Fauzia Krisiandi, "Kemenlu: Sejak Januari, 278 WNI Coba Masuk ke Malaysia secara Ilegal", 2022, See, <https://nasional.kompas.com>

⁴ Badan Perlindungan Pekerja Migran Indonesia, " Data Penempatan " *Laporan Tahunan*, 2024, hlm 7

⁵ Aulia, Marzuqoh, and Nur Azizah. "Strategi KBRI Kuala Lumpur Dalam Perlindungan Kewarganegaraan: Studi WNI Tidak Berdokumen di Malaysia Tahun 2022–2023." *Ganaya: Jurnal Ilmu Sosial dan Humaniora* 7.1 (2024): 108-121. <https://doi.org/10.37329/ganaya.v7i1.2984>

⁶ Puteri, Nanbella. *Kerja Sama Badan Pelindungan Pekerja Migran Indonesia (BP2MI) Dengan International Organization For Migration (IOM) Dalam Mencegah Pemberangkatan Calon Pekerja Migran Indonesia Secara Ilegal Ke Malaysia Periode 2020-2022*. BS thesis. Program Studi Ilmu Hubungan Internasional Fakultas Ilmu Sosial Dan Ilmu Politik Universitas Islam Negeri Syarif Hidayatullah Jakarta.

The Malaysian government has made various efforts to address undocumented migrant workers. The policy of legalizing migrant workers by the Malaysian government has existed since 1984 until 2024. For example, the legalization of illegal immigrants in 1985, 1987, 1989, 1992, 1996 and 1997, the periodic Amnesty program in 1996, 1997, 1998, 2002 and 2004-2007 at the state and/or national level. Ops Nyah 1 and Ops Nyah 2 in 1992, Amendments to the Immigration Law 1959/63 and Passport Law 1969 of 1998 and 2002, Establishment of the PATI Court (Special Court for Undocumented Immigrants) in 2005, Implementation of the Law of 2007 (ATIPSOM) on forced labor in 2009.⁷ 6P Program in 2011-2014 and Rehiring Program in 2016-2017.⁸ Three-Plus-One (3+1) program in 2014-2018, Back-for-Good (B4G) program August 1, 2019 – December 31, 2019, recalibration program 2020-2021.⁹ Recalibration Program. PATI in 2022-2023 and the Repatriation Program which is planned from March to December 2024.¹⁰

The policy creates a dilemma for migrant workers, namely between resisting (resistance) or complying to follow the policy and program. For example, the recalibration program by the Malaysia government in 2020-2021,¹¹ which was extended in 2022-2023, the fact is that not all migrant workers follow the policy. Various cases of illegal migrant workers in Malaysia in 2024, for example: the case of February 2024, where 130 Indonesian citizens were arrested for being undocumented and living without permits in a village in

⁷ Kassim, Azizah, and Ragayah Haji Mat Zin. *Policy on Irregular Migrants in Malaysia: An Analysis of its Implementation and Effectiveness*. No. DP 2011-34. Philippine Institute for Development Studies, 2011.

⁸ Low, Choo Chin. "Irregular Migration In Malaysia: Amnesty And Voluntary Repatriation." *European Proceedings of Social and Behavioural Sciences*.2020.

⁹ Low, Choo Chin. "Back for Good: Reforms in Legalization and Amnesty Programmes in Malaysia." *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 177.2-3 (2021): 344-378.. DOI: 10.15405/epsbs.2020.03.03.19

¹⁰ JABATAN IMIGRESEN MALAYSIA “SOALAN-SOALAN LAZIM PROGRAM REKALIBRASI PULANG” see, www.imi.gov.my > FAQs REKALIBRASI 06012022 bm

¹¹ Low, Choo Chin. "Back for Good: Reforms in Legalization and Amnesty Programmes in Malaysia." *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 177.2-3 (2021): 344-378.. DOI: 10.15405/epsbs.2020.03.03.19

Shah Alam, Selangor, Malaysia.¹² The case in January 2024 was that as many as 16 illegal migrant workers from Malaysia were secured on Semantik Island.¹³ The case in March 2024 was about an Illegal PMI who fled Malaysia and was arrested in Riau, because there was no match between the job and the wages paid.¹⁴ The case on March 7, 2024, where 3,797 Indonesian citizens were at the immigration depot, one of which was for violating immigration rules, namely excess stay, visa abuse, or lack of documents.¹⁵ These various cases are subject to further study, why this happened. This is the problem focus of this study.

B. Research Problem

1. Why do undocumented Indonesian Migrant Workers in Malaysia face a legal dilemma in choosing between legal compliance and resistance to the calibration and repatriation policies?
2. What are the patterns and characteristics of resistance and legal compliance of undocumented Indonesian Migrant Workers towards this policy?
3. What are the strategies and policies that have been and should be carried out by the Indonesian government regarding undocumented migrant workers in Malaysia?

C. Research objectives

1. Exploring the legal dilemma of undocumented Indonesian Migrant Workers in Malaysia in determining the choice between legal compliance with or resisting the recalibration and repatriation policies.
2. To identify the patterns and characteristics of resistance and compliance of undocumented Indonesian Migrant Workers to the policy.

¹² Tirta Dirhantoro, "130 WNI Ditangkap karena Bangun Kampung Ilegal di Malaysia, Ditemukan Warung Makan hingga Surau, 20/2/2024" see <https://www.kompas.tv/nasional>. See to <https://www.liputan6.com/global>

¹³ Ahmad Dzulviqor, "Gloria Setyvani Putri. Hendak Menyeberang ke Malaysia, 16 Calon TKI Ilegal Diamankan di Pulau Sebatik". 16/01/2024, see [Kompas.com](https://www.kompas.com)

¹⁴ Ahmad Dzulviqor, Gloria Setyvani Putri. "16 TKI Ilegal Kabur dari Malaysia Lewat Jalur Tapal Batas Nunukan", 16/3/2024. see [Kompas.com](https://www.kompas.com)

¹⁵ Ichsan Emrald Alamsyah "3.797 WNI Jalani Penahanan di Depo Imigrasi Malaysia", <https://intemasional.republika.co.id>, 13 Maret 2024

3. Exploring and finding strategies and policies that have been and should be implemented by the Indonesian government towards undocumented Indonesian Migrant Workers in Malaysia.

D. Research Significance

1. This research is expected to contribute cognitively useful ideas to develop legal and policy science, especially labour policy in the context of global migration to carry out conceptual construction to obtain a clear, firm and concrete formulation of laws and policies related to the settlement of undocumented (illegal) migrant workers so that it becomes a theoretical building that can be developed academically.
2. This research is directed to answer legal and policy issues that can provide benefits for drafting policy briefs and legislation (the formation of laws and regulations) so that legal and policy products (*ius constituendum*) are produced that normatively provide certainty and justice and can be implemented effectively by law and policy enforcers related to the settlement of undocumented migrant workers.

E. Theoretical Framework

The theories used as analytical knives are the theory of legal compliance, the theory of rational action from Weber, the theory of resistance and the concept of undocumented migrants. The arguments are: 1) the theory and concept are according to the problem studied and the type and approach of the research; 2) These theories and concepts can complement each other as analytical knives so that the analysis is in-depth and comprehensive.

Legal compliance is the behaviour of following the request of a legal authority even if the individual personally disagrees with the request. Individuals behave obediently in order to get a pleasant reaction or avoid punishment as a consequence of their behavior.¹⁶

¹⁶ Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual review of law and social science* 13 (2017): 5-28.

The basis for a person's compliance with a legal rule includes: (1) Indoctrination, (2) Habituation, (3) Utility, and (4) Group Identification.¹⁷

The theory of rational action implies that every human being is a creative actor in social reality. The basic assumptions of the theory of action include: (1) human actions arise from his own consciousness as a subject and from external situations in his position as an object; (2) as a human subject acts to achieve certain goals ;(3) human actions use appropriate methods and procedures to achieve goals; (4) the continuity of human action is limited by conditions that cannot be changed by themselves; (5) humans choose and evaluate existing actions; (6) measures, rules or moral principles are expected to arise at the time of decision-making; (7) the study required the verstehen technique.¹⁸

Scott's theory of resistance explains that any action taken by a subordinate group aimed at reducing or rejecting claims made by a superdinant group is explained. Scott divides resistance, namely public or open resistance and hidden or closed resistance, where the two categories are distinguished by the articulation of resistance, form, characteristics, social and cultural territory. Open resistance is the open interaction between subordinate classes and superdinant classes and hidden resistance is the existence of closed, indirect interaction between subordinate classes and superdinant classes. Open resistance (social protest or demonstration), is a form of resistance that is organized, systematic, and principled. The manifestations used in this resistance are violent means such as rebellion. Closed resistance (symbolic or ideological), is the rejection of categories imposed on society.¹⁹

¹⁷ Syahir, Ahmad, Ahmadi Hasan, and Masyithah Umar. "Kepatuhan Terhadap Hukum (Sebuah Perspektif Filsafat Hukum)." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1.4 (2023): 930-944.

¹⁸ Supraja, Muhammad. "Alfred Schutz: Rekonstruksi Teori Tindakan Max Weber." *Jurnal Pemikiran Sosiologi* 1.2 (2012): 81-90.

¹⁹ Scott, James C. "Everyday forms of resistance." *Everyday forms of peasant resistance*. Routledge, 2016. 3-33.

Undocumented migrant workers or referred to as illegal migrant workers, non-procedural migrant workers, illegal migrant workers and unofficial migrant workers are migrant workers who: *first*, deliberately enter the territory of another country without using valid documents through unofficial channels in border areas; *second*, entering another country with a visit or tourist visa, then infiltrating and working in another country; *third*, having expired work documents (over stay), but staying in another country, changing jobs, or fleeing; *Fourth*, legal workers who work for an employer, but for various reasons, such as persecution, torture, fraud, sexual harassment, prostitution, unpaid salary, unlimited working hours, heavy workload and low wages, then flee so that the status changes to undocumented.²⁰ Illegal Migrant Workers are people who travel abroad illegally or not in accordance with laws and regulations and they are not registered with the embassy representative in the country where they work.²¹

F. Previous Research

1. Olivia Killias (2010) "'Illegal' migration as resistance: Legality, morality and coercion in Indonesian domestic worker migration to Malaysia." This article explores the dominant discourse on 'illegal' migrants in the context of contemporary Indonesia's labour migration to Malaysia. Focusing on the specific case of migrant domestic workers, the report discusses the recent political steps taken by both countries to regulate the movement of migration. State-run efforts to regulate transnational migration have been promoted as the eradication of human trafficking and 'illegal' migration, but they have led to the legitimacy of migration schemes that have much in common with

²⁰ Arohmi, Asnu Fayakun. "LEGAL PROTECTION FOR ILLEGAL INDONESIAN WORKER IN MALAYSIA." *Media of Law and Sharia* 1.4 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. Theddy, Theddy, et al. "Legal Protection of International Labour Organization (ILO) and Indonesia toward Indonesia Illegal Migrant Workers." International Conference on Public Policy, Social Computing and Development, 2022.

²¹ Sirait, Ningrum Natasya. "Legal Protection of International Labor Organization (ILO) and Indonesia Towards Indonesia Illegal Migrant Workers." *Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021)*. Atlantis Press, 2022. <https://doi.org/10.2991/assehr.k.220204.026>

colonial indentured labour. The paper therefore argues that the 'legitimate' migration scheme approved by the country is gradually bringing domestic workers into 'legal' – yet binding – employment agreements – and that employment contracts, as such, need to be analysed as an instrument of subordination. Through the counter-narrative of Arum, an Indonesia domestic worker who does his work 'illegally' in Malaysia, this paper argues that migrating through the 'illegal' migration route can be interpreted as a voluntary act of avoiding the 'legal' route. 'state approved migration scheme. Therefore, 'illegal' migration can be equated with deliberate resistance to a coercive system.²²

2. Antje Ellermann (2010) "Undocumented migrants and resistance in the liberal state." This research explores the possibility of resistance in extreme state power conditions in liberal democracies. The report examines the strategies of migrants without legal status who, when threatened with one of the most formidable forces of the liberal state—expulsion—will give up their legal identities in order to escape the reach of the state. Remarkably, by doing so, they often succeed in preventing the state from exercising its sovereign power. The study argues that liberal countries have limitations in dealing with undocumented migrants. Not only are they forced to operate within the confines of the international legal order—which makes repatriation dependent on the possession of identity documents—but liberal states are also constitutionally restricted in imposing coercion on individuals. The conclusion is that the individuals who have the weakest claims to the liberal state are the ones who are most capable of restricting the exercise of their sovereignty.²³
3. Ueno Kayako (2014). "Strategies of resistance among Philippines and Indonesian domestic workers in Singapore." This study analyses Filipino and Indonesian domestic

²² Killias, Olivia. "'Illegal' migration as resistance: Legality, morality and coercion in Indonesian domestic worker migration to Malaysia." *Asian Journal of Social Science* 38.6 (2010): 897-914.

²³ Ellermann, Antje. "Undocumented migrants and resistance in the liberal state." *Politics & Society* 38.3 (2010): 408-429. <https://doi.org/10.1177/0032329210373072>

workers in Singapore regarding their resistance strategies in response to exploitation and coercion by employment agencies, employers, Singapore people, and relatives and family members in their home countries. Many of the strategies identified in previous research on domestic worker refusal/negotiation elsewhere may not be applicable in Singapore due to stricter oversight and stricter regulations there. The various strategies noted in this study tend to be more subtle and inconspicuous. Although these women are victims of the global economic system, they have developed various strategies to protect themselves. The study also addresses the relative and precarious position of vulnerability among domestic workers from different countries.²⁴

4. Agnieszka Rydzik, and Sundari Anitha (2020). "Conceptualising the agency of migrant women workers: resilience, reworking and resistance". This study examines the understanding and response of various female migrant workers to exploitative working conditions by considering the constraints posed by oppressive contexts and ideologies. The report analyses how those located at the intersection of various factors of disadvantage and discrimination based on gender, ethno-nationality, immigration status and migration history as well as their employment status and low education levels, shape their understanding of specific experiences of exploitation. and possible responses to this, and examining the impact of their practices on existing power structures. Based on the experiences of eleven women from Central and Eastern European countries working in the United Kingdom's tourism industry, this article theorizes about workers' responses to overly exploitative employment relationships by utilizing the conceptualization of different agencies as a practice of resilience, rework, and resistance. In doing so, they

²⁴ Kayako, Ueno. "Strategies of resistance among Filipina and Indonesian domestic workers in Singapore." *Asian women and intimate work*. Brill, 2014. 239-261 https://doi.org/10.1163/9789004258082_011

rejected binary categories of victims and agencies, as well as romanticized reports of unbridled resistance.²⁵

The current research is a development of the previous study, so there are similarities with the previous study, which is to discuss the regulations and policies for handling undocumented migrant workers in Malaysia. However, research now uses a legal sociology approach by using sociological theory as the knife of analysis. The current research also emphasizes the perspective of migrant workers, namely Indonesia Migrant Workers as part of the object of the regulations and policies that have been implemented by the Malaysia government. To obtain comprehensive data, the study now also compares male and female Indonesia Migrant Workers and also compares with migrant workers from other countries in Malaysia.

G. Research Methods

1. Types and Approaches of Research.

This research is a legal sociology research with a qualitative approach that starts from the view of the work of law in society related to regulations and policies on the legalisation of Undocumented Migrant Workers in Malaysia, especially undocumented Indonesia Migrant Workers working in Malaysia.

2. Informants

The key informants are undocumented Indonesia Migrant Workers who are or have worked in Malaysia. The key informants are between 30 Undocumented Indonesian Migrant Workers, supporting informants are the Indonesian Embassy in Kuala Lumpur and Sabah, Malaysia Immigration (JIM), non-governmental institutions, BP2MI and related others.

²⁵ Rydzik, Agnieszka, and Sundari Anitha. "Conceptualising the agency of migrant women workers: resilience, reworking and resistance." *Work, Employment and Society* 34.5 (2020): 883-899. <https://doi.org/10.1177/0950017019881>

3. Data collection techniques.

- a. Interviews were conducted with informants who were selected *purposively* developed with *snowballs* based on certain criteria based on research objectives, so as to obtain in-depth and exploratory data and information.
- b. Questionnaires are also used for completeness of data collection by distributing questionnaires containing questions through online media.
- d. Documentation is used to search for primary and secondary legal materials.

4. Techniques for checking the credibility of information and data.

Triangulation of sources and methods is used to check the credibility of information and data. Triangulation of primary data sources by cross-checking from informants. Triangulation of secondary data sources by collecting primary and secondary legal materials, then grouping according to predetermined categories, then understanding, classifying and analyzed to get a comprehensive explanation according to the concepts and theories used as the analysis knife. Triangulation of methods is carried out by enriching methods, namely: interviews, observations and questionnaires.

5. Analysis Techniques.

The analysis technique uses the Interactive Model which includes data collection activities, then data presentation. The data obtained must be very diverse, so data reduction is carried out to sort the data to suit the needs of analysis which relevant to the research objectives. The final stage of concluding. This cycle is carried out in an uninterrupted cycle.

H. Discussion Plan

The discussion in this study begins with chapter I, which is about the introduction. This chapter describes the background of the problem which provides the basis for why research is carried out related to regulatory and policy issues as well as the importance of

answering the issue in question, where specifically the issue is outlined in the problem formulation. The objectives and benefits of the research are expected to contribute theoretically and praxis, in addition to the originality of the research. In the last point, the relevant theories are described and then the research methods used.

Chapter II is about theoretical and conceptual frameworks. This chapter discusses theories and concepts as analytical knives that are relevant to the focus of the research. The theories used in this case are rational choice theory, rational action theory, resistance theory, law compliance theory and the concept of undocumented migrant workers.

Chapter III is the result of the research, which will explain the general overview of undocumented migrant workers in Malaysia, the case of undocumented migrant workers in Malaysia, the experience of undocumented migrant workers in Malaysia, the knowledge of undocumented migrant workers on the Foreign Immigrants Without Permit (PATI) policy in Malaysia and the process of applying for recalibration and repatriation.

Chapter IV is a representation of the formulation of the problem. This chapter will discuss the legal dilemma of undocumented migrant workers in Malaysia in determining the choice between legal compliance or resistance to recalibration and repatriation policies; the patterns and characteristics of resistance and legal compliance of undocumented migrant workers to such policies and the strategies that the Indonesia government has and should implement against undocumented migrant workers in Malaysia.

Next is chapter V which is the last chapter that presents the conclusions and recommendations of the research results.

CHAPTER II

THEORETICAL AND CONCEPTUAL FRAMEWORK

A. Theoretical Framework

1. Legal Compliance Theory

Legal compliance has more detailed quadrants of various dimensions, such as social, organizational, ethical, legal, effectiveness, implementation, and validity of legal requirements. The legal quadrant is taken from the socio-legal approach, where the type, degree, and quality of compliance depend on the regulatory values of the four different quadrant-part instruments, namely: hard law, policy, soft law, and ethics.²⁶ A socio-legal approach requires viewing legal compliance challenges through a socio-legal lens to understand and define appropriate compliance responses.²⁷ By incorporating socio-legal aspects into compliance issues, it takes compliance issues to a whole new level of complexity while promising a more appropriate, ethical and responsible response to complex compliance requirements.²⁸

Legal Compliance Theory is an important branch of legal science and legal sociology that focuses on the factors that influence why individuals or groups in society comply or do not comply with applicable legal rules.²⁹ Legal compliance is understood as the degree to which members of society carry out and follow the laws that have been established by the competent authorities.³⁰ This compliance is not just an act of following the law, but also

²⁶ Soekanto Soerjono, "Soekanto1977," *Kesadaran Hukum Dan Kepatuhan Hukum* 5, no. 2 (1977): 465.

²⁷ Sulistyowati Irianto et al., *Kajian Sosio-Legal (Seri Unsur-Unsur Penyusun Bangunan Negara Hukum), Kajian Sosio-Legal*, 2012, 43, <http://ikuswahyono.lecture.ub.ac.id/files/2015/10/bbri-socio-legal-studies-final.pdf>.

²⁸ Mustafa Hashmi, Pompeu Casanovas, and Louis De Koker, "Legal Compliance Through Design: Preliminary Results of a Literature Survey," *Proceedings of the 2nd Workshop on Technologies for Regulatory Compliance (TERECOM 2018) Co-Located with the 31st International Conference on Legal Knowledge and Information Systems (JURIX 2018)* 2309, no. December (2018): 20, <http://ceur-ws.org/Vol-2309/06.pdf>.

²⁹ John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press, 1989), 45.

³⁰ Ellya Rosana, "Kepatuhan Hukum Sebagai Wujud Kesadaran Hukum Masyarakat," *Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam* 10, no. 1 (2014): 70.

involves aspects of awareness, understanding, and acceptance of the law as something legitimate and lawful to follow.³¹ Legal compliance is a state of society that is obedient and subject to legal rules by demonstrating behavior that is in accordance with the law in community life. All people must obey the applicable law, because compliance with the law is something that must be done, and if violated, will receive legal sanctions.³²

Legal compliance is the behavior of following the request of legal authorities even though the individual personally does not agree with the request. Individuals behave obediently in order to get a pleasant reaction or avoid punishment as a consequence of the behavior they do.³³ The basis for a person's compliance with a legal rule, including: (1) Indoctrination, (2) Habituation, (3) Utility, and (4) Group Identification.³⁴

Legal Compliance Theory can be viewed from a sociological perspective that emphasizes the influence of social norms and social structures on compliance. Law is seen as a reflection of the dominant social norms in society. Individuals tend to obey the law if the law is in accordance with the norms they adhere to or if they feel there is strong social control from their group. The concept of "social control theory" put forward by Travis Hirschi is one example of this approach, where compliance is seen as the result of strong social ties and tight social control.³⁵

The theory of legal compliance from a psychological perspective is influenced by an individual's perception of the legitimacy of the law and the authority that applies it. This theory emphasizes that individuals will be more likely to obey the law if they believe that the law is fair and applied consistently. The theory of procedural justice (Procedural Justice

³¹ Tom R Tyler, *Why People Obey the Law* (Princeton University Press, 2006), 11.

³² Zulkarnain Hasibuan, "Kesadaran Hukum Dan Ketaatan Hukum Masyarakat Dewasa Ini," *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora* 1, no. 01 (2016): 32.

³³ Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual review of law and social science* 13 (2017): 5-28.

³⁴ Syahir, Ahmad, Ahmadi Hasan, and Masyithah Umar. "Kepatuhan Terhadap Hukum (Sebuah Perspektif Filsafat Hukum)." *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1.4 (2023): 930-944.

³⁵ Travis Hirschi, "A Control Theory of Delinquency," in *The Craft of Criminology: Selected Papers* (Routledge, 2017), 143, <https://doi.org/10.4324/9781315131511-7>.

Theory) popularized by Tom R. Tyler states that perceptions of fairness in the law enforcement process play an important role in legal compliance. According to this theory, if people feel that the legal process is carried out transparently, without bias, and provides a fair opportunity for all parties, then they are more likely to obey the law.³⁶

Meanwhile, from the perspective of economic rationality that focuses on the cost-benefit analysis of legal compliance, according to this view, individuals will obey the law if the benefits they gain from obeying the law are greater than the risks or losses they may experience if they violate the law. Rational Choice Theory is often used in this context, where individuals are considered rational actors who make decisions based on rational evaluations of benefits and losses.³⁷

The theory of legal compliance also takes into account external factors such as law enforcement and legal sanctions.³⁸ This approach emphasizes deterrence theory, which proposes that the threat of severe punishment can reduce law violations by deterring individuals from breaking the rules. However, the effectiveness of deterrence depends on the public's perception of the certainty, severity, and immediacy of the punishment imposed.³⁹

In practice, the theory of legal compliance helps policy makers, law enforcers, and academics in designing a legal system that not only emphasizes strict law enforcement but also pays attention to aspects of justice, legitimacy, and social norms that exist in society.⁴⁰

³⁶ Tom R. Tyler, "The Psychology of Procedural Justice: A Test of the Group-Value Model," *Journal of Personality and Social Psychology* 57, no. 5 (1989): 830, <https://doi.org/10.1037/0022-3514.57.5.830>.

³⁷ Raymond Boudon, "Beyond Rational Choice Theory," *Annual Review of Sociology* 29, no. 1 (2003): 21, <https://doi.org/10.1146/annurev.soc.29.010202.100213>.

³⁸ Soerjono Soekanto, *Soekanto, Soerjono Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: Raja Grafindo, 2016), 31.

³⁹ Cesare Beccaria, *On Crimes and Punishments* (Transaction Publishers, 2016), 76.

⁴⁰ Lawrence M Friedman, *Sistem Hukum Dalam Perspektif Ilmu Sosial, Legal System: A Sosial Science Perspective*, Nusa Media, Bandung, Khozim, M (Bandung: Penerbit Nusa Media, 2009), 43.

This is important so that the law is not only obeyed because of fear of sanctions, but also because of the awareness and belief that the law is a reflection of the values held by society.⁴¹

Every society has different levels of legal compliance. To find out a person's legal compliance, there are indicators that serve as benchmarks in measuring a person's level of legal compliance, namely: 1) *compliance*, is a compliance based on the expectation of a reward or avoiding a punishment. This means that someone will obey the rules if they get a reward or to avoid the punishment imposed. So that as a result, compliance will exist if there is strict supervision of the implementation of the rules.; 2) *identification*, is compliance that occurs not because of its intrinsic value but so that group membership is maintained and there is a good relationship with those who are authorized to implement the rules. So that a person's compliance depends on the good or bad relationship between individuals; 3) *internalization*, It is obedience that occurs if someone adheres to legal rules intrinsically. In this process, compliance is based on belief in the objectives of the rules in question by overriding those holding power and supervision of those rules.⁴²

The theory of legal compliance is used to analyze the first problem to determine the level of legal compliance of undocumented Indonesian Migrant Workers in Malaysia according to the legal compliance indicators..

2. Rational Choice Theory

The theory of rational choice is based on the interests of actors in controlling resources and opportunities to fulfill these interests.⁴³ The characteristics of rational choice theory are its commitment to the methodology of individualism and its view of choice as a process of optimization. The individualist method is used to explain intentional actions that

⁴¹ Lawrence Meir Friedman and Grant M Hayden, *American Law: An Introduction* (Oxford University Press, 2017), 43.

⁴² Yuen J Huo and Tom R Tyler, *Trust in the Law: Encouraging Public Cooperation with the Police and Courts* (Russell Sage Foundation, 2002), 65.

⁴³ Michael Hechter and Satoshi Kanazawa, "Sociological Rational Choice Theory," *Annual Review of Sociology* 23, no. 1 (1997): 14.

have not only the desired effects, but also those that have unintended or unanticipated effects.⁴⁴ According to Jane Mansbridge, self-interest as the sole motive together with other motives will result in maximum and consistent decision making.⁴⁵ An actor in rational choice theory is assumed to have an intention/goal (intentional) in every action. The actor is also assumed to always have a preference framework (choice framework) that is relatively fixed or stable and the choices made by the actor are based on this preference framework.⁴⁶

According to Coleman, social action occurs when there is interaction between two actors, each of whom has control over different resources.⁴⁷ Each actor interacting with each other has the goal of maximizing the fulfillment of their interests. In carrying out their actions, actors first select the available (or possible) options by considering all aspects such as what goals are their priorities, the resources they have and also the possibility of success of the actions they take. An actor may choose not to pursue the most valuable goal because the resources they have are insufficient, the possibility of success is small, or it may even endanger other desired goals. Thus, actors are seen as always trying to maximize their profits.⁴⁸ Coleman, in developing his theory, emphasizes the structure of action by focusing on authority, belief systems, collective action, and norms.

Authority is the right to control the actions of an individual that can be carried out because of the granting of rights by another individual to control his actions. The transfer of control rights by the individual is accompanied by the assumption that the transfer of rights will be carried out in such a way that it benefits the individual rather than them holding the rights themselves.⁴⁹ The transfer of rights to others is known as reciprocity while the transfer

⁴⁴ John Scott, "Rational Choice Theory," *Understanding Contemporary Society: Theories of the Present* 129 (2000): 33.

⁴⁵ Jane Mansbridge, "Rethinking Representation," *American Political Science Review* 97, no. 4 (2003): 67.

⁴⁶ James S Coleman, *Foundations of Social Theory* (Harvard university press, 1994), 55.

⁴⁷ James S Coleman, "Equality of Educational Opportunity," 2007, 29.

⁴⁸ Michael Macy and Andreas Flache, "Social Dynamics from the Bottom up: Agent-Based Models of Social Interaction," 2011, 557.

⁴⁹ Herbert A Simon, "A Behavioral Model of Rational Choice," *The Quarterly Journal of Economics*, 1955, 107.

of rights to collective action is called redistribution. Reciprocity occurs because of the existence of a symmetrical relationship as a condition for the emergence of reciprocity activities. Redistribution activities require the condition of an asymmetrical relationship which is marked by certain individuals as organizers of the collection of goods or services from group members. After being collected, the goods or services are then redistributed into the group in the form of the same or different goods or services.⁵⁰

Next related to Coleman's rational choice theory is norms. Why and how do norms emerge and are maintained by some people who interact in society. According to Coleman, norms emerge because of the initiative of certain individuals who see the benefits of obeying norms and the losses due to violating norms. People want to let go of control over their behavior, but in the process, they gain control (through norms) over the behavior of others. This means that people will maximize the benefits they gain by giving up some control rights over others and gaining partial control over others so that a balance occurs. A norm concerning a particular action will emerge when the socially determined right to control the action is held not by the perpetrator, but by other actors. If a norm is formed, the norm is generally obeyed by the target actor even though it is contrary to the direct interests of the target actor.⁵¹

Norms are macro-level phenomena that exist based on purposeful actions at the micro level. Once they emerge, norms accompanied by sanctions or threats of sanctions will influence individual actions. Certain actions may encourage motivation, while other actions are the opposite. Once a norm has been formed, a group of actors have an interest in controlling other actors and internalizing the existing norm.⁵²

⁵⁰ Jon Elster, *Rational Choice* (NYU Press, 1986), 56.

⁵¹ Kenneth A Shepsle, "Rational Choice," *The Oxford Handbook of Political Institutions 2* (2006): 54.

⁵² Hans-Peter Blossfeld, "Macro-Sociology, Rational Choice Theory, and Time: A Theoretical Perspective on the Empirical Analysis of Social Processes," *European Sociological Review* 12, no. 2 (1996): 67.

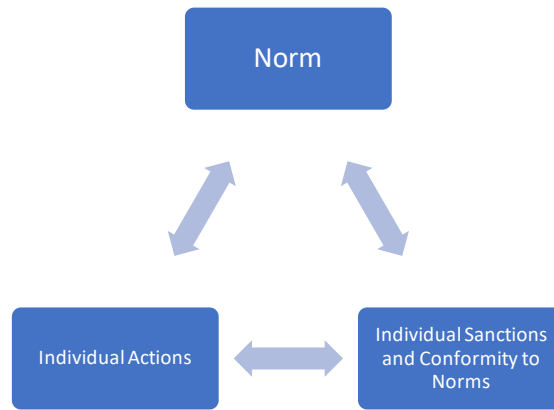


Figure 1: The relationship between micro and macro levels when norms emerge

Institutions are seen as arrangements or systems of rules created by individuals in an effort to enhance or protect their interests. Although institutions regulate and constrain individuals, at the same time, individuals realize that their goals will be more effectively achieved only through institutional action. Explanations address the question of why individuals are motivated to construct systems that constrain their behavior. Early rational actor explanations assumed that individual actors engage in utility-maximizing behavior, are guided by stable preferences, and have complete knowledge of possible alternative courses of action and the consequences associated with each choice. This explanation was replaced by new models that assert that individual rationality is “bounded” by limitations of information and calculation.⁵³

Some theoretical terms of rational choice, namely (1) each actor functions as a player in the system; (2) alternative choices are available to each actor; (3) a number of impacts may occur in the system from each actor's actions; (4) each actor's preferences are greater than the possible impacts; (5) actor expectations are based on system parameters.⁵⁴

One of the fundamental questions of rational choice theory is what kind of action is considered “rational”. A rational person is considered to have a coherent set of preferences

⁵³ Karl-Dieter Opp, “Micro-Macro Transitions in Rational Choice Explanations,” *Analyse & Kritik* 14, no. 2 (1992): 54.

⁵⁴ Peter Hedström and Richard Swedberg, “Rational Choice, Empirical Research, and the Sociological Tradition,” *European Sociological Review* 12, no. 2 (1996): 130.

over the various options open to him. He ranks the various options based on consideration of the extent to which they fulfill his objectives. He tends to make choices that satisfy his desires more, rather than reducing his desires, and choices that have a greater possibility of achieving them.⁵⁵ Individuals behaving rationally can lead to outcomes that are collectively irrational. Such situations, where a potential conflict exists between individual and collective rationality, are called social dilemmas.⁵⁶ This means that a social dilemma is a condition in which a person must rationally make a choice based on considerations of the extent to which the choice fulfills his goals with greater achievement..

3. Theory of Rational Action

According to Weber, people do things because they decide to do them in order to achieve what they want. After choosing a goal, they take into account the circumstances, then choose a course of action. Social structures are the product (result) of action and ways of life are the product of motivated choices. The social circumstances created by action act as constraints as structural forces, but action is still mental in nature—chosen in the context of the actor's perception of the structural constraints. Understanding the social reality produced by action means explaining why people make choices.

Weber's theory of social action calls the method he developed *verstehen*. Weber reconstructs the meaning behind historical events that produce social structures and formations, but at the same time views all configurations of historical conditions as unique. Weber argues that you can compare the structures of several societies by understanding the reasons why their citizens act, the sequence of historical events that influence their character, and understanding the actions of their contemporary actors, but it is impossible to generalize about all societies or all social structures.

⁵⁵ John Rawls, *A Theory of Justice, Essays and Reviews: 1959-2002* (Yogyakarta: Pustaka Pelajar, 2014), 172–73, <https://doi.org/10.5840/studentfil1973525>.

⁵⁶ Vincent Buskens, Werner Raub, and Marcel Van Assen, *Micro-Macro Links and Microfoundations in Sociology RPD* (Routledge, 2014), 44.

The theory of rational action explains that every human being is a creative actor in social reality. The basic assumptions of the theory of action include: (1) human actions arise from their own awareness as subjects and from external situations in their position as objects; (2) as subjects humans act to achieve certain goals; (3) human actions use methods and procedures that are suitable for achieving goals; (4) the continuity of human actions is limited by conditions that cannot be changed by themselves; (5) humans choose and evaluate existing actions; (6) moral standards, rules or principles are expected to arise when making decisions.⁵⁷

Weber used a classification of four types of action, distinguished in terms of the motives of the actors, namely: 1) traditional action "I do this because I always do it"; 2) affective action "What can I do"; 3) value-oriented action, or the use of value rationality "All I know is to do this"; 4) goal-oriented action, or the use of instrumental rationality "This action is the most efficient way to achieve this goal, and this is the best way to achieve it".

Weber's rationalization of four typologies of social action include: (1) *Zweckrationalitat* (instrumental rationality), namely actions carried out by considering the goals and tools used to achieve the goals. An action that reflects effectiveness and efficiency. (2) *Wertrationalitat* (goal rationality), namely actions that see tools as merely conscious considerations and calculations, because the goals related to values have been determined. (3) Traditional actions are actions carried out based on habits without planning, without conscious reflection. (4) Effective actions, namely actions carried out and dominated by feelings or emotions without intellectual reflection or conscious planning.⁵⁸

The Rational Action Theory aims to explain the relationship between attitudes and behavior in the context of deliberate decision making. In depth, this theory seeks to

⁵⁷ Supraja, Muhammad. "Alfred Schutz: Rekonstruksi Teori Tindakan Max Weber." *Jurnal Pemikiran Sosiologi* 1.2 (2012): 81-90.

⁵⁸ Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, vol. 1 (University of California press, 1978), 54.

understand how individuals make decisions that lead to certain actions by referring to intention as the main determinant of actual behavior.⁵⁹ The theory of rational action starts from the assumption that humans are rational beings and that they consider the consequences of various choices before taking action. In this theory, the intention to act is considered the best predictor of the action itself. This intention, in turn, is influenced by two main factors: attitude toward the behavior and subjective norms.).⁶⁰

Attitudes toward behavior refer to an individual's evaluation of a particular action. These attitudes are formed from beliefs about the likely consequences of the action, as well as the individual's assessment of the value or importance of those consequences. If individuals believe that the outcome of an action will be positive, then they will have a more positive attitude toward the action, and vice versa. Subjective norms include the social pressures felt by individuals regarding whether or not they should perform a particular action. It reflects an individual's perception of the expectations of significant others, such as family, friends, or the wider community, and their desire to meet those expectations. If individuals perceive that significant others in their lives expect them to act in a certain way, and they want to meet those expectations, then they are more likely to have the intention to act in accordance with those social norms.⁶¹

The combination of attitudes toward behavior and subjective norms results in an intention to act. This intention then serves as a direct driver of actual action. However, this theory also recognizes that there are some conditions in which intentions do not always lead

⁵⁹ Steven G. Rogelberg, "Theory of Reasoned Action/Theory of Planned Behavior," *The SAGE Encyclopedia of Industrial and Organizational Psychology, 2nd Edition* 2007 (2017): 43, <https://doi.org/10.4135/9781483386874.n551>.

⁶⁰ JEROLD L. HALE, BRIAN J. HOUSEHOLDER, and KATHRYN L. GREENE, "The Theory of Reasoned Action," *The Persuasion Handbook: Developments in Theory and Practice* 14, no. 2002 (2012): 263, <https://doi.org/10.4135/9781412976046.n14>.

⁶¹ Icek Ajzen, "The Theory of Planned Behavior," *Handbook of Theories of Social Psychology: Volume 1*, vii 2012, 169, <https://doi.org/10.4135/9781446249215.n22>.

to action, for example because of external factors or unexpected obstacles that prevent individuals from acting in accordance with their intentions..⁶²

4. Resistance Theory

Resistance Theory is a concept emerging from a variety of disciplines, including psychology, sociology, and cultural studies, that focuses on how individuals or groups resist or oppose external power, influence, or pressure that seeks to change their beliefs, behavior, or identity.⁶³ Within this theoretical framework, resistance is understood not only as passive rejection, but as active action carried out with the aim of maintaining the autonomy, identity and values that are considered important by the individual or group.

Basically, resistance often occurs in the context of an imbalance of power, where the weaker party or those in a subordinate position try to oppose or reduce the influence of the dominant party. Resistance can be manifested in various forms, from the most subtle, such as silent disobedience or small-scale sabotage, to more open forms, such as protests, rebellions, or armed resistance.⁶⁴

Scott's resistance theory explains that all actions taken by subordinate groups are aimed at reducing or rejecting claims made by superordinate groups. Scott divides resistance into public or open resistance and hidden or closed resistance, where both categories are distinguished by the articulation of resistance, form, characteristics, social and cultural areas. Open resistance is the existence of open interaction between subordinate classes and superordinate classes and hidden resistance is the existence of closed, indirect interaction between subordinate classes and superordinate classes. Open resistance (social protest or demonstration) is a form of resistance that is organized, systematic, and

⁶² Max Weber, *The Theory of Social and Economic Organization* (Simon and Schuster, 2009), 45.

⁶³ Kathleen Knight Abowitz, "A Pragmatist Revisioning of Resistance Theory," *American Educational Research Journal* 37, no. 4 (2000): 901, <https://doi.org/10.3102/00028312037004877>.

⁶⁴ James C Scott, "Weapons of the Weak: Everyday Forms of Peasant Resistance," *Yale University*, 1985, 17.

principled. The manifestations used in this resistance are violent methods such as rebellion. Closed resistance (symbolic or ideological) is a rejection of categories imposed on society.⁶⁵

Resistance theory is closely associated with the concept of psychological reactance, which was first introduced by Jack W. Brehm in 1966. According to Brehm, reactance is a negative emotional reaction that occurs when individuals feel that their freedom or autonomy is threatened by attempts by others to control or direct their behavior.⁶⁶ When individuals perceive a threat to their freedom, they will experience an urge to restore that freedom by resisting, opposing, or even taking actions contrary to what is expected by the party trying to control them. For example, when someone is forced to accept a rule or policy that they do not agree with, they may react by strongly resisting it, even though they did not previously have a strong resistance.

On the other hand, in sociology and cultural studies, resistance theory is often associated with the efforts of individuals or groups to maintain their identity, culture, or values in the face of pressure from external forces that seek to assimilate or change them. Classic examples of this resistance can be seen in the struggles of minority groups who resist the cultural or political domination of the majority group. In this context, resistance can range from symbolic actions, such as maintaining a particular language, customs, or traditions, to more organized political actions, such as social movements or advocacy campaigns.

Resistance Theory is also relevant in communication and marketing studies, especially in understanding how consumers or audiences resist messages or persuasion efforts from parties trying to influence them. Consumers who feel threatened by overly

⁶⁵ Scott, James C. "Everyday forms of resistance." *Everyday forms of peasant resistance*. Routledge, 2016. 3-33.

⁶⁶ Jack W. Brehm, "Postdecision Changes in the Desirability of Alternatives," *Journal of Abnormal and Social Psychology* 52, no. 3 (1956): 384, <https://doi.org/10.1037/h0041006>.

aggressive marketing efforts, for example, may show resistance by ignoring the advertisement, choosing a competitor's product, or even spreading negative opinions about the brand. Understanding resistance is important for marketers or communicators to design more subtle and non-threatening strategies, so as to reduce the level of resistance and increase the effectiveness of their messages.

Resistance Theory provides a rich framework for understanding the dynamics of power and autonomy in a variety of social contexts. It emphasizes that resistance is a natural and often inevitable response when individuals or groups feel their rights are being threatened.

B. Conceptual framework

1. The concept of undocumented migrant Workers

The term “undocumented migrants” refers to individuals who move from one country to another without having valid permission or without complying with the legal procedures established by the destination country.⁶⁷ In this context, the term “undocumented” means that the migrants do not have official documents such as visas, residence permits, or other legal status recognized by the authorities of the destination country. Undocumented migrants can include those who enter a country illegally, for example through an unofficial border check, or those who initially enter the country with a valid visa but then overstay or remain after their visa expires without renewing or obtaining a new legal status.

Undocumented migrant workers, also known as illegal migrant workers, non-procedural migrant workers, illegal migrant workers and unofficial migrant workers, are migrant workers who: first, deliberately enter the territory of another country without using valid documents through unofficial channels in the territory of - border areas; second, entering another country with a visit or tourist visa, then infiltrating and working in another

⁶⁷ Monika Krause, “Undocumented Migrants: An Arendtian Perspective,” *European Journal of Political Theory* 7, no. 3 (2008): 340, <https://doi.org/10.1177/1474885108089175>.

country; third, the work document has expired (overstayed), but remains in another country, changes jobs, or runs away; fourth, legal workers who work for an employer, but for various reasons, for example abuse, torture, fraud, sexual harassment, prostitution, unpaid salaries, unlimited working hours, heavy workload and low wages, then run away so they change status becomes undocumented.⁶⁸ Illegal Migrant Workers are people who leave the country illegally or not in accordance with statutory regulations and they are not registered with the embassy representative in the country where they work.⁶⁹

The phenomenon of undocumented migration often arises from a complex combination of economic, political, social, and environmental factors that drive individuals to seek a better life in another country, even though they cannot comply with existing legal requirements. On the one hand, undocumented migration is often driven by push factors from the country of origin, such as poverty, unemployment, armed conflict, or natural disasters. On the other hand, pull factors from the destination country, such as job opportunities, security, or access to better health and education services, also play an important role in an individual's decision to migrate despite being undocumented.⁷⁰

Undocumented migrants are often in a vulnerable position because they live outside the legal system, meaning they do not have full access to basic rights such as legal protection, health care, or education. They also often face discrimination, exploitation, and abuse because their undocumented status makes them reluctant to report violations or seek help from authorities. For example, in many cases, undocumented migrants are employed in

⁶⁸ Arohmi, Asnu Fayakun. "LEGAL PROTECTION FOR ILLEGAL INDONESIAN WORKER IN MALAYSIA." *Media of Law and Sharia* 1.4 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. Theddy, Theddy, et al. "Legal Protection of International Labour Organization (ILO) and Indonesia toward Indonesia Illegal Migrant Workers." International Conference on Public Policy, Social Computing and Development, 2022.

⁶⁹ Sirait, Ningrum Natasya. "Legal Protection of International Labor Organization (ILO) and Indonesia Towards Indonesia Illegal Migrant Workers." *Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021)*. Atlantis Press, 2022. <https://doi.org/10.2991/assehr.k.220204.026>

⁷⁰ Antje Ellermann, "Undocumented Migrants and Resistance in the Liberal State," *Politics and Society* 38, no. 3 (2010): 443, <https://doi.org/10.1177/0032329210373072>.

sectors with low wages and poor working conditions, such as agriculture, construction, or domestic service, where they often work without formal contracts, insurance, or other employment protections. Their dependence on unscrupulous employers and fear of deportation often lead them to accept inhumane working conditions.

In addition, undocumented migrants are often subject to harsh law enforcement measures, including detention and deportation. Immigration policies in many countries tend to treat undocumented migrants as lawbreakers, even though many of them are actually asylum seekers or people who have been forced to flee life-threatening conditions in their home countries. Treating undocumented migrants as a national security issue, rather than a human rights issue, often leads to violations of their rights and exacerbates their already vulnerable situations.⁷¹

In the global context, undocumented migrants also pose a major challenge to governments and international organizations. On the one hand, destination countries must face the challenge of enforcing immigration laws and maintaining border security, while also managing the social and economic impacts of undocumented migrant populations. On the other hand, there is pressure from human rights organizations and civil society to recognize and protect the basic rights of undocumented migrants, including the right to fair treatment, access to basic services, and protection from exploitation and abuse.⁷²

Many human rights experts and activists argue that solutions to the problem of undocumented migrants must include a more humane and human rights-oriented approach. This includes providing legal pathways for migration, reducing the push factors that lead to undocumented migration, and developing policies that integrate migrants into society regardless of their documented status. In some countries, there have also been efforts to

⁷¹ Benny Hari Juliawan, “Seeing Migration like a State: The Case of Irregular Indonesian Migrant Workers Deported from Malaysia,” *Anti-Trafficking Review*, no. 11 (2018): 11, <https://doi.org/10.14197/atr.201218113>.

⁷² Amy Sim and Vivienne Wee, “Undocumented Indonesian Workers in Macau: The Human Outcome of Colluding Interests,” *Critical Asian Studies* 41, no. 1 (2009): 173, <https://doi.org/10.1080/14672710802631210>.

legalize the status of undocumented migrants through amnesty programs or special regulations that allow them to obtain legal status..

2. Concept of Recalibration and Repatriation

Recalibration is the process of readjusting policies, programs, or strategies to manage labour migration, so that they remain relevant and effective by changes in labour market needs, economic conditions, or socio-political dynamics in the country of origin and destination country.⁷³ Meanwhile, “Repatriation” is the process of returning migrants to their home country, which can be done voluntarily or forcibly. This process usually occurs after the end of the work period, or when migrants are in situations that require repatriation, such as deteriorating economic conditions, conflict, or violations of the law. Both concepts are often used in the management of international labour migration to balance economic and social needs and protect the rights of migrant workers.

The concepts of Recalibration and Repatriation refer to two distinct but interrelated approaches to migration management and migrant worker protection. Each concept has different objectives, strategies and policy implications, but both play an important role in managing cross-border labor dynamics, particularly in the context of migrant workers.

Recalibration in the context of migration usually refers to government or institutional efforts to readjust policies, programs, or strategies related to labor migration. This recalibration process can occur due to changes in labor market needs, national policies, economic conditions, or socio-political dynamics in both the origin and destination countries of migrants. Recalibration involves evaluating and adjusting existing policies to ensure that they are aligned with long-term goals, fair to all parties involved, and responsive to changing needs and emerging challenges. For example, labor-sending countries, such as the Philippines and Indonesia, often recalibrate their labor-sending policies to protect the rights

⁷³ International Labor Office, *International Labour Migration: A Rights-Based Approach* (International Labour Office, 2010), 191.

of migrant workers, ensure that workers sent meet the needs of the overseas market, and minimize the risk of abuse or exploitation. Recalibration can also include changes in training requirements, certification, or contract regulations to align with international standards or the specific needs of the destination country.⁷⁴

Repatriation, on the other hand, is the process of returning migrants to their country of origin, either voluntarily or forcibly. The concept is often associated with situations where migrants must return to their country of origin after their employment ends, when their contract is not renewed, or when conditions in the destination country become untenable for them to stay any longer. Repatriation can be triggered by a variety of factors, including the expiration of a visa or residence permit, economic downturn in the destination country, conflict or natural disaster, or violations of the law by migrants. Repatriation can be voluntary, where migrants actively choose to return to their country of origin, or forced, where they are deported by the authorities of the destination country.⁷⁵

Repatriation also has a humanitarian dimension, particularly in the context of returning migrants in difficult situations, such as refugees or victims of human trafficking. In these cases, repatriation is often carried out as part of a broader recovery and reintegration program, which aims to help migrants return and re-adjust to their home countries. This process involves various parties, including governments of the countries of origin and destination, international organizations such as the International Organization for Migration (IOM), and non-governmental organizations that provide logistical, financial, and psychosocial support to migrants.⁷⁶

⁷⁴ Thomas Gammeltoft-Hansen and Nikolas F. Tan, "The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy," *Journal on Migration and Human Security* 5, no. 1 (2017): 37, <https://doi.org/10.1177/233150241700500103>.

⁷⁵ Olsson, Erik. "Event or process? Repatriation practice and open-ended migration." *Transnational spaces: disciplinary perspectives* (2004): 151-168. See, Chetail, Vincent. "Voluntary repatriation in public international law: concepts and contents." *Refugee Survey Quarterly* 23 (2004): 1-32.

⁷⁶ Zieck, Marjoleine. "Voluntary repatriation: Paradigm, pitfalls, progress." *Refugee Survey Quarterly* 23.3 (2004): 33-54. vii

Historically, repatriation has also been a controversial issue, especially when it is carried out forcibly or without considering the rights and needs of migrants. For example, during economic or political crises, some countries have carried out mass deportations of migrant workers without giving them adequate opportunity to re-arrange their lives in their home countries. This can cause serious economic, social and psychological hardship for migrants and their families.⁷⁷

In the context of global policy, the concepts of recalibration and repatriation are often considered together as part of a comprehensive strategy to manage labour migration flows more effectively and humanely. Recalibration allows countries and organisations to adjust their policies to remain relevant to changing needs, while repatriation provides a mechanism to ensure that migrants can return to their countries of origin in safety and dignity. Both are essential elements in the framework of protecting migrants' rights, both in countries of origin and destination.⁷⁸

⁷⁷ Md Kamrul Islam, *The Age of Migration: International Population Movements in the Modern World*, *Canadian Studies in Population*, vol. 40 (Bloomsbury Publishing, 2013), 34, <https://doi.org/10.25336/p6kp52>.

⁷⁸ Levitt, Peggy, and Ninna Nyberg-Sørensen. "Global Migration Perspectives." *Global migration perspectives* (2004).

CHAPTER III

RESEARCH RESULTS

A. Overview of Indonesia Migrant Workers in Malaysia

Working abroad is one of the efforts made by Indonesian citizens (WNI) to get better opportunities economically and socially. This practice has been practised for many years since the Netherlands East Indies era in 1890, when many Indonesian Migrant Workers were sent by the Netherlands East Indies government to work as indentured coolies in Suriname, New Calidonia, Siam and Serawak.⁷⁹ The placement of Indonesia Migrant Workers is influenced by driving and pulling factors, such as higher incomes and limited employment opportunities.⁸⁰

The placement data of Indonesia Migrant Workers over the last 5 years has been quite fluctuating, with a decrease in 2018-2019 and a significant increase in 2022. The placement of Indonesia Migrant Workers from 2018 to 2019 decreased by 2.26% while the year 2020-2021 showed a decrease more than the decline in 2018 - 2019. The main cause of the decline in the placement of Indonesia Migrant Workers in the two years is due to the Covid-19 pandemic which affects many aspects of life, one of which is the process of migrating abroad.⁸¹ The number of placements for Indonesia Migrant Workers in 2021 was recorded at 72,624 people. This figure has increased in 2022, reaching 200,802 or 176% compared to the previous year. In 2023, the number will increase by 37% or as many as 274,965 migrant workers.⁸²

⁷⁹ Skaut, Verawati, and Widodo Triputro. "Pencegahan Pekerja Migran Indonesia (PMI) Illegal." *MARAS: Jurnal Penelitian Multidisiplin* 1.1 (2023): 1-11. <https://doi.org/10.47431/sosioprogresif.v2i2.195>

⁸⁰ Ade Putri Inayati, Audrey Rachalia Achmad dan Muhammad Hardi Saputra, *Proyeksi Data Penempatan Pekerja Migran Indonesia Tahun 2024-2026*, Jakarta, Pusat Data dan Informasi BP2MI (2023) h.3

⁸¹ Ade Putri Inayati, Audrey Rachalia Achmad dan Muhammad Hardi Saputra, *Proyeksi Data Penempatan Pekerja Migran Indonesia Tahun 2024-2026*. h.3

⁸² Pusat Data dan Informasi BP2MI, *Laporan tahunan 2023*, Jakarta (2023) h 6

The placement of Indonesia Migrant Workers by sector in 2023 will be dominated by the formal sector by 56%. Meanwhile, the informal sector is 44%. Based on 2023 data, it can be seen that the formal sector has a total of 152,760 placements, an increase of 32% from the previous year which amounted to 115,985 placements. The informal sector has a total of 122,205 placements and has experienced an increase of 44% from the previous month which amounted to 84,817 placements.⁸³

The placement of Indonesia Migrant Workers by gender in 2023 will be dominated by the female gender as much as 61%, while the male gender is 39%. Based on 2023 data, it can be seen that the male gender has a total of 107,102 placements, an increase of 36% from the previous year which amounted to 78,648 placements. Female gender has a total of 167,863 placements and has experienced an increase of 37% from the previous year which amounted to 122,154.⁸⁴

Placement based on marital status in 2023 the majority of Indonesia Migrant Workers have unmarried status of 131,702. Meanwhile, 107,754 Indonesia Migrant Workers with Divorced status and 35,509 Indonesia Migrant Workers with Married status. Compared to the previous year, Indonesia's Unmarried Migrant Workers increased by 57% (48,053). Meanwhile, Divorce increased by 18% (16,391) and Marriage increased by 38% (9,719).⁸⁵

Based on Indonesia's Migrant Worker Education in 2023, the majority of Indonesia's Migrant Workers have a high school/vocational school background of 120,735. Meanwhile, 85,178 Indonesia Migrant Workers with junior high school backgrounds and 61,154 Indonesia Migrant Workers with elementary school backgrounds. Compared to the previous year, Indonesia's migrant workers with a high school/vocational education background

⁸³ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 7

⁸⁴ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 8

⁸⁵ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 9

increased by 33% (29,746). Meanwhile, junior high schools increased by 33% (21,122) and elementary schools increased by 56% (21,901).⁸⁶

Placement of Indonesia Migrant Workers by Country In 2023, the five countries with the most placement of Indonesia Migrant Workers are Taiwan (83,216), Malaysia (72,260), Hong Kong (65,916), South Korea (12,580), and Japan (9,673). The number of placements in the five countries reached 89% of the total placements. Compared to the previous year, the placement of Indonesia Migrant Workers to Taiwan increased by 56% (29,733), Malaysia increased by 67% (29,097), Hong Kong increased by 10% (5,820), South Korea increased by 9% (1,009), and Japan increased by 66% (3,841). Meanwhile, in a three-year period (2021, 2022, and 2023), the three countries where Indonesia Migrant Workers were most placed were Hong Kong (178,290.), Taiwan (144,488.), and Malaysia (115,986.). The number of placements in the three countries reached 80% of the total placement.⁸⁷

Table 1. Data on Placement of Indonesian Migrant Workers

No	Country	2021	2022	2023	Sum
1	Hongkong	52.278	60.096	65.916	178.290
2	Taiwan	7.789	53.483	83.216	144.488
3	Malaysia	563	43.163	72.260	115.986
4	South Korea	174	11.571	12.580	24.325
5	Singapore	3.217	6.624	7.898	17.739
6	Japan	359	5.832	9.673	15.864

Source: Pusat Data dan Informasi BP2MI, Laporan tahunan 2023

The data indicates that the six countries with the highest placement of PMIs, where the first place is Hong Kong, then Taiwan and Malaysia. These three countries are the main destinations for Indonesia's migrant workers.

⁸⁶ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 10

⁸⁷ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 11

In 2023, the five countries with the most placement of Indonesia Individual Migrant Workers are Japan (9,334), Saudi Arabia (2,184), Turkey (2,103), Malaysia (536), and Papua New Guinea (524). The number of placements in the five countries reached 77% of the total placements. Compared to the previous year, the placement of Indonesia Migrant Workers to Japan increased by 69% (3,818), Saudi Arabia increased by 22% (387), Turkey increased by 62% (808), Malaysia increased by 75% (229), and Papua New Guinea increased by 24% (101). Meanwhile, in a three-year period (2021, 2022, and 2023), the three countries with the most placement of Indonesia Migrant Workers were in Japan (14,937), Saudi Arabia (4,290), and Turkey (4,065). The number of placements in the three countries reached 65% of the total placement of Indonesia Migrant Workers in that period.⁸⁸

Based on the province of origin of Indonesia's Migrant Workers, the three provinces that are the regions of origin with the most Indonesia Migrant Workers in 2023 are East Java Province (68,069), Central Java Province (59,009), and West Java Province (52,961). So, 65% of Indonesia's Migrant Worker placements in 2023 will come from the three provinces. From 2021 to 2022, all provinces experienced an increase in the placement of Indonesia Migrant Workers. However, in 2023, there are four provinces whose placements have decreased, namely: North Sumatra (down 1,951 placements), (Bali down 69 placements), North Sulawesi (down 55 placements), and Gorontalo (down 4 placements). As for other provinces, there has been an increase from the previous year. Meanwhile, in a three-year period (2021, 2022, and 2023), the three provinces that became the regions of origin with the most Indonesia migrant workers were East Java (148,231), Central Java (124,010), and West Java (98,430). The number of placements in the three provinces reached 68% of the total placement.⁸⁹

⁸⁸ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 12 -13

⁸⁹ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, -13

Based on the provincial origin of Indonesia Migrant Workers, in 2023, the five districts that are the regions of origin with the most Indonesia Migrant Workers are Indramayu (19,178), East Lombok (13,111), Cilacap (11,344), Central Lombok (10,840), Cirebon (Regency) (10,552). The number of placements of Indonesia Migrant Workers from Regencies/Cities reached 24% of the total placement. Compared to the previous year, the placement of Indonesia Migrant Workers from Indramayu Regency increased by 50% (6,381), East Lombok increased by 48% (4,226), Cilacap increased by 31% (2,663), Central Lombok increased by 52% (3,702), and Cirebon (Regency) increased by 38% (2,911). Meanwhile, in a three-year period (2021, 2022, and 2023), the three districts that became the regions with the most origin of Indonesia's migrant workers were Indramayu (37,237), Cilacap (23,458), and East Lombok (22,486). The number of placements of Indonesia Migrant Workers from the three districts/cities reached 15% of the total placement in that period.⁹⁰

The placement of Indonesia Migrant Workers is based on their positions in 2023, the five most positions for Indonesia Migrant Workers are House Maid (66,362), Caregiver (54,665), Plantation Worker (25,163), Worker (22,361), Production Operator (16,094). The number of placements of Indonesia Migrant Workers for these positions reaches 67% of the total placement. Compared to the previous year, the placement of Indonesia Migrant Workers with the position of House Maid increased by 10% (5,767), Caregiver increased by 137% (31,562), Plantation Worker increased by 64% (9,834), Worker decreased by 9% (2,275), and Production Operator decreased by 15% (2,829). Meanwhile, in a three-year period (2021, 2022, and 2023), the three positions that became the most positions for Indonesia Migrant Workers were House Maid (179,432), Caregiver (83,171), and Worker

⁹⁰ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 13

(49,376). The number of placements for the three positions reached 57% of the total placement in the period.⁹¹

Based on these data, it can be stated that Indonesia's Migrant Workers are still very high and continue to increase. The total projection of the placement of Indonesia Migrant Workers for the next three years will have an upward trend. The placement of Indonesia Migrant Workers in 2024 is projected to reach 298,302, then for 2025 it will be 326,165 and in 2026 it will be 338,707.⁹² The fact that the number of Indonesia Migrant Workers as of January to June 2024 is 160,496 people.⁹³ This means that the number of Indonesia Migrant Workers as of January-June 2024 is 60% of the initial projection, which is 298,302 people.

B. Undocumented Indonesian Migrant Workers in Malaysia

Malaysia is the third destination country for Indonesia Migrant Workers after Hong Kong and Taiwan.⁹⁴ The number of Indonesia Migrant Workers in Malaysia from 2021 to June 2024 is 176,358.⁹⁵ If you look at the classification of procedural and non-procedural complaints of Indonesia Migrant Workers in 2023 in the Asia-Africa Region, where Malaysia is in it, then Non-procedural Indonesia Migrant Workers with a proportion of 75% and procedural Indonesia Migrant Workers with a proportion of 25% with a total of 308 complaints of Indonesia Migrant Workers who departed procedurally which experienced an increase of 84% (141) from the previous year which amounted to 167 complaints. Meanwhile, workers who departed non-procedural had a total of 943 complaints, which decreased by 3% (32) from the previous year which amounted to 975 complaints.⁹⁶

⁹¹ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h 15

⁹² Ade Putri Inayati, Audrey Rachalia Achmad dan Muhammad Hardi Saputra, Proyeksi Data Penempatan Pekerja Migran Indonesia Tahun 2024-2026, h.33

⁹³ Kemnaker, Penempatan PMI Periode Januari -Juni 2024. See, <https://satudata.kemnaker.go.id>

⁹⁴ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h.11

⁹⁵ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h.11, see, Kemnaker, Penempatan PMI Periode Januari -Juni 2024

⁹⁶ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h.18

Table 2. Data of Indonesian Migrant Workers' Complaints

Classification	Year				Sum
	2020	2021	2022	2023	
Procedural	384	168	205	381	1.138
Non procedural	1.427	1.532	1.782	1618	6359
Total					7.497

Source: Sisko P2MI

In 2023, the five countries where Indonesia's Migrant Workers are located in Asia and Africa with the most complaints are Malaysia (381), Taiwan (370), Hong Kong (217), South Korea (76), and Myanmar (52). The number of complaints from the five countries reached 88% of the total complaints in the Asia and Africa Region in 2023. Compared to the previous year, complaints from Indonesia Migrant Workers in the Asia and Africa Region, namely Malaysia, decreased by 16% (70), Taiwan increased by 88% (173), Hong Kong increased by 85% (100), South Korea remained unchanged, and Myanmar increased by 643% (45). Meanwhile, in three years (2021, 2022, and 2023), the most complaints from Indonesia Migrant Workers in the Asian Region came from placements in Malaysia (1,235), Taiwan (710), and Hong Kong (446). The number of complaints from Indonesia's Migrant Workers in Asia and Africa from the three countries reached 70% of the total complaints in that period.⁹⁷

Table 3. Data of Indonesian Migrant Workers' Complaints in Malaysia

Clasification	Year							Sum
	2016	2017	2018	2019	2020	2021	2022	
Prosedural	375	240	108	206	117	40	4	1090
Non Prosedural	1.157	1224	387	1222	2421	363	447	5042
Total	1.532	1.464	495	1428	359	403	451	6.132

Source: PPID BP2MI Report

⁹⁷ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h.18

The data above shows that the highest number of complaints for violations reported by PMI in Malaysia are received by PMI with non-procedural status compared to procedural with a ratio of 5:1. The data was confirmed by the Staff of the Indonesia Ambassador to Malaysia, that two-thirds of Indonesia's Migrant Workers in Malaysia are undocumented migrant workers.⁹⁸ Non-Procedural Indonesia Migrant Workers existed along with the massive migration of Indonesia workers to Malaysia territory during the 1950s to early 1980s. At that time, undocumented migrant workers were still undocumented because they worked on remote farms and plantations in limited numbers.⁹⁹

The number of undocumented migrant workers in Malaysia in 2021 is approximately 50% of the total number of Indonesia Migrant Workers.¹⁰⁰ Since January 2022, the number of undocumented migrant workers departing for Malaysia has increased by 146% compared to the previous year.¹⁰¹ If you look at the data on PMI complaints in Malaysia, then from 2021 to 2023 the number of PMI complaints is 1,235 and as many as 92.11% of complaints come from undocumented PMI.¹⁰² Based on data on the issuance of the Certificate of Indonesia Citizenship Status (SKSKI) at the Indonesian Embassy in Kuala Lumpur from October 2022 to September 2023, the number of applicants is 13,775.¹⁰³ This fact has not been added to the undocumented PMI that is not recorded. Data from the Government of Malaysia in 2023 there are 450,000 Indonesia Migrant Workers registered in Malaysia. This number is different from the data of 1.5 million Indonesia Migrant

⁹⁸ RN, Interview, May, 6, 2024

⁹⁹ Kudo, Sasagu. "Securitization of undocumented migrants and the politics of insecurity in Malaysia." *Procedia Environmental Sciences* 17 (2013): 947-956. <https://doi.org/10.1016/j.proenv.2013.02.113>. See, Kassim, Azizah, and Ragayah Mat Zin. "Irregular migrants and the law." *Philippine Journal of Development* 38.1-2 (2011): 85-104.

¹⁰⁰ Lusius Genik Ndau Lendong "Dubes Ri Sebut Ada 2,7 Juta Pekerja Migran Indonesia di Malaysia , 50% Diantaranya Ilegal" Kuala Lumpur 2021. [Tribunnews.com](https://tribunnews.com)

¹⁰¹ Mutia Fauzia Krisiandi, "Kemenlu: Sejak Januari, 278 WNI Coba Masuk ke Malaysia secara Ilegal", 2022, See, <https://nasional.kompas.com>

¹⁰² Badan Perlindungan Pekerja Migran Indonesia, "Data Penempatan" *Laporan Tahunan, 2024*, vii hlm 7

¹⁰³ Aulia, Marzuqoh, and Nur Azizah. "Strategi KBRI Kuala Lumpur Dalam Perlindungan Kewarganegaraan: Studi WNI Tidak Berdokumen di Malaysia Tahun 2022–2023." *Ganaya: Jurnal Ilmu Sosial dan Humaniora* 7.1 (2024): 108-121. <https://doi.org/10.37329/ganaya.v7i1.2984>

Workers owned by the Embassy of the Republic of Indonesia in Kuala Lumpur. Meanwhile, the total number of Indonesia Migrant Workers in the Malaysia Immigration Detention Depot is 309 people and as many as 11,000 migrant workers who have been deported from Malaysia.¹⁰⁴ This means that the number of undocumented PMIs in Malaysia is still very high. The high interest of Indonesia Migrant Workers in Malaysia is due to factors, namely geographical location, cultural, religious and language harmony so as to facilitate the access of Indonesia Migrant Workers to Malaysia.¹⁰⁵

Most of Indonesia's undocumented migrant workers in Malaysia work in the informal sector. For example, Domestic Workers, Restaurants, Construction, Agriculture and Livestock. According to data from the Ministry of Foreign Affairs in 2020, among the 2.7 million Indonesia migrant workers in Malaysia, only 1.6 million workers go through the regular route, the rest are non-regular migrant workers who often work in very worrying conditions in the household, construction, and agricultural sectors.¹⁰⁶

Undocumented Indonesia Migrant Workers are those who enter Malaysia without using valid documents through unofficial channels in border areas; or enter Malaysia on a visit or tourist visa, then infiltrate and work in Malaysia; or have expired their work documents (over stay), but remain in Malaysia, change jobs, or flee; or legal workers who work for an employer, but for various reasons, such as persecution, torture, fraud, sexual harassment, prostitution, unpaid salary, unlimited working hours, heavy workload and low wages, then flee so that the status changes to undocumented.¹⁰⁷

¹⁰⁴ *Siaran Pers : Dirjen Imigrasi Temui Ketua Pengarah Imigresen Malaysia Bahas Pekerja Migran Indonesia di Malaysia*https://www.imigrasi.go.id/siaran_pers/2023/06/08/siaran-pers

¹⁰⁵ Puteri, Nanbella. *Kerja Sama Badan Pelindungan Pekerja Migran Indonesia (BP2MI) Dengan International Organization For Migration (IOM) Dalam Mencegah Pemberangkatan Calon Pekerja Migran Indonesia Secara Ilegal Ke Malaysia Periode 2020-2022*. BS thesis. Program Studi Ilmu Hubungan Internasional Fakultas Ilmu Sosial Dan Ilmu Politik Universitas Islam Negeri Syarif Hidayatullah Jakarta.

¹⁰⁶ IOM UN Migration Indonesia, *Memperkuat Perlindungan Pekerja Migran Indonesia di Malaysia*, 2023, see, <https://indonesia.iom.int/id/iom-di-indonesia>

¹⁰⁷ Arohmi, Asnu Fayakun. "LEGAL PROTECTION FOR ILLEGAL INDONESIAN WORKER IN MALAYSIA." *Media of Law and Sharia* 1.4 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. Theddy, Theddy, et al.

Several research results show that the factors that cause Indonesia Migrant Workers to be undocumented include: 1) low education, limited employment opportunities in the country and high poverty rate; 2) limited access to information and lack of public understanding of labor placement and protection procedures so that brokers are easily deceived; and 3) the existence of seduction and sweet promises to obtain high salaries by brokers and unofficial agents;¹⁰⁸ 4) low knowledge of migrant workers about official procedures and their rights so that they are trapped as undocumented migrant workers after running away from their old employers; 5) Culture of bribery against immigration officers;¹⁰⁹ 6) Job opportunities abroad that are intensively conveyed by brokers without any educational requirements. For example, working abroad does not require having a high education diploma (such as working in an oil palm plantation, becoming a construction worker, and a domestic assistant), thus making prospective migrant workers deceived by brokers; 7) the public's ignorance of the minimum age limit regulations for prospective migrant workers, so that it is used by brokers or unofficial agents to forge the population documents of prospective migrant workers who will be placed unprocedurally.¹¹⁰

Based on the results of interviews with 10 former migrant workers who have worked in Malaysia illegally or without procedure, the factors that caused them to leave for Malaysia without procedural are; 1) economic factors (poverty); 2) do not have a diploma; 3) being deceived by brokers using a visit visa; 4) no job opportunities; 5) not knowing the

"Legal Protection of International Labour Organization (ILO) and Indonesia toward Indonesia Illegal Migrant Workers." International Conference on Public Policy, Social Computing and Development, 2022.

¹⁰⁸ Simanullang, Gonti, Anselmus Chartino Ade Bangun, and Ignatius L. Madya Utama. "THE EXPERIENCE OF ILLEGAL INDONESIAN LABOR IN MALAYSIA: A PHENOMENOLOGICAL STUDY." *Logos* (2023): 152-162.

¹⁰⁹ Chin, Low Choo. "A strategy of attrition through enforcement: The unmaking of irregular migration in Malaysia." *Journal of Current Southeast Asian Affairs* 36.2 (2017): 101-136. Djafar, Fariastuti. "Dynamics of push and pull factors of migrant workers in developing countries: The case of Indonesian workers in Malaysia." *Journal of Economics and Behavioral Studies* 4.12 (2012): 703-711. <https://doi.org/10.22610/jebis.v4i12.370>

¹¹⁰ Bustami, Reevany, and Ismail Suardi Wekke. "Migrants In Nusantara: Indonesian and Malaysian Perspectives." *Journal of Nusantara Studies (JONUS)* 1.2 (2016): 63-74. <https://doi.org/10.24200/jonus.vol1iss2pp63-74>. Sibarani, Robert Wiliater. *Determinants of Illegal Migration: The Case of Migrant Workers from East Java to Malaysia*. Vol. 23. kassel university press GmbH, 2018 pp.45-47

official procedures and; 6) Invited by Friends.¹¹¹ Meanwhile, 10 other ex-migrant workers who work in Malaysia with official procedures (procedural), but they do not have documents because: 1) their work documents have expired (over stay), but they remain in Malaysia and; 2) fleeing from the Employer so that the status changes to undocumented.¹¹² Migrant workers who experience this case do not know how to take care of their documents, are afraid and lazy to negate documents.¹¹³

C. The Case of Undocumented Indonesia Migrant Workers in Malaysia

In 2023, the five categories of complaints about Indonesia Migrant Workers are PMI failing to leave (270), PMI Wants to Be Repatriated (193), Placement fees exceeding the cost structure (175), Job opportunity fraud (90), Unpaid salary (44). The number of complaints from the five case categories reached 62% of the total complaints in the Asia and Africa Region in 2023. Compared to the previous year, Complaints of Indonesia Migrant Workers with the category of PMI cases failing to depart increased by 116% (145), PMI Wanting to Be Repatriated decreased by 11% (23), placement fees exceeding the cost structure increased by 197% (116), job opportunity fraud increased by 32% (22), and unpaid salaries decreased by 24% (14). Meanwhile, in a three-year period (2021, 2022, and 2023), the categories of complaints about migrant workers Indonesia the most were PMI Wanting to Be Repatriated (701), PMI failing to depart (500), and placement fees exceeding the cost structure (264). The number of complaints by Indonesia Migrant Workers from the three case categories reached 43% of the total complaints in the Asia and Africa Region, including Malaysia in it during that period.¹¹⁴

¹¹¹ Wawancara

¹¹² WS, UV, NO, YL et al Interview, 7-11 Juni 2024

¹¹³ SU, NE, DS, LS et al, Interview 10-14 Juni 2024

¹¹⁴ Pusat Data dan Informasi BP2MI, Laporan tahunan 2023, h.18

The number of cases based on complaints of Indonesia Migrant Workers in Malaysia is as shown in the following table.

Table 4. Data of Indonesian Migrant Workers Complain in Malaysia Based on Cases

CASE	2016	2017	2018	2019	2020	2021	2021	SUM
PMI wants to be repatriated	96	113	46	100	71	120	93	639
Died in the destination country	253	190	19	24	19	70	31	606
Unpaid Salary	108	99	50	140	30	41	25	493
Undocumented PMI	73	222	18	9	1	1	14	338
<i>Overstay</i>	15	26	1	254	4	10	2	312
No return fare	30	47	0	2	0	0	0	79
Unilateral termination	120	91	3	27	0	0	0	241
Illegal recruitment/trafficking in persons	109	31	95	43	22	8	82	393
Disconnect communication	57	33	21	29	25	18	26	209
Work not according to contract	69	57	19	36	18	4	2	205
Not returned after contact ends	8	11	18	3	35	13	0	88
Salary deductions in excess of the provisions	23	15	8	5	3	1	0	55
Detention of passports and other important documents	19	20	8	14	11	6	5	83
Acts of violence from employers	26	21	6	12	6	1	1	73
Substandard salary	8	4	0	8	15	0	0	35
Overloaded workload	3	9	3	7	1	2	1	26

Escape from the employer's house	29	21	0	3	0	3	0	56
Total								3931

Source: PMI Complaint Report in Malaysia PPID BP2MI

The total number of 3931 between 2016 and 2022 is only reported because it is possible that there are many more that have not been reported.

Various cases of undocumented migrant workers in Malaysia reported in various media from 2018 to 2024, for example:

1. The case of Suyanti from Medan. Tortured by her employer in Kuala Lumpur using kitchen knives, iron floor cleaners, clothes hangers and umbrellas.¹¹⁵
2. The case of Mei Herianti (26) from Cirebon City, West Java. Mei Harianti was tortured by her employer by beating her with a blunt object, cuts with sharp objects, being doused with hot water and not being fed.¹¹⁶
3. The case of Adelina Lasio from East Nusa Tenggara (NTT) is an Indonesia Migrant Worker who died on February 11, 2018 at Bukit Mertajam Hospital, Penang due to inhumane treatment by her employer.¹¹⁷
4. The case of a ship accident that killed dozens of Indonesia's 'illegal migrant workers' in the waters of Johor Bahru to Malaysia. The boat carrying around 50 Indonesian citizens as illegal migrant workers had an accident on its way from Tanjung Pinang in the Riau Islands to Johor Bahru in Malaysia on Wednesday, December 5, 2021. A total of 14 people were declared safe, 19 people died and 17 people have not been found.¹¹⁸

¹¹⁵ Agus Setiawan” majikan Penyiksa Suyanti Lolos Hukuman Bui” , 17 Maret 2018, see, <https://www.antaranews.com/berita>

¹¹⁶ Achmad Nasrudin Yahya, Dani Prabowo "Kasus Penyiksaan MH di Malaysia, Kepala BP2MI Sebut Itu Pelanggaran Berat", 26 November 2020. See, <https://nasional.kompas.com>.

¹¹⁷ Tommy K. Rony, “Update Kasus TKI Adelina Lisao yang Meninggal Disiksa Majikan di Malaysia, Sang Ibu Siap Tuntut Keadilan” 16 Maret 2023, see, <https://www.liputan6.com>

¹¹⁸ Nn” 'Pekerja migran ilegal' jadi korban kapal karam di Malaysia: 'Jalan pintas' yang melibatkan 'mafia' dan 'sindiket' penyelundupan orang” 17 Desember 2021, see, <https://www.bbc.com/indonesia/indonesia>

5. The case of Lastri (53) and Nur Kholifah (21) PMI from Rembang, Central Java. Being forced to work for 24 hours and not being paid at an employer's home in Malaysia (illegal)).¹¹⁹
6. Case of arrest and persecution of 14 female migrant workers by a Sarawakian migrant worker agent in the city of Miri, Malaysia. According to the Indonesian Consulate General in Kuching, the 14 Indonesian citizens came from Pontianak two people, Bandung two people, Banten two people, Sukabumi one person, Kerawang two people, Indramayu one person, Cianjur one person, East Java one person, NTB Flores one person, and Purwakarta one person.¹²⁰
7. The case of an Indonesia migrant worker (PMI) from Kupang, East Nusa Tenggara (NTT). DN fled her employer's home in late October 2020 due to forced labor of more than 15 hours a day without days off and physical violence.¹²¹
8. The case of DB. Female migrant workers who have experienced forced labor, fictional violence and have not received a salary for more than 9 years in Malaysia. However, DB's employer was acquitted by the Kota Bharu Court, Kelantan, from charges of trafficking in persons and physical violence.¹²²
9. The case of SB (43) a migrant worker from Malang, East Java, who worked as an ART in Malaysia, did not receive a salary for 12 years, was prohibited from communicating with his family, but was demanded 500 Malaysia ringgit (RM) for allegedly escaping from his employer in the amount of RM 500.¹²³

¹¹⁹ Mutia Fauzia, Krisiandi "Kasus Kerja Paksa PMI Ilegal di Malaysia yang Berulang", 18 Februari 2022, see [Kompas.com](https://kompas.com)

¹²⁰ Icha Rastika I "8 Pekerja Migran Indonesia Dibebaskan dari Penyekapan di Sarawak ", 16 November 2020. See, <https://nasional.kompas.com>

¹²¹ Jabbar Ramdhani "Miris! TKW Disiksa-Tak Digaji 9 Tahun di Malaysia, Majikan Diputus Bebas" 19 Februari 2022. See, <https://news.detik.com/berita>

¹²² Jabbar Ramdhani "Miris! TKW Disiksa-Tak Digaji 9 Tahun di Malaysia, Majikan Diputus Bebas" 19 Februari 2022. See, <https://news.detik.com/berita>

¹²³ Jabbar Ramdhani "Miris! TKW di Malaysia 12 Tahun Tak Digaji Malah Dituntut Majikan" 29 Oktober 2021. See, <https://news.detik.com/berita>

10. Case. YK, Indonesia Migrant Worker (60 years old) from West Java. Working for 7.5 years in Malaysia without pay and prohibited by the employer from receiving calls. Employers refuse to pay salaries because they do not have an employment contract (illegal).¹²⁴
11. The case of Anton A Kian, an illegal Indonesia Migrant Worker (PMI) from East Nusa Tenggara (NTT) died in Malaysia. Anton has been working in Malaysia since 1990 in Malaysia's oil palm plantations.¹²⁵
12. The case of Nikolas Nesi (56), a migrant worker from Kupang who also died in Malaysia, is known to have pneumonia. Nikolas has been working in oil palm plantations since 2013 through illegal channels.¹²⁶
13. The case of Mariance Kabu from Kupang, East Nusa Tenggara, as a Domestic Worker in Malaysia. In 2014 Mariana was subjected to violence that left her physically disabled in both ears and mouth, and even some of her teeth were pulled out with pliers. The Mariance Kabu case, which has been heard since 2014, will only be completed in 2024 or for 10 years¹²⁷.
14. The case of a wooden boat suspected of carrying illegal migrant workers sank and was stranded in the waters of the Malacca Strait for four days. In that incident, one person was reported dead.¹²⁸
15. The case of Suwinah from East Lombok. This Non-procedural migrant worker worked in Malaysia for 7 years and for four years of work, Suwinah was tortured, forced labor,

¹²⁴ Mutia Fauzia, Krisiandi "Kasus Kerja Paksa PMI Ilegal di Malaysia yang Berulang", 18 Pebruari 2022, see [Kompas.com](https://kompas.com)

¹²⁵ I Wayan Sui Suadnyana, Simon Selly "Lagi, PMI Ilegal Asal NTT Meninggal di Malaysia" 13 Juni 2024. See <https://www.detik.com/bali>

¹²⁶ I Wayan Sui Suadnyana, Simon Selly "Lagi, PMI Ilegal Asal NTT Meninggal di Malaysia" 13 Juni 2024. See <https://www.detik.com/bali>

¹²⁷ Raja Eben Lumbanrau "Terdakwa kasus penyiksaan 'keji' terhadap Meriance Kabu di Malaysia 'penuhi unsur kejahatan perdagangan orang' Apa maknanya bagi perlindungan PMI?", 30 Juli 2024. See, <https://www.bbc.com/indonesia/articles>

¹²⁸ Finta Rahyuni, "Kapal Bawa PMI Tenggelam di Selat Malaka, Penumpang 4 Hari Terdampar-1 Tewas" 30 Juli 2024, see, <https://www.detik.com/sumut/berita>.

gai was detained for 9 months and was not allowed to bring telecommunication devices so that she could not communicate with her family.¹²⁹

16. The case of Lili Herawati from Aceh. Lili Herawati has been working in Malaysia since 2014 at the age of 16. He was detained and tortured by the Employer for 8 years and was not paid.¹³⁰

There are many more cases of undocumented migrant workers in Malaysia reported by various media, and it is even possible that there are dozens or hundreds of cases that are not reported so that the cases of violence experienced by migrant workers are like an iceberg that only appears on the surface, but in fact what does not appear to be bigger. According to Migrant Care records, there are at least 51 cases faced by migrant workers in Malaysia in 2023, in fact, according to data from the Ministry of Foreign Affairs, there are 8,872 Indonesian citizens repatriated from Malaysia.¹³¹

D. Experience of undocumented Indonesia Migrant Workers in Malaysia

In the initial context of illegal migration carried out by Indonesian citizens to Malaysia, there are two patterns that are carried out, including *the legal entry and illegal stay* pattern, and *illegal entry and illegal stay*. The *legal entry* pattern is a pattern of Indonesian citizens who enter a country using valid documents and use a 30-day *free stay* tourist visa as a tourist, while the *illegal entry* pattern utilizes illegal transportation without documents through the coast or land borders without passing or evading immigration checks. Arriving in Malaysia, experiencing *illegal stays* in the form of *overstays*, *undocumented*, and no residence permits for a long enough time to work. Both patterns are

¹²⁹ Ahmad Viqi, , "Suwinah, PMI yang Dianiaya Majikan di Malaysia Akhirnya Pulang" 16 Maret 2024. See, <https://www.detik.com>

¹³⁰ Rizki Maulana, "Pekerja Migran Indonesia, PMI, Disekap Majikan Malaysia, pengekapan" 19 Agustus 2022. See, <https://modusaceh.co/new>

¹³¹ Raja Eben Lumbanrau "Terdakwa kasus penyiksaan 'keji' terhadap Meriance Kabu di Malaysia 'penuhi unsur kejahatan perdagangan orang' Apa maknanya bagi perlindungan PMI?", 30 Juli 2024. See, <https://www.bbc.com/indonesia/articles>

often used by irresponsible people or syndicates of transnational crime organizations to smuggle victims of human trafficking through several regional borders from Indonesia to Malaysia.¹³²

Undocumented migrant workers or referred to as illegal migrant workers, non-procedural migrant workers, illegal migrant workers, vacant migrant workers and unofficial migrant workers are migrant workers who: *first*, deliberately enter the territory of another country without using valid documents through unofficial channels in border areas; *second*, entering another country with a visit or tourist visa, then infiltrating and working in another country; *third*, having expired work documents (over stay), but staying in another country, changing jobs, or fleeing; *Fourth*, legal workers who work for an employer, but for various reasons, such as persecution, torture, fraud, sexual harassment, prostitution, unpaid salary, unlimited working hours, heavy workload and low wages, then flee so that the status changes to undocumented.¹³³ Illegal Migrant Workers are people who go abroad illegally or not in accordance with applicable laws and regulations and they are not registered with the representative of the Indonesia embassy in the country where they work.¹³⁴

The experience of undocumented migrant workers in Malaysia is very diverse. For example, LF (26 years old) from Banyuwangi, East Java, said, "I left for Malaysia in 2019 invited by a friend who has been in Malaysia for 2 years. I worked at a vegetable farm in Johor Bahru Malaysia for 8 months. After a few months in Malaysia I just found out that my and my friend's visas were visit visas. However, my friend said it was okay and if there

¹³² Strategi KBRI Kuala Lumpur Dalam Perlindungan Kewarganegaraan: Studi WNI Tidak Berdokumen di Malaysia Tahun 2022–2023

¹³³ Arohmi, Asnu Fayakun. "LEGAL PROTECTION FOR ILLEGAL INDONESIAN WORKER IN MALAYSIA." *Media of Law and Sharia* 1.4 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. Theddy, Theddy, et al. "Legal Protection of International Labour Organization (ILO) and Indonesia toward Indonesia Illegal Migrant Workers." International Conference on Public Policy, Social Computing and Development, 2022.

¹³⁴ Sirait, Ningrum Natasya. "Legal Protection of International Labor Organization (ILO) and Indonesia Towards Indonesia Illegal Migrant Workers." *Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021)*. Atlantis Press, 2022. <https://doi.org/10.2991/assehr.k.220204.026>

was an inspection he said he would just hide. I was afraid of being raided, but I didn't know what to do. I also want to go home but I don't know what to do because my passport has expired. I contacted my family and was advised to contact ZA, a migrant worker in Malaysia. I was picked up by ZA by car at 7 pm Malaysia time and arrived at a house at 2 am Malaysia time. In the car there were 3 Indonesian people. I don't know which region it is. The next day at 6 p.m. I set off to walk through the forest with 4 friends for approximately 6 hours and then took a boat and arrived in Batam at 5 a.m. Indonesia time."¹³⁵

The story of RHN (39) An undocumented former migrant worker from Sumedang is even more tragic: "When I was working in Malaysia, I used a visit visa, and I was tortured. He went to Malaysia because he was invited by a person who was already working in Malaysia to work in catfish farming with a salary of 4 million and cigarette money of 1 million (in 2008). The cost of passports and others is borne by people who are from Malaysia, because they do not year the correspondence and only follow their rules. With reckless capital and no cost and financed by the person who invited. For 3 days and 3 nights on the boat. Finally, he worked at the etawa goat farm. In the morning, looking for elephant grass in a truck, I feel tormented at work. . After 3 months of escaping from the farm through the forest for 3 days with his friends. However, he returned to the farm because he was lured by his boss to return to Indonesia, but it turned out that he was tortured until he was injured (beaten, tortured, etc.) and was not returned to Indonesia. Then they were taken to the factory to work in the factory and get facilities, the work was clear and orderly. After a while, I found out that my passport was illegal (tourist passport) after being told by a friend from Malaysia after working in a pellet factory for more than 1 year. The salary of 5 million is deducted by 1 million for. His friends were told to run away and his friend told his acquaintance to be able to escape at a cost of 12 million. Finally, he fled with his friend to

¹³⁵ LTF, Personal Interview, 2 Juni 2024

Kuala Lumpur (tekong) in Kuala Lumpur for 3 days. Then buy a ticket and be picked up. When there is an operation, how many times does the car change by tekong. Then take a truck to the forest to the seashore through rivers, cliffs, etc. for approximately an hour. At 12 pm take a barge boat with some TKIs.. in the boat hiding under vegetables . and when there is a Malay police patrol in the sea swimming for more than 1 hour to Riau. After going on land, the road through debt then took a Boot motorbike to Batam and to Batam Airport. During the escape for 3 days and 3 nights did not eat and ate potluck from the forest. From the brokers, they are not given meals, only tickets. Until the Bandung, the remaining money was only 30 thousand. Walk From Bandung airport to alun-alun Bandung.¹³⁶

Sum (32) from East Java, a migrant worker who had worked in Malaysia illegally in 2020 as a domestic worker. Sumarti went to work in Malaysia because she was tempted by the offer of people who had worked in Malaysia. After working as a domestic worker for 7 months without salary, he was treated harshly and his passport was detained by his employer. Sumarti finally escaped from her employer and was helped by an Indonesian who worked in Malaysia to report to the Indonesian Embassy and was returned through official channels¹³⁷.

Same as Sum, RTS (36) from Brebes, Central Java. Rita became a non-procedural or illegal migrant worker because of an offer on Facebook offering to work in Malaysia. At the beginning of her departure, Rita thought that if she already had a passport, it was classified as a legal PMI. However, the passport made by the illegal migrant worker agency turned out to be fake and he did not know it. Rita admitted that she arrived in Malaysia as an illegal migrant worker in November 2021 and worked as a domestic assistant (ART). However, for five months of work, RTS did not get a salary, cellphone, passport, money were all taken from the employer. Finally, he demanded what should be his right and

¹³⁶ KR, Interview , 23 Juli 2024

¹³⁷ SM. Interview 25 Juli 2024

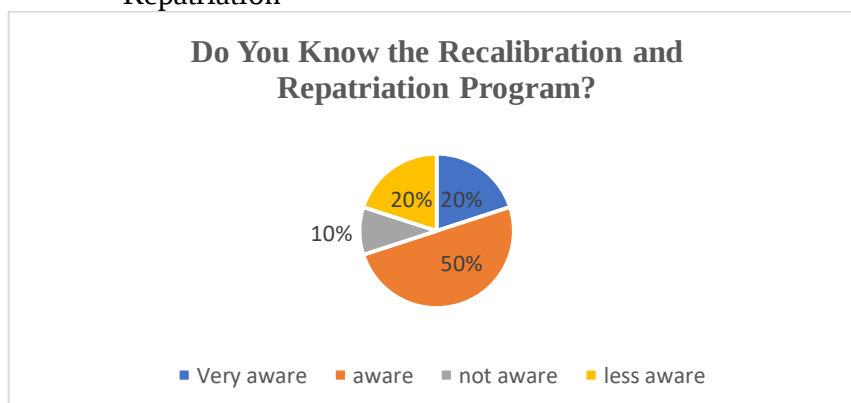
planned to report the matter to the PMI agency. However, his employer was angry, hit and trampled and then abandoned on the side of the road on April 14, 2022. Luckily, at that time there was an online motorcycle taxi driver who kindly delivered him to the Indonesia embassy in Malaysia. RTS was finally able to return to the country on April 27, 2022 and was escorted to the BP2MI shelter.¹³⁸

Undocumented migrant workers occur because: 1) they deliberately work in Malaysia through the back exit route without documents; 2) initially had official documents through PT but the regular visa (visit) so that the visa was dead; 3) PMIs who have permits and are not willing to extend their permits do not return home and remain in Malaysia; and 4) PMIs who expire their contracts and then do not return home, do not take care of memos, then continue their work activities and remain in Malaysia.¹³⁹

E. Undocumented Indonesian Migrant Workers' knowledge of Recalibration and Repatriation Policies

Based on the results of the survey, Indonesian migrant workers in Malaysia do not all know about the Malaysian Government's policy regarding Illegal Immigrant Policy (**PATI**), even though they have been in Malaysia for a long time.

Figure 2. Indonesian Migrant Workers' Knowledge about the Recalibration and Repatriation

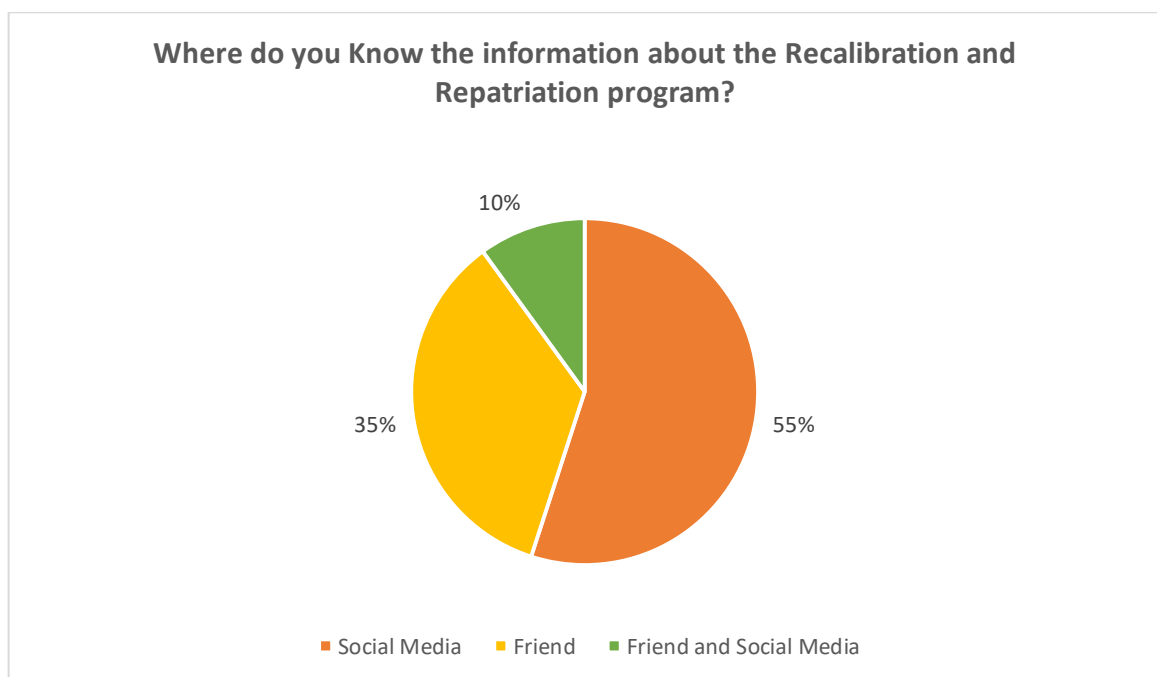


¹³⁸ Muhammad Naufal "Kisah Wanita Brebes Jadi TKI Ilegal di Malaysia, Tak Digaji dan Disiksa Majikan", see, : <https://megapolitan.kompas.com/read/2....>

¹³⁹ Kulibank

The data is the result of a survey of 10 undocumented ex-PMIs in Malaysia. The data shows that, 20% or 2 people know very well, 50% or 5 people know, 10% or 1 person does not know and 20% or 2 people do not know. This means that out of 10 undocumented migrant workers, 9 people know about the repatriation and recalibration policies of the Malaysian government, even though with different levels of knowledge only 1 person does not know the policies and programs at all. An Indonesian migrant worker who did not know about the program said that she did not know because, for 4 months in Malaysia, she did not have a handphone and was forbidden to contact her family, even though we were not allowed to go out by her semen. ¹⁴⁰

Figure 3: Recalibration and Repatriation Program Information

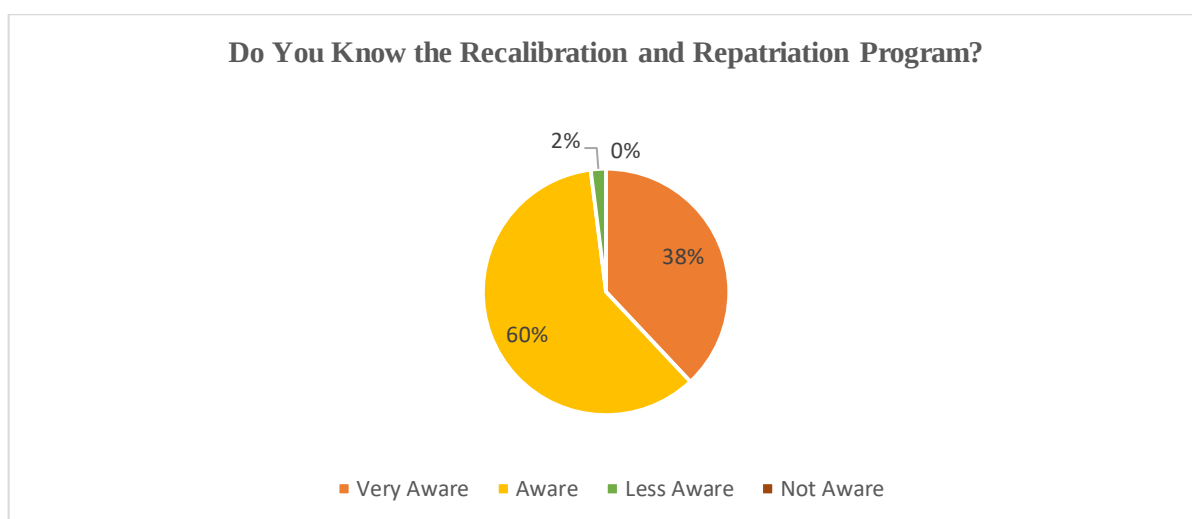


Data from 9 undocumented Indonesian migrant workers showed that most of them knew about recalibration and repatriation policies and programs from social media, namely 55% or 5 people 35% or 3 people and 10% or 1 person from friends and social media. When

¹⁴⁰ SR, Interview 4 Juni 2024

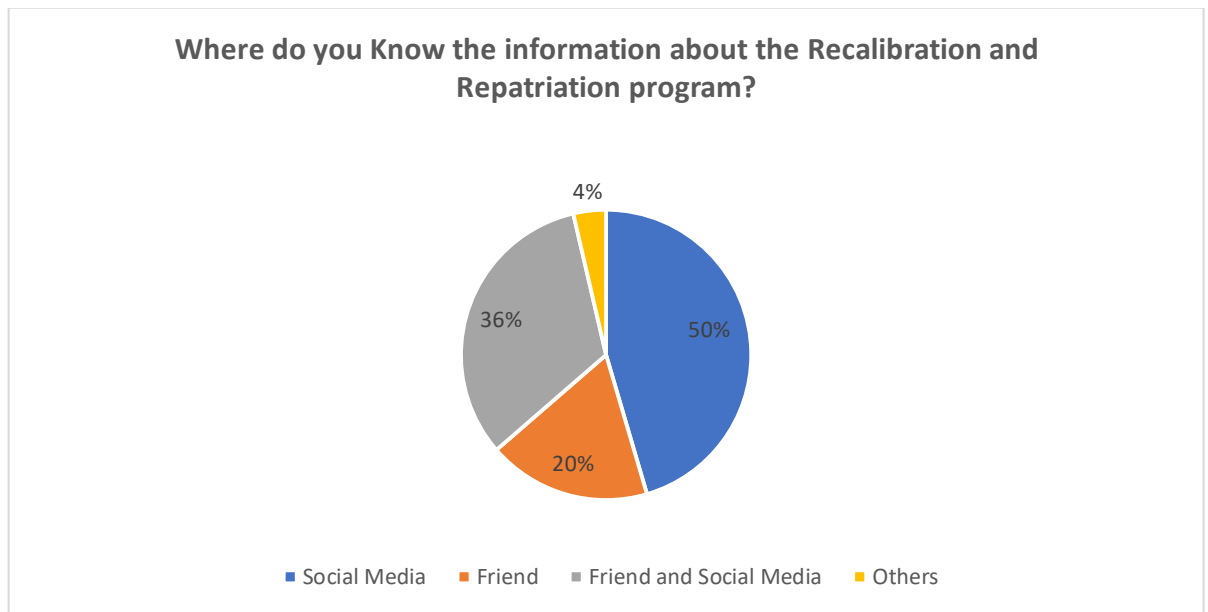
compared to documented PMI (procedural), their knowledge is very different. Procedural PMI (documented) 100 per cent knows the maturity of these policies and programs. According to them, policies and programs regarding PATI, one of which is the recalibration and repatriation program or commonly referred to by migrants as the whitening program, are always socialized through various media and other channels. In fact, according to one of the PMIs who has been working in Malaysia for 10 years, when there was no social media like now, socialization was often carried out by the Indonesian Embassy in Malaysia and by non-governmental migrant organizations.¹⁴¹

Figure 4: Documented Indonesian Migrant Workers Knowledge



The data of 50 documented PMI people who do not know is 0% and those who do not know are 2% or 1 person, those who know are 60% or 30 people, those who know very well are 38% or 19 people.

Figure 5: Information about Recalibration and Repatriation



Most of the documented Indonesia Migrant Workers obtained knowledge and understanding from social media, namely 50% or 25 people, from friends, namely 20% or 10 people, from friends and social media, namely 36% or 18 people, and from others, namely 4% or 2 people. Information from others is information from the Indonesian Embassy, employers and other non-governmental institutions.

F. Malaysia's Recalibration and Repatriation Process

Workforce Recalibration (RTK 2.0) which was carried out on November 16, 2020 to December 31, 2021, was extended to December 31, 2023. The recalibration policy in 2023 to regulate PATI (Unlicensed Foreign Workers) was implemented from January 27 to December 31, 2023 for the Peninsula region, while in the Sarawak region it only took effect from July 1, 2023 and ended on December 31, 2023. Furthermore, the PATI (Unlicensed Foreign Worker) verification process in the Labor Recalibration program or (RTK) will be carried out until March 2024 by the Malaysia Immigration department.¹⁴² The follow-up

¹⁴² Hasan, Rizki Setia Damayanti, Ani Wijayati, and Edward ML Panjaitan. "Analysis of Manpower Recalibration Policy in Malaysia for Illegal Indonesia Migrant Workers Based on the Memorandum of

program in 2024 is the repatriation program which will be implemented from 01 March 2024 to 31 December 2024, where this program is a repatriation program for PATI who violate the provisions of the law in Malaysia.¹⁴³

The main differences between RTK2.0 in West Malaysia and Sarawak are: .

1) Who gets the "quota" from?

For employers in Sarawak, it is necessary to obtain approval from the Sarawak Manpower Department (JTKS). RTK 2.0 is a good example of Sarawak's autonomy when it comes to employing non-residents. Why? Article 119(1) says that "No person shall employ a non-resident worker unless he has obtained permission from the Director to employ a non-resident worker". Article 119(2) states that "The Director's authority to issue a Permit to Employ Non-Resident Employees shall be subject to the immigration laws in force in Sarawak and such Licence shall be in such form and condition as may be applicable. determined". Therefore, employers in Sarawak are required to first obtain an AP (Approval in Principle) and then a work permit from the Sarawak JTK through MSEN. Without a valid work permit issued by JTK SARAWAK, I am of the view that JIM will not issue work permits to migrant workers. Meanwhile, employers in West Malaysia are required to obtain Quota 2.0 Approval from the Ministry of Home Affairs.

2) Different Levy Payment Rates

Although the recalibration fee (RM1,500), Pass (RM60.00) and Visa (which varies based on the nationality of the migrant worker) are the same for West Malaysia and Sarawak, the rate of levy payment in West Malaysia is higher than Sarawak. For example,

Understanding between Indonesia and Malaysia of April 1." *Collaborative Journal of Science* 7.4 (2024): 1418-1424.

¹⁴³ Virna P Setyorini, "Malaysia mulai lagi program repatriasi pekerja migran mulai 1 Maret 2024" 23 Januari 2024, see <https://www.antaranews.com/>

the levy for the plantation and agriculture sector in Sarawak is RM590.00, which means RM50.00 is lower than the RM640.00 levy imposed in West Malaysia for the same sector.

3) Number of Approved Source Countries

The list of source countries (source countries) for West Malaysia and Sarawak is very similar, with only one (1) striking difference. Sarawak allows Chinese nationals to participate in RTK 2.0 and therefore not only 15 source countries (Indonesia, Bangladesh, Thailand, India, Philippines, Cambodia, Laos, Nepal, Myanmar, Sri Lanka, Viet Nam, Pakistan, Turkmenistan, Uzbekistan, Kazakhstan), Sarawak has 16 source countries, including China.

4) Health Screening

Regarding the Fit To Work criteria, although migrant workers from both sides are required to undergo a health check, West Malaysia has established a FOMEMA Medical Check. FOMEMA refers to FOMEMA Sdn. Bhd., "an institution appointed by the Government of Malaysia to assist the Ministry of Health Malaysia in monitoring and supervising mandatory health checks for all lawful Foreign Workers in Peninsular Malaysia and the Federal Territory of Labuan". FOMEMA Medical Screening is not valid in Sarawak. Employers in Sarawak can send their migrant workers to any clinic as long as their medical practitioners make a report according to the format set by the Ministry of Health.



PROGRAM REKALIBRASI TENAGA KERJA (RTK) 2.0

PERMOHONAN TARIKH VERIFIKASI PATI RTK 2.0 MELALUI:

e-MEL : rekalibrasiv2@imi.gov.my

MEMOHON JANJI TEMU PERMOHONAN TARIKH VERIFIKASI PATI RTK 2.0

- Majikan perlu mengemukakan Slip Portal Pendaftaran RTK 2.0 dan senarai pekerja kepada e-mel: rekalibrasiv2@imi.gov.my

MAJIKAN PERLU MEMBAWA DOKUMEN ORIGINAL DAN SALINAN SEPerti BERIKUT SEMASA HADIR VERIFIKASI BERSAMA PEKERJA:

- Slip Portal Pendaftaran RTK 2.0
- Suruhanjaya Syarikat Malaysia (SSM)
- Kad pengenalan majikan
- Sekiranya wakil, surat wakil beserta kad pengenalan dan Kumpulan Simpanan Wang Pekerja (KWSP) terkini 3 bulan bagi wakil
- E-mel dan nombor telefon
- Bagi sektor pembinaan perlu lampirkan dokumen Letter of Award (LoA) yang telah dimatikan setem di Lembaga Hasil Dalam Negeri (LHDN), slip bayaran levi Lembaga Pembangunan Industri Pembinaan Malaysia (CIDB) dan kontrak kerja yang telah dimatikan setem hasil.
- Bagi sektor pencucian perlu lampirkan dokumen Letter of Award (LoA) dan telah dimatikan setem di Lembaga Hasil Dalam Negeri (LHDN)
- Hadir mengikut slot janji temu dan jumlah pati yang dipohon janji temu. Sekiranya lebih perlu mohon janji temu lain.

LOKASI PUSAT SEHENTI (OSC)

- Permohonan janji temu Pusat Sehati (OSC) verifikasi di Pusat Sehati (OSC) aras 2, Ibu Pejabat Jabatan Imigresen Malaysia, Putrajaya.

PERTANYAAN BERKAITAN RTK 2.0

- Sebarang pertanyaan sila layari Sistem Pertanyaan Online (SPO) <https://eapp.imi.gov.my>

**HUBUNGI TALIAN :
03-8880 1269**

Disediakan Oleh : Unit Komunikasi Korporat, Ibu Pejabat Jabatan Imigresen Malaysia, Putrajaya

Jabatan Imigresen Malaysia <http://www.imi.gov.my> Imigresenmy Imigresen TV Imigresen



SYARAT KELAYAKAN PATI



Mempunyai majikan yang sah

Tidak berada dalam Senarai Disyaki dan Senarai Hitam

PATI yang telah mendaftar di dalam Program Rehiring dan Program 6P

Mempunyai dokumen perjalanan negara asal yang masih sah laku sekurang-kurangnya 18 bulan.

Telah menjalani saringan pemeriksaan kesihatan (FOMEMA) dan diperakui (*Fit to work*)

PATI yang melakukan kesalahan pada atau sebelum 31 Disember 2022 di bawah :

- Seksyen 6(1)(c) Akta Imigresen 1959/63 iaitu masuk dan tinggal di negara ini tanpa mempunyai pas yang sah.
- Seksyen 15(1)(c) Akta Imigresen 1959/63 iaitu tinggal lebih masa; dan
- Peraturan 39(b) Peraturan-Peraturan Imigresen 1963 iaitu melanggar syarat pas;

15 NEGARA SUMBER LAIN-LAIN SEKTOR

1. Thailand	9. Sri Lanka
2. Kemboja	10. Bangladesh
3. Nepal	11. Turkmenistan
4. Myanmar	12. Uzbekistan
5. Laos	13. Kazakhstan
6. Vietnam	14. Pakistan
7. Filipina	15. India
8. Indonesia	

9 NEGARA SUMBER UNTUK PRA SAHAJA

1. Thailand	6. Filipina
2. Kemboja	7. Sri Lanka
3. Nepal	8. India
4. Laos	9. Indonesia
5. Vietnam	

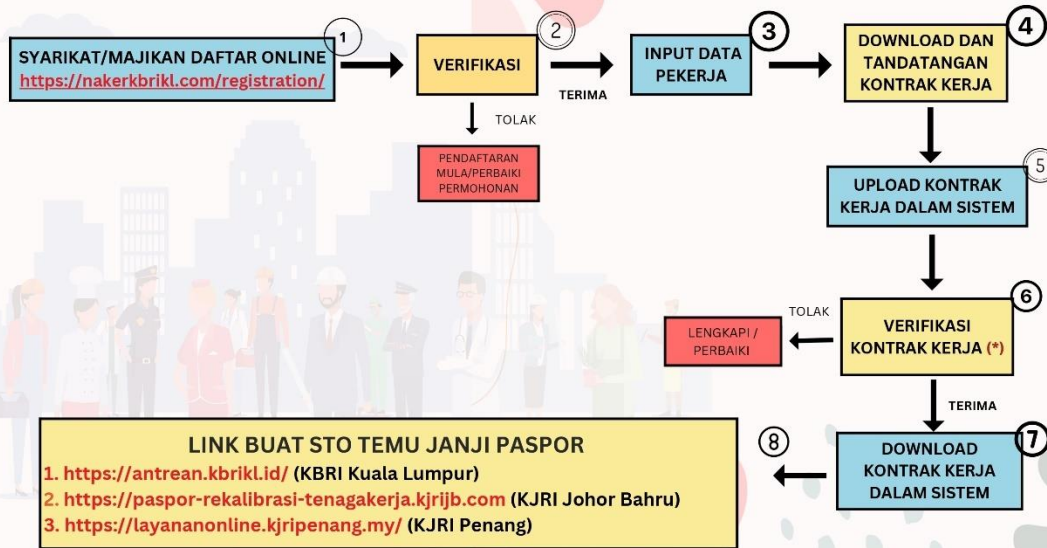
The Work Process of the Manpower Recalibration Program 2.0 (RTK 2023), namely: 1) applications can be made through the Immigration Department (JIM) [website https://imigresen-online.imi.gov.my/myimms/main](https://imigresen-online.imi.gov.my/myimms/main) (Employers register their PATI information online); 2) Setting an appointment [date \(STO\)](#); 3) Employers present with PATIs; 4) Verification process; 5) If approved, approval by the Immigration Department of Malaysia will be issued; 6) FOMEMA health screening is conducted; 7) If approved, the

employer needs to pay at Visa recalibration, PLKS, processing and levy; 8) Upon final approval, the employer can print [the PLKS](#).





ALUR PROSES PENDAFTARAN MAJIKAN DAN KONTRAK KERJA REKALIBRASI TENAGA KERJA 2.0 (SEKTOR FORMAL)



PERSYARATAN PENDAFTARAN MAJIKAN DAN KONTRAK KERJA SEKTOR FORMAL REKALIBRASI TENAGA KERJA (RTK)

A. Persyaratan Pendaftaran Syarikat

- SSM Form
- Identitas Pengenalan (IC) Pengarah Syarikat & Wakil Syarikat
- Spesimen tandatangan Pengarah dan Cop Syarikat
- KWSP Wakil Majikan
- Surat Jaminan Majikan telah dimatikan setem

B. Persyaratan Pembuatan Kontrak Kerja:

- Pekerja berusia minimal 18 tahun
- Pekerja memiliki identitas seperti Paspor/SPLP/KTP.
- Memenuhi syarat kelayakan PATI yang ditetapkan oleh Jabatan Imigrasi Malaysia seperti tidak berada dalam daftar blacklist, dilaporkan lari dari majikan dan terekod di JIM, lulus tes kesehatan (FOMEMA).
- Sektor & Sub Sektor yang diperbolehkan sesuai yang ditetapkan Jabatan Imigrasi Malaysia

C. Hal yang harus diperhatikan

- Semua biaya (Kos Bayaran) RTK dibayar oleh majikan (tidak ada potongan gaji pekerja)
- Kontrak kerja harus ditandatangani asli (original) pekerja dan majikan
- Pekerja tidak perlu datang ke KBRI/KJRI untuk pembuatan kontrak kerja
- Pengurusan kontrak kerja (**percuma/gratis**)

Catatan: Pekerja wajib membawa dan menunjukkan kontrak kerja yang telah disahkan KBRI/KJRI pada saat temu janji foto Paspor.



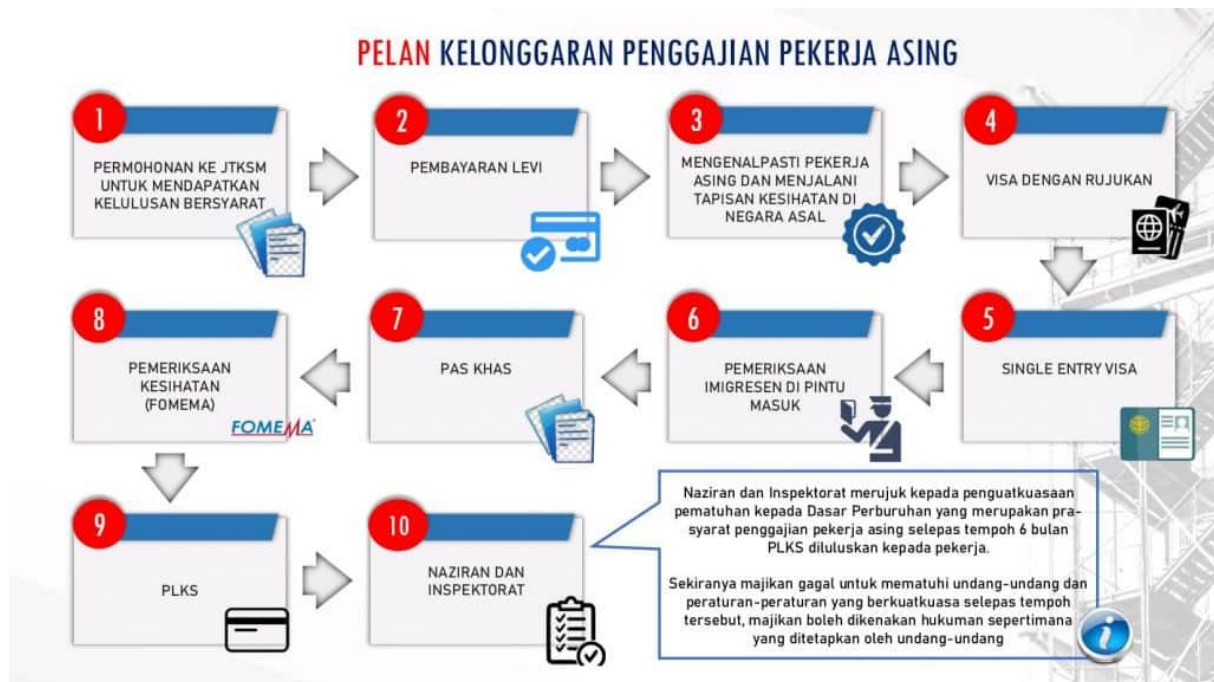
Pertanyaan Pendaftaran Majikan dan Kontrak Kerja:

017-375-5191 (Whatsapp KBRI Kuala Lumpur)
016-770-0378 (Whatsapp KJRI Johor Bahru)
017-497-0048 (Whatsapp KJRI Penang)



Pertanyaan Pendaftaran dan pembuatan Paspor:

017-736-2331 (Whatsapp KBRI Kuala Lumpur)
017-771-6866 (Whatsapp KJRI Johor Bahru)
011-124-60970 (Whatsapp KJRI Penang)



The Migrant Repatriation Programme is an initiative by the Government aimed at providing an opportunity for PATIs who have committed the offence of overstaying, being in Malaysia without a valid pass to return to their country of origin voluntarily. This programme is only implemented in Peninsular Malaysia and Labuhan. This programme is valid for: 1) Foreigners who commit the following offences: a) Section 6(1)(c) of the Immigration Act 1959/63 i.e. entering and staying in Malaysia without a valid pass or permit; b) Section 15(1)(c) of the Immigration Act 1959/63 i.e. overstay; or c) Regulation 39(b) of the Immigration Regulations 1963 which is in breach of the conditions of the Pass; 2) The PATI must submit his/her passport/travel document and return ticket to his/her home country within fourteen (14) days from the date of appointment.

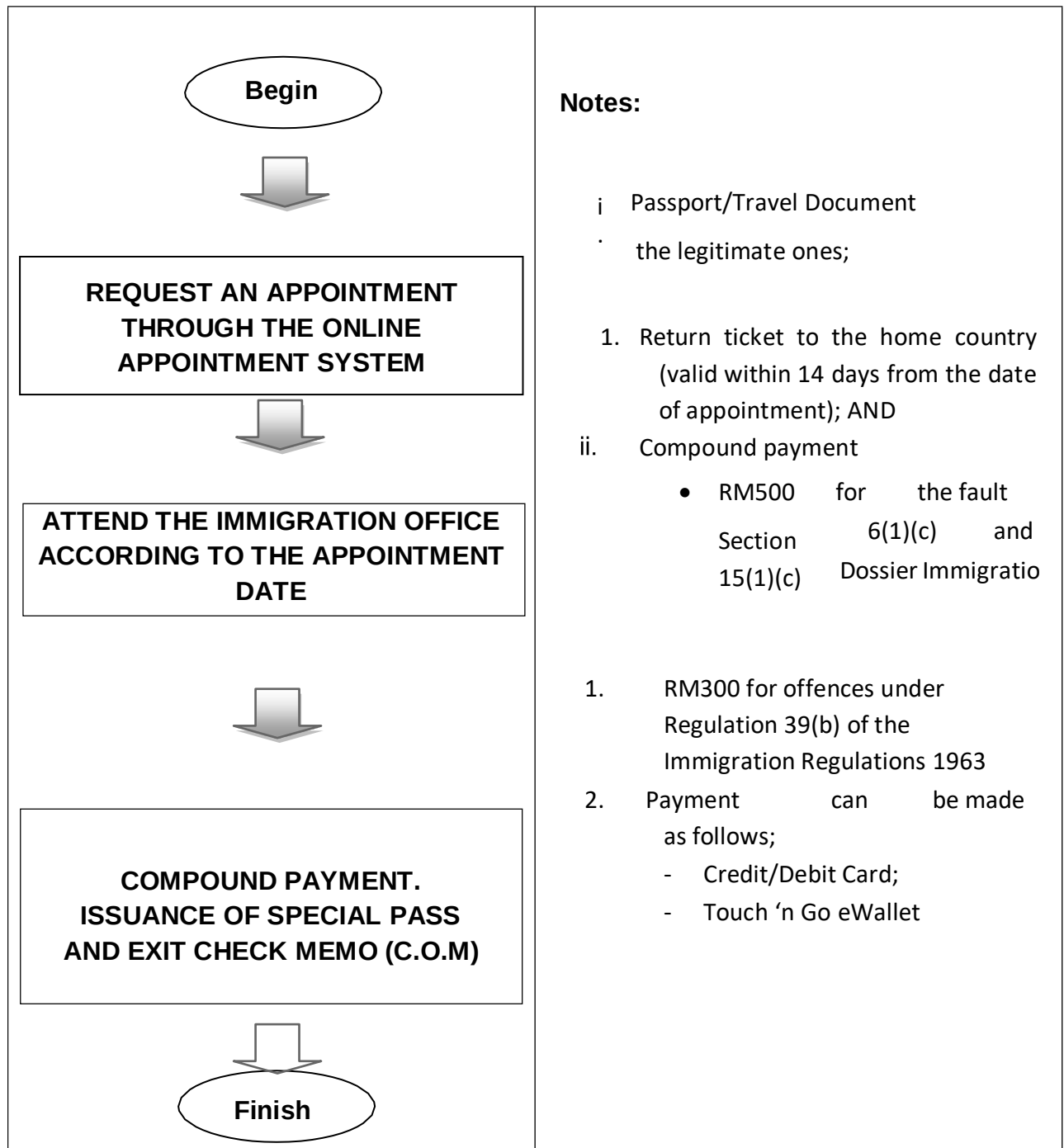
Kampoun or fees for the migrant repatriation program are as follows and only use Ewallet credit / debit card (Touch N Go) .

Table 5 : Repatriation Program Payments

ERROR	UP KOMPAUN
Overtime Stay Section 15(1)(c) : Immigration Act 1959/63	RM 500.00
No valid pass Section 6(1)(c) : Immigration Act 1959/63	RM 500.00
Abuse of Pass Regulation 39(b) : Immigration Regulations 1963	RM 300.00

This program will be implemented from 01 March 2024 to 31 December 2024. The programme is fully conducted by the Immigration Department of Malaysia (JIM) and monitored by the Ministry of Home Affairs (MOHA) without the involvement of vendors or third parties. Any PATI who is still stubborn and refuses to participate in this program if arrested during enforcement operations, strict action will be taken including: 1) Imprisonment; 2) Fines; and or; 3) Whipping punishment.

How to participate in the migrant repatriation program are: 1) PATI must apply for an appointment through the Online Appointment System (STO) sto.imi.gov.my first; 2) Present at the Immigration Office according to the place and date of the appointment by bringing a valid passport/travel document along with a return ticket.



CHAPTER IV

DISCUSSION

A. Legal Dilemma of Undocumented Indonesian Migrant Workers in Malaysia: Rational Choice between Legal Compliance or Resistance

The Workforce Recalibration (RTK 2.0) which was implemented on November 16, 2020 to December 31, 2021, was extended to December 31, 2023. The recalibration policy in 2023 to regulate PATI (Unauthorized Foreign Workers) which was implemented from January 27 to December 31, 2023 for the Peninsular region, while in the Sarawak region it only took effect from July 1, 2023 and ended on December 31, 2023. Furthermore, the verification process for PATI (Unauthorized Foreign Workers) in the Workforce Recalibration or (RTK) program will be carried out until March 2024 by the Malaysian Immigration Department.¹⁴⁴ The continuation program in 2024 is the repatriation program which will be implemented from March 1, 2024 to December 31, 2024, where this program is a repatriation pardon program for PATI who violate legal provisions in Malaysia.¹⁴⁵

The Labor Recalibration Program is a special program to regularize PATI in Malaysia as foreign workers who are legally paid by employers who are subject to strict conditions decided by the Government through Jabatan Imigresen Malaysia (JIM) and the Ministry of Human Resources (KSM).¹⁴⁶ The Migrant Repatriation Program is an initiative by the Government aimed at providing an opportunity for PATI who have committed the mistake of overstaying, being in Malaysia without a valid permit to return to their home country voluntarily.¹⁴⁷

¹⁴⁴ Hasan, Rizki Setia Damayanti, Ani Wijayati, and Edward ML Panjaitan. "Analisis Kebijakan Rekalibrasi Tenaga Kerja di Malaysia untuk Pekerja Migran Indonesia Ilegal Berdasarkan Memorandum of Understanding Indonesia dan Malaysia 1 April." *Jurnal Kolaboratif Sains* 7.4 (2024): 1418-1424.

145

Virna P Setyorini, "Malaysia mulai lagi program repatriasi pekerja migran mulai 1 Maret 2024" 23 Januari 2024, see <https://www.antaranews.com/>

¹⁴⁶ Jabatan Imigresen Malaysia Soalan – Soalan Lazim Program Rekalibrasi Tenaga Kerja

¹⁴⁷ Jabatan Imigresen Malaysia Soalan – Soalan Lazim

The recalibration program is intended for 1) employers with conditions including: a) in the refinery, construction, agriculture and farming sectors (restaurants, cargo, washing & cleaning and wholesalers & retail); b) to the quota approved by the Ministry of Human Resources (KSM); c) compliance with existing foreign worker salary requirements such as age limits, levy pay, suitability and so on; and d) Not on the Suspected List and Black List; 2) foreign nationals with the following conditions: a) holders of a Social Visit Pass (PLS), Temporary Work Tour Pass (PLKS) including Foreign Helpers who commit a mistake under Section 15(1)(c) namely overstaying under the Immigration Act 1959/63 on or before 31 December 2020; 2) PLKS holders who erroneously violate the pass requirements under Regulation 39(b) of the Immigration Regulations 1963 whose passes are still valid on or before 31 December 2020; 3) PATI who have registered in the Rehiring Program and 6P Program, but the process is incomplete, namely receiving a Temporary Work Tour Pass (PLKS); 4) PATI who runs away and is not reported by the employer; 5) come from 15 countries (Thailand, Cambodia, Nepal, Myanmar, Laos, Vietnam, Philippines, Pakistan, Sri Lanka, Bangladesh, Turkmenistan, Uzbekistan, Kazakhstan, India and Indonesia); 5) Not on the Suspected List and Black List; 6) Have valid travel documents from your country of origin; 7) Have a negative result slip for the COVID-19 test made within three (3) days before the appointment date and; 8) Has undergone a health examination (FOMEMA) and is recognized as fit to work.¹⁴⁸

The Migrant Repatriation Program is aimed at foreign nationals who make the following mistakes: a. Section 6(1)(c) of the Immigration Act 1959/63, namely entering and remaining in Malaysia without a valid pass or permit; b. Section 15(1)(c) of the Immigration Act 1959/63 is overstaying; or c. Regulation 39(b) of the Immigration Regulations 1963 is in violation of the requirements of Art. 2.2. PATI must present your passport/travel

¹⁴⁸ Jabatan Imigresen Malaysia Soalan – Soalan Lazim Program Rekalibrasi Tenaga Kerja

document and return ticket to your country of origin within fourteen (14) days of the appointment date. PATI who are still stubborn and reluctant to participate in this program if arrested during the enforcement operation, firm action will be taken including: prison sentences; fine; and/or severe punishment.¹⁴⁹ The program is a return amnesty that will be announced so that it can be used by those involved to facilitate repatriation, he said. Saifuddin said the fines imposed range from 300 Malaysian ringgit (RM) or around Rp999 thousand to RM500 or around Rp1.6 million. Those who enter Malaysia without a work visa are charged RM500, while those who overstay the work visa period are around RM500. And those who violate the terms and conditions are charged RM300. Malaysia previously implemented the Workforce Recalibration (RTK) 2.0 program which ended on December 31, where they gave employers the opportunity to apply for foreign workers without permits (PATI) to obtain official documents to employ foreign workers.¹⁵⁰

There are two types of recalibration programs for PATI, namely voluntary repatriation of workers to their homeland or returning to work with their employers legally. This program until December 31, 2022, has been followed by 418,649 people for the Workforce Recalibration program, and 295,425 people for the Returning Home Recalibration program.¹⁵¹ Meanwhile, for the repatriation program in the period of 1-7 March 2024, 5983 PATI have registered and 1864 PATI have returned to their respective countries. The highest number came from Indonesia, reaching 3,115 people, then from Bangladesh (846), India (700), Pakistan (610), Sri Lanka (279), Nepal (157), and 237 people

¹⁴⁹ Jabatan Imigresen Malaysia Soalan – Soalan Lazim

¹⁵⁰ [Setyanavidita livicansera](https://intemasional.republika.co.id) “Kembalinya Repatriasi Pekerja Migran di Malaysia” 2 Pebruari 2024, see <https://intemasional.republika.co.id>

¹⁵¹ Virna P Setyorini “ Serikat buruh migran berharap majikan urus rekalisasi pekerjaanya” 11 Juli 2023, see, <https://www.antaraneews.com>

from the Philippines, Myanmar, Syria, Egypt, Nigeria, Thailand, Vietnam, China and other countries.¹⁵²

The Indonesian Migrant Workers Union (SBMI) Malaysia welcomes the Recalibration program policy. Employers can register illegal Indonesian Migrant Workers to obtain work permits, so that illegal Indonesian Migrant Workers (PMI) can change to legal Indonesian Migrant Workers (PMI). This Recalibration Policy or Program is an opportunity for people who want to work in Malaysia without having to follow the procedures determined by Indonesian national regulations for Prospective Indonesian Migrant Workers (PMI). Recalibration indirectly becomes a bridge for Unlicensed Foreign Workers (PATI) to obtain legal status in Malaysia. However, the current problem is that because the process that must be carried out is a bit complicated, this is what makes employers of illegal Indonesian Migrant Workers (PMI) finally use the services of agents or brokers, and not a few of these employers are deceived into taking care of incomplete or empty documents for illegal Indonesian Migrant Workers (PMI).¹⁵³

The recalibration and repatriation policy by the Malaysian government is indeed good news for undocumented migrant workers in Malaysia. The Ministry of Foreign Affairs explained that the Recalibration policy or program is quite effective, such as data obtained by the Indonesian Embassy (KBRI) Kuala Lumpur, that the number of active Indonesian Migrant Workers (PMI) who have work visas or Temporary Work Visit Passes (PLKS) in Malaysia until November 30, 2023 is 460,478 people.¹⁵⁴

¹⁵² Virna P Setyorini “ 3.115 WNI ikuti repatriasi dari Malaysia dalam seminggu terakhir” 8 Maret 2024. See, <https://kl.antaranews.com/>

¹⁵³ Sita Planasari, “Serikat Buruh Indonesia: Majikan di Malaysia Sebaiknya Urus Sendiri Izin Pekerja” 12 Januari 2023 see, <https://dunia.tempo.co/>

¹⁵⁴ Hasan, Rizki Setia Damayanti, Ani Wijayati, and Edward ML Panjaitan. "Analisis Kebijakan Rekalibrasi Tenaga Kerja di Malaysia untuk Pekerja Migran Indonesia Ilegal Berdasarkan Memorandum of Understanding Indonesia dan Malaysia 1 April." *Jurnal Kolaboratif Sains* 7.4 (2024): 1418-1424. vii <https://doi.org/10.56338/jks.v7i4.3814>

Not all undocumented Indonesian Migrant Workers participate in the recalibration or repatriation program. Various cases show that undocumented PMI do not participate in the program. For example; 1) the case of illegal settlement in Shah Alam, Selangor was arrested by Immigration Department officers in February 2024, where 132 unauthorized foreign immigrants (PATI) from Indonesia consisted of 76 men, 41 women, and 13 children, including a baby who was only nine months old. A number of violations identified were the absence of identification documents, exceeding the period of stay, and other violations that violated the Immigration Law 1959/63, the Passport Law 1966, and the Immigration Regulations 1963;¹⁵⁵ 2) the case of the arrest of 22 undocumented migrant workers by the Malaysian Immigration Police on August 15, 2024, of which 9 of the 22 migrant workers were children. They were arrested because they did not have complete documents to work in Malaysia. The Malaysian Immigration Police arrested them at the residence of non-procedural migrants, precisely in Manbang Setiawan, Kampar, Perak, Malaysia.¹⁵⁶; 3) the case of the arrest of 39 illegal migrant workers at Lanal Tanjung Balai Asahan who left for Malaysia via the waters of Asahan Regency, North Sumatra on June 29, 2024.¹⁵⁷ There are many more cases of undocumented PMI returning to Indonesia illegally via sea and other routes, as well as being arrested by Malaysian immigration officers.

Based on the results of the questionnaire with 30 undocumented Malaysian migrant workers who participated in the repatriation and recalibration program, 60% or 18 people participated in the repatriation and recalibration program, 40% or 12 did not participate in the program.

¹⁵⁵ Virna P Setyorini” 130 WNI masuk tanpa izin ditahan Imigrasi Malaysia” 19 Pebruari 2024 . see <https://www.antaraneews.com> and Irawan Sapto Adhi "Sulitnya WNI Dapat Izin Kerja di Malaysia karena Calo...", 21 Pebruari 2024 , see, <https://www.kompas.com>

¹⁵⁶ Guce Matero , ‘ *Polisi Imigrasi Malaysia dilaporkan menangkap 22 orang PMI non prosedural asal NTT di Malaysia*. “ 20 Agustus 2024, see, <https://indonesiasatu.co/>

¹⁵⁷ M. Sahbainy Nasution, Lanal-tanjung-balai-asahan-amankan-39-pmi-ilegal-ke-malaysia, . 20 Juni 2024. see. <https://www.antaraneews.com/berita/4174383>

Figure 6: Indonesia Migrant Workers who registered and did not register for the program

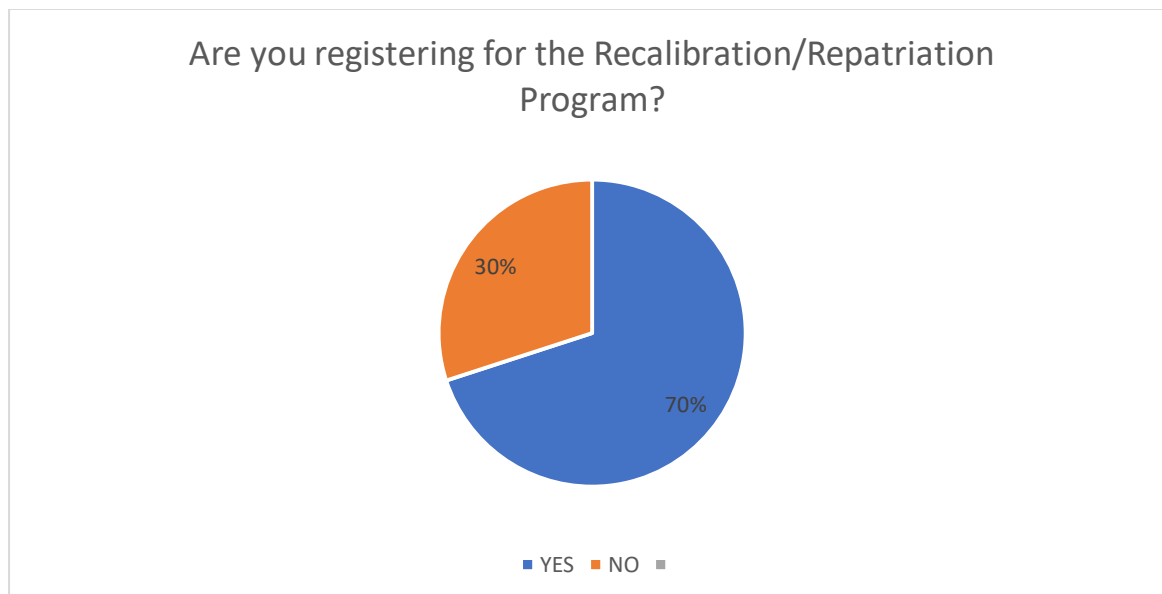
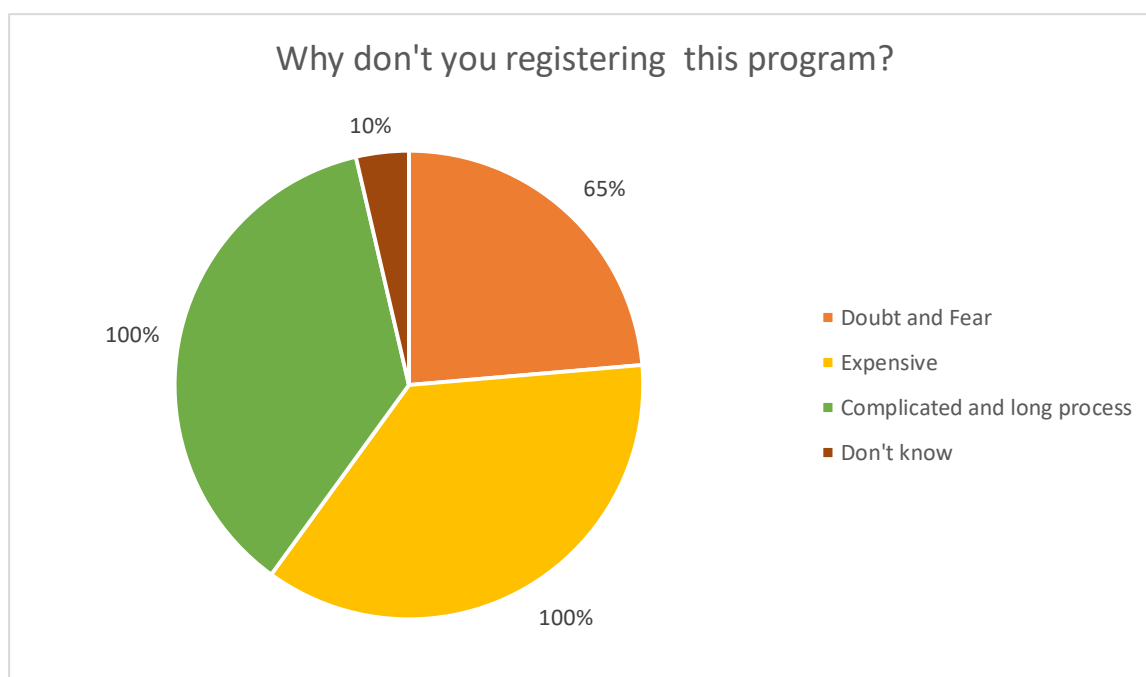


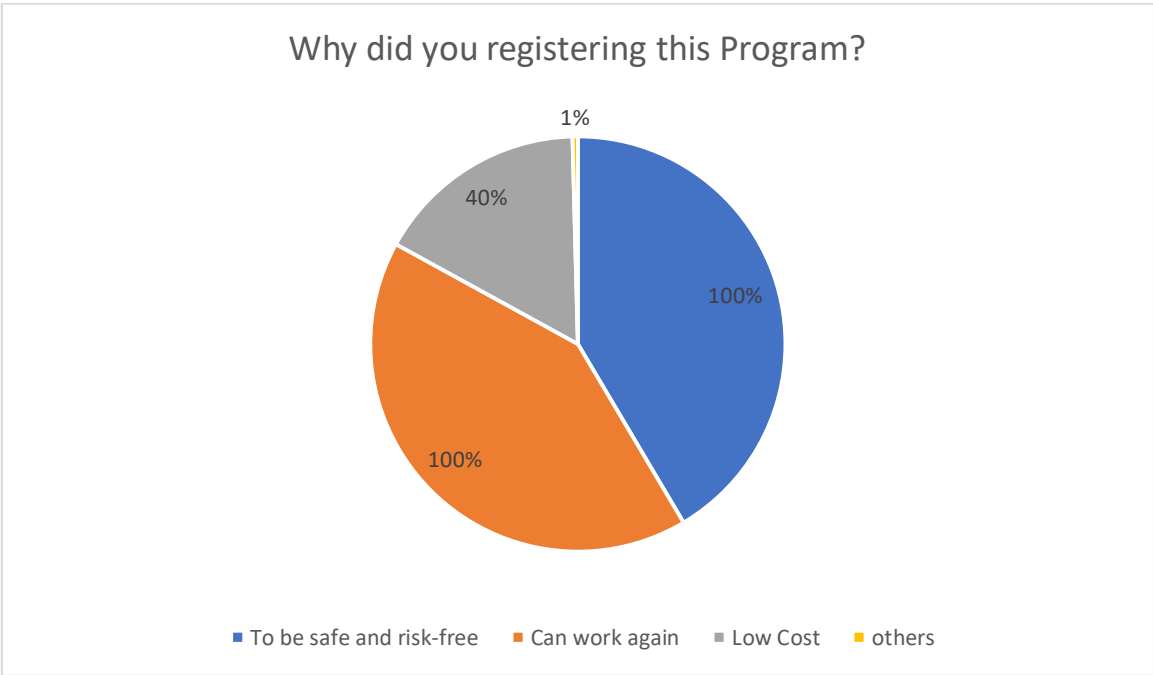
Figure 7: Reasons for Indonesia Migrant Workers not registering for the Program



The data shows that out of 12 undocumented Indonesian Migrant Workers who did not register for the Recalibration and Repatriation program, the reasons are 15 people

answered that they were hesitant and afraid, 12 people answered that it was complicated and the process was long, 12 people answered that it was expensive, and 1 person answered that they did not know. When interviewed, the PMI answered that they were hesitant and afraid because if they followed the program, they would be arrested, punished, deported, and blacklisted, so they could not work in Malaysia again. All Undocumented Migrant Workers also said that the costs were expensive, the process was complicated and the queues were long and they had to register first and various other requirements, so that it took up work time.¹⁵⁸

Figure 8: Reasons to register for the Recalculation and Repatriation program



Meanwhile, those who follow the program also have their own reasons. Of the 18 people who have followed the Recalibration program because the documents have been overstayed, the work contract has expired, or even some are empty (have no documents) at all, then 17 people answered to be safe, no risk, can work again, 8 people answered safe, no risk, can work again and the cost is cheaper and only 1 person answered other reasons. One

¹⁵⁸ SM, AZ, SU, MH, UB, DE , LF interview , 21-24 Juni 2024

(1) person who answered the other had been blacklisted for 6 months and is now working again in Malaysia through the procedural route.

The legal dilemma of undocumented migrant workers who have to choose between complying with the policy or resisting by not complying with the policy occurs because each migrant worker has their rational reasons as shown in the data above. The rational choice of undocumented migrant workers occurs because it is influenced by social interaction, social influence, and social attribution towards fellow undocumented migrant workers. Theoretically, several other factors influence decision-making in social dilemmas, namely: 1) geophysical influence); 2) relations with decision makers; 3) the influence of governance or regulations; 4) characteristics and motives of decision makers; 5) each party assesses themselves to behave according to the situation; and 6) change. A social dilemma is a condition where a person who rationally has to make a choice based on considerations of the extent to which the choice fulfills his goals with greater achievement.¹⁵⁹ PMIs choose to follow or comply with policies because the benefits they gain from complying with the law are greater than the risks or losses they may experience if they break the law. According to rational choice theory, individuals are considered rational actors who make decisions based on rational evaluations of benefits and losses.¹⁶⁰

The rationality of undocumented migrant workers choosing not to register or register for the Recalibration and Reatriation program occurs because there is a motive or goal. Coleman in rational choice theory explains that individual actions lead to a goal and that goal is determined by values or choices.¹⁶¹ Menurut Weber seorang individu dalam membuat keputusan yang berujung pada tindakan tertentu mengacu pada niat (intention)

¹⁵⁹ Wirawan, Dr Ib. *Teori-teori Sosial dalam Tiga Paradigma: fakta sosial, definisi sosial, dan perilaku sosial*. Kencana, 2012, 194-198

¹⁶⁰ Boudon, "Beyond Rational Choice Theory," 21.

¹⁶¹ Coleman, *Foundations of Social Theory*, 55.

sebagai determinan utama dari perilaku aktual.¹⁶² The assumption is that humans are rational beings who consider the consequences of various choices before taking action. That is, the intention to act is considered the best predictor of the action itself. This intention is influenced by two main factors: attitude toward the behavior and subjective norms.¹⁶³

Weber uses a classification of four types of actions, distinguished in the context of the motives of the actors, namely: 1) traditional actions. Actions carried out based on habit without planning, without conscious reflection "I do this because I always do it"; 2) affective actions. Actions carried out and dominated by feelings or emotions without intellectual reflection or conscious planning "What can I do"; 3) value rationality. Actions that see tools as merely conscious considerations and calculations, because the goals related to values have been determined "All I know is to do this"; 4) instrumental rationality. Actions carried out by considering the goals and the tools used to achieve the goals. An action that reflects effectiveness and efficiency. "This action is the most efficient to achieve this goal, and this is the best way to achieve it."¹⁶⁴

Based on Weber's theory, migrant workers who choose to comply with the policy are included in instrumental rationality, namely actions taken by considering the goals and to achieve the goals, namely to be safe (not at risk), to be able to work again, at a cheaper cost and to return to Indonesia safely. While those who do not comply with the policy (resistant) are included in affective rationality where the actions taken and dominated by feelings or emotions without intellectual reflection or conscious planning for reasons of doubt, complexity and lack of money, expensive, fear of deportation, fear of being punished and arrested and fear of being blacklisted, so they cannot work again in Malaysia.

¹⁶² Rogelberg, "Theory of Reasoned Action/Theory of Planned Behavior," 43.

¹⁶³ HALE, HOUSEHOLDER, and GREENE, "The Theory of Reasoned Action," 263.

¹⁶⁴ Weber, *Economy and Society: An Outline of Interpretive Sociology*, 1:54.

B. Patterns and Characteristics of Resistance and Legal Compliance of Undocumented Migrant Workers

Undocumented Indonesian Migrant Workers in Malaysia have existed since In the early context of illegal migration carried out by Indonesian citizens to Malaysia, there were two patterns carried out, namely the legal entry and illegal stay pattern, and the illegal entry and illegal stay pattern. The legal entry pattern is a pattern of Indonesian citizens who enter a country using valid documents and utilizing a 30-day free stay tourist visa as tourists, while the illegal entry pattern utilizes illegal transportation without documents through the coast or land borders without passing through or avoiding immigration checks. Upon arrival in Malaysia, experiencing an illegal stay in the form of overstaying, being undocumented, and not having a residence permit for a long enough time to work. Both patterns are often used by irresponsible people or transnational crime organization syndicates to smuggle victims of human trafficking through several regional borders from Indonesia to Malaysia.¹⁶⁵

Undocumented migrant workers or referred to as illegal migrant workers, non-procedural migrant workers, illegal migrant workers, empty migrant workers and unofficial migrant workers are migrant workers who: first, intentionally enter another country's territory without using valid documents through unofficial channels in border areas; second, enter another country with a visit or tourist visa, then infiltrate and work in another country; third, the validity period of the work document (overstay), but remain in another country, change jobs, or run away; fourth, legal workers who work for an employer, but for various reasons, such as abuse, torture, fraud, sexual harassment, prostitution, unpaid wages, unlimited working hours, heavy workload and low wages, then run away so that

¹⁶⁵ Aulia, Marzuqoh, and Nur Azizah. "Strategi KBRI Kuala Lumpur Dalam Perlindungan Kewarganegaraan: Studi WNI Tidak Berdokumen di Malaysia Tahun 2022–2023." *Ganaya: Jurnal Ilmu Sosial dan Humaniora* 7.1 (2024): 108-121. <https://doi.org/10.37329/ganaya.v7i1.2984>

their status changes to undocumented.¹⁶⁶ Illegal Migrant Workers are people who leave the country illegally or not in accordance with applicable laws and regulations and they are not registered with the embassy representative in the country where they work.¹⁶⁷

There are several patterns of undocumented migrant workers to return to Indonesia, including: 1) compound payment to the Malaysian immigration office. The amount of compound payment is according to how long they exceed the period of visa or permit (overstay). This method is safe for migrant workers, but the risk of being blacklisted, which is 1 year, 3 years, 5 years and for life according to how long they have stayed in Malaysia; 2) surrender to the Police Office. This method can be done if they do not have money and work. This method also occurs because they are arrested during an immigration office operation. In this model, the migrant worker will first serve a sentence of 3-6 months. The process is if they do not have any documents at all or have documents but their passport is expired, an SPLP will be made from the Indonesian Embassy and then they will return home for free (deportation). Before returning to Indonesia, they will be COP and blacklisted; 3) Lorong shooting. Returning by air but by paying through a later route (bribing the Malaysian immigration office) through an unofficial agent who connects with the immigration office. However, it cannot be determined when the return will be and must wait for notification from the agent. The cost of this model process is at least 3500 Ringgit, and can even be deceived by agents or brokers; 4) back channel. The cost is at least 3,500 paid to unofficial agents / brokers via sea. Previously, they will be accommodated in a place and then find a suitable time when it is safe for them to leave. This model is very

¹⁶⁶ Arohmi, Asnu Fayakun. "LEGAL PROTECTION FOR ILLEGAL INDONESIAN WORKER IN MALAYSIA." *Media of Law and Sharia* 1.4 (2020). Silvia, Misya, and Choirul Amin. "Analysis of Survival Strategies for Illegal Indonesian Workers in Malaysia." *ARISTO* 12.2 (2024): 537-555. Theddy, Theddy, et al. "Legal Protection of International Labour Organization (ILO) and Indonesia toward Indonesia Illegal Migrant Workers." *International Conference on Public Policy, Social Computing and Development*, 2022.

¹⁶⁷ Sirait, Ningrum Natasya. "Legal Protection of International Labor Organization (ILO) and Indonesia Towards Indonesia Illegal Migrant Workers." *Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021)*. Atlantis Press, 2022. <https://doi.org/10.2991/assehr.k.220204.026>

risky to be caught by the police and immigration, being deceived with high payments to agents or brokers, weather risks so that accidents often occur and other risks; 5) forgiveness or whitening. A program from the Malaysian government by paying a compound of 500 Ringgit. However, the risk through this model is blacklisted and there is a chopray in the passport or SPLP when leaving Malaysian Immigration.¹⁶⁸ The most risky and unsafe pattern and method for undocumented PMI is the alley shooting pattern and through the back lane. Meanwhile, the safest thing is to follow the whitening/forgiveness program such as repatriation/recalibration and the compound payment pattern to Malaysian Immigrant positions.

Olivia's research findings on the illegal migration of Indonesian Domestic Workers in Malaysia show that migrating through 'illegal' migration channels can be interpreted as an act of voluntarily avoiding the 'legal' migration schemes approved by the state. 'Illegal' migration can be equated with deliberately rejecting a coercive system.¹⁶⁹ This means that being an illegal or undocumented migrant worker is a form of resistance or opposition to the forced legalization of migrants.

According to Scott, resistance is any action taken by a subordinate group aimed at reducing or rejecting claims made by a superordinate group. Scott divides resistance into public or open resistance and hidden or closed resistance, where both categories are distinguished by the articulation of resistance, form, characteristics, social and cultural areas. Open resistance is the existence of open interaction between the subordinate class and the superordinate class and hidden resistance is the existence of closed, indirect interaction between the subordinate class and the superordinate class. Open resistance (social protest or demonstration) is a form of resistance that is organized, systematic, and

¹⁶⁸ Kuli Bank, "Cara TKI Kosongan Dan Ilegal Bisa Pulang Ke Indonesia" , 3 Juni 2023, see, <https://www.youtube.com/c/kulibank>

¹⁶⁹ Killias, Olivia. "'Illegal' migration as resistance: Legality, morality and coercion in Indonesian domestic worker migration to Malaysia." *Asian Journal of Social Science* 38.6 (2010): 897-914.

principled. The manifestation used in this resistance is a violent method such as rebellion. Closed resistance (symbolic or ideological) is a rejection of categories imposed on society.¹⁷⁰

The patterns and characteristics of undocumented PMI resistance are closed or hidden patterns, and semi-open patterns. The two patterns that are most often carried out by undocumented PMI are closed or hidden patterns. They carry out resistance because of their rejection of the policies of the Malaysian government which they consider complicated, expensive and detrimental to PMI if they follow the program (see chapter 3). The patterns and characteristics of closed or hidden resistance are proven by various cases of PMI who leave and return using the method of shooting Alleys and back roads or rat lines. Shooting Alleys and back roads (rat lines) have the same characteristics as being carried out secretly. The difference is that for shooting lorok involves Malaysian immigration by plane or by air, while those who go through the back route are by land then by sea using barges, vegetable boats, fishing boats or others. For example, what was done by LTF¹⁷¹ and RHN¹⁷² who fled secretly via sea route to Batam as explained in chapter 3.

In addition to LTF and RHN, there are still many more cases reported in the mass media and social media related to this closed resistance pattern, for example The case of 6 unprocedural Indonesian Migrant Workers (PMI) from Lombok, NTB and Central Kalimantan who fled from Malaysia through illegal routes and were secured by personnel from the RI-Malaysia Border Security Task Force, Yonarhanud 8/MBC on Thursday, 14/3/2024.¹⁷³ The Case of Three Non-Procedural Indonesian Migrant Workers (PMI) Successfully Returned to Indonesia via the Traditional Cross-Border Post, Long Midang,

¹⁷⁰ Scott, James C. "Everyday forms of resistance." *Everyday forms of peasant resistance*. Routledge, 2016. 3-33.

¹⁷¹ LTF, Personal Interview, 2 Juni 2024

¹⁷² KR, Interview, 23 Juli 2024

¹⁷³ ADBMI Foundation, "Tertangkap di Perbatasan, PMI Nekat Pulang Kampung Lewat Jalur Ilegal" 20 Maret 2024, see, <https://www.adbmi.org>

on Friday, May 24, 2024. The three PMI were checked by Border Security Task Force officers when they crossed the Long Midang Joint Post. They planned to return to their respective areas of origin via the Krayan-Tarakan route and then use the plane.¹⁷⁴ A total of 75 illegal Indonesian Migrant Workers (PMI) from Malaysia returned to Indonesia using the sea route and 20 PMI were secured by the Serdang Bedagai Police. The PMI had worked in Malaysia for several years, some even worked for 15 years but did not have documents and passports. All illegal PMI were forced to flee because there was a large-scale raid by the Malaysian government. The plan is for the illegal PMI to land in Dumai Regency, Riau.¹⁷⁵

The pattern and characteristics of semi-open resistance of undocumented migrant workers are carried out in an organized manner but in a hidden manner. For example, what was done by 130 undocumented migrant workers by creating an illegal village in the Selangor region of Malaysia. The migrant workers rent oil palm land from local residents, who also supply electricity by paying around 6,000 Malaysian ringgit per month for rent of 0.6 hectares of land," In the illegal settlement there are grocery stores, food stalls, and surau (place of worship). This undocumented migrant worker village is chaired by the village head and they have been living in the area for 4 years. Most of them work as cleaners, restaurant waiters, and construction workers in the surrounding area.¹⁷⁶ In February 2023, the Malaysian Immigration Department also raided an illegal settlement of

¹⁷⁴ Admin Kantor Imigrasi Nunukan Tiga Pekerja Migran Indonesia (PMI) Non-Prosedural berhasil kembali ke Indonesia melalui pos lintas batas tradisional, Long Midang” 24 Mei 2024, see, <https://kanimmunukan.kemenkumham.go.id/>

¹⁷⁵ Anugrahan nasution, PMI Ilegal asal Aceh hingga NTB Diamankan di Sergai, Pulang ke Indonesia melalui Jalur Tikus” 13 Juni 2023, see, <https://medan.tribunnews.com>

¹⁷⁶ Jirawan Sapto Adhi, "Malaysia Temukan Perkampungan Ilegal Warga Indonesia di Dalam Perkebunan Sawit, 130 Orang Ditahan", 18 Februari 2024, see, <https://www.kompas.com>

Indonesian citizens in Nilai, Negeri Sembilan and in June 2023, Malaysian authorities discovered an illegal settlement of Indonesian citizens in Pulau Meranti, Puchong..¹⁷⁷

Meanwhile, the characteristics of legal compliance of undocumented migrant workers who participate in the recalibration and repatriation programs mostly fall into the compliance and internalization categories. Theoretically, the characteristics of legal compliance include: . 1) compliance, is compliance based on the expectation of a reward or to avoid a punishment. This means that someone will obey the rules if they get a reward or to avoid the punishment imposed. So that as a result, compliance will exist if there is strict supervision of the implementation of the rules; 2) identification, is compliance that occurs not because of its intrinsic value but so that group membership is maintained and there is a good relationship with those who are authorized to apply the rules. So that a person's compliance depends on the good or bad relationship between individuals; 3) internalization, is compliance that occurs if someone obeys the rules of law intrinsically. In this process, compliance is based on belief in the objectives of the rules in question by ignoring the holder of power and supervision of the rules.¹⁷⁸

Patterns and characteristics of undocumented PMI legal compliance in the compliance category, namely legal compliance based on the expectation of a reward or to avoid punishment. This means that someone will obey the rules if they get a reward or to avoid punishment. This pattern is carried out because by complying with the recalibration and repatriation policies, migrant workers will feel safe, not at risk, can work again and the costs are cheaper. The internalization pattern is legal compliance that occurs if someone obeys the law intrinsically based on belief in the purpose of the law. For example, some undocumented PMI if they are blacklisted, they believe it will only be a few months and

¹⁷⁷ jIrawan Sapto Adhi, "Malaysia Temukan Perkampungan Ilegal Warga Indonesia di Dalam Perkebunan Sawit, 130 Orang Ditahan", 18 Pebruari 2024, see, <https://www.kompas.com> and see, <https://www.bbc.com/indonesia/articles>

¹⁷⁸ Huo and Tyler, *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*, 65.

then they can work again in Malaysia through procedural channels. Several PMI who were blacklisted said it was okay because it was rare for them to be blacklisted for more than 6 months. Furthermore, according to them, if they are blacklisted, they can use it to gather with their families and after that they can work again.¹⁷⁹ This means that they believe that the recalibration and repatriation programs are programs that aim to provide convenience and do not harm migrant workers.

C. Indonesian government strategies and policies towards undocumented migrant workers in Malaysia

Undocumented Indonesian Migrant Workers are still a crucial problem that must be resolved by the Indonesian government. The Indonesian government has created various strategies and policies to resolve this issue. However, various cases are still occurring as reported on various social media. This shows that the root of the problem of undocumented Indonesian Migrant Workers, especially those working in Malaysia, has not been resolved optimally. Some strategies and policies that have been implemented by the Indonesian government to resolve the problem of undocumented PMI include:

1. Formation of laws and regulations.

Various laws and regulations have been established starting from the level of Law to regional regulations related to the protection and placement of Indonesian Migrant Workers. For example, several laws and regulations that are still in effect include: a) Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers; b) Government Regulation of the Republic of Indonesia Number 59 of 2021 concerning the Implementation of Protection of Indonesian Migrant Workers; c) Government Regulation Number 10 of 2020 concerning Procedures for Placement of Indonesian Migrant Workers by BP2MI; d) Regulation of the Minister of Manpower of

¹⁷⁹ FD,MZ,UT,KM,DN, JN, PD, Inteeview 23 Juni 2024

the Republic of Indonesia Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers e) Regulation of the Minister of Manpower of the Republic of Indonesia Number 2 of 2023 concerning Procedures for Imposing Administrative Sanctions in the Implementation of Placement and Protection of Indonesian Migrant Workers; f) International Convention on the Protection of the Rights of Migrant Workers and Members of their Families, 1990 and many other regulations from the central and regional levels, almost all districts/cities even have regional regulations on the Protection of Indonesian Migrant Workers..

2. Signing of the Memorandum of Understanding (MoU).

Various agreements between the Indonesian and Malaysian governments in the form of MOUs include: a) in 2022, Indonesia and Malaysia signed a Memorandum of Understanding (MoU) on the Placement and Protection of Indonesian Migrant Workers in the Domestic Sector in Malaysia..¹⁸⁰; b) on April 1, 2022. MoU between the two countries regarding the use of a one-channel system which accommodates job orders, placement processes, and workplace facilities and many more MOUs have been signed between the Malaysian and Indonesian governments to resolve the problems of Indonesian Migrant Workers.

3. Through various other policies.

During the administration of President Joko Widodo, several policies were implemented, including: 1) during the pre-placement period in the form of: a) one-door policy (one channel) between Indonesia and Malaysia; b) Development of Prospective Indonesian Migrant Workers (CTKI); 2) During the placement period in the form of: a) Monitoring System or supervision of Indonesian Migrant Workers in Malaysia b) cooperation between the Indonesian government and humanitarian agencies and

¹⁸⁰ <https://indonesia.iom.int/id/news/memperkuat-perlindungan-pekerja-migran-indonesia-di-malaysia>, 2023

Indonesian companies, namely: Cooperation between the Indonesian government and the Indonesian Red Cross (PMI) and Cooperation between the Indonesian government and PT PT Brata Astritama; c) Assistance for problematic migrant workers; 3) During the post-placement period in the form of: a) Supervision of the return of migrant workers; b) Empowerment of migrant workers and many more policies that have been implemented by the previous government.

Since July 13, 2022, the Government of the Republic of Indonesia has decided to stop sending Indonesian Migrant Workers (PMI) to Malaysia. This is a follow-up to the violation by the Malaysian Government of the MoU on the Placement and Protection of PMI in Malaysia which has been agreed upon by the two countries. As a note, the Government of the Republic of Indonesia decided to stop placing PMI in Malaysia due to the Maid Online System (SMO). This system allows PMI to enter Malaysia using a tourist visa which is then changed to a work visa when recruited. PMI who work without training, do not understand the work contract, there is no clarity regarding their salary, who their employer is, and there is no clarity regarding the facilities, rights and protection they receive. Based on data obtained from the Indonesian Embassy in Malaysia, hundreds of PMI in the domestic sector were found to have problems due to the recruitment of this SMO system. Therefore, the Indonesian government has taken a stance, before there are improvements in the Malaysian state system, the entire placement process will be temporarily closed.¹⁸¹

The Indonesian and Malaysian governments have agreed to close access for the placement of Indonesian Migrant Workers (TKI) working in Malaysia illegally. The procedure for placing TKI in the domestic sector is only carried out through the official one-door scheme policy. This one-door or one-channel policy is a way to eradicate

¹⁸¹ Agus Rodani (Pegawai pada Kanwil DJKN Kalimantan Barat) Perlindungan Hukum Pekerja Migran Indonesia di Luar Negeri

illegal agents. This one-door TKI placement policy is carried out to improve the protection aspect and improve the mechanism for placing TKI working in Malaysia legally and procedurally.

4. Diplomacy strategy

Indonesia's diplomatic strategy towards Malaysia is marked by the creation of an agreement on labor cooperation, the President of the Republic of Indonesia visited Malaysia in an effort to conduct diplomacy related to increasing cooperation in the field of labor. This effort has a close relationship with Indonesia's foreign policy priorities, namely to provide protection to Indonesian citizens, especially migrant workers abroad. In addition to establishing cooperation, Indonesia's visit to Malaysia is to control migrant workers in Malaysia and to seek solutions to problems involving migrant workers, especially the problem of illegal migrant workers.¹⁸²

Various cooperation related to the field of employment between Indonesia and Malaysia in handling the problem of undocumented migrant workers and their protection, are as follows: 1) In December 2014, a bilateral meeting was held between Indonesia and Malaysia, where the two countries agreed to cooperate with the aim of resolving the problem of illegal migrant workers through the repatriation/deportation of undocumented migrant workers to Indonesia; 2) In 2015, the Governments of Indonesia and Malaysia worked together to resolve the problem of illegal migrant workers by creating a policy that the placement of migrant workers must be carried out through official channels. The hope of this program is that Indonesia and Malaysia can work together in monitoring the flow of workers to improve the protection aspect; 3) In 2015, Indonesia and Malaysia made efforts to overcome the problem of illegal migrant

¹⁸² Alunaza, Hardi, et al. "Analisis Diplomasi Indonesia-Malaysia Dalam Menangani Praktek Penyelundupan Pekerja Ilegal Di Perbatasan Aruk Kalimantan Barat." *Journal of International Relations (JoS)* 1.1 (2022): 1-19.

workers through a re-hiring program. The hope is that after carrying out the re-hiring process, migrant workers who do not have documents and are unprocedural can take care of documents and legalize work agreements with the Malaysian government; 4) In May 2015, bilateral relations between Indonesia and Malaysia were established in the 10th Joint Working Group (JWG). This meeting discussed protection for Indonesian Migrant Workers through the One Channel Policy, namely the placement of Indonesian Migrant Workers through a process in accordance with the MoU with the aim of avoiding the placement of undocumented Indonesian Migrant Workers; 5) In July 2017, related to the problem of illegal Indonesian Migrant Workers, Malaysia committed to raiding illegal migrants, as well as employers who use these migrant workers. This commitment was realized in the E-Card (Enforcement Card) program, a card program for changing status from illegal to legal; 6) In June 2017, related to the handling of illegal Indonesian Migrant Workers. Indonesia and Malaysia held an informal meeting to extend the rehiring program and stop the raid program. The rehiring program is a continuation of the E-Card program; 7) In August 2017, bilateral relations between Indonesia and Malaysia were established at the 15th Foreign Ministerial Meeting of the Joint Commission for Bilateral Cooperation (JCBC) in Jakarta. Several issues discussed were cooperation in the field of employment.¹⁸³

Strategies and policies that have been implemented to handle undocumented migrant workers by the Indonesian Government, specifically related to the recalibration and repatriation policy, are: 1) massive socialization by the Indonesian Embassy through social media and other channels about the Recalibration and Repatriation policy by the Malaysian government; 2) providing maximum service to migrant workers related to the documents needed to support the recalibration and repatriation program; 3) forming

¹⁸³ Rethanovagi, Regina, and Rusdiyanta Rusdiyanta. "Penyelesaian Masalah Tenaga Kerja Indonesia (TKI) Ilegal di Malaysia melalui Multi Track Diplomacy Pada Periode 2011-2016." *Balcony* 2.1 (2018): 67-77.

a task force to improve security and guarding in the border areas of Indonesia-Malaysia; 4) conducting various operations in border areas and other areas suspected of being areas for departure, return including accommodating undocumented migrant workers; 5) Amnesty for illegal migrant workers, through Diplomacy; 6) forming a one-roof system for handling migrants, 7) Labor Attaché in Kuala Lumpur, 8) Establishment of a Consulate General in Kuching, Sarawak Malaysia on October 3, 2005, 9) Consortium for Protection and Placement of Workers in Kuching and other strategies.¹⁸⁴

Various strategies that have been carried out by the Indonesian Government have not been able to overcome undocumented PMI, even many undocumented Indonesian Migrant Workers do not comply with the repatriation and recalibration policies. Therefore, the strategies and policies carried out by the Indonesian Government should be based on the root of the problems of Indonesian Migrant Workers. Some of the root causes of Indonesian Migrant Workers not registering for the Recalibration and Repatriation program are: 1) hesitation and fear. They hesitate and are afraid because of the information they get that if they follow the program they will be imprisoned, deported and blacklisted. They are also afraid of not being able to work again in Malaysia; 2) expensive and have no money. Undocumented Migrant Workers argue that registering for the recalibration and repatriation program is expensive, namely 500 RM compared to returning home through the back door and shooting the alley; 3) not knowing about the program. This happens to migrant workers who come to Malaysia illegally through the back door and their employers do not provide access to information and communication to these Migrant Workers; 4) Long queues. Indonesian Migrant Workers have to wait in line to register for this program; 6) complicated and the process is long. According to the undocumented Indonesian Migrant Workers, the registration process for the Program is very long and complicated, even time consuming.

¹⁸⁴ ST, PK (KBRI Kuala Lumpur) Interview, Mei 2024

Therefore, it is better for them to use the back channel and shoot the Alley.¹⁸⁵ As stated by JN (32 years old) from Madura, "it is better not to follow the program because the process is long and complicated, more expensive than going through back channels." ¹⁸⁶

Undocumented Migrant Workers who do not participate in the Repatriation and Recalibration program are those who entered Malaysia through back channels (illegal) and those who entered Malaysia using a visit visa. They came to Malaysia because they were invited by their friends, family or were offered by brokers. According to JN and MF, many Indonesian migrant workers have worked in Malaysia several times illegally or without documents. Those who have worked illegally several times have experience in avoiding raids by Malaysian immigration officers and are experienced in which routes are safe for leaving and returning to Indonesia.¹⁸⁷ The culture of working abroad, especially to Malaysia in the Madurese and East Nusa Tenggara communities also has the potential to become undocumented migrant workers. Families who have been in Malaysia for generations make migrant workers return to Malaysia several times using a visit visa. The reason they choose to complete the visit visa or not take care of the work permit is the high cost.¹⁸⁸

Castles in his research in Mexico, Italy, Turkey, the Republic of Korea, and Malaysia shows that the main cause of irregular (unprocedural) migration is not the disregard of regulations by migrants, but rather the continuing inequality within and between countries, and the failure of states to create adequate migration regimes to meet economic demand. The mismatch between entry rules and labor demand, bureaucratic complexity, and delays stand in stark contrast to the rapid transportation and communication technologies that facilitate

¹⁸⁵ Hasil Wawancara dengan 10 Pekerja Migran tidak berdokumen, 21-24 Juni 2024

¹⁸⁶ JN, Interview 7 Juni 2024

¹⁸⁷ JN dan MF interview, 7 Juni 2024

¹⁸⁸ Amir, Nor Zana Binti Mohd. "Migrasi Kultural Buruh Migran Indonesia Asal Nusa Tenggara Timur ke Malaysia." *Diunduh dari http://migrantcare.net/wp-content/uploads/2016/11/migrasi-kultural_nor-zana.pdf* (2016).see, Surjono, Gunanto. *POLA MIGRASI PEKERJA MIGRAN SUMENEP KE ARAB SAUDI DAN MALAYSIA*. Diss. Universitas Gadjah Mada, 2015.

cross-border labor flows and do not take into account the changing social dynamics of migration. Another finding of the study is that most efforts to combat irregular migration are difficult to implement.¹⁸⁹

The International Organization for Migration (IOM) strategy in handling migrant workers is to integrate three approaches, namely: 1) increasing public awareness of safe migration procedures through information campaigns; 2) providing pre-departure information services for prospective migrant workers who are about to depart; 3) monitoring the migrant worker recruitment process.¹⁹⁰ This strategy is a reference for resolving the problem of undocumented Indonesian Migrant Workers in Malaysia.

Based on the root of the problem, the Indonesian government's strategy and policy to handle undocumented Indonesian Migrant Workers in Malaysia should be: 1) law enforcement; 2) forming a joint task force of labor-related institutions for the placement and protection of Indonesian Migrant Workers from various agencies including non-governmental organizations; 3) adding Consulates General of the Republic of Indonesia (KJRI) in several regions in Malaysia; 4) diplomatic strategy related to repatriation and recalibration programs and policies; 5) socialization to areas where Migrant Workers are located by involving religious figures and non-governmental organizations; 6) utilizing Indonesian Migrant Worker communities in Malaysia to massively provide socialization about the program. These strategies and policies must be carried out in a planned and integrated manner by involving various elements of government and non-governmental organizations at the regional, national and international levels, for example: the International Organization for Migration (IOM).

¹⁸⁹ Castles, Stephen, et al. "Irregular migration: Causes, patterns, and strategies." *Global Perspectives on Migration and Development: GFMD Puerto Vallarta and Beyond* (2012): 117-151.

¹⁹⁰ Pécoud, Antoine. "Informing migrants to manage migration? An analysis of IOM's information campaigns." *The politics of international migration management*. London: Palgrave Macmillan UK, 2010. 184-201.

CHAPTER V

CLOSING

A. Conclusion

The Legal Dilemma of Undocumented Indonesian Migrant Workers in Malaysia in choosing to obey the law or resist the recalibration and repatriation program occurs because of the rationality of Undocumented Indonesian Migrant Workers when making choices based on motives or goals by considering the consequences of the various choices available. The consequences and choices available are: 1) the program registration process is complicated and long, so if you take care of the registration it will take time; 2) the registration fee for the recalibration and repatriation program, if calculated, is more expensive compared to the cost of undocumented Indonesian Migrant Workers return to Indonesia through back channels or other unofficial channels; 3) the fear of undocumented Indonesian Migrant Workers if they register for the recalibration and repatriation program. For example, fear of being arrested by the Malaysian Immigration Department (JIM), being imprisoned, being deported and being blacklisted so that they can no longer work in Malaysia.

The patterns and characteristics of resistance of undocumented Indonesian Migrant Workers are closed or hidden patterns and semi-open patterns. The two patterns that are most often carried out by undocumented Indonesian Migrant Workers are closed or hidden patterns. They carry out resistance because they reject the policies of the Malaysian government which they consider complicated, expensive and detrimental to Indonesian Migrant Workers. The patterns and characteristics of resistance of undocumented Indonesian Migrant Workers in a semi-open manner are carried out in an organized but hidden. For example, several cases encountered by Indonesian Migrant Workers formed Migrant Worker villages located in hidden areas far from urban areas, but in an organized.

Patterns and characteristics of legal compliance of undocumented Indonesian Migrant Workers are compliance and internalization. Compliance is legal compliance based on the expectation of a reward or to avoid punishment. This means that someone will obey the rules if they get a reward or to avoid punishment. This pattern is carried out because by complying with the recalibration and repatriation policies, migrant workers will feel safe, not at risk, can work again and the costs are cheaper. The internalization pattern is legal compliance that occurs if someone obeys the law intrinsically based on belief in the purpose of the law. For example, some undocumented Indonesian Migrant Workers if their passports are blacklisted, believe that it will only be a few months and then they can work again in Malaysia through procedural channels. Several Indonesian Migrant Workers who were blacklisted said it was okay because it was rare for them to be blacklisted for more than 6 months. Furthermore, according to them, if they are blacklisted, they can use it to gather with their families and after that, they can work again. This means that they believe that the recalibration and repatriation programs are programs that aim to provide convenience and do not harm Migrant Workers.

The strategies and policies that have been implemented by the Indonesian Government to handle undocumented Indonesian Migrant Workers in Malaysia, specifically related to the recalibration and repatriation policies, are 1) massive socialization by the Indonesian Embassy through social media and other channels about the Recalibration and Repatriation policies by the Malaysian government; 2) providing maximum service to Indonesian Migrant Workers related to the documents needed to support the recalibration and repatriation program; 3) forming a task force to increase security and security in the Indonesia-Malaysia border areas; 4) conducting various operations in border areas and other areas suspected of being areas for departure, return including accommodation of undocumented Indonesian Migrant Workers; 5) Amnesty for illegal Indonesian Migrant

Workers, through Diplomacy; 6) forming a one-roof system for handling migrants and various other policies.

The strategies and policies of the Indonesian Government that should be implemented to handle undocumented Indonesian Migrant Workers in Malaysia related to the recalibration and repatriation policies are strategies based on the Migrant Worker problem. These strategies are 1) law enforcement; 2) forming a joint task force from various agencies including non-governmental organizations; 3) adding Consulates General of the Republic of Indonesia (KJRI) in several regions in Malaysia; 4) diplomatic strategies related to repatriation and recalibration programs and policies; 5) socialization to areas where Migrant Workers are located by involving religious figures and non-governmental organizations; 6) utilizing Indonesian Migrant Worker communities in Malaysia to massively provide socialization about the program. These strategies and policies must be implemented in a plan and integrated by involving various elements of the government and non-governmental organizations at the regional, national and international levels including Indonesian migrant worker communities.

B. Recommendation

The Indonesian government should evaluate away regularly and plan various strategies and policies that have been implemented For finish Indonesian migrant workers do not document in Malaysia. Diplomacy Government become important related to the repatriation program This is for the Malaysian Government to provide convenience for Worker Indonesian migrants who are voluntarily registering for this program.

BIBLIOGRAPHY

- Abowitz, Kathleen Knight. "A Pragmatist Revisioning of Resistance Theory." *American Educational Research Journal* 37, no. 4 (2000): 877–907. <https://doi.org/10.3102/00028312037004877>.
- Ajzen, Icek. "The Theory of Planned Behavior." *Handbook of Theories of Social Psychology: Volume 1*, 2012, 438–59. <https://doi.org/10.4135/9781446249215.n22>.
- Beccaria, Cesare. *On Crimes and Punishments*. Transaction Publishers, 2016.
- Blossfeld, Hans-Peter. "Macro-Sociology, Rational Choice Theory, and Time: A Theoretical Perspective on the Empirical Analysis of Social Processes." *European Sociological Review* 12, no. 2 (1996): 181–206.
- Boudon, Raymond. "Beyond Rational Choice Theory." *Annual Review of Sociology* 29, no. 1 (2003): 1–21. <https://doi.org/10.1146/annurev.soc.29.010202.100213>.
- Braithwaite, John. *Crime, Shame and Reintegration*. Cambridge University Press, 1989.
- Brehm, Jack W. "Postdecision Changes in the Desirability of Alternatives." *Journal of Abnormal and Social Psychology* 52, no. 3 (1956): 384–89. <https://doi.org/10.1037/h0041006>.
- Buskens, Vincent, Werner Raub, and Marcel Van Assen. *Micro-Macro Links and Microfoundations in Sociology RPD*. Routledge, 2014.
- Coleman, James S. "Equality of Educational Opportunity," 2007.
- . *Foundations of Social Theory*. Harvard university press, 1994.
- Ellermann, Antje. "Undocumented Migrants and Resistance in the Liberal State." *Politics and Society* 38, no. 3 (2010): 408–29. <https://doi.org/10.1177/0032329210373072>.
- Elster, Jon. *Rational Choice*. NYU Press, 1986.
- Friedman, Lawrence M. *Sistem Hukum Dalam Perspektif Ilmu Sosial. Legal System: A Sosial Science Perspektive*, Nusa Media, Bandung. Khozim, M. Bandung: Penerbit Nusa Media,

2009.

Friedman, Lawrence Meir, and Grant M Hayden. *American Law: An Introduction*. Oxford University Press, 2017.

Gammeltoft-Hansen, Thomas, and Nikolas F. Tan. “The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy.” *Journal on Migration and Human Security* 5, no. 1 (2017): 28–56. <https://doi.org/10.1177/233150241700500103>.

HALE, JEROLD L., BRIAN J. HOUSEHOLDER, and KATHRYN L. GREENE. “The Theory of Reasoned Action.” *The Persuasion Handbook: Developments in Theory and Practice* 14, no. 2002 (2012): 259–86. <https://doi.org/10.4135/9781412976046.n14>.

Hashmi, Mustafa, Pompeu Casanovas, and Louis De Koker. “Legal Compliance Through Design: Preliminary Results of a Literature Survey.” *Proceedings of the 2nd Workshop on Technologies for Regulatory Compliance (TERECOM 2018) Co-Located with the 31st International Conference on Legal Knowledge and Information Systems (JURIX 2018)* 2309, no. December (2018): 59–72. <http://ceur-ws.org/Vol-2309/06.pdf>.

Hasibuan, Zulkarnain. “Kesadaran Hukum Dan Ketaatan Hukum Masyarakat Dewasa Ini.” *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora* 1, no. 01 (2016).

Hechter, Michael, and Satoshi Kanazawa. “Sociological Rational Choice Theory.” *Annual Review of Sociology* 23, no. 1 (1997): 191–214.

Hedström, Peter, and Richard Swedberg. “Rational Choice, Empirical Research, and the Sociological Tradition.” *European Sociological Review* 12, no. 2 (1996): 127–46.

Hirschi, Travis. “A Control Theory of Delinquency.” In *The Craft of Criminology: Selected Papers*, 75–90. Routledge, 2017. <https://doi.org/10.4324/9781315131511-7>.

Huo, Yuen J, and Tom R Tyler. *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. Russell Sage Foundation, 2002.

Irianto, Sulistyowati, Jan Michiel Otto, Sebastian Pompe, Adriaan W. Bedner, Jacqueline Vel,

- Suzan Stoter, and Julia Arnscheidt. *Kajian Sosio-Legal (Seri Unsur-Unsur Penyusun Bangunan Negara Hukum). Kajian Sosio-Legal*, 2012.
<http://ikuswahyono.lecture.ub.ac.id/files/2015/10/bbri-socio-legal-studies-final.pdf>.
- Islam, Md Kamrul. *The Age of Migration: International Population Movements in the Modern World. Canadian Studies in Population*. Vol. 40. Bloomsbury Publishing, 2013.
<https://doi.org/10.25336/p6kp52>.
- Juliawan, Benny Hari. “Seeing Migration like a State: The Case of Irregular Indonesian Migrant Workers Deported from Malaysia.” *Anti-Trafficking Review*, no. 11 (2018).
<https://doi.org/10.14197/atr.201218113>.
- Krause, Monika. “Undocumented Migrants: An Arendtian Perspective.” *European Journal of Political Theory* 7, no. 3 (2008): 331–48. <https://doi.org/10.1177/1474885108089175>.
- Macy, Michael, and Andreas Flache. “Social Dynamics from the Bottom up: Agent-Based Models of Social Interaction,” 2011.
- Mansbridge, Jane. “Rethinking Representation.” *American Political Science Review* 97, no. 4 (2003): 515–28.
- Office, International Labor. *International Labour Migration: A Rights-Based Approach*. International Labour Office, 2010.
- Opp, Karl-Dieter. “Micro-Macro Transitions in Rational Choice Explanations.” *Analyse & Kritik* 14, no. 2 (1992): 143–51.
- Rawls, John. *A Theory of Justice. Essays and Reviews: 1959-2002*. Yogyakarta: Pustaka Pelajar, 2014. <https://doi.org/10.5840/studintfil1973525>.
- Rogelberg, Steven G. “Theory of Reasoned Action/Theory of Planned Behavior.” *The SAGE Encyclopedia of Industrial and Organizational Psychology, 2nd Edition* 2007 (2017): 67–98. <https://doi.org/10.4135/9781483386874.n551>.
- Rosana, Ellya. “Kepatuhan Hukum Sebagai Wujud Kesadaran Hukum Masyarakat.” *Jurnal*

- Tapis: Jurnal Teropong Aspirasi Politik Islam* 10, no. 1 (2014): 61–84.
- Scott, James C. “Weapons of the Weak: Everyday Forms of Peasant Resistance.” *Yale University*, 1985.
- Scott, John. “Rational Choice Theory.” *Understanding Contemporary Society: Theories of the Present* 129 (2000): 126–38.
- Shepsle, Kenneth A. “Rational Choice.” *The Oxford Handbook of Political Institutions* 2 (2006): 23.
- Sim, Amy, and Vivienne Wee. “Undocumented Indonesian Workers in Macau: The Human Outcome of Colluding Interests.” *Critical Asian Studies* 41, no. 1 (2009): 165–88. <https://doi.org/10.1080/14672710802631210>.
- Simon, Herbert A. “A Behavioral Model of Rational Choice.” *The Quarterly Journal of Economics*, 1955, 99–118.
- Soekanto, Soerjono. *Soekanto, Soerjono Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*. Jakarta: Raja Grafindo, 2016.
- Soerjono, Soekanto. “Soekanto1977.” *Kesadaran Hukum Dan Kepatuhan Hukum* 5, no. 2 (1977): 588.
- Tyler, Tom R. “The Psychology of Procedural Justice: A Test of the Group-Value Model.” *Journal of Personality and Social Psychology* 57, no. 5 (1989): 830–38. <https://doi.org/10.1037/0022-3514.57.5.830>.
- Tyler, Tom R. *Why People Obey the Law*. Princeton University Press, 2006.
- Weber, Max. *Economy and Society: An Outline of Interpretive Sociology*. Vol. 1. University of California press, 1978.
- . *The Theory of Social and Economic Organization*. Simon and Schuster, 2009.

