

## LEGAL DILEMMA OF UNDOCUMENTED INDONESIAN MIGRANT WORKERS IN MALAYSIA: Compliance or Non-Compliance?

Trianah Sofiani\*, Iqbal Kamalludin

Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan  
Central Java, 51161, Indonesia

Email: [triana.sofiani@uingusdur.ac.id](mailto: triana.sofiani@uingusdur.ac.id)

Norhamidah Binti Jarimal @ Safri

Universiti Malaysia Sabah  
UMS, Kota Kinabalu, Sabah, 88400, Malaysia

DOI: [10.30631/alrisalah.v25i2.1998](https://doi.org/10.30631/alrisalah.v25i2.1998)

Submitted: August 17, 2025; Revised: December 21, 2025; Accepted: December 30, 2025

**Abstract:** This study explores the dilemmas faced by undocumented Indonesian migrant workers in deciding whether to comply with the law and examines the characteristics of their legal compliance and non-compliance through a multidisciplinary approach. Using a sociolegal method, interviews were conducted with purposively selected undocumented Indonesian migrant workers. Furthermore, a survey was conducted by administering questionnaires to 50 undocumented Indonesian migrant workers using online media channels. The findings reveal that undocumented Indonesian migrant workers who chose to disobey the law did so mainly because of their distrust in the legal system, rather than as a result of conscious or reflective reasoning. This is illustrated by the reasons for doubt, lack of funds, cost, fear of deportation, fear of punishment, fear of being blackmailed by officers, fear of being blocked, and fear of being unable to work abroad. Collaborative strategies and approaches based on the principles of justice, benefit, and trust are key to resolving the challenges facing undocumented Indonesian migrant workers. Fair implementation of laws and policies that provide tangible benefits to the community fosters confidence in the legal system. This trust ultimately eliminates migrant workers' hesitation to comply with the law. These findings contribute to the efforts of policymakers, international organizations, and non-state actors to strengthen the governance of cross-border migration, particularly for migrant workers.

**Keywords:** Legal Compliance; Migrant Workers; Non-compliance; Undocumented

**Abstrak:** Penelitian ini mengeksplorasi penyebab pekerja Migran Indonesia tidak berdokumen mengalami dilemma dalam menentukan pilihan antara mematuhi hukum atau tidak mematuhi hukum dan karakteristik kepatuhan dan ketidakpatuhan hukumnya dengan menggunakan pendekatan multidisipliner. Mengadopsi metode sosiolegal wawancara dilakukan terhadap Pekerja Migran

Indonesia tidak berdokumen yang dipilih secara purposive. Kuesioner juga dilakukan terhadap 50 pekerja Migran Indonesia tidak berdokumen melalui media *online*. Temuan menunjukkan bahwa dilemma Pekerja Migran Indonesia tidak berdokumen dalam memilih tindakan tidak patuh terhadap hukum merupakan keputusan yang didominasi oleh pertimbangan rasa tidak percaya terhadap sistem hukum tanpa refleksi intelektual. Hal tersebut tergambar dari alasan ragu-ragu, tidak memiliki uang, mahal, takut di deportasi, takut di hukum, takut diperas oleh petugas, takut di blacklist dan takut tidak bisa lagi bekerja ke luar negeri. Ketidakpatuhan hukum Pekerja Migran Indonesia tidak berdokumen merupakan bentuk resistensi terhadap hukum dan kebijakan dengan karakteristik tertutup dan semi terbuka. Penelitian ini menawarkan strategi dan pendekatan kolaboratif berbasis keadilan, utility dan trust untuk menyelesaikan permasalahan Pekerja Migran Indonesia tidak berdokumen. Penulis berargumen bahwa jika hukum dan kebijakan diterapkan secara adil dan masyarakat merasakan manfaatnya, maka akan muncul kepercayaan terhadap system hukum dan tidak ada lagi keraguan untuk memilih kepatuhan terhadap hukum.

**Kata Kunci:** Kepatuhan Hukum; Ketidakpatuhan; Pekerja Migran; Tidak Berdokumen

## Introduction

Undocumented or illegal migrant workers are a global issue that still needs attention, especially in Malaysia, as it is the most favored destination country for Migrant Workers compared to other countries in Southeast Asia.<sup>1</sup> Malaysia is also a favorite destination country for Indonesian Migrant Workers, including the undocumented.<sup>2</sup> In the January-October 2024 period, as many as 2036 Indonesian migrant workers were deported from Malaysia because they did not have documents.<sup>3</sup> Data from the Embassy of the Republic of Indonesia recorded approximately 12,000 Indonesian citizens with illegal status in Malaysia as of April 2025.<sup>4</sup> The

driving factors for the high interest among Indonesian Migrant Workers in Malaysia are geographical location, cultural alignment, job descriptions, religion, and language.<sup>5</sup> The governments of Indonesia and Malaysia have made various efforts to address undocumented migrant workers. During President Susilo Bambang Yudhoyono's administration, Memoranda of Understanding were signed with Malaysia in 2006 and 2008. In 2004, the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) was established, and Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad was enacted.<sup>6</sup> In 2011-2015, a moratorium policy was imposed;

<sup>1</sup> I S Hamzah Et Al., "Malaysia As An Attraction Of International Foreign Workers," *Journal Of Critical Reviews* (Research Gate, 2020), 797-804.

<sup>2</sup> F Nengsi And A Maksum, "Mainstreaming Realism Paradigm In Handling Illegal Immigrants In Malaysia," *Revista Unisci* (Researchgate.Net, 2020), 327.

<sup>3</sup> Alamudin Hamapu, "2.036 Pmi Dideportasi Dari Malaysia Selama Periode Januari-Oktober 2024," *Detik.Com*, October 9, 2024.

<sup>4</sup> Eko Budiono, "Dubes Ri Serukan Wni Ilegal Di Malaysia Manfaatkan Program Repatriasi Migran 2.0," *Indonesia.Go.Id*, May 19, 2025.

<sup>5</sup> A Maksum, "Indonesia-Malaysia Relations From Below: Indonesian Migrants And The Role Of Identity," *South East Asia Research*, 2022, 230.

<sup>6</sup> A P Maharani And A Maksum, "Kerja Sama Bilateral Indonesia-Malaysia Dalam Menangani Kasus Tki Ilegal Pada Masa Presiden Joko Widodo (2014-2019)," *Proceedings*.

however, this policy increased the number of illegal migrant workers in Malaysia.<sup>7</sup>

During the Joko Widodo administration, various breakthroughs were made to overcome undocumented Indonesian migrant workers, including: establishing an Indonesian Migrant Workers task force, signing a Memorandum of Understanding with Malaysia, a re-hearing program, One Channel Policy, an Enforcement Card program, establishing 11 Integrated National Cross-Border Posts in border areas which were legalized by Presidential Instruction No. 1 of 2019 and ratifying Law No. 18 of 2017 about the Protection of Indonesian Migrant Workers.<sup>8</sup> The government also conducts multi-track diplomacy by involving various actors and sectors to solve the problem of undocumented Indonesian migrant workers.<sup>9</sup>

The Malaysian government has also legalized illegal immigrants since 1985, 1987, 1989, 1992, 1996 and 1997, periodic amnesty at the state and/or national levels in 1996, 1997, 1998, 2002 and 2004-2007, Ops Nyah 1 and Ops Nyah 2 in 1992, amendments to the Immigration Act 1959/63 and the Passport Act 1969 in 1998 and 2002, the establishment of the PATI Court (Special Court for Undocumented Immigrants) in 2005, the implementation of the 2007 Law (ATIPSOM) on forced labor in 2009.<sup>10</sup> The 6P (Registration, Bleaching, Pardon, Monitoring, Law Enforcement, and Expulsion Program), in 2011-2014 and rehiring in 2016-2017. Three-Plus-One (3+1) in 2014-2018, Back-for-Good from August 1, 2019, to

December 31, 2019, and recalibration in 2020-2021.<sup>11</sup> PATI recalibration policy for 2022-2023 and repatriation from March to December 2024. Various efforts made by the Indonesian and Malaysian governments have not been able to solve the problem of undocumented Indonesian Migrant Workers in Malaysia. Indonesian Migrant Workers in Malaysia who are undocumented know that working in another country illegally is prohibited by the Indonesian government or the destination country. They also understand the risks of becoming illegal or undocumented migrant workers. However, they face a difficult choice between compliance and non-compliance with regulations and policies.<sup>12</sup> The existing literature has made significant contributions to understanding the phenomenon of undocumented Indonesian migrant workers in Malaysia, but critical analytical and empirical gaps remain. For example, Wahyudi (2017) usefully documents the substantive factors enabling irregular entry into Malaysia, offering rich descriptive data on routes and push-pull drivers; its strength lies in detailed empirical accounts, yet it stops short of explaining how those factors translate into migrants' legal decision-making once in situ.<sup>13</sup> Maksum and Surwandono (2017/2022) provide a valuable policy history by comparing state responses (including Japan and Malaysia), which helps situate bilateral arrangements and enforcement strategies; however, their policy focus tends to remain at the macro-level and gives limited insight into

<sup>7</sup> M Clark And J Pietsch, "Uneasy Neighbours: Indonesia-Malaysia Relations Under Yudhoyono," *Aspirations With Limitations: Indonesia's ...*, 2018, 199.

<sup>8</sup> H Novia And S Djelantik, "Indonesia Diplomacy In Protecting The Rights Of Indonesian Migrant Domestic Workers In Malaysia (2017-2022)," *Insignia: Journal Of International Relations* (Jos.Unsoed.Ac.Id, 2024), 57.

<sup>9</sup> R Rethanovagi And R Rusdiyanta, "Penyelesaian Masalah Tenaga Kerja Indonesia (Tki) Ilegal Di Malaysia Melalui Multi Track Diplomacy Pada Periode 2011-2016," *Balcony*, 2018, 70.

<sup>10</sup> A Kassim And R H M Zin, Policy On Irregular Migrants In Malaysia: An Analysis Of Its Implementation And Effectiveness (Econstor.Eu, 2011), 726.

<sup>11</sup> C C Low, "Back For Good: Reforms In Legalization And Amnesty Programmes In Malaysia," *Bijdragen Tot De Taal-, Land-En Volkenkunde/Journal Of ...* (Brill.Com, 2021), 367.

<sup>12</sup> Inf 01, Inf 02, Inf 03, Inf 04, Interview, January 4, 2025

<sup>13</sup> R Wahyudi, "Illegal Journey: The Indonesian Undocumented Migrant Workers To Malaysia," *Populasi*, 2017, 34.

migrants' perceptions of policy legitimacy<sup>14</sup> Juliawan (2018) persuasively shows how migration regimes shape mobility through state tools, a significant theoretical contribution. Still, the study emphasises state practices over migrants' agency and the micro-level processes that produce compliance or resistance.<sup>15</sup> Arohmi (2020)<sup>16</sup> and Savitri et al. (2024)<sup>17</sup>. Examine legal protection mechanisms and their shortcomings, offering necessary legal-analytical perspectives; nevertheless, both works concentrate on protection gaps and legal remedies rather than on why eligible migrants may nonetheless avoid formal channels. Santosa et al. (2024) and Tjitrawati & Romadhona (2024) highlight the socioeconomic and health vulnerabilities of undocumented workers, thereby strengthening the case for humanitarian interventions. Still, they do not connect those vulnerabilities to the cognitive and social processes that determine compliance choices. Finally, Rahayu, Supaat, and Yusuf (2023/2024)<sup>18</sup> foreground human-rights neglect, which is crucial for normative critique, but their work does not model the behavioral mechanisms (e.g., trust, perceived utility, social learning) through which distrust or fear translates into non-compliance.

Collectively, these studies provide an essential empirical and normative foundation (routes, policy responses, protection deficits, and vulnerability profiles). Their standard limitation, however, is a relative lack of micro-level analysis linking migrants' perceptions, social interactions, and cognitive orientations to concrete choices regarding legal compliance

versus non-compliance. In other words, while prior work explains *what* happens and *what* policies exist, it rarely explains *why* individual undocumented migrants decide to comply or resist in given policy contexts. This paper addresses that gap by (1) focusing explicitly on the dilemma faced by undocumented Indonesian migrant workers when choosing to comply or not, (2) combining qualitative interviews and a focused survey to capture both social interaction and individual reasoning, and (3) integrating sociological theories of rationality, procedural justice, and everyday resistance to explain how distrust, perceived utility, and social information flows jointly shape non-compliant behaviour. By doing so, the study moves beyond descriptive documentation and policy critique to offer a theoretically informed, empirically grounded account of the mechanisms that produce legal non-compliance among this population.

This research addresses gaps and builds on prior research with a distinct focus. Using a multidisciplinary approach, this study discusses the main scheme, namely, first, exploring the causes of the dilemma of undocumented Indonesian migrant workers in Malaysia in determining the choice between complying with the law or not complying with the law; second, identifying the patterns and characteristics of legal compliance and non-compliance of undocumented Indonesian Migrant Workers. Finally, this study recommends strategies to address the challenges faced by Indonesian Migrant Workers, particularly in Malaysia.

<sup>14</sup> A Maksum, "Suffer To Survive: The Indonesian Illegal Workers Experiences In Malaysia And Japan," *Journal Of Social Research & Policy* (Academia.Edu, 2017), 19.

<sup>15</sup> Benny Hari Juliawan, "Seeing Migration Like A State: The Case Of Irregular Indonesian Migrant Workers Deported From Malaysia," *Anti-Trafficking Review*, No. 11 (2018): 811.

<sup>16</sup> A F Arohmi, "Legal Protection For Illegal Indonesian Worker In Malaysia," *Media Of Law And Sharia*, 2020, 98.

<sup>17</sup> H Savitri, "Smuggling Of Illegal Indonesian Workers In Malaysia," *Al-Musthalah: Jurnal Riset Dan Penelitian ...*, 2024, 146.

<sup>18</sup> D Rahayu, "Undocumented Indonesian Migrant Workers: Solution Or Omission," In *International Conference On Social Science 2019 ...* (Atlantis-Press.Com, 2019), 128.

## Method

This study employed a *sociology of law* approach, which examines how legal norms function within society and how individuals perceive and respond to them in everyday practice. The approach is qualitative, emphasizing the lived experiences of undocumented Indonesian migrant workers in Malaysia. It combines legal and sociological perspectives to explain how patterns of compliance and non-compliance emerge from social interactions, perceptions of justice, and trust in the legal system. The participants consisted of current and former Indonesian migrant workers who had experienced undocumented status. They were selected purposively based on criteria such as length of stay, employment sector, migration route, and prior encounters with immigration enforcement. A snowball sampling technique was used to reach hidden populations through migrant networks and community referrals, and sampling continued until thematic saturation was achieved.

Data were collected through in-depth, semi-structured interviews, online questionnaires, and document analysis. Fifteen interviews were conducted between December 2024 and January 2025 across Kuala Lumpur, Selangor, and Sabah, either face-to-face or via encrypted online platforms. A questionnaire was also distributed to fifty undocumented Indonesian migrant workers through online platforms such as WhatsApp and Facebook to identify general patterns of compliance behavior, perceptions of legal legitimacy, and awareness of recalibration and repatriation policies.

Additional documents, including bilateral agreements, government regulations, and media reports, were analyzed to contextualize the empirical findings and triangulate the data sources. Data analysis followed Miles and Huberman's (1994) *Interactive Model*, encompassing data reduction, data display,

Moreover, the conclusion is drawn iteratively.

Interview transcripts were manually coded and organized thematically into categories such as distrust of law, fear of punishment, social influence, and rational decision-making. To ensure validity, findings were triangulated across interviews, survey responses, and document data. Ethical principles were strictly observed; participants gave informed consent, anonymity was maintained, and no identifiable information was recorded. The research protocol received ethical clearance from the Faculty Research Ethics Committee of Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan.

## Result and Discussion

The majority of undocumented Indonesian migrant workers (PMI) in Malaysia face a dilemma between choosing to comply or not to comply with existing legal policies, particularly the recalibration and repatriation programs issued by the Malaysian government. Although most are aware of these policies through social media or colleagues, only a few are willing to participate due to fear of punishment (e.g., fines, imprisonment, and blocklisting), high costs, and limited understanding of the registration procedures.

This non-compliance reflects a form of resistance against a legal system they perceive as unfair and not directly beneficial. Conversely, those who choose to comply do so on the basis of rational considerations of safety, legal employment, and the ease of returning to Malaysia officially in the future. This study emphasizes that the decision to comply or not comply with the law is shaped by socio-cultural norms, emotional responses, and perceived legitimacy of the policy, all of which are constructed and reinforced through social interactions among fellow migrant workers.

## Overview of Undocumented Indonesian Migrant Workers in Malaysia

Undocumented or illegal Indonesian migrant workers already existed along with the massive migration of Indonesian workers to Malaysian territory from 1950 to the early 1980s. At that time, undocumented migrant workers were still unquestioned because they worked in remote farms and plantations in small numbers.<sup>19</sup> The appeal of Malaysia to Indonesian migrant workers stems from geographical proximity and cultural, religious, and linguistic affinities, which collectively facilitate easier entry and social integration, even for those without proper documentation.<sup>20</sup> Undocumented migrant workers are also called illegal, non-procedural, undocumented, vacant, and unofficial migrant workers. Undocumented Indonesian migrant workers are those who enter Malaysia without valid documents through unofficial border channels; or enter Malaysia on a visit or tourist visa and subsequently work illegally; or whose work permits have expired (overstay) but who remain in Malaysia, change jobs, or abscond; or legal workers who, for various reasons such as persecution, exploitation, fraud, sexual harassment, unpaid wages, excessive working hours, or low pay, flee from their employers and thereby become undocumented.<sup>21</sup>

In 2023, data on complaints from Indonesian migrant workers in Malaysia indicate that

approximately 75% were classified as non-procedural and 25% as procedural.<sup>22</sup>

**Table 1. Complaints of Indonesian Migrant Workers in Malaysia**

Classification	Year					Sum
	2018	2019	2020	2021	2022	
Procedural	108	206	117	40	4	475
Non Procedural	387	1222	2421	363	447	4840
Total	495	1428	359	403	451	5315

Source: BP2MI PPID Report

Table 1 shows that, according to the 2023 BP2MI PPID.<sup>23</sup> Report, most complaints were submitted by Indonesian migrant workers in Malaysia, with the majority (around 90%) classified as non-procedural or undocumented cases, compared to procedural ones, at a ratio of about 10 to 1. The data was emphasized by the staff of the Embassy of the Republic of Indonesia to Malaysia, that two-thirds of Indonesian Migrant Workers in Malaysia are undocumented.<sup>24</sup> Other data also shows that in 2023, as many as 11,000 Indonesian migrant workers were deported from Malaysia because they did not have documents.<sup>25</sup> In the January to October 2024 period, as many as 2036 Indonesian migrant workers were deported from Malaysia because they did not have documents.<sup>26</sup> Data from the Indonesian Embassy indicate that approximately 12,000 Indonesian citizens were in an unlawful status in Malaysia as of April 2025.<sup>27</sup>

<sup>19</sup> S Kudo, "Securitization Of Undocumented Migrants And The Politics Of Insecurity In Malaysia," *Procedia Environmental Sciences*, 2013, 947.

<sup>20</sup> N Puteri, *Kerja Sama Badan Pelindungan Pekerja Migran Indonesia (Bp2mi) Dengan International Organization For Migration (Iom) Dalam Mencegah Pemberangkatan Calon ...* (Repository.Uinjt.Ac.Id, 2023), 76.

<sup>21</sup> N N Sirait, "Legal Protection Of International Labor Organization (ILO) And Indonesia Towards Indonesia's Illegal Migrant Workers," *Second International Conference On Public Policy ...*, 2022, 202.

<sup>22</sup> Badan Perlindungan Pekerja Migran Indonesia, "Laporan Tahunan Badan Perlindungan Pekerja Migran Indonesia 2023" (Jakarta, 2023), 12.

<sup>23</sup> Badan Perlindungan Pekerja Migran Indonesia, "Laporan Tahunan Badan Perlindungan Pekerja Migran Indonesia 2023" (Jakarta, 2023), 12.

<sup>24</sup> Personal Interview, November 6, 2024

<sup>25</sup> Humas Direktorat Jenderal Imigrasi, "Siaran Pers : Dirjen Imigrasi Temui Ketua Pengarah Imigresen Malaysia Bahas Pekerja Migran Indonesia Di Malaysia-Direktorat Jenderal Imigrasi," Kementerian Imigrasi Dan Pemasarakatan Direktorat Jenderal Imigrasi, January 17, 2024.

<sup>26</sup> Hamapu, "2.036 Pmi Dideportasi Dari Malaysia Selama Periode Januari-Oktober 2024."

<sup>27</sup> Budiono, "Dubes Ri Serukan Wni Ilegal Di Malaysia Manfaatkan Program Repatriasi Migran 2.0."



According to former Indonesian Migrant Workers who have worked in Malaysia illegally, the factors that cause them to leave for Malaysia illegally, namely; 1) poverty in their hometown 2) do not have a diploma; 3) being deceived by brokers by using a visit visa; 4) no job opportunities in their origin; 5) do not know the official procedures and; 6) invited by friends or relatives who have worked in Malaysia illegally. (Inf 01, Inf 02, Inf 03, Inf 04, dan Inf 05 Interview, December 7-11, 2024) Meanwhile, according to those who work in Malaysia with official procedures (procedural), but currently do not have documents, it is mainly due to: 1) the invalid work document (overstay), but remaining in Malaysia, and 2) running away from the Employer so that the status changes to undocumented. (Inf 6, Inf 07, Inf 08, Inf 09, and Inf 10 Interview, December 14-18, 2024).

Research by Simanullang, et, al found that the factors that cause Indonesian Migrant Workers to be undocumented include: 1) low education, limited employment in the country and high poverty rates; 2) limited access to information and lack of public understanding of labor placement and protection procedures so that it is easy to be deceived by brokers; and 3) the sweet promise of high salaries by brokers and unofficial agents.<sup>28</sup> Meanwhile, Chin's research and Djafar's research show that low knowledge of official procedures and their rights led to being trapped as undocumented migrant workers after running away from their old employers. In addition,

the culture of bribery against immigration officers is also a factor in this case.<sup>29</sup> Meanwhile, Chin's research and Djafar's research show that low knowledge of official procedures and their rights led to being trapped as undocumented migrant workers after running away from their old employers. In addition, the culture of bribery against immigration officers is also a factor in this case.<sup>30</sup> Most of the undocumented Indonesian Migrant Workers in Malaysia work in the informal sector. For instance, workers in the domestic, restaurant, construction, agricultural, plantation, and livestock sectors face highly precarious conditions that expose them to exploitation, violence, and other serious risks.<sup>31</sup> Various cases of undocumented Indonesian Migrant Workers in Malaysia were reported by the media in 2024, for example: 1) the case of Anton A Kian, an illegal Indonesian Migrant Worker from East Nusa Tenggara, who died in Malaysia. Anton has been working in Malaysia since 1990 at the Malaysian Oil Palm Plantation.<sup>32</sup> 2) The case of Nikolas Nesi (56), an Indonesian migrant worker from Kupang who died in Malaysia, who was known to have pneumonia. Nikolas has been working in oil palm plantations since 2013 through illegal channels. 3) The case of a wooden boat carrying illegal Indonesian migrant workers sank, and one person was reported to have died.<sup>33</sup> and 4) the case of Suwinah from East Lombok. This Non-Procedural Indonesian Migrant Worker has worked for four years, been tortured, not been paid, and been unable

<sup>28</sup> G Simanullang, A C A Bangun, And I L M Utama, "Pengalaman Tenaga Kerja Indonesia Ilegal Di Malaysia: Sebuah Penelitian Fenomenologis," *Logos*, 2023, 98.

<sup>29</sup> L C Chin, "A Strategy Of Attrition Through Enforcement: The Unmaking Of Irregular Migration In Malaysia," *Journal Of Current Southeast Asian Affairs*, 2017, 101, Countries: The Case Of Indonesian Workers In Malaysia," *Journal Of Economics And Behavioral ...* (Researchgate.Net, 2012), 709.

<sup>30</sup> R Bustami And I S Wekke, "Migrants In Nusantara: Indonesian And Malaysian Perspectives," *Journal Of Nusantara Studies ...*, 2016, 70.

<sup>31</sup> Iom Ui Migration Indonesia, "Memperkuat Perlindungan Pekerja Migran Indonesia Di Malaysia | Iom Indonesia," October 25, 2023.

<sup>32</sup> I Wayan Sui Suadnyana And Simon Selly, "Lagi, Pmi Ilegal Asal Ntt Meninggal Di Malaysia," June 13, 2024.

<sup>33</sup> Finta Rahyuni, "Kapal Bawa Pmi Tenggelam Di Selat Malaka, Penumpang 4 Hari Terdampar-1 Tewas," *Detik.Com*, 2024.

to communicate with his family.<sup>34</sup> Various media reports many more cases of undocumented Indonesian Migrant Workers in Malaysia. It is even possible that there are hundreds of unreported cases, so that the cases experienced by Indonesian Migrant Workers, especially undocumented ones, are like an iceberg that only appears on the surface, but in fact, what is not visible is bigger.

### **Legal Compliance or Non-Compliance: A Dilemma**

The Malaysian government issued the Labor Recalibration (RTK 2.0) policy for Unlicensed Foreign Workers, which was implemented from November 16, 2020, to December 31, 2021, and was subsequently extended to December 31, 2023. The Malaysian Immigration Department will conduct verification of unauthorized foreign workers until March 2024.<sup>35</sup> Workforce Recalibration is a policy to regularise illegal foreign workers in Malaysia into legal foreign workers, employed by a qualified employer and subject to strict conditions set by the Government through the Malaysian Immigration Department and the Ministry of Human Resources. There are two types of recalibration policies for Unauthorized Foreign Workers: voluntary repatriation to their country of origin or legal re-employment with their employers.<sup>36</sup> In 2024, the Malaysian government issued a repatriation policy as a follow-up to the previous policy, which was implemented on March 1, 2024, until December 31, 2024.<sup>37</sup>

This policy is reopened from May 19, 2025, to April 30, 2026.<sup>38</sup> This policy governs the repatriation of unauthorized foreign workers who violate Malaysian law. Repatriation is a government initiative that aims to provide an opportunity for Illegal Foreign Workers who have committed an offence by staying beyond the time limit in Malaysia and are in Malaysia without a valid permission to return to their country of origin voluntarily. Those who do not comply with this order, if caught during an enforcement operation, will be sentenced to imprisonment, a fine, and/or whipping. The recalibration and repatriation policy by the Malaysian government should be good news for undocumented Indonesian Migrant Workers in Malaysia. Recalibration indirectly serves as a pathway for Indonesian Migrant Workers to obtain legal status in Malaysia. However, Indonesian Migrant Workers who are not documented do not all participate in the recalibration or repatriation program. The case of the arrest of Indonesian Migrant Workers shows that undocumented Indonesian Migrant Workers do not participate in the program. For example, 1) the case of illegal settlements in Shah Alam, Selangor, in which as many as 132 Indonesian citizens were arrested by Immigration Department officers in February 2024. Several violations were identified, including the absence of identification documents, exceeding the length of stay, and other violations of the Immigration Act 1959/63, the Passport Act 1966, and the Immigration Regulations 1963.<sup>39</sup> and 2) the arrest case of 22 undocumented Indonesian Migrant Workers

<sup>34</sup> Ahmad Viqi, "Suwinah, Pmi Yang Dianiaya Majikan Di Malaysia Akhirnya Pulang," 2024, .

<sup>35</sup> R S D Hasan, *Analisis Kebijakan Rekalibrasi Tenaga Kerja Di Malaysia Untuk Pekerja Migran Indonesia Illegal Berdasarkan Memorandum Of Understanding Indonesia Dan Malaysia ...* (Repository.Uki.Ac.Id, 2024), 1420, [Http://Repository.Uki.Ac.Id/15245/](http://Repository.Uki.Ac.Id/15245/).

<sup>36</sup> Malaysia, "Soalan-Soalan Lazim Program Rekalibrasi Pulang."

<sup>37</sup> Virna P Setyorini, "Malaysia Mulai Lagi Program Repatriasi Pekerja Migran Mulai 1 Maret - Antara News," *Antaranews*, January 31, 2024.

<sup>38</sup> Konsulat Jenderal Republik Indonesia, "Konsulat Jenderal Republik Indonesia Di Penang Malaysia, Program Repatriasi Migran 2.0 Tahun 2025 Resmi Dibuka," *Indonesiainpenang*, 2025.

<sup>39</sup> Virna P Setyorini, "130 Wni Masuk Tanpa Izin Ditahan Imigrasi Malaysia - Antara News," February 19, 2024.



on August 15, 2024, in Perak, Malaysia.<sup>40</sup> Undocumented Migrant Workers who do not participate in the repatriation and recalibration programme are those who entered Malaysia through the back route (illegal) and those who entered Malaysia on a visit visa. They came to Malaysia because they were invited by friends and family who have long worked in Malaysia and have experience working illegally, or because brokers recruited them. Many Indonesian migrant workers have repeatedly entered and worked in Malaysia through irregular channels or without valid documents, making them highly familiar with strategies to evade immigration raids and with the informal routes used to travel safely between Malaysia and Indonesia. (Informan 02, 03, dan 04, Interview, December 19, 2024) The culture of working abroad is hereditary in some areas of Indonesia, and those who have worked in Malaysia for a long time have experience leaving and re-entering Malaysia on a visit visa. The experience is used to influence and invite friends and family in the same way that they take advantage of a visit visa. The reason for choosing a visit visa rather than obtaining a work permit is that it is expensive, and we do not have the money.<sup>41</sup> Castles' research in Mexico, Italy, Turkey, the Republic of Korea, and Malaysia found that the leading causes of irregular (non-procedural) migration are not due to regulatory neglect by migrants, but rather persistent inequality within and between countries, and the failure of countries to create adequate migration regimes to meet economic demand. The mismatch between entry rules

and labor demand, bureaucratic complexity, and delays stands in stark contrast to the rapid transportation and communication technologies that facilitate the flow of labor across borders and largely overlook the changing social dynamics of migration.<sup>42</sup> Meanwhile, Chin's research and Djafar's research found that low knowledge of official procedures and their rights resulted in being trapped as undocumented migrant workers after running away from their old employers. The culture of bribery against immigration officers is also a factor in this regard.<sup>43</sup> Undocumented Indonesian migrant workers know that there is a policy on repatriation and recalibration from the Malaysian government. They obtain information from fellow migrant workers or their families, as well as from social media platforms (e.g., Facebook, Instagram, YouTube).

**Figure 1. Recalibration and repatriation information**

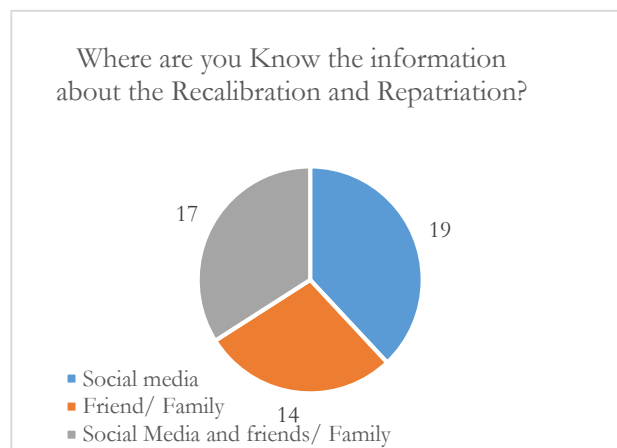


Figure 1 shows that among the 50 respondents, all knew at least one person, and

<sup>40</sup> Guche Montero, "Polisi Imigrasi Malaysia Tangkap Puluhan Pmi Ilegal Asal Ntt, Termasuk 9 Anak-Anak," August 20, 2024.

<sup>41</sup> Nzbm Amir, "Migrasi Kultural Buruh Migran Indonesia Asal Nusa Tenggara Timur Ke Malaysia," *Migrantcare* (Migrantcare.Net, 2016), Zana.Pdf; G Surjono, S Usman, And ..., "Pola Migrasi Pekerja Migran Sumenep Ke Arab Saudi Dan Malaysia Dan Dampaknya Bagi Lembaga Sosial Ekonomi Daerah Asal Migration Patterns Of ...," *Jurnal Pks ...* (Download.Garuda.Kemdikbud.Go.Id, 2015).

<sup>42</sup> S Castles Et Al., "Irregular Migration: Causes, Patterns, And Strategies," *Global Perspectives On Migration ...*, 2012, 143.

<sup>43</sup> Chin, "A Strategy Of Attrition Through Enforcement: The Unmaking Of Irregular Migration In Malaysia," 106; Djafar And Hassan, "Dynamics Of Push And Pull Factors Of Migrant Workers In Developing Countries: The Case Of Indonesian Workers In Malaysia," 705.

19 obtained information from social media; 14 obtained information from friends or family who are also migrant workers; and 17 obtained information from both social media and friends or family. However, of the 50 Indonesian Migrant Workers who registered, only nine did so; 41 did not register or comply with the policy. They do not register for several reasons, namely: hesitation, fear (arrested, jailed, blocked), expensive fees, and not knowing the procedure.

**Figure 2: Reasons Indonesian Migrant Workers Do not Comply with Policies**

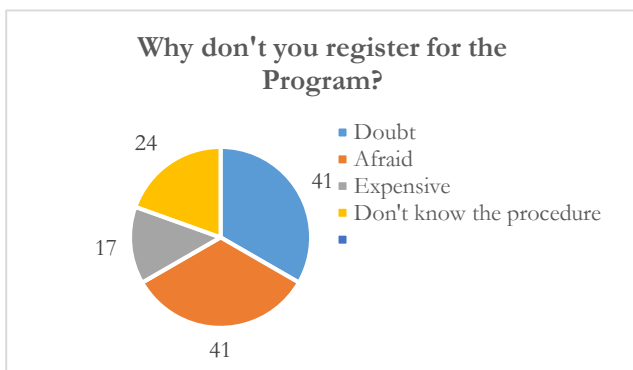


Figure 2 shows that Indonesian Migrant Workers who did not register for recalibration and repatriation were motivated by fear and hesitation (41 people), fear and hesitation with no money (17 people), and fear, hesitation, and lack of knowledge of the procedure (24 people).

"I was told by a friend that my passport was illegal (a traveler's passport) and was told to escape by joining my friend's acquaintance. I heard about a repatriation, then I searched for information on social media. However, some friends said the program was to trick illegal migrants into surrendering. If they surrendered, they were detained at immigration, some were even whipped,

told to pay a lot of money, and immigration officers blackmailed some." (Informan 05, Interview December 20, 2024).

Two friends and I went to Malaysia on a visit visa and worked in a vegetable farm for 8 months. I knew there was a repatriation, but my friend said it was better to go home through the back road with a tekong than to be imprisoned, told to pay a hefty fine, and blocked so that I could no longer work in Malaysia for life. Moreover, I also do not know how to register it. Finally, I went home through the back road." (Informan 04, Interview December 28, 2024)

Meanwhile, nine (9) respondents who had participated in the recalibration and repatriation program because the documents had been overstayed and the work contract had expired gave answers, among others: to be safe, not at risk, and to be able to work legally again. Informant 06 reported that he had been blocked for 1 year and was now working in Malaysia through legal channels, in accordance with procedures. (Informan 06, Personal January 04, 2025). Theoretically, legal compliance is influenced by an individual's perception of the legitimacy of the law and the authorities that enforce it. This theory emphasizes that individuals are more likely to obey the law when they believe it is fair and applied consistently.<sup>44</sup> From the perspective of economic rationality, which focuses on cost-benefit analysis, individuals obey the law if the benefits they derive from compliance exceed the risks or losses associated with violation.<sup>45</sup> Rational Choice Theory is often used in this context, in which individuals are treated as rational actors who make decisions based on evaluations of gains and losses.<sup>46</sup> The

<sup>44</sup> D Nagin, "Procedural Justice And Legal Compliance," *Annual Review Of Law And Social Science*, 2017, 17.

<sup>45</sup> S Roy, "Theory Of Social Proof And Legal Compliance: A Socio-Cognitive Explanation For Regulatory (Non) Compliance," *German Law Journal*, 2021, 242, F M J Teichmann And C Wittmann,

"Compliance Cultures And The Role Of Financial Incentives," *Journal Of Financial Crime*, 2024, 226, <https://doi.org/10.1108/Jfc-06-2022-0135>.

<sup>46</sup> P Hedström And C Stern, "Rational Choice And Sociology," *The New Palgrave Dictionary Of Economics*, 2018, 2736.

author argues that undocumented Indonesian migrant workers face a difficult situation in deciding whether to comply with policies, due to social interactions with fellow migrant workers that affect their understanding of policies, access to policy information, trust in authorities, and beliefs about the benefits (utility) of policies. A lack of understanding of policies and inaccurate information obtained through social interactions with fellow migrant workers leads to negative beliefs about the benefits of complying with regulations. For example, information about being imprisoned, fined, whipped, blocked, and even blackmailed by immigration officers and not being able to work in Malaysia anymore makes them hesitant and afraid to obey policies. This condition is a distrust of the implementation of regulations and policies. The lack of information on how to register makes it difficult to determine whether to comply with regulations and policies. Social interaction plays a major role in this, as it affects understanding, the information received, belief in the benefits of policies, and trust in policy implementation, ultimately influencing non-compliance with policies. Meanwhile, undocumented Indonesian migrant workers choose to comply with the policy because they believe that the benefits they get from obeying the law outweigh the risks or losses they may experience if they break the law. The utility theory states that a person will obey the law if the benefits (utility) derived from obedience are greater than the benefits obtained from breaking the law.<sup>47</sup> This concept is often associated with an economic approach to law, which considers

individuals as rational beings and seeks to maximize their satisfaction or utility.<sup>48</sup> According to the theory of rational choice, the individual is considered a rational actor who makes decisions based on a rational evaluation of the advantages and disadvantages.<sup>49</sup> The rationality of undocumented Indonesian migrant workers in choosing to obey or disobey policies stems from a motive or purpose. Coleman, in rational choice theory, argues that individual actions produce outcomes shaped by values and choices.<sup>50</sup> According to Weber, in decisions that lead to certain actions, individuals regard intention as the primary determinant of actual behavior.<sup>51</sup> The assumption is that humans are rational beings who consider the consequences of various choices before taking action. Weber uses a classification of four types of actions, which are distinguished in the context of the motives of the perpetrators, namely: 1) traditional actions. Actions that are carried out on a habitual basis without planning, without conscious reflection, "I do this because I always do it"; 2) affective action. Actions that are performed and are dominated by feelings or emotions without intellectual reflection or conscious planning of "What can I do"; 3) value rationality. Such an action reflects purely instrumental reasoning: careful consideration and calculation of means, since the goal and its associated values have already been predetermined, as expressed in the statement, "All I know is to do this." 4) instrumental rationality. Actions are carried out, taking into account the goals and the tools used to achieve them. An action that reflects

<sup>47</sup> P Schofield, "Jeremy Bentham On Utility And Truth," *History Of European Ideas*, 2015, 1125,

<sup>48</sup> D I Waked, "Jeremy Bentham And The Genesis Of Law And Economics: An Alternative Narrative," *Research Handbook On Law And Utilitarianism*, 2024, 188.

<sup>49</sup> H Scholtz, "Rational Choice Theory In Comparative Sociology," *Comparative Sociology*, 2015, 23.

<sup>50</sup> Thomas Voss, "James S. Coleman: Foundations Of Social Theory Bt - Schlüsselwerke Der Wirtschaftssoziologie," Ed. Klaus Kraemer And Florian Brugger (Wiesbaden: Springer Fachmedien Wiesbaden, 2017), 223, [https://doi.org/10.1007/978-3-658-08184-3\\_19](https://doi.org/10.1007/978-3-658-08184-3_19).

<sup>51</sup> J J Savelsberg, "Max Weber'S Formal And Substantive Rationality," *Recht Als Kultur? Beiträge Zu Max Webers ...*, 2017, 197.

effectiveness and efficiency. "This is the most efficient way to achieve this goal, and this is the best way to achieve it."<sup>52</sup> Based on Weber's theory, undocumented Indonesian Migrant Workers who choose to take action to comply with policies are included in instrumental rationality, namely actions that are carried out considering the purpose of being safe (not at risk), being able to work again, and cheaper costs to be able to return to Indonesia safely. Meanwhile, those who do not comply with the policy are included in affective rationality where the actions taken are dominated by the consideration of feelings of distrust of the legal system without intellectual reflection on the grounds of hesitation, lack of money, expensive, fear of deportation, fear of prison, fear of being blocked and fear of not being able to work in Malaysia anymore.

### Characteristics of Legal Compliance and Non-Compliance

Illegal migration carried out by Indonesian citizens to Malaysia has two patterns, namely legal entry-illegal stay, and illegal entry-illegal stay. The pattern of legal entry-illegal stay is to enter a country with valid documents, using a 30-day free-stay tourist visa, but then work in the destination country. The illegal entry-illegal stay pattern is carried out by utilizing illegal transportation without documents through the coast and land borders to avoid immigration checks. After arriving in Malaysia, they experienced an unlawful stay in the form of overstay, undocumented, and no residence permit to work.<sup>53</sup> According to the informant, the pattern of undocumented Indonesian Migrant Workers, among others: 1) deliberately working in Malaysia through the back lane without documents; 2) at first they had official documents but a visit visa so that the visa expired; 3) Migrant Workers who

have a permit are then unable to continue their permit, do not return to Indonesia and remain to work in Malaysia; and 4) Migrant workers whose contract expires and then do not return to Indonesia to take care of the memo, and continue their work activities in Malaysia. Meanwhile, the pattern of Indonesian Migrant Workers who do not have documents but return to Indonesia, among others:

- a. Compound payment to the Malaysian immigration department. The amount of compound payment or fine corresponds to how long it has exceeded the time of the visa or permit (overstay). This method is safe for Indonesian migrant workers; however, the risk is mitigated by a blocking period of 6 months, 1 year, 3 years, 5 years, or lifetime, depending on the duration of their stay in Malaysia.
- b. Surrender at a Police Station. This method can be used if you lack funds and employment, or if you are arrested during an immigration department operation. In this model, migrant workers will first serve a 3- to 6-month sentence. The process applies to those who do not have any documents, or who have documents but whose passports are invalid; the Embassy of the Republic of Indonesia will issue a Travel Letter instead of a passport. Before returning to Indonesia, they will be issued a stamp in their passports and travel documents by the Malaysian Immigration Department. After everything is complete, return to Indonesia voluntarily or be deported.
- c. *Tembak Lorong* or "Under-the-table Exit Scheme". Return by air, but pay Malaysian immigration officers through later channels (bribes) or through unofficial agents who connect with the immigration authorities. However, it is unclear when he will return,

<sup>52</sup> R Swedberg, "How To Use Max Weber's Ideal Type In Sociological Analysis," *Journal Of Classical Sociology*, 2018, 643.

<sup>53</sup> A Arisman And R K Jaya, "Labour Migration In Asean: Indonesian Migrant Workers In Johor Bahru,

Malaysia," *Asian Education And Development Studies*, 2020, 30, <https://doi.org/10.1108/Aeds-02-2019-0034>.

and he must wait for a notification from the agent. The process fee for this model is at least 3500 Ringgit; agents or brokers can also inflate it through exorbitant fees.

- d. Backtrack or mouse track. The fee is at least 3,500 Ringgit when paying an unofficial agent/broker by sea. Previously, they will be accommodated until a suitable time is identified when it is safe for them to depart. This model is precarious: individuals may be arrested by Malaysian police and immigration authorities, exposed to fraud involving high payments to agents, subject to weather-related risks, and prone to accidents, among other risks.
- e. Remission or bleaching. The program from the Malaysian government involves paying a fine or a compound of approximately 500-650 Ringgit. However, the risk under this model is being blocked and having a chop (stamp) placed on the passport and Travel Letter, rather than a passport issued by a Malaysian Immigration officer.<sup>54</sup>

Among the various return mechanisms, the Tembak Lorong or under-the-table exit scheme poses the most significant risk for undocumented Indonesian migrant workers, primarily because it relies on bribery and unofficial brokers, lacks legal protection, and frequently results in exploitation or detention. Olivia's (2020)<sup>55</sup> A study on the illegal migration of Indonesian domestic workers in Malaysia argues that migration through irregular channels can be understood as a deliberate act of resistance, a voluntary rejection of the state's coercive and exclusionary migration system. This theoretical perspective corresponds with the findings of the present study, which reveal that many undocumented Indonesian migrant

workers intentionally bypass legal recruitment schemes because they perceive the formal migration system as expensive, restrictive, and exploitative. In this sense, their non-compliance does not merely indicate disobedience but represents a form of social resistance toward a legal order they consider unjust. This means that being an illegal or undocumented migrant worker is a form of resistance to the coercive legalization of migrants. According to Scott, resistance is any action undertaken by a subordinate group to mitigate or reject the claims of the superior group. Scott distinguishes between public or open resistance and hidden or closed resistance, where the articulation of resistance, its form, characteristics, and social and cultural domain distinguish the two categories. Open resistance refers to open interaction between subordinate and superordinate classes, whereas hidden resistance refers to closed, indirect interaction between subordinate and superordinate classes. Open resistance takes the form of social protests and demonstrations, i.e., organized and systematic resistance. The manifestations of this resistance include violent means, such as rebellion. Closed or symbolic resistance is a rejection of the categories imposed on society.<sup>56</sup> Legal non-compliance of undocumented Indonesian Migrant Workers is a form of resistance to policies.

The non-compliance of Indonesian migrant workers with Malaysian immigration law is characterized by two patterns: closed or covert behavior and semi-open behavior. These two ways, which undocumented Indonesian Migrant Workers most often do, are in a closed or clandestine way. For example, the case of

<sup>54</sup> Kuli Bank, "5 Cara Tki Kosongan Dan Ilegal Bisa Pulang Ke Indonesia #Tkimalaysia - Youtube," Youtube..

<sup>55</sup> O Killias, "' Illegal ' Migration As Resistance: Legality, Morality And Coercion In Indonesian

Domestic Worker Migration To Malaysia," *Asian Journal Of Social Science*, 2010, 897.

<sup>56</sup> F. G. Bailey And James C. Scott, "Weapons Of The Weak: Everyday Forms Of Peasant Resistance," *Pacific Affairs* 60, No. 2 (1987): 26, <https://doi.org/10.2307/2758183>.



Indonesian Migrant Workers who depart and return via back roads or rat routes through land, then by sea in barges, vegetable boats, fishing boats, or other vessels. Some of them have worked in Malaysia for many years without official documents. Various cases reported in the media involve closed characteristics. For example: The case of 6 unprocedural Indonesian migrant workers from Lombok and Central Kalimantan who escaped from Malaysia through illegal channels and were secured by the personnel of the Indonesia-Malaysia Pamtas Task Force Yonarhanud 8 on Thursday, 14/3/2024. Case of Three Non-Procedural Indonesian Migrant Workers Returning to Indonesia through the traditional cross-border post, Long Midang, on Friday, May 24, 2024.<sup>57</sup> A total of 75 Indonesian Migrant Workers illegally returned to Indonesia by sea and were secured by the Serdang Bedagai Police. These migrant workers have been working in Malaysia for several years, some even work for 15 years, but do not have documents or passports. All illegal Indonesian Migrant Workers were forced to flee because there was a massive raid by the Malaysian government.<sup>58</sup>

Meanwhile, the semi-open ones are conducted in an organized manner but secretly. For example, what was done by 132 undocumented Indonesian Migrant Workers by creating an illegal village in the Selangor region of Malaysia. They leased 0.6 hectares of oil palm land from residents, who also supplied electricity for about 6,000 ringgit per month. They had lived in the area for 4 years and were chaired by the village chief. In this illegal settlement, there are grocery stores,

food stalls, and places of worship. Most of them work as cleaners, restaurant servers, and construction workers in the surrounding area.<sup>59</sup> In February 2023, the Malaysian Immigration Department also raided an illegal Indonesian village in Negeri Sembilan, and in June 2023, Malaysian authorities found an Indonesian illicit village on Meranti Island, Puchong.

The characteristics of legal compliance among undocumented Indonesian migrant workers participating in recalibration and repatriation programs are primarily classified within the compliance and internalization category. Theoretically, the attributes of legal compliance, among others, include: 1) compliance, which is obedience based on the expectation of a reward or avoiding a punishment. This means that a person will comply with the rules if they receive a reward or avoid the sentence imposed. So that as a result, compliance will exist if there is strict supervision of the implementation of the regulation; 2) Identification, is compliance that occurs not because of its intrinsic value, but so that the membership of the group is maintained, and there is a good relationship with those who are authorized to apply the rule. So that a person's obedience depends on the good and bad relationships between individuals; 3) internalization, is obedience that occurs if a person complies with the legal method intrinsically. In this process, compliance is based on trust in the method's purpose, which entails delegating authority and supervision to the technique.<sup>60</sup>

The legal compliance of undocumented Indonesian migrant workers can be

<sup>57</sup> Kanim Nunukan, "Admin Kantor Imigrasi Nunukan Tiga Pekerja Migran Indonesia (Pmi) Non-Prosedural Berhasil Kembali Ke Indonesia Melalui Pos Lintas Batas Tradisional, Long Midang," Kanim Nunukan, May 24, 2024.

<sup>58</sup> Anugrah Nasution, "Pmi Ilegal Asal Aceh Hingga Ntb Diamankan Di Sergai, Pulang Ke Indonesia Melalui Jalur Tikus - Tribun-Medan.Com," Tribunnews, June 13, 2023.

<sup>59</sup> Irawan Sapto Adhi, "Malaysia Temukan Perkampungan Ilegal Warga Indonesia Di Dalam Perkebunan Sawit, 130 Orang Ditahan," Kompas.Com, February 18, 2024.

<sup>60</sup> H C Kelman, "Further Thoughts On The Processes Of Compliance, Identification, And Internalization," *Social Power And Political Influence*, 2017, 125, <https://doi.org/10.4324/9781315129693-6>.

categorized as instrumental compliance, that is, compliance motivated by the expectation of rewards or the desire to avoid punishment. They comply with the recalibration and repatriation policy because they feel safe, are not at risk, and can resume work at a lower cost. Meanwhile, internalization is a form of legal compliance that occurs when a person intrinsically adheres to legal methods, grounded in a belief in the purpose of the legal norm. For example, some Indonesian Migrant Workers are undocumented. If they are blocked, they believe the ban will last only a few months and that they can resume work in Malaysia through procedural channels. According to them, if he is blocked, he can gather with his family and then resume work. (Inf 06, 07, and 08 Interview December 23, 2024) This indicates that they believe the recalibration and repatriation program aims to provide convenience rather than harm to Migrant Workers.

### **Recommendations for Handling Undocumented Indonesian Migrant Workers**

The governments of Indonesia and Malaysia have agreed to close access to the placement of Indonesian Migrant Workers who work in Malaysia illegally. The placement procedure for Indonesian Migrant Workers is implemented exclusively through the one-channel system. This policy is a way to eradicate illegal agents and improve the protection aspects, and improve the legal and procedural placement mechanism for Indonesian Migrant Workers.<sup>61</sup> The governments of Indonesia and Malaysia have also carried out various other strategies and policies. The methods and policies implemented by the Government of Indonesia to address the issue of undocumented

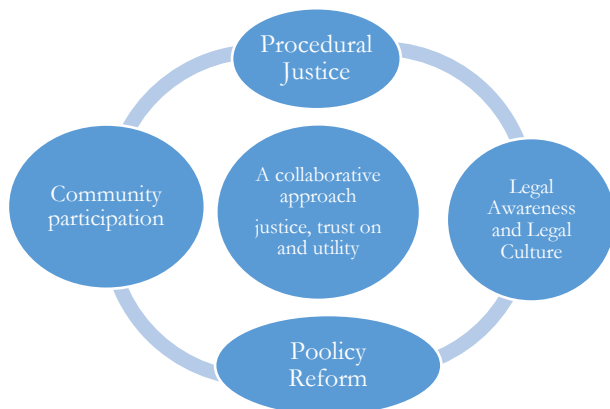
Indonesian migrant workers are closely related to Malaysia's recalibration and repatriation programs namely: 1) massive socialization from the Embassy of the Republic of Indonesia in Malaysia through social media and other channels about the Recalibration and Repatriation policy by the Malaysian government; 2) provide maximum services to Indonesian Migrant Workers related to the documents needed to support the recalibration and repatriation program; 3) establish a task force to improve surveillance and security in the Indonesian-Malaysian border areas; and 4) carry out various operations in border areas and other areas that are suspected to be areas for departure, return, including the detention of undocumented Indonesian Migrant Workers. (Informan 12 and 13 (KBRI Kuala Lumpur) Interview, January 9, 2025). However, the Indonesian Government's strategies and policies have not been able to address undocumented Indonesian Migrant Workers, including the repatriation and recalibration policies of the Malaysian government. These findings are corroborated by Castles' research in Mexico, Italy, Turkey, the Republic of Korea, and Malaysia, which shows that most efforts to combat irregular migration are challenging to implement.<sup>62</sup> Recommended strategies to deal with the problem of undocumented Indonesian migrant workers are to use a collaborative approach based on justice, utility, and trust. This approach is intended so that the law is implemented in a fair, transparent, and easily accessible manner to the community to build trust in the policy implementer and the community's confidence in the utility of the policy, so that there is no more doubt for workers to choose between obeying and not complying with the law.

<sup>61</sup> G E Putri, K A K Mabururi, And ..., "Implementation Of Protection For Indonesian Migrant Workers In Malaysia In 2022-2023," *Dauliyah: Journal Of ...*, 2025, 23, *Proses Kebijakan Indonesia Dalam Melindungi Pmi*

*Melalui One Channel System Dengan Malaysia 2019-2022*

<sup>62</sup> Castles Et Al., "Irregular Migration: Causes, Patterns, And Strategies," 117.

**Figure 3. A collaborative approach based on justice, utility, and trust**



- **Procedural Justice:** Procedural justice is fundamental to building trust and increasing the legitimacy of law enforcement officials in the community.
- **Legal Awareness and Legal Culture:** building legal awareness and a strong legal culture as the foundation of legal compliance.
- **Policy reform:** policy changes that are in line with the expectations and needs of the community, so that the benefits can be received and felt optimally. **Community participation:** active participation. The community contributes significantly to improving legal compliance. The theoretical basis of the approach is that legal justice ensures that the law is applied fairly and benefits everyone, thereby increasing trust in the legal system. According to Radbruch, if the law is applied unfairly, it can cause dissatisfaction within the community and undermine the authority of the law and its administration.<sup>63</sup> Some studies have shown that procedurally fair treatment by the police of citizens increases citizens' willingness to obey the law and thus reduces crime rates.<sup>64</sup> Therefore, procedurally fair treatment by law enforcement against Indonesian Migrant Workers is significant to increase legal

compliance. Procedural justice is a process in which law enforcement officials act fairly and respectfully to gain trust, legitimacy, and cooperation from the entire community.<sup>65</sup> Through the four elements in the collaborative approach, namely procedural justice in policy implementation, policy reform, increasing legal awareness and culture, and active participation of the community, which in this case is migrant worker volunteers, migrant worker communities, non-governmental institutions, community leaders, and religious leaders, real action is needed. Tangible actions that must be taken include: 1) massive, planned and integrated socialization and assistance to undocumented Indonesian Migrant Workers in the process of recalibration and repatriation by involving Indonesian Migrant Worker communities in Malaysia, activists, volunteers and non-governmental organizations; 2) collaborate with religious leaders, non-governmental institutions and migrant worker volunteers to conduct education in the enclaves of Migrant Workers in Indonesia and Malaysia and; 3) identify the problems, needs and expectations of Migrant Workers as a basis for improving policies and their implementation. In the end, when undocumented Indonesian Migrant Workers feel that the existing policies provide positive benefits and high trust in the law enforcement authorities, they will voluntarily comply with the law and policies.

## Conclusion

The Dilemma of undocumented Indonesian Migrant Workers regarding the choice of compliance or non-compliance with the law and policy depends on social interaction with fellow migrant workers. Social interaction with fellow migrant workers who lack an

<sup>63</sup> M Pavčnik, "Radbruch, Gustav: His Formula And Concept Of Law," *Encyclopedia Of The Philosophy Of Law And Social ...*, 2023, 218, [https://doi.org/10.1007/978-94-007-6519-1\\_218](https://doi.org/10.1007/978-94-007-6519-1_218).

<sup>64</sup> Nagin, "Procedural Justice And Legal Compliance"; G D Walters, "Procedural Justice Perceptions,

Legitimacy Beliefs, And Compliance With The Law: A Meta-Analysis," *Journal Of Experimental Criminology* 15, No. 3 (2019): 341.

<sup>65</sup> D S Nagin, "Procedural Justice And Legal Compliance: A Revisionist Perspective," *Criminology And Public Policy* 19, No. 3 (2020): 761.

understanding of the law, particularly regarding recalibration and repatriation policies, will perpetuate this dilemma, and the final choice is non-compliance with the law. Meanwhile, migrant workers who frequently interact with peers who have a better understanding of law and policy tend to prioritize legal compliance in their final decisions. A limited knowledge of migration policies among migrant workers leads to the spread of inaccurate information, which, in turn, contributes to negative perceptions and low trust in policy implementation officials, including doubts about policy benefits, thereby discouraging compliance. This research is still minimal, so further research can be carried out by comparing the legal compliance and non-compliance of Indonesian Migrant Workers, both documented and undocumented, in several countries.

### Acknowledgments

The authors would like to express their sincere gratitude to all parties who contributed to the completion of this research, especially the Indonesian Embassy in Kuala Lumpur and the Indonesian migrant workers who volunteered to serve as informants. Special thanks are extended to the Faculty of Sharia at K.H. Abdurrahman Wahid State Islamic University of Pekalongan for the research grant that supported this research. The authors also thank the Dean of the Faculty of Psychology and Education at Universiti Sabah Malaysia for their collaboration in this research. We also thank the Education Fund Management Institute (LPDP) for the Indonesia Bangkit Scholarship and the Ministry of Religious Affairs of the Republic of Indonesia for its financial support.

### Bibliography

ADBMI Foundation. "Tertangkap Di Perbatasan, PMI Nekat Pulang Kampung Lewat Jalur Ilegal," March 20, 2024.

- <https://www.adbmi.org/kabar/tertangkap-di-perbatasan-pmi-nekat-pulang-kampung-lewat-jalur-ilegal>.
- Adhi, Irawan Sapto. "Malaysia Temukan Perkampungan Ilegal Warga Indonesia Di Dalam Perkebunan Sawit, 130 Orang Ditahan." *kompas.com*, February 18, 2024.
- Amir, NZBM. "Migrasi Kultural Buruh Migran Indonesia Asal Nusa Tenggara Timur Ke Malaysia." *Migrantcare*. migrantcare.net, 2016. <https://migrantcare.net/wp-content/uploads/2016/11/migrasi-kultural-nor-zana.pdf>.
- Arisman, A, and R. K. Jaya. "Labour Migration in ASEAN: Indonesian Migrant Workers in Johor Bahru, Malaysia." *Asian Education and Development Studies*, 2020. <https://doi.org/10.1108/aeds-02-2019-0034>.
- Arohmi, A. F. "Legal Protection for Illegal Indonesian Workers in Malaysia." *Media of Law and Sharia*, 2020. <https://journal.umy.ac.id/index.php/mlsj/article/view/9186>.
- Badan Perlindungan Pekerja Migran Indonesia. "Laporan Tahunan Badan Perlindungan Pekerja Migran Indonesia 2023." Jakarta, 2023.
- Bailey, F. G., and James C. Scott. "Weapons of the Weak: Everyday Forms of Peasant Resistance." *Pacific Affairs* 60, no. 2 1987: 365. <https://doi.org/10.2307/2758183>.
- Budiono, Eko. "Dubes RI Serukan WNI Ilegal Di Malaysia Manfaatkan Program Repatriasi Migran 2.0." *indonesia.go.Id*, May 19, 2025.
- Bustami, R., and I. S. Wekke. "Migrants In Nusantara: Indonesian and Malaysian Perspectives." *Journal of Nusantara Studies* ..., 2016.
- Castles, S, M. A. Cubas, C Kim, and D Ozkul. "Irregular Migration: Causes, Patterns, and Strategies." *Global Perspectives on Migration* ..., 2012. <https://doi.org/10.1007/978-94-007->

- 4110-2\_9.
- Chin, L C. "A Strategy of Attrition through Enforcement: The Unmaking of Irregular Migration in Malaysia." *Journal of Current Southeast Asian Affairs*, 2017. <https://doi.org/10.1177/186810341703600204>.
- Clark, M, and J Pietsch. "Uneasy Neighbours: Indonesia-Malaysia Relations under Yudhoyono." *Aspirations with Limitations: Indonesia's ...*, 2018.
- Direktorat Jenderal Imigrasi, Humas. "Siaran Pers: Dirjen Imigrasi Temui Ketua Pengarah Imigresen Malaysia Bahas Pekerja Migran Indonesia Di Malaysia - Direktorat Jenderal Imigrasi." Kementerian Imigrasi dan Pemasarakatan Direktorat Jenderal Imigrasi, January 17, 2024.
- Djafar, F, and M K H Hassan. "Dynamics of Push and Pull Factors of Migrant Workers in Developing Countries: The Case of Indonesian Workers in Malaysia." *Journal of Economics and Behavioral ...* researchgate.net, 2012.
- Faradila, S H. *Proses Kebijakan Indonesia Dalam Melindungi PMI Melalui One Channel System Dengan Malaysia 2019-2022*. dspace.uui.ac.id, 2024. <https://dspace.uui.ac.id/handle/123456789/51295>.
- Hamapu, Alamudin. "2.036 PMI Dideportasi Dari Malaysia Selama Periode Januari-Oktober 2024." *detik.com*, October 9, 2024. <https://www.detik.com/sumut/hukum-dan-kriminal/d-7580201/2-036-pmi-dideportasi-dari-malaysia-selama-periode-januari-oktober-2024>.
- Hamzah, I S, M R Sarifin, M S A Aziz, and ... "Malaysia as an Attraction of International Foreign Workers." *Journal Of Critical Reviews*. ResearchGate.net, 2020. [https://www.researchgate.net/profile/Muhammad-Sarifin-2/publication/343879425\\_Malaysia\\_As\\_Attraction\\_Of\\_International\\_Foreign\\_Workers/Links/5f463004a6fdcccc430742e7/Malaysia-As-Attraction-Of-International-Foreign-Workers.Pdf](https://www.researchgate.net/profile/Muhammad-Sarifin-2/publication/343879425_Malaysia_As_Attraction_Of_International_Foreign_Workers/Links/5f463004a6fdcccc430742e7/Malaysia-As-Attraction-Of-International-Foreign-Workers.Pdf).
- Hasan, R S D. *Analisis Kebijakan Rekalibrasi Tenaga Kerja Di Malaysia Untuk Pekerja Migran Indonesia Ilegal Berdasarkan Memorandum of Understanding Indonesia Dan Malaysia ....* repository.uki.ac.id, 2024. <http://repository.uki.ac.id/15245/>.
- Hedström, P, and C Stern. "Rational Choice and Sociology." *The New Palgrave Dictionary of Economics*, 2018. [https://doi.org/10.1057/978-1-349-95189-5\\_2736](https://doi.org/10.1057/978-1-349-95189-5_2736).
- 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>.
- Kanim Nunukan. "Admin Kantor Imigrasi Nunukan Tiga Pekerja Migran Indonesia (PMI) Non-Prosedural Berhasil Kembali Ke Indonesia Melalui Pos Lintas Batas Tradisional, Long Midang." *kanim nunukan*, May 24, 2024. h
- Kassim, A, and R. H. M. Zin. *Policy on Irregular Migrants in Malaysia: An Analysis of Its Implementation and Effectiveness*. econstor.eu, 2011.
- Kelman, H C. "Further Thoughts on the Processes of Compliance, Identification, and Internalization." *Social Power and Political Influence*, 2017.
- Killias, O. "' Illegal ' Migration as Resistance: Legality, Morality and Coercion in Indonesian Domestic Worker Migration to Malaysia." *Asian Journal of Social Science*, 2010.
- Kudo, S. "Securitization of Undocumented Migrants and the Politics of Insecurity in Malaysia." *Procedia Environmental Sciences*, 2013.
- Kuli Bank. "5 Cara TKI Kosongan Dan Ilegal Bisa Pulang Ke Indonesia #tkimalaysia - YouTube." *YouTube*, 2023.



- <https://www.youtube.com/watch?v=7I058vbwAQM>.
- Low, C C. "Back for Good: Reforms in Legalization and Amnesty Programmes in Malaysia." *Bijdragen Tot de Taal-, Land- En Volkenkunde/Journal of ....* brill.com, 2021.
- Maharani, A. P., and A Maksum. "Kerja Sama Bilateral Indonesia-Malaysia Dalam Menangani Kasus TKI Ilegal Pada Masa Presiden Joko Widodo (2014-2019)." *Proceedings* .... download.garuda.kemdikbud.go.id, 2020.
- Maksum, A. "Indonesia-Malaysia Relations from below: Indonesian Migrants and the Role of Identity." *South East Asia Research*, 2022.
- — —. "Suffer to Survive: The Indonesian Illegal Workers' Experiences in Malaysia and Japan." *Journal of Social Research & Policy*. academia.edu, 2017.
- Montero, Guche. "Polisi Imigrasi Malaysia Tangkap Puluhan PMI Ilegal Asal NTT, Termasuk 9 Anak-Anak," August 20, 2024.
- Nagin, D. "Procedural Justice and Legal Compliance." *Annual Review of Law and Social Science*, 2017.
- Nasution, Anugrah. "PMI Ilegal Asal Aceh Hingga NTB Diamankan Di Sergai, Pulang Ke Indonesia Melalui Jalur Tikus - Tribun-Medan.Com." *Tribunnews*, June 13, 2023.
- Nengsi, F, and A Maksum. "Mainstreaming Realism Paradigm in Handling Illegal Immigrants in Malaysia." *Revista UNISCI*. researchgate.net, 2020.
- Noor, N M, and M N Shaker. "Perceived Workplace Discrimination, Coping and Psychological Distress among Unskilled Indonesian Migrant Workers in Malaysia." *International Journal of Intercultural Relations*, 2017.
- Novia, H, and S Djelantik. "Indonesia Diplomacy in Protecting the Rights of Indonesian Migrant Domestic Workers in Malaysia (2017-2022)." *Insignia: Journal of International Relations*. jos.unsoed.ac.id, 2024.
- Palmer, W, and A Missbach. "Enforcing Labour Rights of Irregular Migrants in Indonesia." *Third World Quarterly*, 2019. <https://doi.org/10.1080/01436597.2018.1522586>.
- Pavčnik, M. "Radbruch, Gustav: His Formula and Concept of Law." *Encyclopedia of the Philosophy of Law and Social ...*, 2023. [https://doi.org/10.1007/978-94-007-6519-1\\_218](https://doi.org/10.1007/978-94-007-6519-1_218).
- Prianto, A. L., A. R. Amri, and M. N. Ajis. "Governance and Protection of Indonesian Migrant Workers in Malaysia: A Study on Policy and Innovation Network." *JSEHR*, 2023.
- Priyansyah, A. "The Decision Making Analysis On One Channel System By Indonesian Government 2014-2018." *dspace.uui.ac.id*, 2023.
- Puteri, N. *Kerja Sama Badan Pelindungan Pekerja Migran Indonesia (Bp2Mi) Dengan International Organization for Migration (Iom) Dalam Mencegah Pemberangkatan Calon ....* repository.uinjkt.ac.id, 2023.
- Putri, G E, K A K Mabururi, and ... "Implementation of Protection for Indonesian Migrant Workers in Malaysia in 2022-2023." *Dauliyah: Journal of ...*, 2025.
- Rahayu, D. "Undocumented Indonesian Migrant Workers: Solution or Omission." In *International Conference on Social Science 2019 ....* atlantis-press.com, 2019.
- Rahyuni, Finta. "Kapal Bawa PMI Tenggelam Di Selat Malaka, Penumpang 4 Hari Terdampar-1 Tewas." *detik.com*, 2024..
- Rayhan, A, and R Azril. "The Urgency of Legal Protection for Indonesian Migrant Workers in Anticipation of Inter-Country Conflicts." *Publication of the International Journal ...*, 2025.
- Rethanovagi, R, and R Rusdiyanta. "Penyelesaian Masalah Tenaga Kerja Indonesia (TKI) Ilegal Di Malaysia Melalui Multi Track Diplomacy Pada

- Periode 2011-2016." *Balcony*, 2018.
- Roy, S. "Theory of Social Proof and Legal Compliance: A Socio-Cognitive Explanation for Regulatory (Non) Compliance." *German Law Journal*, 2021.
- Santosa, I, A Rokhman, A Sabiq, and ... "Empowering Undocumented Indonesian Migrant Workers in Sarawak through Social Capital Enhancement." *Pakistan Journal of Life & ....* pjlss.edu.pk, 2024.
- Sargeant, E, E Antrobus, and D Platz. "Promoting a Culture of Fairness: Police Training, Procedural Justice, and Compliance." *Journal of Experimental Criminology*, 2017.
- Savelsberg, J J. "Max Weber' s Formal and Substantive Rationality." *Recht Als Kultur? Beiträge Zu Max Webers ...*, 2017.
- Savitri, H. "Smuggling of Illegal Indonesian Workers in Malaysia." *Al-Musthalah: Jurnal Riset Dan Penelitian ...*, 2024.
- Schofield, P. "Jeremy Bentham on Utility and Truth." *History of European Ideas*, 2015.
- Scholtz, H. "Rational Choice Theory in Comparative Sociology." *Comparative Sociology*, 2015.
- Setyorini, Virna P. "130 WNI Masuk Tanpa Izin Ditahan Imigrasi Malaysia - ANTARA News," February 19, 2024.
- — —. "Malaysia Mulai Lagi Program Repatriasi Pekerja Migran Mulai 1 Maret - ANTARA News." *Antaranews*, January 31, 2024.
- Sibarani, R W. *Determinants of Illegal Migration: The Case of Migrant Workers from East Java to Malaysia*. books.google.com, 2018.
- Simanullang, G, A C A Bangun, and I L M Utama. "Pengalaman Tenaga Kerja Indonesia Illegal Di Malaysia: Sebuah Penelitian Fenomenologis." *Logos*, 2023.
- Sirait, N. N. "Legal Protection of International Labor Organization (ILO) and Indonesia Towards Indonesian Illegal Migrant Workers." *Second International Conference on Public Policy ...*, 2022.
- Suadnyana, I Wayan Sui, and Simon Selly. "Lagi, PMI Illegal Asal NTT Meninggal Di Malaysia," June 13, 2024.
- Surjono, G, S Usman, and ... "Pola Migrasi Pekerja Migran Sumenep Ke Arab Saudi Dan Malaysia Dan Dampaknya Bagi Lembaga Sosial Ekonomi Daerah Asal Migration Patterns of ...." *Jurnal PKS ....* download.garuda.kemdikbud.go.id, 2015.
- Swedberg, R. "How to Use Max Weber's Ideal Type in Sociological Analysis." *Journal of Classical Sociology*, 2018.
- Teichmann, F M J, and C Wittmann. "Compliance Cultures and the Role of Financial Incentives." *Journal of Financial Crime*, 2024.
- Tjitrawati, A T, and M K Romadhona. "Living beyond Borders: The International Legal Framework for Protecting Rights to Health of Indonesian Illegal Migrant Workers in Malaysia." ... *of Migration, Health and Social Care*, 2024.
- Viqi, Ahmad. "Suwinah, PMI Yang Dianiaya Majikan Di Malaysia Akhirnya Pulang," 2024.
- Voss, Thomas. "James S. Coleman: Foundations of Social Theory." In: *Schlüsselwerke der Wirtschaftssoziologie*, edited by Klaus Kraemer and Florian Brugger, 213-23. Wiesbaden: Springer Fachmedien Wiesbaden, 2017.
- Wahyudi, R. "Illegal Journey: The Indonesian Undocumented Migrant Workers to Malaysia." *Populasi*, 2017. <https://journal.ugm.ac.id/populasi/article/view/36202>.
- Waked, D I. "Jeremy Bentham and the Genesis of Law and Economics: An Alternative Narrative." *Research Handbook on Law and Utilitarianism*, 2024.
- Walters, G D. "Procedural Justice Perceptions, Legitimacy Beliefs, and Compliance with the Law: A Meta-Analysis." *Journal of Experimental Criminology* 15, no. 3 2019: 341-72.