

BACKGROUND FROM MALAYSIA GOVERNMENT FOR GIVING AMNESTY TO INDONESIAN ILLEGAL LABOR IN MALAYSIA DURING 2002-2009

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Abstract

For Indonesia, international migration was an interesting phenomenon in overcoming labor problems of the employment crisis. In addition, to obtain benefits of remittance from sending productive-age workers abroad, the Government can solve the problem of unemployment. Based on the classification, the encouraging factors for laborers to migrate were divided into three categories, including demand-pull, supply-push, and network factors. Indonesian workers in Malaysia, however, did not comply with the immigration law, that required them to arrange for work permits to be allowed to work in Malaysia, which they did not make, or the validity period was not extended. As a consequence, they became illegal. But due to the high demand for workers needed by Malaysian capital owners, they asked the Government to issue an amnesty, so that their businesses would not stop or go out.

Keywords: Illegal labor; Amnesty; Labor Law.

INTRODUCTION

The dynamic of the poverty rate in Indonesia according to the government data between 1996-2005 was as follows: The number and percentage of poor people in the 1996-2005 period fluctuated from year to year despite a declining trend in the period of 2000-2005 (Table 1). In the 1996-1999 period, the number of poor people increased by 13.96 million due to the economic crisis, that was from 34.01 million in 1996 to 47.97 million in 1999. The percentage of poor people increased from 17.47 percent to 23.43 percent in the same period. In the 1999-2002 period, there was a decrease of poor people in number by 9.57 million, from 47.97 million in 1999 to 38.40 million in 2002.

Table 1.
Number and Percentage of Poor Population in Indonesia Based on the Region, 1996-2005, 1996-2005

Number of Poor population (Million)			Percentage of Poor Population		
City	Village	City+ Village	City	Village	City+ Village
9,42	24,59	34,01	13,39	19,78	17,47
17,60	31,90	49,50	21,92	25,72	24,23
15,64	32,33	47,97	19,41	26,03	23,43
12,30	26,40	38,70	14,60	22,38	19,14
8,60	29,30	37,90	9,76	24,84	18,41
13,30	25,10	38,40	14,46	21,10	18,20
12,20	25,10	37,30	13,57	20,23	17,42

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Number of Poor population (Million)			Percentage of Poor Population		
City	Village	City+ Village	City	Village	City+ Village
11,40	24,80	36,10	12,13	20,11	16,66
12,40	22,70	35,10	11,37	19,51	15,97

Source: Processed from National Socio-Economic Survey data

Migration was the movement of people from the area of origin to the destination (Ishaq et al., 2014). Migration decisions were based on a profit and loss ratio between the destination and origin (Gu et al., 2020). The main purpose of migration was to improve the standard of living of migrants and their families so that generally they were looking for jobs that can provide higher income and social status in the destination (Priyono, 1995).

In line with the above definition, according to (Mellone et al., 2013) migration was the movement of population from one area to another, which occurred due to differences in conditions in the two regions. The biggest difference driving migration was economic and non-economic factors. Based on the classification, the factors encouraging migrants to move were divided into three categories, namely demand-pull, supply push and network factors (Arista, 2018). The demand-pull factor occurred when there was a demand for labor from the destination area, for instance, Indonesian workers were recruited to work in Malaysia in the plantation or agriculture sector.

Supply Push factors occurred when the workforce was not possible to get a job in their home country, thus encouraging them to migrate to other regions (Khadafi, 2016). The network was a factor that provide information for migrants in making decisions to migrate. Thus, in conclusion, according to (Baas, 2019), someone's intention to migrate was called the dual labor market theory. According to this school, migration occurred because of the need for certain labor in a region or destination country (which was more advanced than the area of origin).

In addition, to pull and push factors, there were factors resulting in a migration decision to be made or not by the community, called the obstacle factor (Krishnakumar & Indumathi, 2014). The geographical conditions of Indonesia as an archipelagic country were the main inhibiting factor for migration/displacement (Ekawati, 2020). Other inhibiting factors can also be found in socio-cultural factors such as attachment to ancestral land, migration to an area that has similar historical, cultural, religious, and clan backgrounds, and as well as considerations regarding economic development.

RESEARCH METHODS

Referring to the main problem in this study, this research was considered a descriptive analysis, based on data sources obtained by the author from both primary and secondary documents and literature. Primary sources were data obtained directly from the source, while secondary sources were data obtained from the second source, where secondary data was needed to help the analysis process (Laia et al., 2022).

In conclusion, (Kim, 2014) assumed that someone's desire to migrate was called dual labor market theory. According to this school, migration occurred because of the

need for certain labor in the region or destination country (which was more advanced than the area of origin).

RESULT AND DISCUSSION

According to (Li et al., 2021), Indonesia's current positive economic growth was highly influenced by the great number of existing remittance that was directly or indirectly used for domestic consumption. It has helped Indonesia's positive economic growth in the reform era.

Table 2
Number of International Migrant Workers and Receipt of Remittances by Island during 1985-2005

Island	Year	Number of TKI (people)	Amount of remittance (000 US \$)
Sumatera	1985	739	792,9
	1990	8275	19261,7
	1995	12901	59117,4
	2000	58296	361000,4
	2005	58850	33,84
	R (%)	23,18	
Java	1985	49053	52603,2
	1990	58767	136798,3
	1995	65584	351898,9
	2000	242147	729702,1
	2005	277458	1701995,6
	R (%)	8,60	18,01
Kalimantan	1985	1185	1270,9
	1990	12250	28516,2
	1995	19069	87379,9
	2000	85946	258994,2
	2005	86831	532643,8
	R (%)	22,69	33,31
Sulawesi	1985	53	56,6
	1990	219	510,8
	1995	331	1516,1
	2000	1416	4265,6
	2005	1454	8919,2
	R (%)	17,08	27,25
Other islands	1985	3170	3399,5
	1990	8098	18850,4
	1995	11791	54030,8
	2000	47422	142905,5
	2005	49717	304976,3
	R (%)	14,01	23,88
Indonesia	1985	54200	58123,2
	1990	87605	203927,4
	1995	120886	553940,9
	2000	435226	1311540,3
	2005	474310	2909534,2
	R (%)	10,88	20,48

Source: Central Bureau of Statistics (diolah) 2005

Furthermore, data from the Ministry of Manpower and Transmigration showed that the number of remittances obtained by the state in 2005 achieved more than 3 billion US dollars.

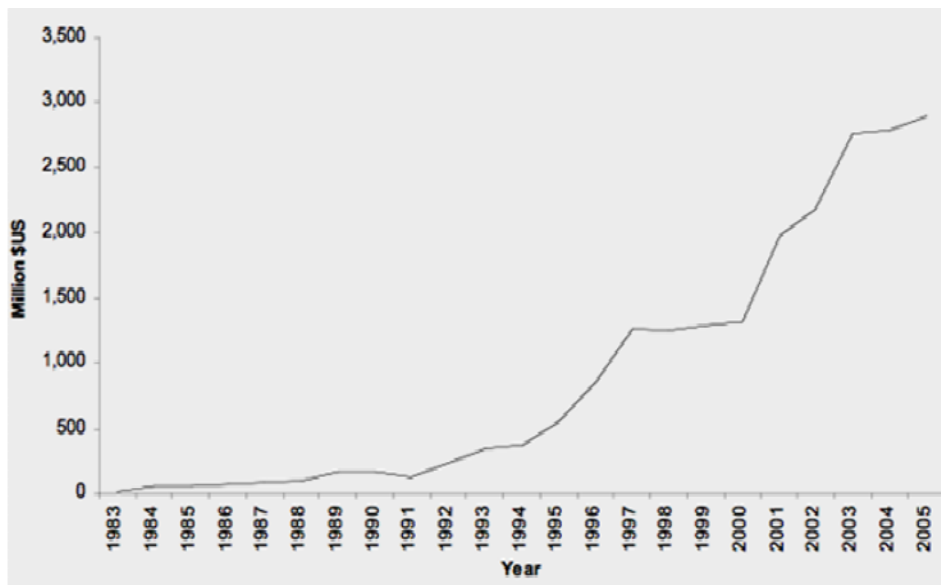


Figure 1. Amount of Migrant Worker Remittances for Indonesia
From 1983-2005, the Ministry of Manpower and Transmigration

Annually, the government aimed at increasing the number of migrant workers sent and placed overseas to increase the country's remittance. In the 2004–2009 Medium-Term Development Plan program, the government was targeted to increase the sending of migrant workers to 1 million per year until 2009.

Likewise, the target country will be expanded from 11 countries to 25 countries. The acquisition of remittance was targeted to increase from around Rp.186 trillion in 2009. However, the efforts and targets to increase the number of migrant workers were not aligned with improvements in the system of service delivery, placement, and protection of migrant workers by the state.

(Wickramasekara, 2015) also argued that the weak protection of workers abroad resulted from several causes. First, the government had not made a G to G (Government to Government) memorandum of understanding with destination countries. Of the 16 countries receiving TKI in 2006, Indonesia only signed an MoU with five countries, namely Malaysia, Korea, Kuwait, Taiwan, and Jordan. Meanwhile, other countries, including Saudi Arabia, which was one of the largest migrant destination countries, have not made any MoU with the government.

Second, the lack of attention from the government, particularly embassies, in protecting migrant workers. This lack of attention was shown by the absence of labor attaches in the destination countries. The existence of a labor attaché was indeed very helpful, but also did not automatically solve the problem. The sending of migrant workers was generally carried out by individual agents and PJTKI that prioritized profits over the welfare of the workers. As a result, the workforce sent only has a passport and a visitor visa, without a work visa as required for each foreign worker.

The author argued that the phenomenon of illegal labor migration was important to review because it resulted in many problems. Based on research conducted by (Kassim,

2014), the large quantity of Indonesian illegal migrant workers has become a separate problem for the Malaysian government, especially in terms of employment competition with Malaysian citizens, and this problem was further aggravated by the criminal behavior of these migrant workers:

In the early 1970s, a New Economic Policy was born and initiated by former Prime Minister Tun Abdul Razak. This policy was renamed the "National Development Policy" in 1991. The Malaysian government found that Malay people, Bumiputera were lagging behind the development of the Malaysian economy, as well as the education factor left behind other Malaysian people of Chinese descent.

This factor was the background of the Malaysian government for issuing a NEP policy. This policy prioritized Malay citizens in terms of employment, business, and education and various kinds of facilities from the government including scholarships abroad.

Along with economic liberalization resulting in an industrialization policy that encouraged Malaysian workers in rural areas to urbanize, thereby Malaysia experienced a shortage of labor for the agricultural sectors, as well as plantations and other unskilled work sectors.

The lack of labor in the informal sector in Malaysia was one of the reasons for the Indonesian productive population to migrate internationally because the low absorption of labor in the country has encouraged them to seek and utilize employment opportunities abroad because the wage level offered was usually better than the wage of similar work in the home country (Maryadi, 2016).

Table 3.
Average Net Wages/Salaries of Workers for a Month by
Island in Indonesia 2002-2006

Island	Salary (IDR/Month)					Increase (%)
	2002	2003	2004	2005	2006	
Sumatera	711585	754925.3	798265	784945	870985	4.1
Java	753265	751181.6	749100	755550	802885	1.3
Kalimantan	908281	927990.5	947700	975145	1021670	2.4
Sulawesi	623080	742939.2	862800	739025	803015	5.2
Others	678670	797556.7	916440	903890	949305	6.9

Source: Central Bureau of Statistics 2002-2006

According to (Sa, 2019), many factors determine Malaysia be the choice of Indonesian migrant workers. Geographically, Malaysia was Indonesia's closest neighboring country. Transportation links were easier, cheaper, and faster. Several ports in Indonesia were entry gates for Indonesian workers to reach destinations in Malaysia, such as Batam and Tanjung Pinang in Sumatra, Entikong in West Kalimantan, and Nunukan in East Kalimantan.

In addition, the people of both countries were from the same ethnicity of Malay with similar languages and had close socio-cultural relations, making it easier to interact. Migrant workers who work in the Middle East, despite having the same religion, face

adaptation problems because of differences in language and socio-cultural backgrounds. If viewed from the number of migrant workers based on the area of origin.

Table 4
Number of International Migrant Workers by Island and Country of Destination from 1985-2005

Island	Year	Malaysia	Singapore	Hongkong	Saudi Arabia	Other Countries	Total
Sumatera	1985	306	286	60	46	41	739
	1990	5772	1528	135	40	800	8275
	1995	4719	4536	766	42	2838	12901
	2000	37838	5074	4285	110	10989	58296
	2005	39848	4952	2397	145	11508	58850
	R (%)	26,10	14,54	19,20	5,62	30,79	23,18
Java	1985	576	541	113	45080	2743	49053
	1990	10893	2884	254	39051	5685	58767
	1995	8907	8561	1445	40986	5685	65584
	2000	71413	9576	8087	107424	45646	242147
	2005	75208	9346	4524	141486	46895	277458
	R (%)	26,11	14,53	19,21	5,60	14,47	8,60
Kalimantan	1985	449	421	88	161	66	1185
	1990	8481	2246	198	140	1185	12250
	1995	6936	6666	1125	147	4195	19069
	2000	55606	7457	6297	384	16202	85946
	2005	58561	7277	3522	506	16965	86831
	R (%)	26,10	14,53	19,21	5,60	30,25	22,69
Sulawesi	1985	7	7	1	35	3	53
	1990	130	34	3	31	21	219
	1995	107	102	17	32	73	331
	2000	854	114	97	84	267	1416
	2005	899	112	54	110	279	1454
	R (%)	26,01	14,11	20,92	5,60	24,09	17,08
Other Island	1985	210	197	41	2545	177	3170
	1990	3964	1050	92	2205	787	8098
	1995	3241	3116	526	2314	2594	11791
	2000	25990	3485	2943	6065	8939	47422
	2005	27371	3401	1646	7988	9311	49717
	R (%)	26,10	14,53	19,22	5,60	20,77	14,01
Indonesia	1985	1547	1451	304	47867	3031	54200
	1990	29240	7743	681	41466	8475	87605
	1995	23909	22982	3878	43521	26596	120886
	2000	191700	25707	21709	114067	82043	435226
	2005	201887	25087	12143	150235	84958	474310
	R (%)	26,11	14,54	19,20	5,60	17,20	10,88

Description: r was the average growth of migrants per year.

Source: Central Bureau of Statistics (processed) 2005

DPM Malaysia Datuk Abdullah Badawi as Minister of Home Affairs dismissed, refused, denied, and considered it impossible the implementation of abolition again. Quoting his words "If only they feel" *white* ", they think they can live in Malaysia at will and forever. so there was no need for abolition, "he said.

But the fact was different, the results of the author's interview with one of the staff of Deputy BNP2TKI (National Agency for Placement and Protection of Indonesian Migrant Workers) Mr. Sejahtera stated that in February 2009 he would return to Malaysia because the re-documentation process would be held in Sabah and Sarawak for the

Background From The Government Of Malaysia For Giving Amnesty To Indonesian Illegal Labor In Malaysia During

process of granting amnesty/abolition, there were at least 13 points for labor migrant monitoring center service in Malaysia.

One of them was the issuance of the Malaysian government's policy to repatriate foreign workers (deportation), especially from Indonesia, which was one of the effects of less attention to migrants as a unit of social groups in society. The Malaysian government repatriated foreign workers (especially from Indonesia) on a large scale, and even Malaysians also feel disadvantaged.

With the return of foreign workers to their home countries, the Malaysian government cannot continue their development program optimally because the labor needed to execute the development program has returned to their home country, moreover, the wages of foreign workers, especially from Indonesia, were relatively cheaper compared to other foreign labor. By thousands, even hundreds of thousands of returning laborers, Malaysia was threatened by labor (TKI) shortages.

Thus, the Malaysian economy was hampered in terms of trade, cooperation, and infrastructure development. Likewise, in Indonesia, the issuance of the Malaysian government's policies to repatriate Indonesian labor massively, resulted in new problems for the Indonesian government, which was increasing unemployment in Indonesia.

However, the massive deportation policy was also detrimental to the "Malaysian capital owner" since the repatriation of illegal migrant workers to Indonesia, the production process was hampered. These "*Malaysian kongs*" were reluctant to recruit legal workers who need extra costs compared to illegal labor. By hiring illegal migrant workers, the owner did not need to pay overtime, tax, health/insurance money, and so on.

On the other hand, if they hired legal workers, in addition to base salary, the owner will have to finance the fixed allowances and other variables. Not to mention if recruiting new workers, they must be trained from the beginning again and it was inefficient in matters of saving time. At the same time, they were hunted for meeting their production delivery deadlines to consumers. Due to this factor, the "Malaysian Employers' Association" negotiated with the Malaysian government not to return illegal TKI to their origin area. They assumed that the amnesty policy for illegal TKIs who have employers to be "abolished back means give them amnesty" was enough.

After taking a long time, finally, the Malaysian government issued an amnesty policy for Indonesian illegal workers. Head of BNP2TKI, Moh. Jumhur Hidayat "gave a positive appreciation of the new policy for giving amnesty to almost 1 million Indonesian illegal migrant workers, in the form of illegal status deletion to migrant workers who have employers. This policy was effective since early August 2008, and this was our diplomatic victory," he added.

About the Placement and Protection of Indonesian Workers Abroad, on September 29, 2004, the Indonesian House of Representatives ratified Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers and its ratification was signed by President Megawati two days before her retirement. With the adoption of Law No. 39 of 2004 by members of the House, Law No. 39 of 2004 can be used as legal protection for Indonesian Workers (TKI) abroad.

Implementation of the law, however, still has many questionable contents. Many Indonesians also sued the contents of Law No. 39 of 2004. The interview results of the author with one of Puslifo BNP2TKI staff, I Wayan Page, based on the results of his analysis showed that, of 109 articles, only 8 articles governing the protection, while mostly regulated the "**trade system**" of placement, in the sense of "**human trafficking business**"

The migration of Indonesian (marginal) labor to the centers of the international economy was a social phenomenon because every Indonesian people has the right to "live a decent life" by article 27 paragraph 2 Indonesian Constitution 1945. Every Indonesian community has the right to have "the spirit of progress". This was also a cultural phenomenon that occurred in every country to immigrate to other regions to support their families to get a better livelihood.

CONCLUSION

The existence of certainty and legal protection for all Indonesian workers abroad should be provided not only in Malaysia but also in all countries where Indonesian labor works, legal protection such as an MoU must be created in protecting the legal certainty of Indonesian workers in the future when problems arise. The opening of an attaché or consulate general in the territory of a country that will serve all the needs of Indonesian citizens in the country, which not only includes legal protection but also Visa extension, culture exchange, marriages between countries, and others.

The Indonesian government, in this case, the Indonesian Ministry of Manpower, is expected to lobby the government of the destination country to ensure that the citizens who use the services of Indonesian workers fulfilled the rights and obligations of these workers. The Indonesian government is currently promoting the number of unemployed in Indonesia by sending Indonesian workers to Malaysia, but because of the legality problem of Indonesian workers, and the Malaysian government in this case still needs Indonesian workers, it is appropriate for both countries to take a "win-win solution" by issuing amnesty for Indonesian workers in Malaysia"

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