

Chapter IV

Factors Causing Indonesian Overstaying Migrant Workers in South Korea

Indonesia also has illegal workers who work in South Korea. As mentioned before that many of them also become illegal because of overstaying. There are many reasons which made the workers decide to stay in South Korea even when their document has expired. In this chapter, the writer writes about the causes which make the workers want to stay longer in South Korea. At this time, Indonesia has sent a large number of workers abroad. The demand for workers from other countries opens opportunities for Indonesians whose unemployment rate is still high. Economic growth in Indonesia has not been able to overcome the unemployment which still exists. With the opening of employment opportunities from abroad, this opportunity can be an opportunity for the community to prosper themselves. From many destination countries, South Korea is one of the countries that cooperates with Indonesia in the field of employment with a Government to Government program (G to G).

A. Overstaying Migrant Worker

Constitution Number 39 of 2004 concerning Placement and Protection of Indonesian Migrant Workers Abroad is made by the Government of Indonesia to provide protection for prospective Indonesian workers⁴⁹. The purpose is to protect the interests of prospective Indonesian workers in realizing the fulfillment of their rights before, during, and

⁴⁹ Adha, L. H. (2014). *Perlindungan Hukum Tenaga Kerja Indonesia (TKI) Yang Melebihi Batas Tinggal (Overstay)*. *Jurnal Hukum Jatiswara*, 177-205.

after working in abroad. This is also made to protect prospective workers from people who send workers illegally to another country.

Indonesia is one of the countries with the most population in the world. This makes Indonesia has a lot of workforces that can support Indonesia's development. A large number of available workers also make other countries open job opportunities in their countries including South Korea that is willing to accept low-skill workers to work in their companies. However, a large number of migrant workers in other countries have also caused many problems. One of the problems that occur in Indonesian migrant workers in South Korea is a large number of workers who decide to stay after their residence permits are expired or are usually called overstaying workers.

Overstaying migrant worker is also workers who are illegal because they do not follow the existing official procedures. The problem of illegal labor is a problem which is quite complicated to be solved. Illegal Indonesian workers are Indonesian citizens who choose to work abroad by not following the recommended Indonesian employment placement procedure (Non-procedural). The procedure that is not recommended is to falsify documents and manipulate the personal data of prospective Indonesian workers and ignore the procedures for placing Indonesian workers who are regulated by law and other regulations⁵⁰.

There are many factors behind the occurrence of overstaying workers. One of the causes of overstay is the presence of irresponsible people. They set a tariff that is more expensive than the official tariff to send Indonesian workers

⁵⁰ BNP2TKI. (n.d.). *Apa itu TKI Ilegal?* Retrieved March 15, 2019, from Info BNP2TKI: http://info.bnptki.go.id/home/info_detail/475

abroad. This can cause workers to stay after the period of residence permit expires to get additional money⁵¹.

The salaries of migrant workers in South Korea are quite high. Indonesian workers in South Korea are accustomed to their income. Therefore, there is a concern that if they will return to Indonesia, their income will not be as large as in South Korea if they work in Indonesia. In addition, the fact that South Korea is a developed country also supports the persistence of workers to stay in South Korea. Complete facilities and fulfilling guaranteed life needs make them reluctant to return to their home countries.

B. The causes of Indonesia migrant workers in South Korea who refused to return to Indonesia

Indonesia is one of the largest countries which sends migrant workers abroad including to South Korea⁵². The delivery of Indonesian workers abroad surely has a positive impact on Indonesia. Especially, in the economic aspects, it is in the form of remittances. Indonesia sent workers to South Korea through bilateral Government to Government (G to G) cooperation since 2004. After 10 years, Indonesia has recorded as many as 57,000 workers in South Korea. However, the government's journey in sending workers does not always run smoothly. Many Indonesian workers in South Korea have decided to stay after their residence permit expires

⁵¹ Iskandar, M. A. (2014, November 30). *Keluhan TKI bagi Presiden Jokowi*. Retrieved March 15, 2019, from Antara News: <https://www.antaraneews.com/berita/466980/keluhan-tki-bagi-presiden-jokowi>

⁵² Maharani, S. A. (2016). KEBIJAKAN PEMERINTAH INDONESIA DAN KOREA SELATAN DALAM MENANGANI TKI OVERSTAY DI KOREA SELATAN. *Journal of International Relations, Volume 2, Nomor 4*, 282-292.

causing them to become overstaying illegal workers. The South Korean government finally issued a policy to stop sending workers if a sending country has a range of 10,000 workers who overstay.

Indonesian workers who work in South Korea certainly have a reason why they prefer to work abroad rather than in the country. The majority of Indonesian workers in Korea is Indonesian Citizens (WNI) who are at a weak economic standard of living. Therefore, they have to fulfill the needs of their lives and their families with more income for the welfare of the family. A large amount of wages offered by companies in South Korea is the main source of Indonesian workers choosing to work in South Korea. This is because the income earned by working in South Korea is income in foreign currencies and is based on a higher standard of living than in Indonesia.

Another reason that makes Indonesian workers prefer to work in South Korea is that the country is one of the developed countries among other recipient countries of Indonesian worker. South Korea is a country that belongs to the largest world market region and is a center of production, which is expected to become the main driving force in the world economic market. South Korea has a successful business in the world class such as automotive, steel, shipping, semiconductor, display, Information and Technology (IT) industries, and so on. Quality human resources and the best industrial environment are the main strengths of South Korea. The spirit of Korean education has also been widely recognized in the world. In addition, South Korea provides internet network services that are not limited

to places that make countries with the most internet access in the world⁵³.

As mentioned earlier, Indonesian laborers decided to stay or overstay not without reason. There are many interesting factors that encourage them to stay in South Korea. These factors do not only come from themselves but also come from many parties around them.

Indonesia is a country famous for the complexity of bureaucracy in various fields. This is also included in the field of sending workers to South Korea. The majority of Indonesian workers who come to South Korea admit that the process of working overseas is complicated in Indonesia before departure. Whereas, when they arrived in South Korea, they immediately went to work.

This has caused many workers to be reluctant to return home because if they go home, they have to take care of many things such as registration and making documents that take a long time to be able to return to South Korea again. Meanwhile, companies in South Korea also do not always want to wait too long. The age limit for employment registration in South Korea also kept them from returning to Indonesia and continued to work in South Korea as an overstaying worker.

As mentioned by the writer before, an Indonesian worker has a contract for 3 years when he comes to South Korea. After that, if the company wants a contract extension, the contract can only be extended for one year and 10 months. After that, Indonesian workers are required to go home. However, there are problems that arise when the work permit expires. The thought of doing what in their hometown haunts

⁵³ Government, S. K. (n.d.). *Bisnis di Korea*. Retrieved March 16, 2019, from Kedutaan Besar Republik Korea untuk Indonesia: <http://idn.mofat.go.kr/worldlanguage/asia/idn/about/bis/index.jsp>

them. The worker has jobs that are guaranteed in South Korea. They are afraid that if they return to Indonesia they will not get a job that can give a big salary like in South Korea.

The age limit for applying for employment in South Korea is 39 years⁵⁴. Many of the workers who have been in South Korea have passed that age. If they return to Indonesia, they will not be able to return to work in South Korea because they have exceeded the maximum age limit to apply for work. This was stated directly by an Indonesian worker who had been in South Korea since 2006. According to her, if she returned to Indonesia, she was afraid she would not be able to return to South Korea again because her age was close to maximum age. She was also afraid of not getting a proper job in Indonesia because she is a widow with 1 child. She also has to fulfill the needs of her family in Indonesia⁵⁵.

The majority of the Indonesian migrant workers in South Korea is from a family whose the economic condition is not good. Therefore, by working in South Korea, they can get a job with large salaries. With these salaries, workers can support their families in Indonesia better. Many of them felt that working for four years and ten months in South Korea is not enough for them. They feel they still have to support their children to go to school and their families. Because of that, they decided to continue working in South Korea where they would still get a big salary even though they became an illegal worker.

⁵⁴ BNP2TKI. (2008, March 17). *Syarat-Syarat Penempatan Tenaga Kerja Indonesia ke Korea*. Retrieved March 16, 2019, from BNP2TKI: <http://www.bnp2tki.go.id/read/9103/Syarat-syarat-Penempatan-Tenaga-Kerja-Indonesia-ke-Korea.html>

⁵⁵ TKI 2, T. (2019, March 12). Indonesian Overstaying Workers in South Korea. (Z. Q. HAq, Interviewer)

The factors that caused the workers to stay in South Korea do not only come from Indonesia, but also from South Korea. Many workers are comfortable with the atmosphere in South Korea. They are used to working in South Korea and are familiar with the work cultures there. The presence of many friends from Indonesia also makes them feel that they have a new family in South Korea even though they live far away from their families in Indonesia. In fact, there are many communities formed by the large number of Indonesian workers in South Korea. An Indonesian worker said that he was active in the Dangdut community with his fellow Indonesian migrant workers. Their community is also often invited to many events such as weddings, gatherings, and also their communities have been invited to Busan for an event held by Embassy of the Republic of Indonesia⁵⁶.

⁵⁶ TKI 1, T. (2019, March 13). Indonesian Overstaying Workers in South Korea. (Z. Q. Haq, Interviewer)

It is a common thing that the minimum salary standard for migrant workers in South Korea is quite high. Compared to the highest 2019 minimum work salary in Indonesia, in Kabupaten Karawang the minimum salary is IDR 4,234,010 per month⁵⁷. The salaries that can be obtained in South Korea are up to 5 times bigger. Based on the minimum salary standard in 2019, a workforce in South Korea can get around KRW 1,745,150 or around IDR 20 million in a month not including the overtime work⁵⁸.

Figure 8 The Amount of Salary Between Indonesia and South Korea

Indonesian highest minimum wage (Kabupaten Kerawang)	South Korea minimum wage (valid in all regions of South Korea)
IDR 4,234,010 / month	KRW 1.745.150 / month or IDR 20.648.452/month

In fact, many Indonesian workers live in apartments themselves rather than in the company dormitories. There are also many of Indonesia's workers who can buy their own cars in South Korea. Mr. Erwin, a former worker in South Korea admitted that while in South Korea he lived in an apartment with his friends. He also had two cars while in South Korea. He said that it was not difficult to buy a car there even though

⁵⁷ Hanifah, S. (2018, November 26). *5 UMK 2019 Paling Tinggi di Beberapa Wilayah Indonesia*. Retrieved July 15, 2019, from Merdeka.com: <https://www.merdeka.com/uang/5-umk-2019-paling-tinggi-di-beberapa-wilayah-indonesia/kabupaten-karawang-rp-423401027.html>

⁵⁸ Leely, Z. (2019, March 12). *GAJI TKI KOREA 2019 TERNYATA ...???*. Retrieved March 14, 2019, from Youtube Channel Zhiee Leely: https://www.youtube.com/watch?v=Y_jl-3O8IzM&t=469s

he did not have a driver's license. All will be safe as long as there are no fatal accidents⁵⁹.

For an illegal migrant worker, including overstaying workers, they can still get a normal amount of salary. This is because company does not need to pay insurance and other things for the illegal workers. The possibility to get higher salary even though they have become illegal workers make them feel that it is no problem to work illegally. By getting a salary to be sent to the family, they are feeling more relieved. In the reality, some company also decided to take illegal workers because they do not need to adapt in the company. The illegal workers known as skilled workers because they have been live and work in South Korea for years.

South Korea is one of the developed countries in the world. The advancement of existing technology supports all public infrastructures there. Transportation and various infrastructures are built well and made it easier for people to do anything. Various needs are also available everywhere making it easier for people to get whatever they want. The facilities which are avail comfort the people who live there including Indonesian workers in South Korea. With such circumstances, a sense of heaviness will grow to leave South Korea. In addition, the large number of illegal workers can also affect a worker who is still in legal status to follow his friends.

At least 15 countries are cooperating with South Korea to send workers through the Government to Government program (G to G). This caused many foreigners living in South Korea to work. It is undeniable that they will surely meet each other at work or when gathering with their fellow workers.

⁵⁹ Erwin. (2019, March 9). (Z. Q. Haq, Interviewer)

Their meeting also led to relationships that were more than just coworkers. Many of the workers in South Korea have an emotional connection including the Indonesian workforce itself. This emotional relationship can occur between fellow Indonesians, Indonesians and South Koreans, as well as Indonesians with people from other countries.

This emotional connection can also directly or indirectly keep them stay in South Korea for the sake of being with their lover. This is also one of the factors that causes workers do not want to return to Indonesia. Mr. Erwin said that he had a female worker friend who had an emotional connection with a local resident. He told me that her boyfriend could not be brought to Indonesia yet. Then this female worker felt that she still had to stay in South Korea even her residence permit had expired. If she returned to Indonesia, she might not able return to South Korea again⁶⁰.

From the South Korea Government, the law enforcement regarding illegal workers in South Korea is also not strong. There is no severe sanction for illegal workers as long as not committing a crime in South Korea. Beside the South Korean government does not often raid foreign workers. If the officer finds an illegal worker or overstays, only the criminal documents and records will be checked. Workers are allowed to go home if they do not have any criminal records. In addition, if illegal workers who are caught do not have the money to go home, they will be hired by immigration officials to collect return fees⁶¹.

Indonesian workers choose to be illegal without reasons. Both reasons are originally from themselves and also the reasons coming from outside. Mr. Erwin said that this also depends on the worker himself⁶². Not a few workers who have

⁶⁰ Erwin. (2019, March 9). (Z. Q. Haq, Interviewer)

⁶¹ Ibid

⁶² Ibid

intended to become illegal labor in South Korea from the beginning. There are workers who enter through work visas in the fishing sector and then run away as illegal workers. Others only go to South Korea with just tourist visas which should only be valid for 30 days of visits. This proves that there are still many things that must be improved to prevent the continuing increase of overstay done by Indonesian workers in South Korea.

C. The obstacles that occur to Indonesian illegal workers

Being an illegal worker in South Korea does not always run smoothly. Many obstacles must also be faced by them in the middle of working life. Being an illegal worker means that you must be prepared to take all the risks faced in the future. There are no severe penalties that await if they are found to be an illegal worker. The South Korean government will check their criminal records and will immediately order them to return to their home countries if they do not have criminal records. If workers do not have money, they will be hired by immigration to collect money as a plane fee. Apart from being deported, they will only be banned from returning to South Korea for several years.

As illegal workers, they certainly will not get adequate protection from the South Korean government. If their rights such as salary are not given, they cannot report to the government because this could threaten them to be deported from South Korea. As the writer mentioned before, if an illegal worker is deceived by his employer, then he can only be silent and cannot ask for his rights again. Illegal workers are also easy to become targets of fraudsters who are looking for workers to work on a project. If not careful, illegal workers can be deceived and will not get a salary that should be their right.

Although there are still many companies that accept illegal workers, not all companies open up to illegal workers. The South Korean government, even not frequently, still continues to carry out raids on illegal workers in companies that accept foreign workers. This is because if the company is found to employ illegal workers, they have to pay a fine for KRW 2 million per illegal worker. Therefore, employers usually ask illegal workers not to stay in company dormitories. Because if an illegal worker is taken outside of work, the company will not be linked⁶³. The existence of these raids also gave a sense of anxiety to illegal workers. It was stated that at that time there was a lot of raids from the South Korean government because there were many illegal workers from Thailand after the free visa was applied to Thailand⁶⁴.

It has been mentioned that illegal workers do not need to pay for insurance including health insurance. This causes them not to have health benefits if they seek any treatment in South Korea. Therefore, if they have health problems they have to pay at normal prices which can be very expensive. There has been an incident where an illegal worker had to do an operation because of illness. Because of the considerable cost, Indonesian fellow workers helped with the medical expenses and brought him back to Indonesia⁶⁵.

From the many advantages and obstacles they have as illegal workers, the undocumented Indonesian workers still enjoy their working time in South Korea. With enthusiasm to fulfill the needs of their family, they are still determined to work in South Korea. Besides that, they are still with fellow

⁶³ TKI 1, T. (2019, March 13). Indonesian Overstaying Workers in South Korea. (Z. Q. Haq, Interviewer)

⁶⁴ TKI 2, T. (2019, March 12). Indonesian Overstaying Workers in South Korea. (Z. Q. HAq, Interviewer)

⁶⁵ Erwin. (2019, March 9). (Z. Q. Haq, Interviewer)

Indonesian workers who are already bound like their own families. Moreover, with technology right now, they can still chat with their families in Indonesia.