

Research shows how smugglers 'help' Indonesian migrant workers return home

June 29 2023, by Wayne Palmer and Antje Missbach



Credit: AI-generated image ([disclaimer](#))

The United Nations [defines](#) people smuggling as enabling foreigners into a country where they do not have the right to remain. But [our research](#) shows how Indonesian migrants in Malaysia also use smugglers to return home.

These tend to be migrant workers who do not have proper documents or lack legal residence status. For them, there often are no cheap and fast options to return legally to Indonesia. This form of return migration, which we call "return smuggling", is a longstanding issue between Indonesia and Malaysia.

To examine this phenomenon more closely, we analysed 13 court verdicts and conducted interviews with law enforcement officials and activists from Indonesia.

We have found the smugglers respond to the demand of migrants to return home fast whenever need be. But as a consequence, smugglers face heavy penalties of at least five years in prison when sentenced under [Indonesian](#) law.

Fair punishments?

Under Indonesian law, "[smuggler](#)" is a broadly defined category. It can include the captain and his crew who pick up returning migrant workers from the beach in Malaysia. But it is also used to criminalise drivers who transport the migrants from the landing site in Indonesia to their next stop.

Meanwhile, the returning migrants are usually [treated](#) as "victims of people smuggling" and witnesses in criminal proceedings against their "smugglers". They do not face prosecution. Even though they hired the services of smugglers to circumnavigate the migration controls of both Malaysia and Indonesia in the first place.

We found there was quite a lot of sympathy among Indonesian law enforcement staff for the smuggled return migrants. Police officers were fully aware those Indonesian migrants could not leave Malaysia through an immigration check point, as they had no passport.

Caught between a rock and hard place

No all Indonesian labour migrants have initially entered Malaysia illegally. Many use regular migration channels. But because regular migration to Malaysia is very costly, migrants tend to overstay their permits to recuperate their investments.

But those who have lost their valid migration documents or overstayed their visa face criminal punishment under Malaysian law. This could include fines, imprisonment and caning.

The Malaysian government sometimes offers amnesty programs to overstaying migrant workers, but these are only launched infrequently. These programs also have a reputation for being slow and resulting in "blacklisting", which means Indonesian labour migrants are not allowed to come back to Malaysia in the future.

More worrying are the high numbers of Indonesian [deaths](#) in Malaysian detention, where they are kept before being sent home.

Huge demand for return smugglers

The World Bank [estimates](#) there are around 2 million irregular Indonesian labour migrants in Malaysia, which, we argue, makes the demand for return smugglers very high.

At the start of the COVID-19 pandemic, even more migrant workers without passports may have turned to smugglers, as they needed to return to Indonesia quickly. Many of them did not have enough time to arrange lawful returns involving [government agencies](#).

Within the first few months of the pandemic, the Indonesian government

[detected 427 returning migrants.](#)

Our research shows that from 2015 to 2020, the Batam District Court in the Riau Islands recorded prosecuted "smugglers" involved in 13 cases. The actual number is likely to be much higher because smugglers and returning migrants seek to avoid authorities.

A much-needed bilateral protection effort

During a bilateral meeting in Jakarta in January 2023, Indonesian President Joko "Jokowi" Widodo and Malaysian Prime Minister Anwar Ibrahim [discussed](#) a number of pressing issues, including the ongoing need for more protection for Indonesian migrants in Malaysia.

The high-level meeting showed there was political concern about "safe and orderly" migration on both sides of the border.

The main attention focused on how to encourage regular migration to Malaysia, which is understood as holding a complete set of migration documents and crossing international borders through immigration check points.

The key assumption here is this type of migration means migrant workers will then have access to legal employment rights and law enforcement mechanisms. These have become a cornerstone of their bilateral effort to protect migrant workers. It is also important, to apply the "safe and orderly" migration for travel in both directions.

If the governments were to promote safe [migration](#) based on the protection needs of returning migrants, a solution would be to provide even irregular [migrant](#) workers with access to legal options for quick and affordable return options.

Since 2006, the Indonesian embassy in Kuala Lumpur has substantially improved access to its [services](#), such as passport renewal.

However, those in need for new papers have to travel to the embassy in Kuala Lumpur and spend a lot of time to obtain these documents. If pressed for time, migrants are unlikely to pursue this option, turning instead to "smugglers" to return home quickly.

Unless Indonesia and Malaysia address this problem, return smuggling and the imprisonment of those who facilitate the return of Indonesian [migrant workers](#) will continue.

More information: Antje Missbach et al, Facilitated but unauthorised return: the role of smugglers in return migration and clandestine border crossings between Malaysia and Indonesia, *Journal of Ethnic and Migration Studies* (2022). [DOI: 10.1080/1369183X.2022.2156329](https://doi.org/10.1080/1369183X.2022.2156329)

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