

The Urgency of Legal Protection for Indonesian Migrant Workers in Anticipation of Inter-Country Conflicts

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Abstract

Indonesian Migrant Workers (PMI) are Indonesian citizens who will, are or have done Work by Receiving Wages outside the Territory of Indonesia, this is regulated in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and its derivative Regulations. Indonesian Migrant Workers are Indonesian citizens who are still under the authority of the Indonesian government, however the position of Indonesian Migrant Workers abroad is very vulnerable to facing unpleasant cases such as Violence, Human Trafficking, Illegal Migrant Workers and various other cases. These cases trigger conflicts between Indonesia and the recipient countries of Indonesian Migrant Workers, due to the relationship between 2 different citizenships. So it is important for the Government of the Republic of Indonesia to provide legal protection efforts and Preventive Actions to Indonesian Migrant Workers who will go Abroad, both in terms of administration, readiness and the purpose of Indonesian Migrant Workers. The method used is the Normative Juridical Method, and the purpose of this study is to analyze how the Urgency of Legal Protection for Indonesian Migrant Workers in Anticipating Conflicts Between Countries. The results of this study explain that the role of the government in making regulations or international agreements with countries where Indonesian migrant workers work is very important in order to protect Indonesian citizens and prevent conflicts between countries that can occur due to problems caused by Indonesian migrant workers.

1. Introduction

The United States, China, India, and Indonesia are the four most populous countries in the world. Population growth in these countries, especially in the productive age group, will certainly affect the level of labor absorption [1]. Indonesia's large population means that many people earn a living by working. Population data shows that Indonesia continues to experience a significant increase in population every year. Ultimately, this increase in the number of workers is not balanced with the number of jobs available, so that many workers do not get jobs. Before Indonesia's independence, many Indonesian Migrant Workers (TKI) went to work abroad, either spontaneously or arranged by the colonial government and the Indonesian government after independence. In the destination country, TKI usually work as plantation laborers or in development projects. According to data from the Ministry of Manpower in 2023, the Placement of Indonesian Migrant Workers (PMI) reached 237,992 people. Of that number, 9,645 people were placed through the government-to-government scheme, and 189,101 people through the Indonesian Migrant Worker Placement Company (P3MI). The percentage of workers in the formal sector is 54.67 percent, while in the informal sector it is 45.3 percent [2]. Indonesian citizens who work abroad, such as in Malaysia, for a certain period of time and receive wages are referred to as migrant workers. However, this term is often associated with manual labor because migrant workers represent a group of workers without formal membership, part of a government program aimed at reducing unemployment [3].

Philosophical state responsibility can be found in the goals of a country. The goals of the Indonesian nation are found in the fourth paragraph of the opening of the 1945 Constitution, namely not only protecting citizens but also realizing public welfare, the goals of a state like this are also called a welfare state.[4] The concept of a welfare state is an idea of a state that uses a democratic system of government that is responsible for the welfare of its people. This concept aims to reduce the suffering of society such as poverty, unemployment, health problems and so on. Therefore, a country that applies the concept of a welfare state has a public policy that is in the form of service, assistance, protection or prevention of

social problems [5]. The role of government in employment is not only limited to policy making, but also includes supervision, control, and provision of legal protection for migrant workers [6].

Indonesian Migrant Workers are Indonesian Citizens (WNI) both male and female who work abroad for a certain period of time based on an employment agreement through the PMI placement procedure [7]. Indonesian Migrant Workers or PMI are contributors of foreign exchange to the country through economic remittance income in the form of state foreign exchange and also PMI as a reflection of Indonesia's face abroad [8]. The use of the term Indonesian Migrant Workers is used to replace the term Indonesian Migrant Workers which is often connoted with manual workers. Migrant Workers or Indonesian Migrant Workers are workers who have citizen status, both male and female who meet the requirements to work abroad for a certain period of time and receive compensation or wages. In other words, every person who is able to do work both inside and outside of an employment relationship in order to produce goods and only to meet the needs of the Community [9]. Economic growth in each region is often different, causing people to move to work for economic reasons. Economic factors are the main reason migrants move throughout Indonesia. One of the strategies implemented by the Indonesian government to overcome unemployment and lack of jobs is to send Indonesian workers abroad [10] [11].

The implementation of this is the establishment of the Indonesian Migrant Workers Protection Agency (BP2MI), previously known as the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI). This agency was established during the administration of President Susilo Bambang Yudhoyono through Presidential Regulation Number 81 of 2006, and was later replaced by Presidential Regulation Number 90 of 2019. BP2MI functions as the implementer of policies related to Indonesian Migrant Workers.

In 2004, Indonesia had the Law on the Placement and Protection of Indonesian Migrant Workers (UUPPMI) Abroad. However, this law prioritizes the protection of migrant workers less and regulates their placement more. The law was created without going through an academic manuscript process because it was drafted at the end of the Commission IX session. To overcome weaknesses in the law, the government has issued government regulations in the field of placement and protection of PMI, namely Government Regulation Number 59 of 2021 concerning Protection of PMI Abroad, as well as other regulations. Through ideal labor regulations, it is hoped that PMI can be well prepared, both in terms of language skills and work skills. It is time for the government to have instruments and provide convenience and regulations that take into account local characteristics, as well as strive to improve the quality of PMI and gradually reduce the number of informal PMI to formal.

2. Methodology

This study uses a normative legal method, also known as normative legal research, which is a type of research in legal science that aims to study, analyze, and interpret laws and legal doctrines with the aim of understanding law as a norm in society. This research focuses on written legal norms, such as laws, government regulations, presidential decrees, jurisprudence, and other legal documents, and how these norms are applied in practice. Normative legal research often aims to answer specific legal questions, test the validity or fairness of a regulation, compare legal norms between regions or countries, or formulate recommendations for better legal policies. By using a logical approach and qualitative analysis, this study produces conclusions that help a deeper understanding of the law and offer solutions to existing legal problems. The data used in this study are secondary data, namely law books, law journals, and legal articles that are relevant to research on legal protection of workers abroad [12].

3. Results and discussions

Active government involvement in the recruitment process of Indonesian Migrant Workers is crucial to ensure that workers are deployed legally and safely. Without stringent oversight, PMIs are vulnerable to non-procedural recruitment, leading to exploitation and human rights violations. The Indonesian government has implemented measures to disseminate information about procedural placement of PMIs to minimize non-procedural departures. This initiative aims to provide protection starting from the village level, the initial point of a PMI's journey abroad.

The government plays a pivotal role in safeguarding PMIs through various policies and regulations. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers stipulates that the protection of PMIs is the responsibility of both central and regional governments, encompassing the phases before, during, and after employment. This protection includes legal, economic, and social aspects for PMIs and their families.

Furthermore, the government supervises and takes decisive action against Indonesian Migrant Worker Placement Companies (P3MI) that violate regulations. P3MIs are assigned roles in executing the placement of PMIs by seeking job opportunities, placing prospective PMIs, and resolving issues for the PMIs they place. Job training, previously under the purview of P3MIs, is now conducted by government or accredited private training institutions.

The high number of Indonesian Migrant Workers (PMI) is also beneficial to the government because it can reduce unemployment and increase state revenue through foreign exchange. The state continues to strive to make PMI well-known and dignified because PMI are the country's foreign exchange heroes. Those who want to become migrant workers believe that working abroad is very profitable because the salary received is much higher than in Indonesia [13]. However, they often do not consider the great risks they will face, such as violence, human trafficking, sexual exploitation, unpaid wages according to work agreements, and very long working hours. The main problem in protecting Indonesian migrant workers is human resources, starting from the ineffective migrant worker selection policy. In an effort to realize legal certainty for PMI, public awareness and efforts to solve this problem seem to be lacking. As a result, many illegal workers become the main choice of the community.

As stated in the Preamble to the 1945 Constitution. The matters contained in the preamble to the 1945 Constitution are the basis for the government's obligation to protect its population, including guaranteeing legal protection for workers. Article 28D paragraph (1) of the 1945 Constitution states, "Everyone has the right to recognition, guarantee, protection, and certainty of fair law and equal treatment before the law." One way the government must fulfill this obligation is by guaranteeing the protection of every citizen. This provision is then emphasized by Article 5 paragraph (1) of Law Number 39 of 1999 concerning Human Rights that, "Everyone is recognized as a human being who has the right to demand and obtain equal treatment and protection in accordance with his human dignity before the law." Protecting the entire Indonesian nation also includes protection for Indonesian Migrant Workers [14].

Every country is responsible for regulating and guaranteeing fair and equal interests for the welfare of its people. An important role of the government is to make regulations to protect Indonesian Migrant Workers (PMI), which are basically made to meet the needs of the community [15]. Every PMI who works abroad has the right to legal protection to ensure that their rights are fulfilled and their work is carried out properly and safely, because the state has provided a sense of security and comfort. As human beings whose basic rights must be protected from all forms of crime, the state must protect migrant workers, both legal and illegal. The many negative events that befell Indonesian migrant workers have made Indonesian migrant workers unable to adapt, so they have asked to be repatriated. Supervision in legal protection for Indonesian migrant workers is a means of change and protection for all activities carried out by Indonesian migrant workers abroad. In this case, the state is present to guarantee and protect the human rights of Indonesian migrant workers working abroad based on the principles of equal rights, social justice, anti-discrimination and anti-human trafficking, gender equality and justice, and democracy. The urgency of legal protection for Indonesian migrant workers seems to be a challenge for the Indonesian government to create a strong legal umbrella in regulating protection mechanisms for Indonesian migrant workers [16].

Lately, there have been frequent cases of human trafficking of Indonesian migrant workers who were lied to by job providers. One of them is a migrant worker with the initials SD. SD became a victim of human trafficking in Cambodia. Initially intending to leave to seek a better living, SD instead became a victim of violence and human trafficking. Migrant workers working abroad are often made objects of human trafficking, including slavery and forced labor, victims of violence, arbitrariness, crimes against human dignity and other treatments that violate human rights. The problem of Indonesian migrant

workers can be caused by the low quality and education of prospective Indonesian migrant workers, which causes prospective Indonesian migrant workers to be unable to compete with other countries in the destination country, and do not understand the meaning of the work agreement which contains the rights and obligations of Indonesian migrant workers.

Article 39 of Law No. 18 of 2017 regulates the government's authority to guarantee the protection of Indonesian Migrant Workers (PMI) and their families. In terms of protection efforts for Indonesian migrant workers, the government has the task of preparing, formulating, coordinating, implementing, and supervising the implementation of technical policies for the protection of Indonesian migrant workers which include standardization, socialization, and implementation of protection from the pre-work period, during work, to after work. One of the government's ways to reduce the number of problems of Indonesian migrant workers who will depart for the destination country, the government through the Legal and Public Relations Bureau has conducted socialization in various regions by disseminating information through electronic media, such as television and radio, as well as other activities. In this socialization and dissemination of information, several important things that need to be conveyed are the requirements and documents needed to work abroad, the rights and obligations of prospective Indonesian migrant workers and/or Indonesian migrant workers, the situation, conditions, and risks in the destination country of placement, and the procedures for protection for Indonesian migrant workers.

As a manifestation of the urgency of legal protection for Indonesian migrant workers, the government in terms of the placement of Indonesian migrant workers abroad has also stipulated Government Regulation Number 59 of 2021 concerning the Implementation of Protection of Indonesian Migrant Workers as a form of the government's strong commitment to improving the quality of protection for Indonesian migrant workers. Protection of Indonesian Migrant Workers is all efforts to protect the interests of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers and their families in realizing the guarantee of the fulfillment of their rights in all activities before working, during working, and after working in legal, economic, and social aspects.

Legal protection for Indonesian migrant workers is not only before working, but more than that. The government also supervises in providing protection for Indonesian migrant workers during their work period through the Indonesian Migrant Worker Protection Agency (BP2MI) as stated in Government Regulation Number 59 of 2021 concerning the Implementation of Protection of Indonesian Migrant Workers. BP2MI is authorized in data collection and registration carried out by labor attachés or appointed foreign service officials. Indonesian migrant workers who arrive in the destination country are required to report their arrival through the Peduli WNI Portal which is integrated with Sisnaker and Sisko P2MI. Labor attachés or foreign service officials appointed by the head of the Republic of Indonesia representative office will record the arrival and whereabouts of migrant workers based on data from BP2MI. Then, monitoring and evaluation of employers, jobs, and working conditions are carried out by developing an Early Warning System.

This system uses an application for migrant worker personal data recorded on the telephone card number. With this application, the whereabouts and problems of migrant workers can be anticipated early. Each migrant worker is given a single identity number that is linked to their telephone card, which is connected to the BP2MI online system. This system monitors health conditions, suitability of work to the contract, and payment of migrant workers' salaries. The Early Warning System application provides various features, including case complaint services, emergency services such as emergency calls and SMS, and searching for the location of migrant workers based on cellphone position. In addition, this application also offers information services that include searching for the address of the Republic of Indonesia representative, complaint procedures, and profiles of the country of placement. The government through BP2MI also plays a role in facilitating the resolution of various employment cases experienced by Indonesian migrant workers abroad, such as unpaid wages, layoffs before the end of the work agreement, work that is not in accordance with the work agreement, excessive workload, below standard wages, work accidents, and violence from employers.

To handle these complaints, BP2MI takes several steps. First, validate the complaint documents with supporting documents such as photos, copies of passports, work agreements, placement agreements, Overseas Worker Cards (KTKLN), family cards, employer identities, and power of attorney if represented. Second, analyze complaints to group the types and nature of complaints, whether employment or non-employment, and urgent or non-urgent. Third, verify complaint documents to check the accuracy and validity of the documents. Fourth, monitor and evaluate, where the results will be recommended to external or internal BP2MI units. Recommendations to external units are made if the handling of the case is outside the authority of BP2MI, such as the Representative Office of the Republic of Indonesia, the Ministry of Foreign Affairs, the Ministry of Manpower and Transmigration, the Regional Government, or the Indonesian Migrant Worker Placement Company (P3MI), with the development of the case still being monitored by BP2MI.

Efforts to protect Indonesian migrant workers legally are expected to reduce the various problems they face through improvements and improvements to the protection system and services. This effort will begin with mapping potential demand and increasing cooperation between countries or legal entities to ensure safer placement and protect the rights of Indonesian migrant workers as a whole in accordance with the work agreement.

Despite the enactment of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, the implementation of legal protections for PMIs continues to face significant challenges. A substantial number of PMIs are deployed through non-procedural channels, bypassing official mechanisms, which increases their vulnerability to exploitation, abuse, and human rights violations. Many prospective PMIs lack adequate information about their rights, obligations, and the realities of working abroad, making them susceptible to fraud and manipulation by unscrupulous parties. Moreover, oversight of recruitment agents and placement companies remains limited, allowing illegal practices to persist undetected and unaddressed.

The government must consider implementing strategic steps by Enhancing Education and Outreach: Conduct widespread information campaigns targeting prospective PMIs, especially in regions with high migration rates, to educate them about legal procedures, their rights, and potential risks associated with working abroad. Strengthening Oversight and Law Enforcement: Intensify monitoring of recruitment agents and placement companies, and enforce strict penalties for violations to ensure compliance with existing regulations. International Cooperation: Establish bilateral agreements with destination countries to safeguard the rights of PMIs, and participate in international programs that promote the welfare of migrant workers. Developing Integrated Services: Set up and expand one-stop integrated service centers (LTSA) across various regions to provide PMIs with easy access to information, training, and administrative services related to the migration process. By consistently and sustainably implementing these measures, it is anticipated that the legal protection for PMIs will be significantly enhanced, enabling them to work abroad safely, with dignity, and with their rights fully protected.

Therefore, the implementation of PMI placement must start from the recruitment process, training, education, distribution, placement, to repatriation by the regional government and the Indonesian Migrant Worker Placement Company (P3MI). All of these stages must be carried out with protection standards with clear and correct laws. This policy must be taken immediately and implemented according to current needs.

4. Conclusion

In accordance with Government Regulation Number 59 of 2021 concerning the Implementation of Protection of Indonesian Migrant Workers, legal protection for Indonesian migrant workers is carried out before, during, and after work. Protection before work includes good placement procedures until departure abroad. Protection during work is provided when migrant workers are abroad, without taking over their criminal and/or civil responsibilities. Meanwhile, protection after work aims to protect migrant workers when they return to their home regions and help them become independent individuals.

The government in legal protection for Indonesian migrant workers faces several obstacles in supervising Indonesian migrant workers, such as non-procedural migrant workers, protection

regulations that are still in the transition stage, and the quality of human resources for prospective migrant workers. These problems must be considered by all stakeholders in the governance of migrant worker placement and protection services. Therefore, the government needs to make various efforts, including socialization, coordination, improving the placement system, and improving the quality of prospective migrant workers through increasing competence, so that protection for migrant workers can be carried out optimally.

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