

The Role and Duties of The Government in Providing Legal Protection for Indonesian Migrant Workers Experiencing Violence Abroad

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Abstract

Legal protection for migrant workers is one of the government's main responsibilities in guaranteeing human rights and social justice. This study aims to determine the role and duties of the government in providing protection for Indonesian migrant workers who experience violence abroad. The research method used is the normative legal research method, with data collection techniques through library studies and analysis of various relevant literature. One of the main legal bases used as a reference is Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. The results of the study show that the government has a very strategic role in formulating regulations, conducting supervision, and providing legal and social protection services to migrant workers who have problems abroad. This protection includes assistance in resolving legal disputes, providing legal assistance, and providing temporary shelter for victims of violence. In addition, the role of Indonesian representatives abroad such as Embassies and Consulates General is an important instrument in implementing direct protection in the country of placement. This study also highlights the importance of strengthening coordination between the central and regional governments, as well as cross-sectoral cooperation involving civil society and international institutions. Effective collaboration between stakeholders is expected to create a comprehensive, sustainable, and responsive legal protection system to the dynamics of migrant worker problems. Thus, protection for Indonesian migrant workers is not only reactive, but also proactive in preventing violations of their basic rights abroad.

Keywords

Migrant Workers; Legal Protection; Government; Human Rights

Introduction

Migrant workers are people who seek work abroad to support their families, due to inadequate economic factors in Indonesia. Migrant workers have the right to receive decent wages with a predetermined time period according to the work agreement in the destination

country (Latipulhayat, 2021). Our country, Indonesia, is the second largest country in Southeast Asia after the Philippines as a sender of migrant workers to more than 25 countries. It can be seen from the Indonesian Migrant Worker Protection Agency [BP2MI] which from the beginning of January to September 2024 BP2MI released and provided 13,500,870 Indonesian migrant workers, which means that every year migrant workers in Indonesia are increasing. with the average number of registrants currently being high school and vocational school graduates.

The increasing number of migrant worker enthusiasts also brings benefits to the Indonesian government because it can reduce poverty and unemployment factors, prospective migrant workers assume that working abroad is more profitable, because they get much higher wages in Indonesia, but they do not think about the high risks that will be experienced, including violence, human trafficking, sexual exploitation, unpaid wages according to the work agreement, and unmet needs, torture, and often rape of workers by their parents (Savero et al., 2024). From the risks experienced by migrant workers, currently there have been complaints received by BP2MI from Indonesian migrant workers [PMI] January - August 2024 contributing to Malaysia, Taiwan, Hong Kong, Saudi Arabia, and Singapore. Complaints from the five countries reached 94 complaints or 65.73% of the previous month which amounted to 35. And the problems that often occur are; lack of documents [illegal], over satisfaction, running away from employers, violence and trafficking of people, especially for women and salaries that do not match the salary promised and many of these are the basis of the world.

Those who cannot be returned to their hometown of the many complaints received, they are illegal workers or what could be called non-procedural workers, this is closely related to PMI leaving until arriving at the destination country who are trapped in games between brokers, which is regulated in Article 72 letter [b] of Law No. 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in a country that is in accordance with the work agreement. This is also regulated as in Article 71 of Law No. 18 of 2017. 2017 (Dewi, 2018). Basically, non-procedural workers are very vulnerable to dangerous risks such as violence, human trafficking and sexual exploitation. It should be remembered that non-procedural migrant workers do not have official documents, so it is very difficult for those who experience violence to provide legal protection for non-procedural migrant workers (Sibuea, 2018).

It is different with migrant workers legally or procedurally, if they experience violence or rights that are violated by their employers, they will receive legal protection in accordance with Article 7 of Law Number 18 of 2017 concerning the protection of Indonesian migrant workers, In relation to writing this journal, we write that the role of the government is important in providing protection for Indonesian migrant workers, and providing a deterrent effect or appropriate law on illegal brokers, and this journal research focuses on legal protection for migrant workers in Indonesia who experience violence against workers who are abroad, in the explanation above, we are very interested in writing this journal because many of you feel how sad it is to travel to another country, tortured and even sent by parents from their hometown to find a bite to eat but died without being able to be buried in their hometown, legal protection provided by the Indonesian government to Indonesian migrant workers who are abroad, both procedurally and non-procedurally, must be established.

Methodology

This study employs a normative juridical method, which is a legal research approach that focuses on the analysis of legal norms and regulations. The method is used to examine legislation and legal principles relevant to the protection of Indonesian migrant workers. The

approaches applied in this research include the statutory approach and the conceptual approach. The statutory approach involves the examination of various national regulations governing migrant workers, such as Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, along with its implementing regulations. In addition, the conceptual approach is utilized to understand legal concepts that form the foundation for the protection of migrant workers, both from a national and international perspective. The legal materials used in this study consist of primary and secondary legal sources. Primary legal materials include national legislation such as laws, government regulations, as well as international conventions and treaties ratified by Indonesia that relate to the rights of migrant workers. Secondary legal materials include legal literature such as scholarly articles, law journals, textbooks, and expert opinions relevant to the topic.

The technique for collecting legal materials is carried out through a literature review by examining both printed and electronic sources (Prayuda et al., 2024). The researcher conducts a qualitative analysis of the content of the legal materials gathered, aiming to identify legal principles and appropriate interpretations within the context of legal protection for migrant workers. Through this method, the study aims to provide a comprehensive understanding of the legal framework and the role of law in ensuring the protection of Indonesian migrant workers who encounter legal issues abroad.

Discussion

Migrant workers are people who seek work abroad in order to earn wages, to support their families due to inadequate economic factors in Indonesia, migrant workers have the right to receive decent wages and a specified period of time in accordance with the work agreement in the country of destination, because every human being has the right to work anywhere according to their abilities and intentions (Qc, 2019). because Indonesia currently has inadequate or very limited employment opportunities, so that many people who have graduated from high school, vocational school, flock to find work abroad, because they think they get a higher income than in their own country

This is what invites the direction of the community's view to improve their family's economy, which they have not realized that there are many risks that will occur if they work abroad. according to data obtained from the protection of Indonesian migrant workers, BP2MI received 94 complaints or 65.73% from the previous month which was only 35 complaints and the problems that often occur are such as; Violence Until now, many Indonesian migrant workers still experience violence, both physical and mental violence from their employers. This is basically regulated in Articles 10 and 11 of the International Convention on the Protection of the Rights of All Migrant Workers, which states that no one may treat migrant workers who are targets of oppression with inhumane punishment and that migrant workers are not allowed to be enslaved.

Human trafficking

Human trafficking problems are very often found in non-procedural migrant workers who are vulnerable to being deceived by irresponsible individuals. Human trafficking is often forced to carry out sexual exploitation, drug dealers and organ sellers. Basically, it has been regulated in Law No. 21 of 2007, Article 4, which states that someone who brings Indonesian citizens with the aim of exploiting them abroad will be subject to a criminal penalty of 15 years and a fine of 120 million to 600 million

Sexual harassment of migrant workers, especially for women

The problem of sexual harassment of migrant workers often occurs, especially for women, most of whom are pregnant out of wedlock because their employers commit indecent acts with their maids without regard to who and how the consequences of their actions are, migrant workers abroad often experience violence at work and become pregnant without a father who often brings their children back to Indonesia without who the child is. migrant data shows that at least five out of 10 domestic workers [PRT] experience sexual violence while working, the condition is worse with the legal process that is not in favor of PRT.

Undocumented or illegal migrant workers

The increasing interest of people to find work abroad, makes the government often experience obstacles in providing legal protection, especially for people who work illegally, or people who do not have official documents. related to the departure of cooperation, the involvement of brokers, prospective migrant workers who are tempted by what the brokers report with the promised high salary without knowing that it is a hoax. we need to know that undocumented or illegal migrant workers are those who work in a foreign country without a valid work permit or visa

The role and duties of the government to provide legal protection for migrant workers

The government is very important to provide protection to migrant workers who are abroad by providing social security which is an action to provide protection related to social society if an event occurs that has an impact and the rights of the community carried out through its actions in a country (Iqbal, 2021). One of the government's policies is related to optimizing protection for migrant workers by reducing various problems from the initial recruitment stage starting the government to government [G to G] scheme and ensuring the safety of migrant workers by eradicating illegal migrant worker placement syndicates in migrant destination countries. Protection of Indonesian migrant workers {PMI} is the responsibility of the state. for that in Law no. 18 of 2017 concerning the protection of migrant workers in Indonesia it is stipulated that the central government and regional governments have an obligation to protect all PMI starting from before working. with this law, PMI are also given protection through the national social security program.

The regional government or [pemda] must ensure population documentation so that PMI who depart are documented (Masrur, 2018). In addition, the local government together with the protection of Indonesian migrant workers [BP2MI] will facilitate and socialize so that PMI who go abroad have the ability and competence to be ready to work and are far from the pressure that everyone does not want. Not only protecting PMI, the government has issued government regulation [pp] number 59 of 2021 concerning the implementation of protection of Indonesian migrant workers to further guarantee the protection of PMI and their families because the division of tasks and responsibilities between the central government and local governments is clearly outlined. In addition, pp 59/2021 also details the duties and responsibilities of the Company and PMI placement (P3MI), namely seeking job opportunities, placing PMI, and resolving problems of the PMI they place. As is known, in the last seven years the average placement of PMI has reached 234 thousand people per year with the largest destination countries being Hong Kong, Taiwan, and Malaysia where PMI generally work as workers, caregivers, general workers, plantation workers, and operators.

Right to life (Article 9)

Right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment (Article 10) Right not to be held in slavery/servitude or to perform forced labor (Article 10) Promotion of Good, Equitable, Humane and Lawful Conditions of Migrant Workers and States Parties shall provide appropriate Institutions to deal with matters relating to the international migration of migrant workers and members of their families whose functions are to (Article 65 paragraph 1): Formulate and implement policies regarding such migration Exchange information, consult and cooperate with competent authorities of other States Parties Provide appropriate information to all parties regarding policies relating to migration and employment, agreements concluded with other States relating to migration, etc. Provide information and assistance to migrant workers and members of their families regarding licensing requirements and arrangements regarding departure, travel, arrival, residence, employment, taxes and duties, as well as existing and applicable laws in the State of employment

States Parties shall also facilitate the provision of adequate consular services and institutions necessary to meet the social, cultural and other needs of migrant workers and members of their families (Article 65 paragraph 2). The return of migrant workers and members of their families to the State of Origin with the aim of improving economic conditions for resettlement and to facilitate social and cultural reintegration in a sustainable manner in the State of Origin (Article 67). States Parties, including transit States, are obliged to cooperate to prevent and eliminate illegal activities against migrant workers. The measures that must be taken include Appropriate measures to counter the dissemination of misleading information regarding emigration and immigration. Measures to detect and combat the illegal movement of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities that organize, implement or assist in the organization or implementation of such Movement.

A policy to impose effective sanctions on persons, groups or entities that use violence, threats or intimidation against migrant workers and members of their families in irregular situations. States of employment are also obliged to take adequate and effective measures to eliminate the employment of migrant workers in irregular situations in their territory, including, where necessary, imposing sanctions on employers. States Parties shall take appropriate measures to ensure that the situation in which migrant workers and members of their families are in an abnormal situation is continuous (Article 62). States Parties shall take the same measures in relation to migrant workers and members of their families as their own nationals to ensure that the working conditions in which migrant workers and members of their families live in normal situations are in accordance with the highest standards of safety, health and the principles of human dignity (Article 70). Provision of facilities and compensation in the event of the death of a migrant worker or member of his or her family, including the repatriation of remains (Article 71, paragraph 1). States Parties shall provide assistance to persons in contact with the migrant worker or member of his or her family with a view to resolving the problems (Article 71, paragraph 2).

Conclusion

The regulation of the International Convention on migrant workers, namely the establishment of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families is the result of a long struggle. The issue of migrant workers' rights which is being discussed at the UN, which is based on the case of many workers. many migrant workers going abroad that must be considered by the government in order to protect human rights. Legal protection for migrant workers abroad is still relatively low because in reality there are still frequent cases of abuse/torture that lead to the death of Indonesian migrant workers, working beyond the appropriate working hours, human trafficking caused by migrant worker agencies, unpaid wages. From these cases it shows that there are violations made by employers and agencies against the rights of Indonesian migrant workers who are abroad.

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