

Dynamics of Legal Protection for Indonesian Migrant Workers Abroad Based on Law Number 18 of 2017

¹Cik, ²Marhayani, ^{3*}Misnah Irvita, ⁴Baharudin, ⁵Femylia Dantye

¹⁻⁵Universitas Pertiba

*Corresponding Author:
misnahirvita@gmail.com

Abstract

Indonesian migrant workers (PMI) play a significant role in the national economy through their contribution to remittances. However, they often face various problems in their destination countries, including human rights violations, labor exploitation, and uncertainty of legal protection. To address these issues, the Indonesian government has enacted Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers which aims to strengthen regulations on protection for PMI, both before departure, during work, and after returning home. The study seeks to analyze legal protection for Indonesian migrant workers based on Law Number 18 of 2017, with a focus on the effectiveness of the implementation of these regulations in protecting the rights of migrant workers abroad. The method used in this study is the normative-empirical legal research method. The normative approach is carried out by analyzing laws and regulations related to migrant workers protection, both at the national and international levels. Furthermore, the empirical approach analyses the implementation of laws in the field, including the role of government institutions and labor protection agencies. Through this study, it is expected to provide a deeper understanding of legal protection for Indonesian migrant workers and identify challenges that are still faced in the implementation of Law No. 18 of 2017. The results are expected to provide recommendations for the government and stakeholders in improving protection for Indonesian migrant workers abroad.

Keywords: *indonesian migrant workers, legal protection, migrant workers' rights.*

1. Introduction

The placement of Indonesian Migrant Workers (TKI) abroad is an initiative aimed at ensuring equal employment rights and opportunities for workers to obtain welfare benefits. There are several factors that have caused the increasing number of migrant workers worldwide. First, demographic changes and the demand for labor by industrialized countries are pull factors. Second, population problems,

unemployment, and crisis pressures are push factors. Third, international networks based on family ties, culture, and history facilitate migration (Kristiadi, 2022).

Legal protection for Indonesian migrant workers is important, considering the large number of Indonesian workers working abroad and the diverse risks they face. Migrant workers often face various challenges, including exploitation, unpaid wages, physical and psychological violence, inadequate working conditions, and human trafficking. Without adequate legal protection, they are vulnerable to human rights violations and face difficulties in obtaining justice when dealing with problems in their host countries (Widodo, 2019). Furthermore, migrant workers contribute significantly to the national economy through remittances sent to Indonesia, which underlines the state's obligation to protect their rights and welfare. Legal protection is also important to provide certainty for migrant workers during the recruitment process, from the initial recruitment stage before departure, during work, and until they return to Indonesia (Prihanto, 2014).

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers is a proactive step by the government to strengthen regulations and protection mechanisms for the welfare of migrant workers. By implementing clear policies and effective protection mechanisms, migrant workers can improve work safety and ensure compliance with international labor standards (Tohawi, 2024). In addition, strong legal protection can encourage improved diplomatic relations between Indonesia and destination countries, as it provides legal certainty in the placement of workers. Therefore, the government, related institutions, and the community must continue to raise awareness and monitor the implementation of migrant worker protection policies to ensure optimal protection by the rights they are entitled to (Aprina, 2017).

2. METHOD

The research method used in this study is the normative-empirical legal research method. The normative approach is carried out by analyzing various laws and regulations relating to Indonesian migrant workers, especially Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. In addition, this study also examines relevant international legal instruments. The analysis is conducted on the legal substance that regulates the rights, obligations, and protection mechanisms for migrant workers before departure, during work, and after returning to Indonesia. Meanwhile, the empirical approach in this study is carried out by examining the implementation of the regulations that have been established, through studies of various research reports, scientific journals, and official documents from government agencies and international organizations related to the protection of migrant workers. The data sources used in this study consist of data obtained through literature studies of academic literature, laws and regulations. The analysis technique used is descriptive-qualitative analysis, which aims to describe and evaluate the effectiveness of legal protection for Indonesian migrant workers by applicable provisions. With this approach, research can identify gaps between established legal

norms and the reality of policy implementation in the field, as well as provide recommendations for improving the protection of Indonesian migrant workers abroad.

3. Result and Discussion

3.1 Legal Aspects of Legal Protection of Migrant Workers in Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers comprehensively regulates various aspects of protection for migrant workers, going beyond previous regulations. This law outlines specific articles that explain the rights and obligations of migrant workers, the responsibilities of the government, and the role of related institutions in protecting migrant workers before departure while working abroad, and after returning to Indonesia (Rahayu, 2020). One of the main aspects of migrant worker protection is the rights granted to them, as stated in Article 6. This article stipulates that Indonesian migrant workers have the right to obtain correct information regarding placement procedures and working conditions in the destination country, obtain proper education and job training, obtain access to social and health security, and obtain legal protection. In addition, migrant workers have the right to official documents, such as passports and work visas, as well as valid work agreements, as stated in Article 7. These documents form the basis for legal protection for migrant workers and ensure that their rights are fulfilled while working abroad.

Regarding the obligations of migrant workers, Article 8 of the Indonesian Manpower Law mandates that migrant workers comply with the laws and regulations in the destination country, comply with the provisions contained in the employment agreement, and uphold Indonesia's reputation. In addition, migrant workers are required to comply with official procedures during the departure process to ensure state protection. Violation of these provisions can result in the loss of migrant workers' protection rights so that they can be exploited or prosecuted in the destination country.

The government plays an important role in the protection of migrant workers, as stated in Article 30. This provision mandates that the central government is responsible for organizing the protection of migrant workers through a regulatory framework, guidance, supervision, and international cooperation. In addition, the government is obliged to provide information services, job training, and legal assistance to migrant workers if they experience difficulties abroad. In addition, Article 31 stipulates that the central government is required to organize social security for migrant workers, which includes employment insurance that protects them from work accidents, occupational diseases, and unilateral termination of employment. At the regional level, Article 41 emphasizes that regional governments have the responsibility to prepare prospective migrant workers through training and education, as well as supervise labor recruitment agencies so that they do not carry out illegal or exploitative recruitment practices. In addition, regional governments also play a role in facilitating the return and social reintegration of migrant workers who have returned to Indonesia (Setiawati, 2024).

Protection for migrant workers abroad is also a focus of this law. Article 72 stipulates that the Representatives of the Republic of Indonesia in the destination country are required to provide legal protection and assistance to migrant workers who experience problems, such as labor disputes, violence, or rights violations. The Embassy of the Republic of Indonesia (KBRI) and the Consulate General of the Republic of Indonesia (KJRI) in the destination country are responsible to give advocacy, mediation, and legal assistance services for migrant workers who face problems. Furthermore, Article 77 emphasizes the role of the Indonesian Migrant Workers Protection Agency (BP2MI) in supervising the migrant worker placement system and ensuring that their rights are protected. BP2MI is also tasked with ensuring that migrant workers have access to social security, legal assistance, and proper repatriation services after completing their work abroad (Tantri, 2022).

In addition to administrative and legal protection, Law No. 18 of 2017 also regulates sanctions for violators of regulations related to migrant workers. Articles 83 to 85 stipulate administrative and criminal sanctions for parties who carry out illegal recruitment, and exploitation of migrant workers or fail to protect as stipulated in the legislation. These sanctions include fines, revocation of business licenses for labor recruitment companies that do not comply with regulations, and criminal penalties for perpetrators of human trafficking or exploitation of migrant workers.

Under the provisions of Law No. 18 of 2017, the Indonesian government is actively implementing a strong protection framework for its migrant workers. This regulatory framework is designed to ensure safe working conditions, ensure compliance with international labor standards, and protect them from exploitation and violations of the law in the host country (Mawikere, 2024). The successful implementation of this law depends on smooth coordination between the central government, local governments, related institutions, and Indonesian representatives abroad. This collaboration is important to provide optimal protection for Indonesian migrant workers (Bayuaji, 2024).

3.2 Implementation Mechanism of Law Number 18 of 2017 at National and International Level

The implementation of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers in various destination countries still faces various challenges, especially the effectiveness of regulatory implementation and bureaucratic obstacles (Safitri, 2023). In terms of regulatory implementation, the main challenge lies in the disparity in employment policies and standards between destination countries. Article 30 of Law Number 18 of 2017 emphasizes the responsibility of the central government to facilitate international cooperation to ensure the protection of migrant workers. However, implementation in the field still encounters obstacles, especially in countries that do not yet have bilateral agreements with Indonesia regarding employment protection. For example, in several Middle Eastern countries, domestic workers still do not fully receive clear

legal protection because there is no conformity between domestic regulations and international employment protection standards (Djazuli, 2021).

Bureaucratic obstacles in the placement and protection of Indonesian migrant workers are quite a challenge. Article 41 mandates that local governments actively provide training and education to prospective Indonesian migrant workers. However, in practice, there is still a lack of coordination between the central and regional governments, so many prospective migrant workers depart without adequate preparation. In addition, the protracted and complicated administrative process often encourages migrant workers to use illegal channels, which in turn exacerbates the risk of exploitation and human trafficking (Nola, 2017).

In the realm of social protection, Article 31 mandates the provision of social security and employment insurance for migrant workers. Unfortunately, many individuals do not have full access to these facilities, especially those working in the informal sector or sectors considered less protected, such as domestic work and plantations. In certain jurisdictions, migrant workers face discrimination in accessing health and social welfare services, making them vulnerable to exploitative working conditions (Immadudin, 2024).

Law enforcement is a significant challenge in the implementation of Law No. 18 of 2017. Article 72 mandates the Representatives of the Republic of Indonesia abroad to provide legal protection to migrant workers who experience difficulties. However, limited resources and inadequate access to legal aid services often hinder the ability of many migrant workers to obtain justice. Furthermore, although Articles 83 to 85 stipulate sanctions for companies or individuals who violate regulations on the protection of migrant workers, law enforcement against illegal recruiters and perpetrators of exploitation remains inadequate. Many cases of migrant workers who become victims of human trafficking or forced labor go unreported due to the slow legal process and lack of coordination between related institutions (Musrin, 2022).

Generally, although Law No. 18 of 2017 has established a strong legal framework to protect migrant workers, its effective implementation faces various challenges, both at the national and international levels. It is imperative to strengthen bilateral cooperation mechanisms, simplify bureaucratic processes, improve supervision of labor recruitment, and strengthen the capacity of Indonesian representatives abroad to ensure that these regulations provide more optimal protection for Indonesian migrant workers (Simamora, 2021).

3.3 Comparison of Migrant Worker Protection Policies and Regulations in Malaysia, Saudi Arabia, and Hong Kong

Migrant worker protection in major destination countries such as Malaysia, Saudi Arabia, and Hong Kong varies widely, depending on the labor regulations, bilateral agreements with Indonesia, and the legal frameworks governing each jurisdiction. Although Law Number 18 of 2017 sets the benchmark for protecting

Indonesian migrant workers, the effectiveness of such protection is highly dependent on the policies implemented by the destination country.

In Malaysia, one of the main destinations for Indonesian migrant workers, labor protection has undergone significant development, particularly through collaborative efforts between Indonesia and Malaysia. Malaysia has a more advanced labor law system compared to certain other countries, which includes regulations such as the Employment Act of 1955, which regulates labor rights, including the rights of migrant workers (Adi, 2017). However, despite this legal framework, there are still many examples of migrant workers experiencing exploitation, particularly in the plantation and construction sectors. These workers often experience harsh working conditions and receive inadequate compensation. To address this issue, Indonesia and Malaysia have signed several memorandums of understanding (MoUs) on the placement and protection of domestic workers. In particular, these MoUs include the elimination of the outsourcing system, which is often associated with worker exploitation (Pahroji, 2012).

Meanwhile, in Saudi Arabia, the protection of migrant workers remains a major challenge. The country implements the kafala system, which gives employers full control over migrant workers, including in terms of mobility and job changes. This system often causes migrant workers to experience exploitation and abuse, such as excessive working hours, salary deductions, and restrictions on freedom of movement. Although the Saudi Arabian government has reformed the kafala system, including granting workers permission to change employers without consent, implementation in the field still faces various obstacles (Silviana et al, 2022). Article 72 of Law No. 18 of 2017 emphasizes that Indonesian representatives abroad are responsible for providing legal protection to migrant workers, but in many cases, limited access to Indonesian representatives makes it difficult for many workers to get help.

In Hong Kong, labor protection for migrant workers, especially domestic workers, is relatively better compared to Malaysia and Saudi Arabia. Hong Kong has clearer labor regulations, such as the Employment Ordinance and Standard Employment Contract, which stipulate minimum wages, leave entitlements, and insurance coverage for migrant workers (Shalihah, 2023). Furthermore, Hong Kong allows migrant workers to participate in trade unions, providing them access to advocacy and legal assistance if they encounter difficulties. Despite the implementation of better regulations, challenges remain, such as extended working hours and regulations requiring domestic workers to live with their employers, which often result in exploitation (Quintão, 2024).

This comparative analysis of migrant worker protection across countries reveals significant gaps in the level of protection provided. These gaps are directly caused by various national policies and their effective implementation in each destination country. Therefore, in addition to strengthening the implementation of Law No. 18 of 2017, the Indonesian government must prioritize increasing bilateral cooperation, strengthening diplomatic representation, and building stronger monitoring and law enforcement mechanisms. By implementing these steps, the

Indonesian government can ensure that migrant workers receive more optimal protection in their respective destination countries.

4. CONCLUSION

The placement of Indonesian migrant workers (TKI) abroad, although providing economic benefits through remittances, also presents various challenges and risks for migrant workers, such as exploitation, violence, and human rights violations. Therefore, adequate legal protection is important to ensure the welfare and security of Indonesian migrant workers. Law Number 18 of 2017 is a proactive step by the government in strengthening regulations and protection mechanisms for migrant workers, which not only provides protection at every stage of the placement process but enhances diplomatic associations between Indonesia and destination countries.

Although Law Number 18 of 2017 provides a comprehensive legal framework to protect Indonesian migrant workers, its implementation still faces various challenges, both at the national and international levels. Factors such as disparities in employment policies and standards in destination countries, bureaucratic obstacles, and difficulties in law enforcement are major obstacles. Protection of migrant workers in destination countries such as Malaysia, Saudi Arabia, and Hong Kong also varies, with some countries facing problems such as exploitation and lack of access to adequate legal protection. Therefore, to ensure optimal protection for migrant workers, the Indonesian government must strengthen bilateral cooperation, improve coordination between related institutions, and improve monitoring and law enforcement mechanisms.

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