

Jurnal

by PENGECEKAN TURNITIN

Submission date: 10-Jul-2024 03:17PM (UTC+0700)

Submission ID: 2414677565

File name: Bbg.doc (275K)

Word count: 6078

Character count: 35805

State Responsibility In Protecting Indonesian Migrant Workers As Fulfillment Of Human Rights

Rini Irianty Sundary¹, Umi Muslikhah²

¹Fakultas Hukum, Universitas Islam Bandung, Bandung, Indonesia

²Fakultas Hukum, Universitas Islam Riau, Pekanbaru, Indonesia

riniiriantisundary@unisba.ac.id

Abstract

The aim of this research is to examine the state's responsibility in protecting Indonesian migrant workers as an effort to fulfill human rights. Indonesian migrant workers have an important role in the nation's economic development. As a contributor to the country's foreign exchange, legal protection for Indonesian migrant workers who are abroad is very important. The placement of migrant workers abroad has increased. The increasing interest of Indonesian migrant workers abroad is in line with the increasing complexity of problems faced by Indonesian migrant workers in the form of human rights violations, verbal, physical and sexual harassment and other violence. The urgency of this research is to determine the role and responsibility of the state in protecting Indonesian migrant workers, especially those abroad, based on existing laws and regulations, especially the existence of Law Number 18 of 2017. This research is normative legal research. Updates and research results carried out by the government regarding the protection of Indonesian migrant workers have been regulated in Law Number 18 of 2017. Forms of protection are carried out starting before placement, during placement, and after placement. From the research conducted, it was concluded that the state's responsibility and protection for Indonesian migrant workers still needs to be improved.

Keywords: *Migrant, Workers, Human Rights,*

1. INTRODUCTION

"Every human being is an individual creature as well as a social creature who has various needs and desires. One effort to realize these needs and desires is by working. Work is one of the human activities aimed at maintaining life and earning a decent living."

"Indonesia as a legal state has a responsibility to guarantee the fulfillment of Human Rights (HAM) for every citizen. As mandated in the preamble to the 1945 Constitution, namely "...to form a government of the Indonesian State that protects the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate the life of the nation,...". One of the ways in which the state fulfills human rights is by providing human rights protection for Indonesian migrant workers, especially those abroad. The 1945 Constitution emphasizes in Article 27 paragraph (2) which reads "Every citizen has the right to work and a living that is worthy of humanity". Furthermore, the state's responsibility for the protection of Indonesian migrant workers, especially abroad, is regulated in Law Number 18 of 2017 concerning the protection of Indonesian migrant workers".

¹ Alya Sani Pratiwi et al., "Pelaksanaan Pemberian Sanksi Bagi Perusahaan Yang Tidak Mempekerjakan Tenaga Kerja Penyandang Disabilitas," *Jurnal USM Law Review* 6, no. 1 (2023): 388-406, <https://doi.org/10.26623/julr.v6i1.6817>.

“Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI) is considered to have made a lot of progress both in process and substance based on the fulfillment of human rights, one of which is the recognition of migrant workers who work as domestic workers as formal workers. This confirmation is contained in Article 4 paragraph 1 which reads: “migrant workers include²: (a) Indonesian migrant workers who work for legal entity employers; (b) Indonesian migrant workers who work for individual or household employers; and (c) Seafarers and fisheries sailors”.

“Indonesian migrant workers have an important role in the nation's economic development. As a foreign exchange contributor to the country, legal protection for Indonesian migrant workers who are abroad is very important. Data collected from the Indonesian Migrant Worker Protection Agency (BP2MI)³, The placement of Indonesian migrant workers for the period 2021, 2022 and 2023 has increased in the last two years. In 2021, there were 72,624 recorded placements of Indonesian migrant workers. In 2022 there will be 200,802 placements, which shows an increase of 176% compared to the previous year. Then in 2023 the number of placements will increase by 37% to 274,965 placements”.

Based on the data above, the placement of Indonesian migrant workers abroad has increased. This is in line with the complexity of the problems faced by Indonesian migrant workers. Along with the increase in the number of Indonesian migrant workers, the complexity of the problems faced by migrant workers, such as physical, verbal and even sexual violence and other human rights violations, means that the state has the responsibility to provide legal protection for Indonesian migrant workers, especially those who have received placements abroad.

“Research examining legal protection for Indonesian migrant workers was carried out by several other researchers. These studies highlight the challenges and obstacles faced by Indonesian migrant workers abroad. This research includes Sudarmanto (2022)⁴. In his article, Sudarmanto reveals the steps that must be taken in the future so that PMI gets optimal protection from the placement country and from the Indonesian government as the PMI sending country and formulates strategies to overcome the problems that PMI still experience in these countries.”

² Ria Wulandari, “Studi Atas Pasal 63 Undang-Undang No 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia (Ppmi),” *Tanjungpura Law Journal* 3, no. 2 (2020): 174, <https://doi.org/10.26418/tlj.v3i2.37513>.

³ BP2MI, “Data Penempatan Dan Pelindungan PMI Tahun 2023 (Data on the Placement and Protection of Indonesian Migrant Workers in the Year 2023),” 2024, <https://bp2mi.go.id/statistik-detail/data-penempatan-dan-pelindungan-pekerja-migran-indonesia-periode-tahun-2023>.

⁴ Hery Sudarmanto, “Upaya Meningkatkan Perlindungan Pekerja Migran Indonesia (PMI) Di Negara Penempatan Wilayah Asia,” *Jurnal Pendidikan Dasar Dan Sosial Humaniora* 1, no. 11 (2022): 2291, <https://doi.org/https://doi.org/10.53625/jpdsh.v1i11.3605>.

“The next research was conducted by Fikri (2022)⁵, studies regarding the protection and fulfillment of human rights for Indonesian Migrant Workers Abroad as well as discussions regarding problems related to supervision or monitoring of migrant workers are not optimal in practice, there is a lack of coordination between Indonesian migrant workers and stakeholders both in the destination country as representative institutions, namely the Embassy Republic of Indonesia and those currently in Indonesia”.

“Lastly, research conducted by Junaidi⁶, this research analyzes legal protection for PMI abroad with a focus on the differences in legal protection between Legal and Illegal PMI. And that there are significant weaknesses in existing laws, including Law no. 39 of 2004 concerning the Placement and Protection of PMI Abroad which does not support the protection of PMI”.

This research examines the state's responsibility for the legal protection of Indonesian migrant workers as a fulfillment of human rights in terms of applicable laws and regulations and their implementation accompanied by the latest data collected from valid sources (government institutions). So it is hoped that this article will have a reform impact on the protection of Indonesian migrant workers, especially those abroad. The aim of this research is an effort to minimize the occurrence of human rights violations and acts of violence experienced by PMI, whether physical, mental or sexual violence, as well as increasing the government's role in providing protection to PMI.

2. METHOD

“This research is normative legal research, where in this research the researcher will study and examine various literary sources, for example, books, journals, papers, regulations, and other scientific works that are related to the research object that the researcher is studying. Meanwhile, the nature of this research is descriptive, where the author will describe a problem in a certain area or at a certain time and try to reveal the existing facts completely, where the researcher will try to explain how the state responsibility in protecting Indonesian migrant workers as fulfillment of human rights. The research specifications used in the research use several approaches, namely the statutory approach, the conceptual approach, the historical conceptual approach, and the case approach. In this research, the analysis carried out is qualitative analysis, which is a research procedure that produces descriptive data, namely what is stated in writing.⁷ Next, the author concludes deductively, namely concluding things that are general to specific things. Getting a conclusion begins

⁵ Sultoni Fikri, “Perlindungan Dan Pemenuhan Hak Asasi Manusia Bagi Pekerja Migran Indonesia Di Luar Negeri,” *MORALITY: Jurnal Ilmu Hukum* 8, no. 2 (2022): 108, <https://doi.org/10.52947/morality.v8i2.255>.

⁶ Muhammad Junaidi and Khikmah Khikmah, “Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri,” *Jurnal USM Law Review* 7, no. 1 (2024): 490–501, <https://doi.org/http://dx.doi.org/10.26623/julr.v7i1.8127>.

⁷ “Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo, 2003).”

by looking at real factors and ends with drawing a conclusion which is also a fact where the two facts are bridged by theories.⁸”

3. RESULTS AND DISCUSSION

3.1 Study of the Protection of Indonesian Migrant Workers According to Several Legislation

“One of the state's goals is stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, which states that protecting the entire Indonesian nation is the state's goal. Protecting the entire Indonesian nation means including PMI⁹”. The protection of Indonesian migrant workers is regulated in several applicable laws and regulations. “The 1945 Constitution of the Unitary State of the Republic of Indonesia regulates in Article 27 paragraph (2) which reads “Every citizen has the right to work and a living worthy of humanity”. Then Article 28D paragraph (2) reads, “every person has the right to work and receive fair and appropriate compensation and treatment in employment relationships”. The inclusion of protection for PMI in the 1945 Constitution is a form of fulfilling the Human Rights (HAM) of citizens as stated in Article 28 I paragraph (4) which reads, “The protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government”. The regulations in the 1945 Constitution were then revealed in several subordinate laws and regulations”.

“Indonesian Migrant Workers (PMI) is a government effort or program that aims to take advantage of available international employment opportunities, so that unemployment and poverty in Indonesia are reduced¹⁰”. This government program was then realized, one of which was the formation of regulations that provide regulation and protection to PMI.

In 2004, “the Indonesian government passed Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. This law was drafted to provide protection for the existence of Indonesian workers working abroad based on equal democratic rights, social justice, equality and gender, anti-discrimination and human trafficking”.

“In this Law, the regulations regarding the placement and protection of Indonesian Migrant Workers Abroad do not meet the protection needs of Indonesian migrant workers. Regulations regarding the proportional distribution of duties and authority between the Central Government, regional governments and the private sector have not been clearly regulated. Apart from that, the existence of Law no. 39 of 2004 accompanied by the issuance of Presidential Instruction Number 6 of 2006 concerning Reform Policy for the

⁸ “Aslim Rasyad, *Metode Ilmiah: Persiapan Bagi Peneliti* (Pekanbaru: UNRI Press, n.d.). hlm. 20”

⁹ Junaidi and Khikmah, “Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri.”

¹⁰ Zulfan Fikriansyah and Aan Julia, “Faktor Penentu Keputusan Masyarakat Menjadi Pekerja Migran Indonesia (Studi Kasus : Di Desa Bongas Kecamatan Bogas Kabupaten Indramayu),” *Jurnal Riset Ilmu Ekonomi Dan Bisnis*, 2023, 25–32, <https://doi.org/10.29313/jrieb.v3i1.1889>.

Placement and Protection System for Indonesian Workers (BNP2TKI) also did not bring significant changes to the worker protection system.¹¹”

“Then the Government, through the Ministry of Manpower and Transmigration of the Republic of Indonesia, issued Ministerial Regulation number PER-19/MEN/V/2006 concerning the Implementation and Protection of Indonesian Workers Abroad. The existing Ministerial Regulation is expected to become the basis and bridge to reduce the unemployment rate in Indonesia.¹²”

In 2012, “ the Indonesian Government ratified the International Convention through the enactment of Law Number 6 of 2012 concerning the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. . The International Convention on the Protection of the Human Rights of All Migrant Workers and Members of Their Families is a comprehensive international convention, which focuses on protecting the rights of migrant workers and ensuring that these rights are protected and respected, entered into force on 1 July 2003 and Until January 2010, there were 42 countries that had ratified it. The enactment of this convention has strengthened and completed a series of provisions regarding human rights agreements issued by the United Nations (UN)”¹³ . Ratification of this International Convention is a form of commitment to fulfill human rights for PMI by the Indonesian Government.

The government has made various efforts to provide protection to PMI. However, along with developments over time accompanied by the complexity of problems regarding PMI, the government has revised the applicable laws. In 2017, the government passed “Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers”. The existence of this law provides maximum protection for PMI who work abroad.

“According to Migrant Care ¹⁴, Law Number 18 of 2017 has many advantages in several aspects compared to Law Number 39 of 2004. The main provisions in this Law include Indonesian Migrant Workers who work for legal entity Employers, Indonesian Migrant Workers who work for Individual employers, ship crews and fisheries sailors, rights and obligations of Indonesian Migrant Workers and their families, efforts to protect Indonesian Migrant Workers including protection in the placement system (before work, during work and after work), employment attaché, one-stop integrated services, a financing system that

¹¹ Ihsan Dzuhur Hidayat, Waluyo Waluyo, and Fatma Ulfatun Najicha, “Perlindungan Pekerja Migran Indonesia/Tenaga Kerja Indonesia Oleh Pemerintah Daerah,” *Jurnal Ilmu Hukum* 10, no. 1 (2021): 71–80, <https://doi.org/10.32503/mizan.v10i1.1568>.

¹² Salmon Abertnego Manurung and Nabitatus Sa’adah, “Hukum Internasional Dan Diplomasi Indonesia Dalam Perlindungan Tenaga Kerja Migran Indonesia,” *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 1–11, <https://doi.org/10.14710/jphi.v2i1.1-11>.

¹³ Theodorus H. W. Lumunon and Audi H. Pondaag, “Tindak Pidana Oleh Korporasi Terhadap Pekerja Migran Indonesia,” *Lex Crimen* X, no. 4 (2021): 63–71.

¹⁴ Ester Monalisa Tantri, Deicy N Karamoy, and Decky Paseki, “Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Di Luar Negeri Menurut Undang-Undang Nomor 18 Tahun 2017,” *Lex Privatum* 10, no. 3 (2022): 1–15.

favors prospective Indonesian Migrant Workers and Indonesian Migrant Workers, the implementation of Social Security for Indonesian Migrant Workers, and legal, social and economic protection¹⁵.”

In “Article 2 of Law no. 18 of 2017” states "Protection of Indonesian Migrant Workers has the principle of integration; equal rights; recognition of dignity and human rights; democracy; social justice; gender equality and justice; non-discrimination; anti-human trafficking; transparency; accountability and sustainability”. Based on this, the principles of protecting Indonesian migrant workers are explained as follows:¹⁶ “(1) Principle of Integration; (2) Principle of Equal Rights; (3) Principle of recognition of dignity and human rights; (4) Principles of Democracy; (5) Principles of Social Justice; (6) Principles of gender equality and justice; (7) Principle of non-discrimination; (8) Anti-human trafficking principles; (9) Principle of transparency; (10) Principle of accountability; (11) Sustainable principle.”

“Discussions about PMI itself have become the focus of various development agendas, both by stakeholders at the national and global levels. Globally, in the Sustainable Development Goals (SDGs) there are 2 (two) targets related to ensuring the safety of migrant workers, namely target 8.8 and target 10.7 of the SDGs. Target 8.8 of the SDGs states that every country needs to: "Protect labor rights and promote a safe and secure working environment for all workers, including migrant workers, especially female migrant workers, and those who work in hazardous work." In addition, in SDGs target 10.7 it is stated that all countries need to: "Facilitate regular, safe, regular and responsible migration and human mobility, including through the implementation of well-planned and managed migration policies. PMI protection is also the focus of the 2020-2024 National Medium Term Development Plan (RPJMN)”¹⁷.

Regulations regarding the protection of Indonesian migrant workers are also regulated in “Government Regulation (PP) no. 59 of 2021” concerning Implementation of Protection of Indonesian Migrant Workers. The implementation of this PP further guarantees the protection of PMI and their families as regulated in the International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members with the division of duties and responsibilities between the Central Government and Regional Governments being described more clearly and in detail. Apart from that, this PP also regulates in detail the responsibilities of the PMI Placement Company (P3MI) which are described as follows: (1) Searching for work opportunities, (2) Placement of Indonesian Migrant Workers, and (3) Resolving problems with the PMI being placed.

¹⁵ Tantri, Karamoy, and Paseki.

¹⁶ “Undang-Undang Republik Indonesia NO. 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia” (2017).

¹⁷ Cicilia Anggi Sholina, “Pemenuhan Hak-Hak Asasi Anak Tenaga Kerja Indonesia Di Perkebunan Sawit Di Wilayah Tawau, Sabah, Malaysia,” *Jurnal Pembangunan Manusia* 3, no. 1 (2022), <https://doi.org/10.7454/jpm.v3i1.1029>.

Below the author describes several technical regulations for the protection of Indonesian Migrant Workers, as follows: (1) "Government Regulation (PP) No. 59 of 2021 concerning Implementation of Protection of Indonesian Migrant Workers; (2) Presidential Regulation Number 90 of 2019 concerning the Indonesian Migrant Worker Protection Agency; (3) Minister of Manpower Regulation Number 9 of 2019 concerning Procedures for Placement of Indonesian Migrant Workers; (4) Minister of Manpower Regulation Number 17 of 2019 concerning Termination and Prohibition of Worker Placements; (5) Minister of Manpower Regulation Number 7 of 2020 concerning Procedures for Imposing Administrative Sanctions in the Implementation of Placement and Protection of Indonesian Migrant Workers".

3.2. State Responsibility in Protecting Indonesian Migrant Workers as Fulfillment of Human Rights.

"The Indonesian government has an obligation to protect PMI, and various instruments and regulations have been implemented as protective measures, in line with international norms.¹⁸ The state's responsibility in protecting Indonesian Migrant Workers as a fulfillment of Human Rights is regulated in Article 23 of The Universal Declaration of Human Rights, which states that: "everyone has the right to work, choose work, enjoy good working conditions and protection from the threat of unemployment".¹⁹ Then it is also regulated in The International Convention On The Protection Of The Rights Of All Migrant Workers and Members Of Their Families or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, this convention protects the rights of migrant workers and their families as a whole. , starting from the protection of human rights, the right not to be tortured, economic rights, as well as decent working rights and conditions".²⁰ "In short, this convention specifically outlines a broad set of rights for migrants, including those who live and/or work abroad illegally. The Convention is based on the principle of equal treatment of migrants and citizens rather than on the "minimum standards" approach, which characterizes many other international legal instruments²¹."

"Regulations regarding the protection of Indonesian migrant workers by the state are in line with international law which states that a state has an obligation to protect citizens of

¹⁸ Rafli Jassika Aranda and Nurhimilayah, "Tanggung Jawab Kedutaan Republik Dalam Mengakomodasi Pendidikan Anak Jawab Pekerja Besar Migran Indonesia Di Malaysia," *Jurnal Pendidikan Tambusai* 8, no. 1 (2024): 13544-52.

¹⁹ Any Suryani H, *Perlindungan Pekerja Migran Indonesia* (Mataram: Sanabil, n.d.).

²⁰ Tantri, Karamoy, and Paseki, "Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Di Luar Negeri Menurut Undang-Undang Nomor 18 Tahun 2017."

²¹ Safrida Yusitarani, "Analisis Yuridis Perlindungan Hukum Tenaga Migran Korban Perdagangan Manusia Oleh Pemerintah Indonesia," *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 24-37, <https://doi.org/10.14710/jphi.v2i1.24-37>.

that country who live abroad²²”. “In international law this is called Diplomatic Protection. There are three conditions that must be met in implementing diplomatic protection for citizens, in this case Indonesian migrant workers, namely: an International Wrong, namely that citizens of a country abroad must be given protection by their country of origin if there is a violation of international law committed by their citizens. the. Exhaustion of Local Remedies, namely the state provides legal assistance to its citizens who are abroad to sue another country if the citizen has taken local legal action in the recipient country. And Link of Nationality, namely diplomatic protection given to citizens of a country if there is an act of violation of international law by another country²³”.

The state guarantees rights, equal opportunities and provides protection for every citizen without discrimination to obtain work and a decent living, both at home and abroad in accordance with the expertise, skills, talents, interests and abilities of the citizen. “Regarding labor, legal protection is defined as safeguarding workers so that they can do work that is worthy of humanity²⁴”.

“Humane treatment that is the right of Migrant Workers is a place that is or is not isolated, has food, drink and a decent place to sleep, does not receive sexual harassment, does not work without wages, is not held captive, communicates with family, receives training, and receives legal protection in accordance with the Regulations. Minister of Manpower and Transmigration of the Republic of Indonesia Number: PER07/MEN/IV/2005.²⁵”

“The mobility of migrant workers abroad means that the Indonesian Government must fulfill every right of these migrant workers. The high mobility of migrant workers abroad is due to the higher quality of life offered abroad. However, this is not comparable to the cases of violence that occur against migrant workers abroad, requiring the government to pay attention to the survival of migrant workers. There are at least several cases of problems that occur with Indonesian migrant workers abroad, such as cases of abuse, sexual harassment, cases involving migrant workers being punished, cases of unpaid salaries, even cases of unilateral termination of employment.²⁶”

“Protection of Indonesian migrant workers to several countries is a private sphere, but as time goes by the state needs to make affirmative interventions in industrial relations. The form of affirmative intervention is in the regulatory function and in the supervision

²² Aust, A, *Handbook of International Law* (Cambridge: Cambridge University Press, 2005).

²³ Edy dan Arisoendha Moenir Suryono, *Hukum Diplomatik, Kekebalan Dan Keistimewaan* (Bandung: Angkasa, 1986).

²⁴ Bambang J, *Hukum Ketenagakerjaan* (Bandung: Pustaka Setia, 2013).

²⁵ Tiyas Vika Widyastuti et al., “Sosialisasi Kebijakan Perlindungan Hukum Terhadap Hak-Hak Perempuan Tenaga Kerja Migran Dalam Mewujudkan Nilai-Nilai Keadilan Sosial,” *Masyarakat Berdaya Dan Inovasi* 1, no. 1 (2020): 6–11, <https://doi.org/10.33292/mayadani.v1i1.2>.

²⁶ Berkat Anugrah Kurunia Situmorang Marzuki Ibnu Affan, “Perlindungan Hukum Terhadap Pekerja Migran Indonesia Informal Menurut Undang-Undang No. 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia,” *Jurnal Ilmiah Metadata* 3, no. 2 (2021): 669–93, <https://doi.org/https://doi.org/10.10101/metadata.v3i2>.

function. In the regulatory function, it is the state that regulates employment, so that it no longer takes the form of private law but turns into public law.”²⁷

“In accordance with Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, PMI protection includes protection before work, protection during work and protection after work. Each stage has a different form of protection because the situations and conditions experienced by PMI are also different. Protection policies for migrant workers are adapted to these stages, which can include administrative protection and technical protection. Administrative protection is provided at the pre-employment stage, while technical protection is provided at all existing stages²⁸”.

The enactment of “Law Number 18 of 2017” provides more detailed legal certainty regarding the protection of PMI carried out by the state from the Central Government to the Village Government level. The following is the division of roles between the Central Government and Regional Governments in providing protection for Indonesian Migrant Workers as follows:

Tabel 1
Duties and Responsibilities of the Central Government and Regional Governments
based on Law Number 18 of 2017

DUTIES AND RESPONSIBILITIES					
Central Government	Local Government	Regency/City Government	Village Government		
Guarantee the protection and fulfillment of PMI's rights	Provides protection before and after work	PMI before working in the district/city areas under their duties and authority;	Melakukan pemberdayaan kepada calon PMI, dan keluarganya.		
Organize, develop, implement and supervise the implementation of	Can form a one-stop integrated service for placement and protection of PMI	Report the results of the evaluation of the PMI placement company to the	Facilitate the fulfillment of residency administration		

²⁷ Marwanto Rolasta and Siti Hajati Hoesin, “Perlindungan Hukum Bagi Pekerja Migran Indonesia Di Jepang (Analisis Peran Bp2Mi Pada Program G To G),” *Palar / Pakuan Law Review* 8, no. 1 (2022): 253–61, <https://doi.org/10.33751/palar.v8i1.4789>.

²⁸ Nugroho Bangun Witono, “Kebijakan Pelindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19,” *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54, <https://doi.org/10.29303/ijpss.v3i1.57>.

PMI placements	Provincial Government	requirements for PMI candidates
Ensure the fulfillment of the rights of Prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers and their families	Providing aid posts and services at departure and return points for PMIs that meet health requirements and standards	Carrying out social and economic reintegration for Indonesian Migrant Workers and their families
Establish and develop an integrated information system in organizing the placement and protection of PMI	Organize, develop, implement and supervise the implementation of PMI placements	Disseminate PMI information and requests to the public, create a PMI database
Coordinating cooperation between agencies in responding to complaints and handling cases of PMI and/or PMI candidates	Can form a one-stop integrated service for placement and protection of PMI	Can help with one-stop integrated services for PMI placement and protection
Managing the return of PMI in the event of war, natural disasters, disease outbreaks, deportation, and PMI problems	Arranging the return of PMI in the event of war, natural disasters, disease outbreaks, and problematic PMI in accordance with its authority	Monitoring PMI departures and returns
Make efforts to ensure optimal fulfillment of the rights and protection	Organize, develop, implement and supervise the implementation of	

of PMI in the destination country of placement	PMI placements
Develop policies regarding the protection of PMI and their families	Organizing education and job training by accredited government and/or private educational institutions and job training institutions
	Organizing education and job training for PMI Candidates who can collaborate with accredited government and/or private educational institutions and job training institutions;
Stop or prohibit the placement of PMI in certain countries or in certain positions abroad	
Issue and revoke SIP3M and SIP2MI	Issuing permits for PMI Placement Company branch offices
Coordinate between relevant agencies regarding PMI Protection policies	Carry out guidance and supervision of educational institutions and job training institutions in districts/cities
Appoint officials as labor attachés who are placed at the Representative Office of the Republic of Indonesia on the recommendation of the Minister	

Providing and facilitating training for PMI candidates through vocational training whose budget comes from the education function	Providing and facilitating training for PMI Candidates through vocational training whose budget comes from the education function	Providing and facilitating training for PMI Candidates through vocational training whose budget comes from the education function
---	---	---

Source: Law no. 18 of 2017

Based on table 1, the state's responsibility for Indonesian Migrant Workers lies not only with the central government but also with village governments. "The protection provided by the government to migrant workers during pre-placement, placement and post-placement, as well as the handling that must be carried out by the government towards PMI, both process and non-procedural, because the state is responsible for fulfilling the legal protection rights of every citizen²⁹. The state's task in carrying out government affairs in the field of employment is the ministry of employment"³⁰. This is a form of fulfilling the human rights of Indonesian migrant workers who are abroad.

"PMI protection is the state's responsibility, divided into three stages, namely: 1) Pre Placement, which is divided into the administrative stage for completeness of documents and the technical stage, namely all matters relating to efforts to improve the quality of PMI candidates; 2) Placement, starting from data collection, evaluation, facilities to resolve problems related to labor, guidance to PMI, consular services as well as facilities for the fulfillment of PMI rights and repatriation; 3) Post Placement, including obtaining means to return home, managing the rights of PMI who have not yet reached the target point, obtaining control regarding PMI who are no longer or in an unhealthy condition as well as rehabilitation and empowerment for PMI"³¹.

"Internationally, protection for migrant workers has indeed been implemented, however, it is felt that the implementation of protection for migrant workers based on laws and other regulations needs to be implemented on a large scale as the role and responsibility of the government. The Indonesian government provides protection to PMI which consists of two types, namely: 1) in a preventive/educational way, namely by creating legal instruments through policies such as laws and regulations regarding how to implement these policies, making agreements between countries regarding placement and PMI protection, especially

²⁹ Junaidi and Khikmah, "Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri."

³⁰ Damasus Ndarujati, "Peran Kementerian Ketenagakerjaan Republik Indonesia Dalam Mengatasi Masalah Pekerja Migran Indonesia Di Taiwan," *Jurnal Sosial Sains* 1, no. 1 (2021): 17–29, <https://doi.org/10.59188/jurnalsosains.v1i1.3>.

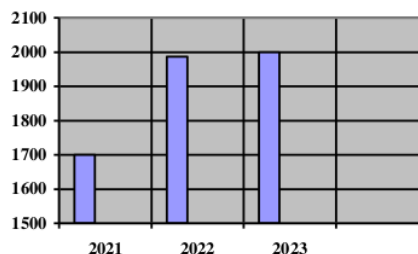
³¹ Dewa Gde Rudy Josias Anugrah, "Tanggung Jawab Negara Dalam Upaya Melindungi Pekerja Migran Indonesia Yang Bermasalah Di Luar Negeri," *Jurnal Kertha Desa* 10, no. 12 (2017).

between sending and receiving countries; and Repressively/curatively, namely establishing a Crisis Center to deal with future legal, employment and socio-cultural problems in the country”.³²

“The government is responsible to migrant workers as citizens and has developed policies to facilitate the recruitment and placement of migrant workers abroad. These activities are carried out through bilateral, multilateral and regional partnerships with several PMI investor countries. The Indonesian government has generally signed memorandums of understanding with various countries, including Saudi Arabia, Australia, South Korea, Jordan, Malaysia, Taiwan, Japan, Kuwait, the United Arab Emirates and Qatar. On the other hand, forms of Indonesian regional cooperation include the Asia-Europe Meeting (ASEM) and the ASEAN Ministerial Conference (Migration Forum/Technical Conference).³³ Optimizing cooperation and bilateral agreements between governments is needed as a guarantor regarding the protection of PMI. Fulfillment of the rights of PMI who commit violations in the destination country should be unified in its implementation”.³⁴

The government's efforts to provide protection to PMI are not only carried out by establishing regulations that provide preventive protection to PMI. However, there is also repressive legal protection through protection if PMI experience violence or human rights violations in the country of placement. The state, through BP2MI, noted that there was at least an increase in the number of complaints by PMI in the 2021-2023 period. The data is presented in the table below:

Table 2. Complaints of Indonesian Migrant Workers for 2021, 2022 and 2023³⁵



³² Josias Anugrah.

³³ Apri Tri Longgarini, Aulia Nurul Shaafiyah, and Bella Mega Rahmaningtias, “Penanganan Pekerja Migran Indonesia Non-Prosedural Dalam Perspektif Hukum Keimigrasian,” *Jurnal Ilmiah Universitas Batanghari Jambi* 23, no. 2 (2023): 1474, <https://doi.org/10.33087/jiubj.v23i2.3110>.

³⁴ Afandi Sitamala, “Polemik Perlindungan Hukum Dan Peran Negara Atas Tenaga Kerja Indonesia Di Luar Negeri (A Legal Polemic of Indonesia Migrant Workers),” *SSRN Electronic Journal*, 2021, <https://doi.org/https://doi.org/10.2139/ssrn.3689507>.

³⁵ BP2MI, “Data Penempatan Dan Pelindungan PMI Tahun 2023 (Data on the Placement and Protection of Indonesian Migrant Workers in the Year 2023).”

Based on table 2, you can see an increase in the number of PMI complaints from 2021 to 2023. In 2021 there will be 1700 complaints submitted to BP2MI. In 2022 there were 1987 complaints and there was a 17% increase in the number of complaints from 2021. Furthermore, in 2023 there were 1999 complaints received. The increase in the number of complaints by PMI to the Government in this matter is also a matter of mutual concern. The high interest of people who want to work abroad is in line with this. However, not all of the placement processes carried out by related parties are carried out in accordance with procedures. There is still a non-procedural process that results in weak protection for PMI overseas. The involvement of the Indonesian Migrant Worker Placement Company (P3MI) plays an important role in the administrative and technical stages of providing PMI before placing PMI abroad. The details of the categories of complaints by PMI that go to BP2MI are as follows:

Table 3. Data on Indonesian Migrant Worker Complaints for 2023³⁶

NO	Complaint Category	Information
1	Gender	Male: 806 , Female: 1193
2	PMI with procedural and non-procedural routes	Prosedural: 381, Non-Prosedural: 1618
3	Complaint Media	Mail: 677, Direct: 618, Phone: 404, Social Media: 148, Email: 68, SMS: 26; and others: 58.
4	Complaint Case Status	In Progress: 1422 (71.14%), Completed: 577 (28.86%).
5	Placement Country	Arab Saudi: 498, Malaysia: 381, Taiwan: 370, Hongkong: 217, Korea Selatan: 76.
6	Complaints Based on Case Category	PMI wanting to be repatriated: 521, PMI failing to leave: 318, Placement fees exceeding fee structure: 201, Job opportunity fraud: 121, Unpaid salaries: 86.

Indonesian migrant workers in their placement countries are often in a vulnerable position. They often experience discriminatory actions and human rights violations such as physical, mental and even sexual violence. Some PMIs are even involved in human trafficking carried out by irresponsible individuals.

“There are several cases of human rights violations experienced by PMI abroad, including one experienced by an Indonesian migrant worker from Ponorogo, Fadila Rahmawati. This case occurred in January 2017. Fadila reported that while working for 10 months in

³⁶ BP2MI.

Singapore, Fadila was often treated harshly by her employer, including physical abuse such as beatings and even ironing. Fadila also revealed that she often had to work 24 hours a day. Another harsh treatment is not giving food for several days. After experiencing torture for 10 months, Fadila's employer threw Fadila away to Batam. Luckily, Fadila was found by a TNI member and then helped to return to Ponorogo.”³⁷

“Then other similar cases of abuse and violence were also found among migrant workers who worked in receiving countries far from Indonesia, such as Fiji and Egypt. In Fiji, entrepreneurs in the fishing industry exploit Southeast Asian migrant workers, especially Indonesians, into forced labor. These forced laborers are threatened by their employers and experience appalling working and living conditions. It is not uncommon for employers to require migrants to work excessively, confiscate workers' passports and carry out debt-based coercion. Regarding debt-based coercion, this also happens to Indonesian domestic servants (PRT) in Hong Kong. About a third of domestic workers are victims of debt bondage, they must sign a debt agreement as a condition of their employment. Worse yet, some employment agencies have even reportedly tricked and forced migrant domestic workers into commercial sex in Hong Kong”.³⁸

“Human rights violations against PMI in the domestic worker sector in several host countries are a form of trafficking known as modern-day slavery. Modern-day slavery that has hit society under the guise of mobilizing labor and various promises of a decent life, high wages and so on”.³⁹

“Several factors that hinder maximum protection for migrant workers are those related to the migrant workers themselves, intermediary factors, and government factors. The obstacles faced by foreign workers in various countries are very different. Countries with better protection include Singapore, Taiwan and Hong Kong. Most of the regulations that apply to migrant workers in these countries are less stringent. Migrant workers in these countries can communicate and receive information through their devices. This is very different from the rules for migrant workers in Middle Eastern countries and Saudi Arabia. Communication options are very limited in these countries, as migrant workers are often not allowed to keep or use their own devices”.⁴⁰

³⁷ Anggi Rachma Zakia Fitri and Heru Sugiyono, “Strategi Penanganan Pekerja Migran Indonesia Yang Bekerja Tidak Sesuai Dengan Kontrak Kerja,” *Jurnal USM Law Review Law Review* 6, no. 3 (2023): 972, <https://doi.org/10.26623/julr.v6i3.7568>.

³⁸ Dhanny Safitri and Ali Abdullah Wibisono, “Keamanan Manusia Pekerja Migran Indonesia: Ketidakamanan Dan Perlindungannya,” *Intermestic: Journal of International Studies* 7, no. 2 (2023): 741–69, <https://doi.org/http://dx.doi.org/10.24198/intermestic.v7n2.17>.

³⁹ Fikri, “Perlindungan Dan Pemenuhan Hak Asasi Manusia Bagi Pekerja Migran Indonesia Di Luar Negeri.”

⁴⁰ Longgarini, Shaafiyah, and Rahmaningtias, “Penanganan Pekerja Migran Indonesia Non-Prosedural Dalam Perspektif Hukum Keimigrasian.”

The Indonesian government always strives to minimize the occurrence of human rights violations and acts of violence against PMI, including the following”:⁴¹ 1) Harmonization between the Indonesian government and the destination countries where PMI are placed through the creation of an MoU that provides protection for PMI; 2) holding several PMI protection programs such as a joint working group between Indonesia and Taiwan to discuss PMI problems in Taiwan; 3) Protecting PMI rights in Hong Kong from underpayment practices and overcoming the problem of Over Charging PMI Placement Fees in Hong Kong. The Indonesian government is trying to implement integrated protection and lighten the burden by issuing BP2MI Regulation No. 1 of 2021 concerning Amendments to BP2MI Regulation No. 09 of 2020 concerning Exemption of Placement Fees for Indonesian Migrant Workers; 4) Ratification of the International Labor Standards on Freedom of Association instrument issued by the ILO”.

4. CONCLUSION

The state's responsibility for the protection of Indonesian migrant workers as a fulfillment of human rights according to Law Number 18 of 2017 is carried out starting from before placement, during placement and after placement. So far, this protection has been sufficient to minimize PMI being affected by human rights violations or acts of violence. However, there are efforts to increase supervision by the government regarding PMI placements that do not go through established procedures in order to minimize actions that are detrimental to PMI.

REFERENCES

- Affan, Berkat Anugrah Kurunia Situmorang Marzuki Ibnu. “Perlindungan Hukum Terhadap Pekerja Migran Indonesia Informal Menurut Undang-Undang No. 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia.” *Jurnal Ilmiah Metadata* 3, no. 2 (2021): 669–93. <https://doi.org/https://doi.org/10.10101/metadata.v3i2>.
- Aranda, Rafli Jassika, and Nurhimilayah. “Tanggung Jawab Kedutaan Republik Dalam Mengakomodasi Pendidikan Anak Jawab Pekerja Besar Migran Indonesia Di Malaysia.” *Jurnal Pendidikan Tambusai* 8, no. 1 (2024): 13544–52.
- Aust, A. *Handbook of International Law*. Cambridge: Cambridge University Press, 2005.
- Bambang J. *Hukum Ketenagakerjaan*. Bandung: Pustaka Setia, 2013.
- BP2MI. “Data Penempatan Dan Pelindungan PMI Tahun 2023 (Data on the Placement and Protection of Indonesian Migrant Workers in the Year 2023),” 2024. <https://bp2mi.go.id/statistik-detail/data-penempatan-dan-pelindungan-pekerja-migran-indonesia-periode-tahun-2023>.
- Dzuhur Hidayat, Ihsan, Waluyo Waluyo, and Fatma Ulfatun Najicha. “Perlindungan Pekerja Migran Indonesia/Tenaga Kerja Indonesia Oleh Pemerintah Daerah.” *Jurnal Ilmu Hukum* 10, no. 1 (2021): 71–80. <https://doi.org/https://doi.org/10.32503/mizan.v10i1.1568>.
- Fikri, Sultoni. “Perlindungan Dan Pemenuhan Hak Asasi Manusia Bagi Pekerja Migran Indonesia Di Luar Negeri.” *MORALITY: Jurnal Ilmu Hukum* 8, no. 2 (2022): 108.

⁴¹ Sudarmanto, “Upaya Meningkatkan Perlindungan Pekerja Migran Indonesia (PMI) Di Negara Penempatan Wilayah Asia.”

- <https://doi.org/10.52947/morality.v8i2.255>.
- H, Any Suryani. *Perlindungan Pekerja Migran Indonesia*. Mataram: Sanabil, n.d.
- Josias Anugrah, Dewa Gde Rudy. "Tanggung Jawab Negara Dalam Upaya Melindungi Pekerja Migran Indonesia Yang Bermasalah Di Luar Negeri." *Jurnal Kertha Desa* 10, no. 12 (2017).
- Junaidi, Muhammad, and Khikmah Khikmah. "Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri." *Jurnal USM Law Review* 7, no. 1 (2024): 490–501. <https://doi.org/http://dx.doi.org/10.26623/julr.v7i1.8127>.
- Longgarini, Apri Tri, Aulia Nurul Shaafiyah, and Bella Mega Rahmaningtias. "Penanganan Pekerja Migran Indonesia Non-Prosedural Dalam Perspektif Hukum Keimigrasian." *Jurnal Ilmiah Universitas Batanghari Jambi* 23, no. 2 (2023): 1474. <https://doi.org/10.33087/jiubj.v23i2.3110>.
- Lumunon, Theodorus H. W., and Audi H. Pondaag. "Tindak Pidana Oleh Korporasi Terhadap Pekerja Migran Indonesia." *Lex Crimen* X, no. 4 (2021): 63–71.
- Manurung, Salmon Abertnego, and Nabitatus Sa'adah. "Hukum Internasional Dan Diplomasi Indonesia Dalam Perlindungan Tenaga Kerja Migran Indonesia." *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 1–11. <https://doi.org/10.14710/jphi.v2i1.1-11>.
- Ndarujati, Damasus. "Peran Kementerian Ketenagakerjaan Republik Indonesia Dalam Mengatasi Masalah Pekerja Migran Indonesia Di Taiwan." *Jurnal Sosial Sains* 1, no. 1 (2021): 17–29. <https://doi.org/10.59188/jurnalsosains.v1i1.3>.
- Rasyad, Aslim. *Metode Ilmiah: Persiapan Bagi Peneli*. Pekanbaru: UNRI Press, n.d.
- Rolasta, Marwanto, and Siti Hajati Hoesin. "Perlindungan Hukum Bagi Pekerja Migran Indonesia Di Jepang (Analisis Peran Bp2Mi Pada Program G To G)." *Palar / Pakuan Law Review* 8, no. 1 (2022): 253–61. <https://doi.org/10.33751/palar.v8i1.4789>.
- Safitri, Dhanny, and Ali Abdullah Wibisono. "Keamanan Manusia Pekerja Migran Indonesia: Ketidakamanan Dan Perlindungannya." *Intermestic: Journal of International Studies* 7, no. 2 (2023): 741–69. <https://doi.org/http://dx.doi.org/10.24198/intermestic.v7n2.17>.
- Sani Pratiwi, Alya, Sonhaji Sonhaji, Suhartoyo Suhartoyo, and Endah Pujiastuti. "Pelaksanaan Pemberian Sanksi Bagi Perusahaan Yang Tidak Mempekerjakan Tenaga Kerja Penyandang Disabilitas." *Jurnal USM Law Review* 6, no. 1 (2023): 388–406. <https://doi.org/10.26623/julr.v6i1.6817>.
- Sholina, Cicilia Anggi. "Pemenuhan Hak-Hak Asasi Anak Tenaga Kerja Indonesia Di Perkebunan Sawit Di Wilayah Tawau, Sabah, Malaysia." *Jurnal Pembangunan Manusia* 3, no. 1 (2022). <https://doi.org/10.7454/jpm.v3i1.1029>.
- Sitamala, Afandi. "Polemik Perlindungan Hukum Dan Peran Negara Atas Tenaga Kerja Indonesia Di Luar Negeri (A Legal Polemic of Indonesia Migrant Workers)." *SSRN Electronic Journal*, 2021. <https://doi.org/https://doi.org/10.2139/ssrn.3689507>.
- Soerjono Soekanto, and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo, 2003.
- Sudarmanto, Hery. "Upaya Meningkatkan Perlindungan Pekerja Migran Indonesia (PMI) Di Negara Penempatan Wilayah Asia." *Jurnal Pendidikan Dasar Dan Sosial Humaniora* 1, no. 11 (2022): 2291. <https://doi.org/https://doi.org/10.53625/jpdsh.v1i11.3605>.
- Suryono, Edy dan Arisoendha Moenir. *Hukum Diplomatik, Kekebalan Dan Keistimewaan*. Bandung: Angkasa, 1986.

- Tantri, Ester Monalisa, Deicy N Karamoy, and Decky Paseki. "Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Di Luar Negeri Menurut Undang-Undang Nomor 18 Tahun 2017." *Lex Privatum* 10, no. 3 (2022): 1–15.
- Undang-Undang Republik Indonesia NO. 18 Tahun 2017 tentang Perlindungan Pekerja Migran Indonesia (2017).
- Widyastuti, Tiyas Vika, Achmad Irwan Hamzani, Nuridin Nuridin, and Muhammad Wildan. "Sosialisasi Kebijakan Perlindungan Hukum Terhadap Hak-Hak Perempuan Tenaga Kerja Migran Dalam Mewujudkan Nilai-Nilai Keadilan Sosial." *Masyarakat Berdaya Dan Inovasi* 1, no. 1 (2020): 6–11. <https://doi.org/10.33292/mayadani.v1i1.2>.
- Witono, Nugroho Bangun. "Kebijakan Pelindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19." *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54. <https://doi.org/10.29303/ijpss.v3i1.57>.
- Wulandari, Ria. "Studi Atas Pasal 63 Undang-Undang No 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia (Ppmi)." *Tanjungpura Law Journal* 3, no. 2 (2020): 174. <https://doi.org/10.26418/tlj.v3i2.37513>.
- Yusitarani, Safrida. "Analisis Yuridis Perlindungan Hukum Tenaga Migran Korban Perdagangan Manusia Oleh Pemerintah Indonesia." *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 24–37. <https://doi.org/10.14710/jphi.v2i1.24-37>.
- Zakia Fitri, Anggi Rachma, and Heru Sugiyono. "Strategi Penanganan Pekerja Migran Indonesia Yang Bekerja Tidak Sesuai Dengan Kontrak Kerja." *Jurnal USM Law Review Law Review* 6, no. 3 (2023): 972. <https://doi.org/10.26623/julr.v6i3.7568>.
- Zulfan Fikriansyah, and Aan Julia. "Faktor Penentu Keputusan Masyarakat Menjadi Pekerja Migran Indonesia (Studi Kasus: Di Desa Bongas Kecamatan Bogas Kabupaten Indramayu)." *Jurnal Riset Ilmu Ekonomi Dan Bisnis*, 2023, 25–32. <https://doi.org/10.29313/jrieb.v3i1.1889>.

Jurnal

ORIGINALITY REPORT

2%

SIMILARITY INDEX

2%

INTERNET SOURCES

2%

PUBLICATIONS

0%

STUDENT PAPERS

PRIMARY SOURCES

1

journals.usm.ac.id

Internet Source

<1 %

2

ijrpr.com

Internet Source

<1 %

3

www.abacademies.org

Internet Source

<1 %

4

Vinna Dinda Kemala, Eny Kusdarini. "Legal Protection of Indonesian Migrant Workers (TKI) Overseas (Case Study of BP3TKI North Sumatera Province)", FIAT JUSTISIA:Jurnal Ilmu Hukum, 2020

Publication

<1 %

5

doaj.org

Internet Source

<1 %

6

osc.fhisip.ut.ac.id

Internet Source

<1 %

7

eprints.uad.ac.id

Internet Source

<1 %

8

journal.unnes.ac.id

Internet Source

<1 %

9 repository.unida.ac.id
Internet Source

<1 %

10 vc.bridgew.edu
Internet Source

<1 %

11 Osgar Sahim Matompo. "Legal Protection of Indonesian Migrant Workers based on The Job Creation Law", Jurnal Justiciabelen, 2022
Publication

<1 %

12 jurnal.unissula.ac.id
Internet Source

<1 %

13 www.researchgate.net
Internet Source

<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On