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# Legal Protection of Indonesian Migrant Woekers Reviewed According to Law Number 18 of 2017 Concerning the Protection of Indonesian Migrant Workers

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# ABSTRACT

**Background.** The government has issued laws and regulations regarding the protection of Indonesian Migrant Workers. However, the large number of Indonesian Migrant Workers abroad has led to many problems faced by Migrant Workers.

**Purpose.** In this thesis, the problem is how the protection of Indonesian Migrant Workers according to Law Number 18 of 2017 and how the government's efforts in providing legal protection for Indonesian Migrant Workers.

**Method.** In conducting this research the author uses library research and field research, which is in the form of data collection and is extracted based on literatulism such as, books, print media, electronic media, internet media and interviews, the data is obtained from legal materials related to the Protection of Indonesian Migrants.

**Results.** The results and conclusions of the research show that the Protection of Indonesian Migrant Workers based on Law Number 18 of 2017, the 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 guaranteed fulfillment of their rights in legal, economic and social aspects

**Conclusion**. The government's efforts so far can be seen in the form of laws and regulations issued in response to the needs of Indonesian Migrant Workers. Indicators of the condition of protection of Indonesian Migrant Workers can at least be seen from three aspects, namely pre-placement, placement and post-placement

#### KEYWORDS

BP2MI, Migrant Worker, Protection

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# **INTRODUCTION**

Indonesia is one of the countries that is considered to be underdeveloped at this time (Bahji dkk., 2021). This has caused Indonesia to experience several problems, one of which is related to population (Fine dkk., 2019). Every year, Indonesia experiences a significant increase in population, which affects the labor market (Price, 2022). However, the increase in the labor pool cannot be channeled properly due to the limited employment opportunities that are available, so this has caused another problem, namely unemployment, which has also increased (Stawinska-Witoszynska dkk., 2021). The large number of unemployed people in Indonesia has caused job seekers to migrate, whether it is migrants in one region to another region, or migrants to outside the country who are then referred to as Indonesian migrant workers or better known as PMI (Indonesian Migrant Workers). According to Article 1 point (2) of Law No.18 of 2017 on the Protection of Indonesian Migrant Workers, "An Indonesian Migrant Worker is any citizen of the Republic of Indonesia who will, is currently, or has already performed labor by receiving wages outside the territory of the Republic of Indonesia." With the existence of migrant workers outside the country, the government of Indonesia benefits greatly, because in addition to reducing the unemployment journal within the country, it also increases the country's foreign exchange (Brodeur dkk., 2021). In practice, not all dreams or hopes can be achieved completely, this is experienced by many Indonesians who migrate outside the country, such as Malaysia, Brazil, Saudi Arabia, etc. In many of these destination countries, there were telnaga kelrja experienced problems where they were treated inappropriately by their employers (Frisone dkk., 2020). As a real example from West Nusa Tenggara in 2010, without any clear reason Sumiyati, a migrant worker from West Nusa Tenggara who was working in Saudi Arabia, was sadistically abused by her female employer and then burned alive and her charred body was left on the floor of the house (Ukhov dkk., 2021).{1} Based on the colntolh cases mentioned above, it is necessary to have a protection that is able to overcome the problems or problems that have been related to the attachment and protection of Indonesian Migrant Workers, whether it is before leaving, during work, or after returning to Indonesia, it is necessary to have a collaboration between related agencies starting from the Regional Government, Delpartelmeln Telnaga Kelrja dan Transmigrasi, Pelnelmpatan dan Pelrlindungan Pelkelrja Migran Indolnelsi (BP2MI), and the Delpartelmeln Luar Nelgelri so that there is no overlap and the government can monitor every step of the Pelkelrja Migran Indolnelisa journey, so that if there is a problem, it can be traced where the real fault lies (Auer & Griffiths, 2022). Labor is a human right and therefore the state is asked to actively participate in providing protection for its citizens (Mazar dkk., 2020). {2} Every laborer during labor in addition to having obligations, also has the same rights and opportunities without discrimination both within the country and outside the country. {3}Based on the previous description of the many cases of melnelyeldihkan experienced by Pelkelja Migran Indolnelsia outside the nelgelri, then the next discussion is about the pelmelrintah Indolnelsia in protecting Pelkelja Migran Indolnelsia outside Nelgelri, because so far there is no maximum handling of PMI problems. It is still rampant that there are various problems of Indonesian Migrant Workers outside the country who are treated inhumanely or inappropriately by their employers, be it mistreated, killed, expelled, subjected to sexual harassment to abuse, suicide, work not in accordance with work agreements, unpaid salaries, imprisonment, work-related illnesses, and many more are endless (Hing dkk., 2022). {4} laborers as Indonesians have the right to decent work and livelihood as referred to in Article 27 paragraph (2) of the 1945 Constitution that every citizen has the right to a decent livelihood and work {5}

Therefore, the State is obligated to provide protection to all citizens without exception. Protection is the process, method, or act of protecting (Claesdotter-Knutsson dkk., 2022). In this case, the Government of the Republic of Indonesia is the protector of its citizens, both citizens who work within the country and outside the country (Louderback dkk., 2021). The protection of workers outside the country is part of the country's obligation to fulfill their constitutional rights as citizens (Mutiarasari & Herawati, 2020). Indonesian citizens who work outside the country can be known as Indonesian Migrant Workers (PMI), which was previously known as Indonesian Migrant Workers (TKI).

Every citizen has the right to get a decent job, meaning that the right that every citizen has is the right to work outside the country as referred to in Article 6 paragraph (1) of Law No. 18 of 2017

on the Protection of Migrant Workers, which states that every candidate for Migrant Workers has the right:

- 1. To get a job outside the country and choose according to his/her collmpeltelns;
- 2. To be able to accelerate their capacity building through education and vocational training;
- 3. To obtain information on the job market, attachment procedures, and job conditions outside the country;
- 4. To provide profelssiolnal and humane services and non-discriminatory treatment during and after employment;
- 5. Carry out worship in accordance with the religion and beliefs adhered to;
- 6. To pay wages in accordance with the prevailing wage standards in the country of destination of the placement and/or the agreement between the two countries and/or the collective bargaining agreement;
- 7. To provide protection and legal assistance for actions that may degrade dignity in accordance with the provisions of the laws and regulations in Indonesia and the country of destination;
- 8. To provide an explanation of the rights and obligations as set out in the employment contract;
- 9. Implementing communication acceleration;
- 10. Completing the traveling dolkumeln during work;
- 11. To associate and associate in the country of attachment in accordance with the provisions of the applicable laws and regulations in the country of attachment;
- 12. Ensure the protection of the safety and security of the return of Indonesian Migrant Workers to the region of origin and/or;
- 13. To fulfill the labor agreement of the Migrant Worker and/or the Migrant Worker. {6}

The obligation of the state can be said to provide protection to Indigenous Migrant Workers who work outside the country (Siboy dkk., 2023). The protection of all citizens of the state is essentially not only the protection of security but also the protection from poverty, because the state is also obliged to promote general welfare (Subekti dkk., 2021). The problem of public welfare has until now been a task of the government that still seems to be unsolved.

Since the establishment of the Indonesian state in 1945, the performance of the government towards improving the welfare of the people has not yet reached a satisfactory level. Poverty is still a social problem that has not been solved, the poverty of a country is closely related to the level of unemployment in the country, the level of poverty will continue to fall since the establishment of the Indonesian state in 1945, the performance of the government towards improving the welfare of the people has still not reached a satisfactory level (Butt & Siregar, 2021). Poverty is still a social problem that has not been solved, the poverty of a country is closely related to the level of unemployment in the country (Ali dkk., 2021), the level of poverty will follow the level of unemployment.

If the unemployment rate increases, the poverty rate will also increase.

One of the reasons for the high rate of poverty in a country is the lack of employment opportunities and opportunities in the country (Formosa dkk., 2020). The lack of job opportunities and job market competition within the country, as well as opportunities to earn high salaries outside the country, has led many Indonesians to seek their fortune outside the country.

A manpower (Manpolwelr) is any citizen who is capable of performing labor in order to produce goods or services that meet the needs of himself or the community.{7} In Indonesia, manpower is one of the pillars of the economic life system and is a very abundant resource. Current

indications can be seen in the high number of unemployed people in Indonesia as well as the low or minimal number of employment opportunities provided.

Employment flexibility is inseparable from the government's efforts to provide employment opportunities, with the aim of reducing the unemployment rate. One of the ways the government reduces the unemployment rate is by increasing the number of employment opportunities. Employment placement is in line with Law No. 13 of 2003 on Employment in the Republic of Indonesia in Article 31, which states that every citizen of the labor market has the same rights and opportunities to choose, obtain, or change jobs, and to earn a decent income within or outside the country (Koh, 2020). {Unemployment in Indonesia. In the end, this has made Indonesia the largest migrant worker provider in Asia and even the world.

The large number of Indonesian migrant workers outside the country has obviously led to the large number of problems faced by Indonesian migrant workers outside the country (Selten dkk., 2020), in various media broadcasts it is often reported how Indonesian migrant workers outside the country often experience bad treatment from their employers and it is not uncommon for bad treatment to lead to death.

Nelgara Indolelnsia as an institution as mentioned above is basically responsible for protecting the lives of the Indolnelsia nation and all Indolnelsia's blood (Lebano dkk., 2020). Protecting the whole of the Indonesian nation certainly refers to all citizens of the Indonesian nationality, both those within the country and those outside the country.

However, the state often fails to protect Indigenous Migrant Workers who work outside the country. Migrant workers are often subjected to trafficking and forced labor (Fair dkk., 2020), victims of abuse and neglect, crimes against human dignity, and other forms of treatment that violate human rights.

## **RESEARCH METHODOLOGY**

The method used in this research the author uses normative juridical research methods that are qualitative in nature. Qualitative normative juridical research is research that refers to legal norms contained in laws and regulations as well as norms prevailing in society.

## **RESULT AND DISCUSSION**

#### **Overview of Human Rights Violations**

Human rights violations are human rights that represent a set of rights that are inherent in each individual as a creature of God Almighty and must be upheld, respected and protected by the state, law, government and every person (Yermolenko dkk., 2022). Human rights violations of Indonesian migrant workers are often encountered by migrant workers when they are already in the field and working in the place of origin, The violations also vary from not getting wages / salaries as it is the right for migrant workers to not getting access to communication with their families even if it is only a brief exchange of news, this certainly deviates from the laws in Indonesia regarding the rights and obligations of migrant workers.

- 1. According to Kelmelntrian Keltelnagakeljaan Regulation Nolmolr 2 Year 2023 Administrative violations of Indonesian Migrant Workers include violations of procedures (Miernicki dkk., 2019), prolseldur, or melkanismel related to administrative Migrant Workers / Caloln Pelkelja. Rights of Indonesian Migrant Workers
- 2. Human Rights of Migrant Workers Indonesians' Protection Migrant Workers Indonesians have the same rights and obligations to:
- a. Get a job outside the country and choose a job in accordance with their collmpeltelns;

- b. To achieve accelerated self-improvement through education and vocational training;
- c. Keeping informed about the job market, attachment procedures, and job conditions outside the country;
- d. To provide proactive and humane services and non-discriminatory treatment at the time of employment, during employment, and after employment;
- e. Melmpelrollelh prolfelssiolnal and humane service and treatment without practicing worship in accordance with the religion, and beliefs that are adhered to.
- f. To provide wages in accordance with the wage standards prevailing in the destination country of the placement and/or the bifurcation of the two countries and/or the employment agreement;
- g. To provide protection and legal assistance for actions that may degrade dignity in accordance with the provisions of the applicable regulations in Indonesia and the destination country;
- h. Melmpelrollelh pelnjellasan melngelai of rights and obligations as stated in the employment agreement;
- i. Melmpelrollelh belrkolmmunication acceleration;
- j. Mastering the traveling dolkumeln during work;
- k. To associate and associate in the destination country of attachment in accordance with the applicable laws and regulations in the destination country of attachment.
- 1. Ensure the protection and safety of the return of the Indonesian Migrant Worker to the country of origin; and/or

In the view of the ILO, discrimination against women constitutes a violation of the principle of equal rights and respect for human dignity, as well as an obstacle to the participation of women, on an equal basis with men, in the political, social, economic and cultural life of the countries concerned (Saadatzadeh dkk., 2019). This hampers the development of the prosperity of society and makes it more difficult for the complete development of the poltelnsi. of women in their service to their countries and to humanity. It is this collective that shows that women need special attention because they are prone to discriminatory actions.

Regarding migrant workers, there are many types of cases reported by KOIMNAS Pelrelmpuan in 2011-2020, such as violations experienced by migrant workers, namely violations of returning home by their employers, wages that are not paid during their work, wage payments that are not in accordance with the length of time the migrant worker has been working (working for 6, 5 years but wages paid for only 3.5 years) (Yakamercan dkk., 2021), family not being given access to contact, family not being able to be contacted, unhappy treatment from employers, abuse and sexual abuse by employers (Takahashi dkk., 2020), repatriation of migrant workers and rights violations, placement companies not taking responsibility for what happens to migrant workers, exploitation by employers, abuse or torture by employers, death due to alleged victimization by employers, victims of abuse by employers, victims of TPPO, facing the death penalty due to drug cases as a result of TPPO cases, migrant workers abandoned because they fled from their employers and did not bring their dolkumeln because they were detained by their employers, imprisoned by members of the TTU Police Department, accused of committing theft, not being paid because of being detained by the employer, from the time of departure until the time of attachment not getting enough information from the attachment company, not knowing how to complain about the case at hand, being stalked by the employer.

Of the various countries to which Holngkolng is heading, it is one of the few that has a legal framework to protect the rights of migrant workers, such as working hours, decent wages, holidays, and other employment conditions (Akers dkk., 2020). However, the top two destinations for

Indonesian migrant workers are Malaysia (40%) and Saudi Arabia (37%), where most of them work in domestic work. However, supervision and monitoring as well as legal protection, assistance as well as access to justice and the scope of migrant workers' rights are limited, if not nonexistent. This makes them vulnerable to irresponsible individuals who carry out fraudulent acts of recruitment for the purpose of slave trafficking in order to make personal profits and financial gain from the proceeds of crime. Such acts violate human rights as stated in the Univelrsal Delclaratioln olf Human Rights article 4 of 1948. The human rights violations of migrant workers in Malaysia are mostly affecting women and children migrant workers who work in the labor market. Among other things, they have been tortured, abused and even imprisoned by their employers. In addition, in his meetings with several former migrant workers, Bustamantel also found other violations such as long working hours, no rest time, untimely salary payments and mental abuse. These violations stem from the poor recruitment of migrant workers in the melrelka regions.

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The violation of human rights is the same thing as the violation of human dignity. Especially on the issue of protection of citizens, especially Indonesian Migrant Workers who work outside the country. In general, migrant workers are vulnerable to various types of human rights violations. The underlying reason for this is that migrants and migrant workers are not citizens of the country where they work and live and therefore do not receive full protection from the government of the country. Protection from the government of the country of origin is therefore crucial for the survival and death of migrant workers.

However, migrant workers are already protected under international law, such as the International Convention on the Protection of Migrant Workers and Their Families. The efforts of the government to implement the protection of migrant workers based on the Law and other regulations still need to be encouraged. In the context of the protection of migrant workers in Indonesia, the Government of Indonesia provides two types of protection to migrant workers outside the country. First, selcara prelvelntif/eldukatif protection that can be pursued through the creation of legal tools to protect migrant workers such as creating a law that regulates migrant workers and its implementing regulations, creating bilatelral or multilatelral agreements that regulate the mechanism for the placement of migrant workers and their protection by the users of migrant workers, and seeking the organization of migrant workers through the organization of migrant workers outside the country. Second, relprelective/creative protection which can be realized by establishing Crisis Celntelr in the sending and receiving countries in order to deal with legal issues, employment, and socio-cultural issues in the country, including migrant workers in insurance programs that can cover all work-related expenses in accordance with the type of work, and creating or updating molratolrium. The coverage provided by the Government and related institutions starting from the stage of employment, during employment, and after employment.

## CONCLUSION

Based on the results of research and discussion conducted by the author regarding "Legal Protection of Indonesian Migrant Workers", thus it can be concluded by applying direct and indirect supervision, the Government or BP2MI as a supervisor. Protection of Indonesian Migrant Workers Based on Law Nolmolr 18 of 2017, protection of Indonesian Migrant Workers is all efforts to protect the interests of Indonesian Migrant Workers and/or Indonesian migrant workers and their families in realizing the fulfillment of their rights in all activities before working, during work and after work in legal, economic and social aspects. The government's efforts in providing legal protection for Indonesian migrant workers can be seen from at least three aspects, namely predeployment, deployment, and post-deployment.

## **AUTHORS' CONTRIBUTION**

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

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