

Research Article

The Exploitation of Indonesian Migrant Workers When Abroad

Mustika Prabaningrum Kusumawati, Ahmad Khairun Hamrany

Department of Administrative Law, Universitas Islam Indonesia, Yogyakarta, Indonesia

Abstract.

The exploitation of Indonesian migrant workers continues to be an issue. They struggle to avoid falling prey to exploitation and trafficking. This study used normative legal research, which included many complaints noted in the BP2MI data. However, migrant workers who are prevented from complaining to the government due to their circumstances were not included in the calculation. The state must be present in order to safeguard migrant workers, and this protection must be not only written legislation but also tangible actions that serve as evidence of the presence of the state.

Keywords: Problems, Exploitation, Indonesian Migrant Workers, Abroad

Corresponding Author: Mustika
Prabaningrum Kusumawati;
email:
mustika.prabaningrum@uii.ac.id

Published 26 May 2023

Publishing services provided by
Knowledge E

© Kusumawati, Hamrany. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the ICASI Conference Committee.

1. Introduction

Humans have basic, secondary, and tertiary needs in order to survive their daily lives. Humans must work in order to support their necessities. It is possible to view the significance of work itself from personal, spiritual, and social perspectives. First, looking at it from an individual perspective, people often labor to support their families as well as their own needs. Second, from a spiritual standpoint, the relationship between human being with their God is a natural and essential one. This is particularly true in Islam, where a person's relationship with their God is referred as their *habbluminallah*. Humans have two relationships, which must be balanced. In addition, when people work, it is already considered to be worship. Thirdly, when a person works, any later commodities and/or services generated may be beneficial not only to him personally, but also to the larger community.

Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia declares that there is a guarantee for its citizens to have good employment and a means of subsistence. Allowing its inhabitants the ability to labor both domestically and abroad comes next. Some citizens exploit the freedom this nation has to offer to try their luck

 OPEN ACCESS

as Indonesian Migrant Workers in other nations, although not all nationals of Indonesia who work abroad fall into this group. This is due to rules that place limitations on who is eligible to become an Indonesian migrant worker.[?]

One of the primary forces for migration worldwide is employment. Unregulated migration creates livelihood routes that create more risks and increase vulnerability for impacted communities, whereas regulated forms of migration have the opportunity to benefit from social service possibilities and legal employment prospects only for legal migrants.(1) Economic considerations, the challenge of finding employment because one does not meet the employer's standards, and the desire to improve living conditions are some of the reasons why Indonesian citizens decide to become migrant workers.

2. Methodology

There are issues that need to be overcome, which is why this research was conducted. This study analyzes laws that are regarded as social norms or rules that apply to everyone and serve as a guide for individual behavior. It is a normative legal study.

3. Result and Discussion

Various UN Resolutions as well as ILO Conventions and Recommendations adopt the term migrant worker. The basic human rights of all persons including migrant workers are emphasized in the 1948 Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights of 1966 (ICCPR), the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination 1969 (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW) and other ILO Conventions including the Migration for Employment 1949 (Convention No. 97), the Convention on Migration in Abusive Conditions and the Promotion of Equal Opportunity and Treatment of Migrant Workers 1975 (Convention No. 143) and the International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members 1990 (ICRMW) which are primarily intended to foster respect for the human rights of migrant workers.(2)

Any citizen of Indonesia who will, is, or has worked for pay while beyond the borders of Republic of Indonesia is considered an Indonesian migrant worker.[?] Law Number

18 of 2017 on Indonesian Migrant Workers, which amends Law Number 39 of 2004 on the Placement and Protection of Workers Abroad, provides the legal framework. The term Indonesian Migrant Workers (IMW), which is derived from the name of the most recent statute, has replaced the earlier term Indonesian Workers, which was more commonly used to refer to migrant workers in Indonesia.

The heroes of the nation's foreign exchange are known as Indonesian Migrant Workers. The frequency of this word is inversely correlated with the circumstances in which the majority of our foreign employees are employed. How not, they leave the family (spouse or wife and even children) in order to work overseas and earn money to make ends meet. However, they must deal with a plethora of issues in the land of the populace. A hero is someone who stands out for their bravery and sacrifice in defense of the truth; however, the fate of this brave warrior is not as good as the definition of the hero himself,⁽³⁾ as not even a few of them experience the bitterness of physical and psychological torture on a light, medium, or severe scale until some of them are sentenced to death.

Remittances are the outcome, and the remittance rate has significantly increased each year, making them the symbol of the nation's foreign exchange hero. Remittances are the means through which products, concepts, and behaviors can be shared across nations. The most widely accepted type of remittance is economic remittance, in which migrants provide financial support to family members back home. It has a distinctly positive connotation and is often viewed as beneficial to the receiving nation, community, and people. Remittances, however, have no intrinsic worth. They may be political, social, economic, legal, or illegitimate.⁽⁴⁾ The overall amount of remittances sent home by citizens who are migrant workers overseas in 2021 was \$9.16 billion, a drop of US\$ 263 million (2.78%) from the previous year when it was US\$ 9.43 billion, with the following statistics based on data:⁽⁵⁾

Situations that are more closely related to violations of decent labor standards than exploitation in the legal sense may be prosecuted under labor law.⁽⁶⁾ The split of the working class into immigrants and Americans, along with the question of race and criminality, makes it evident that attempts to safeguard migrant workers must be implemented in an oppressive and brutal manner.⁽⁷⁾ Economic, social, political, educational, environmental, and even environmental factors, as well as physical and mental conditions, can all have an impact on the victim's situation and conditions. Victims of crimes, like criminals, can include people, groups, and communities who suffer losses

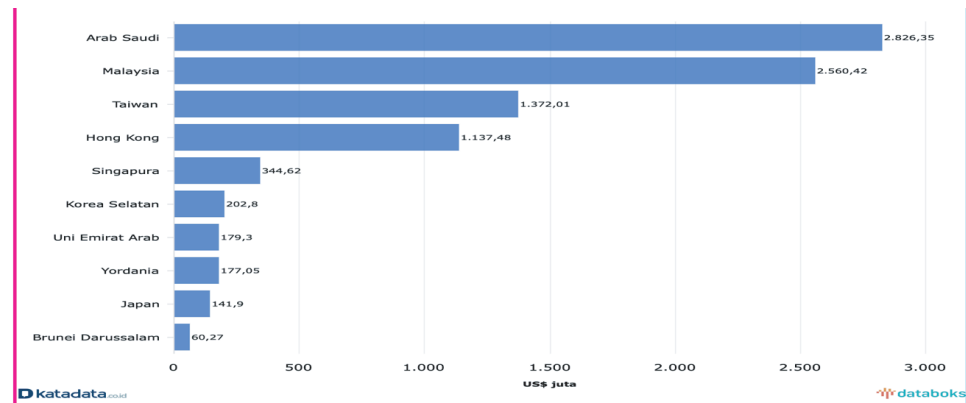


Figure 1

as a result of criminal activity. The victim will experience psychological weights and pressures as a result of the losses they have experienced, including impatience, annoyance, persistent fear, trauma, stress, and possibly psychiatric illnesses.(8)

The word "labor exploitation" has been used to characterize a variety of scenarios, including forced labor, modern slavery, and harsh or unfair working conditions. Additionally, without explicitly defining what is meant by labor exploitation, the literature on the working conditions and daily life of migrant workers in low-skilled occupations frequently makes implicit references to it. Without providing specifics, exploitation appears to encompass the poor living conditions, wage issues, heavy workloads, and poor treatment of migrant labor.(6)

Strong gender and sexual norms and beliefs also support the distinction between human trafficking and migrant smuggling. As long as they fit the stereotypical profile of pure and innocent victims without agency, women and children are more likely to be identified as trafficking victims, whereas men who are typically viewed as economic migrants who are fully in control of their travel are typically identified as smuggled individuals.(9) Therefore, women and children make up the majority of the victims of both human trafficking and migrant smuggling.

The imbalance of power between employers and employees is one of the major factors in labor relations that results in rights violations. When employers have the power to decide whether or not to renew their working, migrant workers are frequently subject to various forms of forced labor.(10) Numerous migrant employees on temporary visas earn less pay than they are legally entitled to receive in accordance with the award that applies to their work.(11) Even those whose visas are still in effect are given months of unpaid wages. In actuality, legal migrant employees, also known as documented

migrant workers, must be accorded the same treatment as domestic workers in terms of working conditions.(2)

Undocumented migrant workers (non-regular or unofficial), or those who do not meet the conditions of official residence in the host country, tend to be less or even unprotected by international law in terms of rights to work. This is in contrast to documented migrant workers (regular or official). They are not permitted entry to the labor market under any international human rights agreements. However, a large portion of persons who are in irregular circumstances actually enter the (informal) job market and support the local economy as well. Despite the fact that they do not have the legal right to participate in the labor market, they still gain from non-discrimination provisions in regards to working conditions and pay.(12)

The stance of migrant workers in the labor market is impacted by both structural and personal variables. Both categories of variables lead to the extreme sensitivity of the migrant workers' health. This is due to the fact that migrant workers are less lucky in the labor market due to their restricted abilities (such as language and education), lack of resources, and contacts. Migrant workers thus become vulnerable and subject to double stigma due to structural injustices including racial and social stigmatization.(13) While traffickers appear to employ situational vulnerability risk for traps in the great majority of situations, there are some instances where there is a definite exploitation of the inherent vulnerability risk. This is particularly clear when considering how deception is used to facilitate trafficking.(14) A system of direct human trafficking involves moving victims to locations where they are unable to live independently, frequently far from their family, friends, and acquaintances.(15)

Any effort to safeguard the interests of potential or current migrant workers from Indonesia, as well as the families of the workers, in achieving the guaranteed fulfillment of their rights in all pre-employment, employment-related, and post-employment activities in the legal, economic, and social spheres.[?] Regarding protection for migrant workers from Indonesia, they continue to receive guarantees not only while they are working but also afterward. The issue that frequently arises and affects Indonesian migrant workers, though, is when they are employed abroad. The following information is based on information from the Indonesian Migrant Workers Protection Agency (BP2MI) as of July 2022:(16)

According to the data given above, there were several complaints from Indonesian migrant workers during the placement period, totaling more than 1,000 complaints. In

Pengaduan PMI Tahun 2022 (Juli)
 Berdasarkan Status Pengaduan

NO	STATUS	JULI	TOTAL
1	Dalam Proses	151	654
2	Selesai	12	528
TOTAL		163	1.182

*Periode data di tarik pada tanggal 01 Agustus 2022
 **Sumber Data: Database Crisis Center

PERSENTASE STATUS KASUS 2022 (SD. JULI)

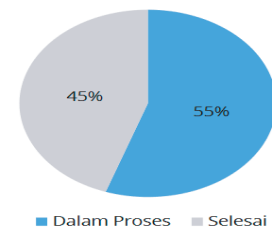


Figure 2

order to prevent abuse of our migrant workers, it is appropriate to follow up right away based on the complaints that have been made.

4. Conclusion

Stronger protection is suggested as a way of allowing migrant workers to file pay claims without running the risk of having their visas suspended or revoked.(17) The nation frequently fails to identify the structural causes of migration pressure in their fight against migrant smuggling and human trafficking, even going so far as to avoid addressing their own roles in this process. It is necessary for the state to be present in order to safeguard migrant workers, and this protection must not just take the shape of written legislation but also of tangible actions that serve as evidence of the presence of the state.

References

[1] Nhengu D. Covid-19 and Female Migrants:Policy Challenges and Multiple Vulnerabilities. *Comp Migr Stud.* :5.

[2] Ashgar Ali MH. Protection Against Exploitation of Migrant Workers. *J Leg Ethical Regul Issues.* 2020;23:2.

[3] No Title [Internet]. [cited 2022 Sep 6]. Available from: Kbbi.web.id

[4] Paarlberg MA. Transnational Gangs and Criminal Remittance: a Conceptual Framework. *Comp Migr Stud.* 2022;10(1):4.

[5] No Title [Internet]. [cited 2022 Sep 7]. Available from: Databoks.katadata.co.id

- [6] Sabah Boufkhed NT. Building a better understanding of labour exploitation's impact on migrant health: An operational framework. *PloS One*. 2022;17(8).
- [7] Mantz F. The global mobile labour force in the modern/colonial world-system: analysin migrnt integration in Germany. *J Int Relat Dev*. 2021;24(1):11.
- [8] Dirdjosisworo S. *Respon Terhadap Kejahatan*. Bandung: STHB Press; 5 p.
- [9] Massol D. How Useful is The Concept of Transit Migration in an Intra-Schengen Mobility Context? Diving into the migrant Smuggling and Human Trafficking Nexus in Search for Answer. *Eur J Crim Policy Res*. 2022;27(1):58.
- [10] Chin C. Legal Reforms in Protecting Migrant Workers Welfare in Malaysia: Labor Law and Social Security. *Austrian. J Southeast Asian Stud*. 2021;14(1):65.
- [11] Fels A, Cousins D. The Migrant Workers Taskforce And The Australian Governments Response To Migrant Worker Wage Exploitation. *J Aust Polit Econ*. 2019;8:17.
- [12] Farahat A. Discrimination Inside: Non-Discrimination as a Tool of migrant Integration. *AJIL Unbound*. 2021;115:352.
- [13] Ollus N. Forced Flexibility and Exploitation: Experiences of Migrant Worker in the Cleaning Industry. *Nord J Working Life Stud*. 2016;6(1):28.
- [14] Jagoe C, Ying P. Disability and the Risk of Vulnerability to Human Trafficking: An Analysis of Case Law. *J Hum Traffick*. 2022;:10.
- [15] Molodikova I. One Step Forward and Two Steps Back: Migration Policy and Human Trafficking in the Russian Federation since the Palermo Protocol of 2000 [No]. *J Hum Traffick*. 2020;6(2):144.
- [16] Title [Internet]. [cited 2022 Sep 3]. Available from: https://www.bp2mi.go.id/uploads/statistik/images/data_15-08-2022_Laporan_Publikasi_Bulan_Juli_2022.pdf
- [17] Berg L, Farbenblum B. Remedies For Migrant Worker Exploitation in Australia: Lessons From The 7-Eleven Wage Repayment Program. *Melb Univ Law Rev*. 2018;41(3):1082.