

## Thesis Journal

### INDONESIAN GOVERNMENT STRATEGY ON IMPROVING THE SECURITY OF MIGRANT WORKERS IN MALAYSIA

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#### ABSTRACT

Indonesia's dynamic socio-economic conditions make the workforce migrate to Malaysia, a neighboring cognate country that has a long history and many similarities in terms of culture, race, or language. But, the low level of Indonesian migrant education and the complicated procedural departure, as well as the lack of implementation of government regulations, make many workers choose to migrate illegally even though have a high-risk impact and it makes the problem of Indonesian migrant workers in Malaysia still unresolved and very complex.

**Keyword(s):** *Indonesian Migrant Workers, Legal Protection Indonesian Workers, Indonesian Workforce Problems.*

#### A. Background

In the 7th presidential administration, the pair JokoWidodo-JusufKallahave a vision based on "The realization of a sovereign, independent and personality Indonesia based on cooperation." Jokowi-JK makes the nine priority agendas used to realize the national development vision and mission called nawacita.

Nawacita is a general term that is absorbed from Sanskrit, "nawa" (nine) and "cita" (hopes, agendas, desires). These nine priorities are part of the Development Plan to become a strong development foundation. Not only in the economic field, but the Nawacita vision also involves development priorities in fields such as culture, education and defense and security. (Natal Kristiono, 2016)

The content of the Nawacita idea is economic equality for infrastructure development as a dialectics of development. This is an understanding of political development since the old order, the new order, the Reform Order. Political sovereignty creates a balance of politics in overcoming the problems of workers and employers. Currently, the population of Indonesia is estimated to reach more than 265 million, so it ranked fourth under China, India and the United States. This large population can be seen as a burden and a potential for development. (Nasional, 2010)

In the current era of globalization, countries compete in the global competition. This makes the countries in the world need each other in terms of cooperation for the interests of their respective countries.

Nine development agendas Nawacita presented in the National Development Plan, as follows:

1. Bringing back the country to protect all nations and provide security to all citizens.
2. Make the Government always present by building governance that is clean, effective, democratic and reliable.
3. Build Indonesia from the periphery by strengthening regions and villages within the framework of a unitary state.

4. It is strengthening the presence of the state in reforming systems and law enforcement that are free of corruption, dignity, and dependability.
5. Improve the quality of life of Indonesian people.
6. They are increasing people's productivity and competitiveness in international markets so that the Indonesian people can advance and rise with other Asian nations.
7. They realize economic independence by moving the strategic sectors of the domestic economy.
8. It is revolutionizing the nation's character.
9. Strengthen diversity and strengthen Indonesia's social restoration.

Referring to Nawacita, nine agendas priority Jokowi-JK, the 6th order is mentioned: "Increasing people's productivity and competitiveness in international markets so that the Indonesian people can advance and rise with other Asian nations." (Polmas, 2014)

One of the nawacita programs promises the presence and protection of the state and provides security for all Indonesian citizens, including migrant workers. The importance of migrant protection, but many incidents occurred.

Indonesian workers sent to abroad began in 1887 with the sending of migrant workers (contract jobs) to the countries of the Dutch colonies such as to Suriname, Caledonia and the Netherlands. (Irewati, 2003)

The purpose of the existence of migrant workers who were work abroad is one of the government's efforts to increase the country's foreign exchange. Formally mobility the population in Indonesia, known as migration had started in 1905. Indonesia's workers is no longer a phenomenon of migration of population abroad to work, but it has become a trend that makes the character of this nation that often sends its workforce abroad. This is because the fieldwork in Indonesia is minimal especially for the low-educated society; they are willing to get out of their country to try their luck with other workers.

Indonesian workers who are abroad and get success will make their families get happiness because for them by working abroad will be high income, and this is something to be proud of in increasing the degree and social status of their families. However, the number of Indonesian Workers who are successful is also not comparable to the number of workers who get lousy luck there, such as common and fundamental problems faced by almost all countries in the world for example: many immigrants are involved in disputes with their employers, cases of torture, wage levels that are not appropriate, especially the lack of eligibility or inhumane treatment.

A variety of negative impacts arising from migrant workers problems, causing a level of welfare becomes very minimal. This illustrates how legal protection given to Indonesian migrants workers is still far from expectations even though there has been a national or international legal system.

Many factors cause Indonesia to migrate abroad, especially to Malaysia. In addition to the pulling factors that exist abroad in the form of higher wages, then the most influential factor is the internal driving factor, namely that one of the most important fundamental rights of citizens is not fulfilled, namely work. In the framework of ASEAN regional cooperation, the issue of migrant workers is one of the most crucial. This world full of uncertainty and contradiction becomes a strategic environment where Indonesian diplomacy is essential that must be carried

out thoroughly. The opportunity to take advantage of opportunities that are open in this globalization era depends on the proximity of the bilateral international factors of the country. The progress of Indonesia's reform and democratization process has enabled the Republic of Indonesia to be better prepared to face the globalization process that can place itself without any sense of awkwardness in the mainstream of Indonesia's relations with Malaysia, that is, showing a firm stance towards other countries to protect Indonesian citizens, the Indonesian people eagerly await especially Indonesian migrant workers who get unfair treatment by the boss (forward). (Pasetia, 2012)

## **B. Research Question**

How does Indonesia Government improving legal protections for the migrant workers in Malaysia?

## **C. Theoretical Framework**

In observing the issues raised, needed the Foundation theories of International Relations experts that are considered relevant to the issue proposed by the author. The reference framework needed in writing is used as a guideline in researching so that the issues and topics discussed do not deviate from the predetermined path of discussion. In answering the problem statement, the author will use the concept of migrant protection.

The beginning of the emergence of the theory of legal protection originated from the theory of natural law. This flow was pioneered by Plato Aristotle (Plato's pupil and Zeno) (founder of the Stoic School). According to the natural law, it states that the law comes from God that is universal and eternal, and between law and morals must not be separated. The adherents of this school view that law and morals are reflections and rules internally and externally of human life which are realized through law and morals. (Sinaulan, 2018)

Law was created as a means or instrument to regulate the rights and obligations of legal subjects. Besides that, the law also functions as a protection for legal subjects. The principle of legal protection against government actions originating from the concept of recognition and protection of human rights is directed at restrictions on the obligations of the public and the government. (Hadjon P. M., 1978)

According to Fitzgerald, he explained Salmond's legal protection theory that law aims to integrate and coordinate various interests in society because, in traffic of interest, protection of particular interests can only be done by limiting various interests on the other hand. The legal interest is to take care of human rights and interests so that the law has the highest authority to determine human interests that need to be regulated and protected. (Raharjo, 2000)

According to Lili Rasjidi and I.B Wysa Putra argues that the law can be used to realize protection that is not only adaptive and flexible but also predictive and anticipatory (Putra, 1993)

Whereas in the opinion of Philipus M. Hadjon that legal protection for the people as preventive and repressive government action. Whereas in the opinion of Philipus M. Hadjon that legal protection for the people as preventive and repressive government action. Preventive legal protection aims to prevent the occurrence of disputes, which directs government actions to be careful in making decisions based on discretion, and repressive protection aims to resolve disputes, including its handling in the judiciary. (Hadjon P. M., 1987)

According to Philipus M. Hadjon also legal protection is always related to power. Two powers are always of concern, namely the power of the Government and the power of the economy. Concerning the authority of the Government, the issue of legal protection for the people (who are governed), is against the Government (which rules). About economic power, the problem of legal protection is protection for the weak (economy). Against the strong (economy), for example, protection for workers against employers. (Philipus, 1994)

In Law No. 18 of 2017 concerning Protection of Indonesian Migrant Workers that Indonesian migrant workers in every Indonesian citizen who is qualified to work abroad and is registered with a district/city government agency responsible for employment. The legal basis for the protection of migrant workers still does not sufficiently protect migrant workers. The Act further regulates the placement of Indonesian workers abroad rather than protecting migrant workers. (BNP2TKI, 2017)

Theoretically, it is known that there are three types of work protection:

1. Social protection Law No. 13 of 2003, Chapter X Article 68, which is protection relating to social enterprises, whose purpose of enabling workers to enjoy and develop their lives as humans in general, and primarily as members of the community and family members. Social protection is also called occupational health. The 2004 National Social Security Law (Law No.40/2004) guarantees universal access to health care, and income protection in case of work injury, old age and death for the entire population, including foreign workers living in the country.
2. Technical protection Law No. 1 of 1970, namely the type of protection relating to efforts to keep workers protected from the dangers of accidents caused by work tools or materials worked. This protection is more often referred to as occupational safety.
3. Economic protection stipulated in Law Number. 3 of 1992, is a type of protection relating to efforts to provide workers with sufficient income to fulfill their daily needs for themselves and their families, including if the workers are unable to work because something is against his will. This type of protection is usually called social security.

It is undeniable that the Indonesian Government has taken necessary steps in the effort to protect the rights of migrant workers in 2012 namely the ratification of the 1990 migrant convention through the Act. No. 6 of 2012, which includes seven protection components, namely:

1. Fundamental human rights for migrant workers and their families;
2. Pre-departure information;
3. Regulation and supervision of recruitment;
4. Protection abroad;
5. Remittance;
6. Return and reintegration;
7. Legal assistance and access to justice.

However, these steps have not been accompanied by concrete realization and follow-up so that the steps taken have not yet been felt by the benefits of migrant workers and their families.

The problem of migrant workers is indeed very complicated. Among other things, remittances from migrant workers are used for unclear consumption,

abandoned children are not managed, even wives work as migrant workers, and her husbands have an affair, Asia still applies the division of jobs based on gender. It should be noted that most Asian migrant workers are still employed in the realm of three-D jobs. (Dirty, Difficult, Dangerous) (Gurry, 2005)

The government is the responsible party and is the necessary legal guarantee for migrant workers. Migrant workers, according to the perspective of state law, are those who are working citizens. From international law, humanity can see migrant workers as human beings working in the human community. However, all of these perspectives have not been adequately controlled by the state to protect the workers fully. This means that the state is still not even poorly doing legal protection for workers who work abroad. (J, 1999)

Many migrant workers, they work without direct wages. Receive wages that are not contracts, but some do not even receive wages at all. Conditions such as describing clearly the spirit or form of a liberal capitalist economy, that is, the owners of capital (employers) will always suppress expenses to obtain massive profits. Capital will be stacked individually to make further economic investments. (geflne, 2014)

Amy Gurewitz who researched the struggle for migrant workers' rights carried out by activists in Malaysia explained that at least 75% of migrant workers in Malaysia are from Indonesia. Most of them are women who work as domestic workers. However, the treatment of women migrant domestic workers, as well as male workers in the industrial sector, is not comparable to the violence they receive. They often get a variety of torture both physically, psychologically, economically, and sexually from employers who employ them. In other words, Malaysia needs migrant workers to facilitate their activities but do not want them. Malaysia needs migrant workers but does not want them. (Putri, 2018)

Not only wages in the form of salary or cash. However, the matter of providing guarantees of food and drink is not so noted. This is also part of efforts to minimize expenditure. Expenditures that are swallowed or issued are minimal and not worth the work services issued by the workers. (Peschke, 2014)

The position of migrant workers in their essence can be viewed from two aspects, that is from a juridical and social-economic perspective. In terms of socio-economic conditions, workers need legal protection from the state for the possibility of arbitrary actions by employers.

Based on the provisions of Article 27 of the 1945 Constitution, that is, every citizen has the same position in law and government. This provision is further elaborated in Article 5 and Article 6 of Law No. 13 of 2003. Article 5 that is every workforce has equal opportunity without discrimination to obtain employment. Article 6, i.e., every worker has the right to receive equal treatment without discrimination from employers. The position of workers and employers or between employers and workers is different from the position between the seller and the buyer. (UURI, 2004)

As Employment an integral part of national development based on Pancasila and the Law Basic State of the Republic of Indonesia in 1945, According to the Ministry of Communication and Information Directorate General of Information and Public Communication. (Communication, 2011)

Employment must be regulated in such a way that fundamental rights and protection are met for migrant workers and at the same time can create conditions

conducive to the development of the business economy. For this reason, a comprehensive and comprehensive migrant workers regulation policy is needed, including the placement, regulation, protection, and contribution of Indonesian migrant workers.

Other issues of migrant worker law are concerning globalization. The workforce available in Indonesia is mostly unskilled labor, while universal demands about the era of free markets require equal opportunities and treatment for service workers and goods entering or leaving. This means that everyone can work in their own country or another country without restrictions or unfair treatment. Likewise, goods that have entered or exited cannot be subject to customs differentiation. Even at this time, it can already be felt by Indonesian aluminum entrepreneurs, who have recently entered aluminum from Australia at lower prices with better quality. Also, it was also found the fact that the prices of Betawi chairs in Malaysia were far cheaper than in Indonesia.

The policy of placing Indonesian migrant workers abroad is an effort to realize equal rights and opportunities for workers to obtain decent jobs and income, which is carried out while taking into account the dignity, human rights and legal protection and equal distribution of employment opportunities and the provision of employment. (KOMINFO, 2018)

This is as determined in Article 1 number 3 in Law Number 39 of 2004 which states that "Placement of Indonesian Migrant Workers is a service activity to bring Indonesian migrant workers together according to their talents, interests, and abilities with employers abroad which covers the entire recruitment process, document management, education and training, shelter, departure preparation, departure to the destination country, and repatriation from the destination country " (Husni, 2011)

Based on article 21 paragraph (1) letter d and f of the Law on migrant Protection, protection during work obtained by a migrant while working abroad includes facilitation of Indonesian workers case resolution, as well as assistance, mediation, advocacy. So the provision of legal assistance in the form of facilitation of advocate services by the Central Government or Representative of the Republic of Indonesia and guardianship following local law. Added in paragraph (2), the provisions of protection referred to above are carried out by not taking over migrant's criminal and civil liability and carried out by the provisions of the laws and regulations, the law of the destination country, and customary law and Illegal International Law. (Nur, 2018)

To improve skills, Indonesian migrant workers candidates also have the right to be given job training before leaving for work abroad. Besides, Indonesian Migrant Workers must also carry out obligations as stipulated in the law. The government also has a heavy duty to be able to supervise the Departure of migrant abroad. The heavy duty is to be able to suppress the Indonesian migrant numbers that go abroad not following the procedures as stipulated in the law, which is called illegal workers. Considering a large number of Indonesian migrant who leaves overseas are illegal. The illegal status certainly has an impact on the application of Indonesian migrant protection abroad later. (Rohanawati, 2018)

#### **D. Hypothesis**

On improving legal protection and facilitate in handling cases that occur against Indonesian workers in Malaysia can be endeavored through coordination and

evaluate the flow of migrant workers from Indonesia to Malaysia by implementing a worker protection policy, consisting of social protection to ensure occupational health, technical protection in placement through one door of the government to minimize migrants and illegal agents, Economic protection made an agreement on the MoU for Indonesian migrant welfare..

#### **E. Scope of Research**

To facilitate research to remain focused and avoid deviating from the topic, the authors limit the scope of research. This study discusses and observes the solution of general problems related to the protection of Indonesian workers in Malaysia during the period of the administration of President Susilo Bambang Yudhoyono until the reign of President Joko Widodo 2013-2018. However, the analysis will be more focused on the era of Joko Widodo.

#### **F. Research Purposes**

1. To find out the inhibiting factors of the government's efforts to provide legal protection for overseas migrant workers who have experienced criminal acts or human rights violations.
2. The results of the research carried out should be able to become recommendations and inputs for the government in increasing legal protection to migrant workers.

#### **G. Research Methods**

##### **1. Type of Research**

In preparing this thesis, the author uses the following research methods:

- a. A descriptive, analytical method is an analysis that aims to describe and clarify the symptoms or phenomena based on observations of various events and problems of migrant workers, then try to analyze it and try to interpret the data obtained and proceed with solving problems both ongoing and thought in the future based on existing theories or rules. This method is used to describe the collaboration between Indonesian and Malaysian cooperation in the field of employment with problems that occur from the existence of Indonesian workers in Malaysia and also to analyze whether the system of protection of migrant workers is under the applicable legislation.
- b. Historical analytical methods are methods of research which include gathering events or ideas that arise in the past to find generalizations which can then be used as reference material to analyze past problems and are useful for understanding the current situation as well as predicting future developments. This method is used to understand the background of the emergence of problems related to cooperation and mechanisms for the protection of migrant workers in Malaysia.

##### **2. Data collection technique**

Data collection used in this study is qualitative and quantitative. Qualitative research methods are used to explain norms, values or meanings related to the subject of research obtained from various relevant references, such as literary sources, articles or journals that use logical thinking, analysis with logic, by induction, the analogy of interpretation, compatibility, etc. (Faisal, 1990)

## **A. The History of Development Indonesian Migrant Workers**

Southeast Asia is a center for rapid growth. Interdependent agglomeration groups, Malaysia as a growth center for the generation, and Indonesia as a large workforce center triggers a mutually beneficial relationship. This explains the relationship between the attractiveness of workforce migration from Indonesia. (Sparke, 2014)

Malaysia reflects the complexity of international migration, Indonesian Workforce is no longer a phenomenon of migrating overseas citizens to work, but it has become a trend that makes the character of this nation often send its workers abroad. This is because employment in Indonesia is very limited, especially for low-educated people, they are willing to leave their country to try their luck with other workers. (Harahap, 1957)

## **B. Push and Pull Factors of Indonesian workers migrate to Malaysia**

The theory put forward by Ravenstein, Lee, and Bogue is a series of methods that complement each other's pull factors and push factors underlying the migration or migration of people from one place to another. There is only a slight difference between Lee, Ravenstein, and Bogue, which is related to distance variables which according to Bogue's assessment of distance have relative properties and are not included in main intervening factors. Furthermore, Lee also stated that the migration flow also influenced by the obstacles between, for example, high moving costs, the topography of the area of origin and destination as well as limited means of transportation or high taxes to enter the destination. (Lee, 1978)

### **1. Pull factors**

Migration from the country to the city has a functional relationship that is closely related to the industrialization process, technological advances, and other cultural changes that characterize the evolution of modern society in almost all parts of the world. Malaysia is a destination because it is geographically close to Indonesia. Especially since the past, there have been crossings at the boundary between the two countries. Until the 1980s the sending of migrant workers was carried out based on kinship, per person and traditional relations. However, after 1980, the government established regulations to regulate the sending of migrant workers because the government saw positive value and high economic value. (Mohamad Taufik, 2013)

### **2. Push Factor**

Important factors that encourage Indonesian migrant workers to Malaysia can be broadly classified into four groups of them:

#### **a. Economic Factors**

Economic factors are the most significant factor driving people to migrate to leave their homes. According to economic characteristics, it is stated that some of the migrants who go to Malaysia due to economic factors are those who are less fortunate with poverty because they do not own land, do not have the expertise, and also have no opportunity to do business in the place of origin of migrants. The lure of a big salary becomes a powerful magnet for some people who want to improve their social status in a short time (Meir, 1995)

#### **b. Social factors**

Push factors or things that force someone for various reasons to leave their place of origin and make it go to another location. Also, some of the



ideas that encourage workers to migrate to Malaysia mostly because the difficulty of employment opportunities in the village, then the additional factor is for seeking capital because productivity in Indonesia is low, agricultural income is low, much agrarian unemployment, and underemployment makes some productive ages have job retardation, Lack of opportunities to be more advanced in work, run out of natural resources in the area and some migrant workers who experience natural disasters are considered as the fundamental factors that encourage migrants to Malaysia which can be categorized as a more prosperous or dynamic country with greater employment opportunities in finding better job opportunities in neighboring countries. (Hania Zlotnik, 1992)

**c. Demographic Factors**

Differences in the level of population increase between various regions of a country are decisive in internal migration. Fertility and natural increases in populations generally are higher in rural areas, which makes rural residents drift towards the city. The demographic state of the workforce is very influential in realizing the desire of Indonesian workers to work in Malaysia such as:

**1) Gender**

Women dominate Indonesian workers who are interested in working in Malaysia. According to the study, 83.3 percent of the Indonesian migrant workers are women, while men are around 16.7 percent. Likewise, for the delivery of labor in the last five years (2014-2018) which female workers was dominated, this was because the opportunity to get jobs for women had increased compared to the previous. (Arsyad, 1999)

**2) Age**

The Migration Law states that migrants are usually residents of the young/productive age group. At this age, they are considered more able to develop and adaptation compared to the population of the old faction. There is linearity at a young age encourages them to migrate and work in Malaysia. Young workers tend to be workers who are ready because they have decided to migrate from a young age, while workers over the age of 25 are generally based on economic motivation due to the deterioration of the household economy. The survey found that most migrants working abroad were between the ages of 20-24 years, around (65.0%), age less than 20 years (11.7%) while at the age of more than 24 years around (23.3%). (Nasution, M. Arif, 2012)

**3) Family status and education**

From the results of the study, the low level of education triggers becoming a migrant worker in Malaysia because it is one way to work, improve the family economy, and look for a more decent life. So that the population of developing countries works to developed countries because they realize that with a low level of education it will be more challenging to compete in the world of work and most of the workforce who worked abroad (97.5 percent) were unmarried and even if they were married the number only a little.

Fewer job opportunities for elementary school graduates. This is

exacerbated by the absence of a social security system. Everyone is responsible for their self. There is no other choice, so they only have the option to struggle work even though abroad. Besides, in general, migrants who work in Malaysia have an average number of family members between 5-8 people. (pasetia, 2015)

**d. Personal Factors**

Sociologically, being a migrant worker has become a kind of 'dream' for some people. Most Indonesian migrant workers working in Malaysia are of their own volition, personal factors have an important role because the real factors in their place of origin or destination have not been the main factors because it ultimately returns to someone's response to that factor, to their sensitivity and intelligence. 41.7 percent of prospective Indonesian workers who will work in Malaysia stated that their goal of working abroad is because they have difficulty getting jobs in the country and lack of skill ability, during 36.7 percent because the income earned is higher than working in the own region with similar jobs. When compared to the more critical pull or push factor, the researchers conclude that the two factors are closely related. Those who are encouraged to migrate simultaneously are drawn by the hope of finding something better elsewhere. On the other hand it is also due to pulling factors that emphasize the high level of investment in urban areas which leads to more employment and business opportunities and that makes greater attraction to migrate to urban lifestyles, and it is considered essential for migrant workers because they feel that more complicated rural problems than urban attractions that play a dominant role in population migration. While the push factor is considered reliable because it is a rural problem rather than an urban appeal that plays a dominant role in population migration.

- 1) Several causes of insecurity suffered by Indonesian migrant workers:
  - a) The level of education of Indonesian migrant workers abroad for the domestic worker's sector is low. This condition does not give a high bargaining position to overseas employers who will hire them. The limited knowledge covers the work procedures and culture of the local community. The level of education also influences the mastery of language, access to information on technology and the culture in which Indonesian migrant work. As migrant workers, not only capital skills or technical expertise but also an understanding of the culture of the community in which they work. Because of the quality of labor and education always has relevance. This synergy for migrant workers, especially those who work abroad is still lacking. This is evident from the results of a survey conducted by The Political and Economic Risk Consultancy which positioned the quality of education in Indonesia ranked 12th after Vietnam with a score of 6.56.
  - b) The behavior of users of workers who lack respect and respect for the rights of workers. The hard character of the family or employer often causes violence. This happens because of differences in culture, rhythm or working atmosphere in the country where the migrant

worker works. The position of migrant workers is fragile, do not have sufficient expertise, so they only work and are paid.

- c) Regulations or Government policy that do not favor the migrant workers abroad, especially the domestic worker's sector
- 2) Several things that made the failure of the negotiation process with the Malaysian side were Indonesia's weakness in managing the workforce who would work abroad. Such as:
    - a) The number of illegal Indonesian migrant workers is higher than legal. This is due to complicated, significant costs and a long time to migrate through official channels. Prospective migrant workers often only have little access to information about migration procedures and working conditions in Malaysia, as a result of being trapped on unofficial lines.
    - b) The Government has not signed the Migrant Workers Convention and Settlement of migrant workers Disputes. The Indonesian government also considers the rights of foreign workers working in Indonesia when ratifying migrant conventions. This Convention will also require the Indonesian government to pay attention to and give the rights of foreign workers working in Indonesia. This is considered difficult because of the economic conditions in Indonesia which are have not allowed foreigners to deal with the difficulties of the Indonesian people in general. The Indonesian government is worried that if it has ratified the convention of migrants, it will increase the number of foreign workers who enter Indonesian because foreign workers will be given facilities as stated in the convention. Because this convention not only protects Indonesian migrant workers abroad but vice versa, foreign workers in Indonesia also must be protected.
    - c) Most governments were sending Indonesian migrant workers without the expertise and understanding detail of the recipient country's culture and unclear employment contracts.
    - d) The existence of parties who carry out extortion against migrant workers, such as the presence of transportation brokers and moneychangers in the Airport or terminal, deductions from workers' wages, transparency in utilization and violence against Indonesian migrant workers.

## **C. Types of Protection of Indonesian Workers**

### **1. Social Protection**

The Implementation of social security to minimize certain risks that are not covered by the recipient country and the employer, then the labor force can work with state or private institutions. The diversity of the problems of migrant workers abroad and the mechanism, migrant workers are encouraged to follow voluntary insurance such as the Old Age Insurance program.

### **2. Technical Protection**

#### **a. Short-term technical protection**

- 1) Placing the national agency for the protection and placement of Indonesian workers and its derivatives, collaboration with labor attaches who become representatives of the Republic of Indonesia in providing

protection measures for Indonesian migrant workers abroad include border migrant workers who experience problems especially legal issues in the recipient country. Makes Indonesian migrant workers services become one door, and avoid overlapping and action issue protection measures that are often too late to be carried out by the Indonesian government.

- 2) Optimizing aspects of law enforcement related to practices illegal departure of Indonesian migrant workers carried out by individuals or brokers, as well as individuals who dispatch migrant workers without going through procedures official. In this case the actual form is with make rules that expressly provide administrative and/or criminal sanctions for migrant workers who do not meet the procedures and persons who help migrant workers cross boundaries without systems, by referring to Deterrence's Theory of Jack Gibbs, i.e. the faster, harder, and the more specific the punishment for lawbreakers, then the criminal index will decrease.
- 3) When needed, a resident raid / judicial operation is conducted for can find out which population is genuine. This can be minimized. The abuse used the fake document for crossing the border with a Cross-Border Pass.
- 4) Increasing Public Service Ads and Socialization, especially to villages regarding the importance of following the procedures established by the government for Indonesian citizens who want to become migrant workers abroad, and the adverse effects of illegal migrant workers.
- 5) Some Indonesian migrant workers both in border areas and in general still feeling complicated information and procedures to be able to work abroad. By hence it may be necessary to review the re-socialization of the terms and conditions provisions and the process and management of sending Indonesian workers out the country, in addition to the cost of managing the process expensive and very bureaucratic, so they ended up more choices to become Indonesian migrant illegal and undocumented rather than Legal Indonesian migrant workers.
- 6) Increase the number of trained personnel, and regularly hold refresher both training and rotation.

**b. Long Term strategy technical protection**

Synergizing the parties involved in sending Indonesian migrant workers. Optimize the Countermeasures, Placement and Protection Coordination Team Troubled Indonesian migrant workers abroad who have been formed in the Governor's Decree by entering points cooperation between agencies. So what is needed here by the government especially the Ministry of Manpower, is to create a balanced relationship between the Indonesian Migrant Worker Service Company, Indonesian migrant workers and the government, both Indonesia and Malaysia to build a legal compliance base. For user Indonesian migrant workers who commit violence, it must be treated with strict rules and thus the illegal Indonesian migrant workers who do violate the laws must also be treated with strict regulations. And on the other side, the government must carry out comprehensive information about the handling of Indonesian migrant workers so as not to make mistakes in the country. The government needs to

map the origins of Indonesian migrant workers, especially those that are illegal and thus will be known with certainty about them. In this way, socialization, communication, and education will be done appropriately.

**c. Economic protection**

To minimize the economic category such as the lack of employers in providing salary wages, Indonesia and Malaysia have agreed on the contents of the MoU in Article 5.3 which reads "Service users must pay monthly wages according to the terms of the work agreement provisions in the amount determined by the market mechanism with pay attention to the wage range agreed by the parties by making the Mutual Recognition Arrangement. (Listed in the attachment amending protocol

**CONCLUSION**

The socio-economic conditions in Indonesia that do not allow them to fulfill their needs, cause push factor Indonesian workers to migrate. Malaysia, which is a neighboring country and has many similarities in terms of culture, race, and language, become a destination that attracts migrants. However, due to the low level of knowledge of Indonesian migrants and also the complicated and expensive government regulation in procedural migrant workers, many immigrants have chosen to go to Malaysia in illegal ways even though have a high-risk impact.

The fraudulent Indonesian labor service company continues to trade illegally because there is always demand from Malaysian employers who indeed want illegal Indonesian workers because it is cheaper than legal workers. Indonesian migrant workers problems become increasingly complex and have a direct impact on Indonesia-Malaysia bilateral relations after many cases of human rights violations against Indonesian migrant workers such as deportation, persecution, and even death.

To improve the security of Indonesian migrant workers in Malaysia, can through Solutions such as short and long-term strategies by facilitating migrant workers with complete documents without being charged at the outset. The National Agency for Placement and Protection of Indonesian Workers can embrace banks, to provide loans to prospective migrants. But by not giving out loans in cash but given in the form of complete documents as Indonesian migrant workers, which is according to BNP2TKI recommendations. After Indonesian migrant work and get a salary, so every month they repay the loan. Banks that provide loans should be from Indonesia, which those who are ready to give staff to be placed in part-time at the Indonesian Embassy or Indonesian Consulate in Malaysia. Besides, the Government needs to be more strict in implementing government policies as well as curbing agencies Indonesian labor services company, and making departures through one door, namely official agents from the government which cooperating with credible Indonesian labor services company.

Malaysia seems ambivalent on handle Indonesian migrant workers because of a simple reason, namely the Malaysian government still needs the services of Indonesian migrant workers who can be said to even have low wage rates, especially in the agriculture and construction sectors compared to other countries. While Malaysian citizens or the local community no one wants to work in an industry known as 3D dirty, dangerous, and painful on the contrary even for Indonesia, with a large number of Indonesian migrant workers in Malaysia indirectly benefiting from foreign exchange funds and also being able to reduce the very high unemployment rate amid the limited job vacancies.

## REFERENCES

### Book

- Asyhadie. (2007). *Hukum ketenagakerjaan bidang hubungan kerja*. Jakarta: Raja grafindo persada.
- Ellis, F. (2000). *Rural Livelihood and Diversity in Developing Countries*. (G. Britain, Penyunt.) Oxford University Press.
- Graeme, H. (2012). *Indonesia Labour Migration to Malaysia: Trends and Policy Implication* (Vol. 21). South Asian Jurnal of Social Science,.
- Hadjon, P. M. (1987). *perlindungan hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu.
- Husni, L. (2000). *Pengantar Hukum Ketenagakerjaan Indonesia* . Jakarta: Raja Grafindo Persada .
- Irewati, A. (2003). *Kebijakan Luar Negeri Indonesia Terhadap Masalah TKI ilegal di Negara ASEAN*. Jakarta: Pusat Penelitian Politik LIPI.
- J, G. (1999). *Migrant Female Domestic Workers: Debating the Economic, Social and Political Impacts International Migration Review*, 3, 189.
- Liow, J. (2005). *The Politics of Indonesia-Malaysia Relations: One Kin, Two Nations*. London: Routledge Curzon.
- Meir, G. M. (1995). *Leading Issues in Economic Development*. New York: Oxford University Press.
- Raharjo, S. (2000). *Ilmu hukum*. Bandung: PT Aitya Bakti.
- Sjahriful, A. (1993). *Memperkenalkan hukum Keimigrasian*. Jakarta: Ghalia Indonesia.
- Soetomo. (2005). *Masalah Sosial dan Pembangunan* . Jakarta: Pustaka Jaya.
- Todaro, M. P. (2005). *Pembangunan Ekonomi Di Dunia Ketiga* (Indonesia ed.). Jakarta: Erlangga.
- Winarno, B. (2011). *Isu-Isu Global Kontemporer*. Jakarta: PT. Buku Seru.

### E - Book

- Eddie Siregar, M. (2012). Jakarta: Sekretariat Jenderal MPR RI.
- Natal Kristiono, S. P. (2016). *KONSEP NAWACITA DALAM PEMBANGUNAN NASIONAL REPUBLIK INDONESIA 2015-2019* .
- Nasional, B. P. (2010).
- Molo, M. (2015). Masalah tenaga kerja di luar negeri. 1.
- Polmas. (2014). The Indonesian Center for Police & Security Studies. *VISI, MISI DAN PROGRAM PEMERINTAHAN JOKOWI & JK 2014-2019* .
- Irewati, A. (2003). *Kebijakan Luar Negeri Indonesia Terhadap Masalah TKI ilegal di Negara ASEAN*. Jakarta: Pusat Penelitian Politik LIPI.
- Dr. Romly Arsyad, S. M. (2014). *HUKUM KETENAGAKERJAAN DI INDONESIA*.
- Pasetia, I. (2012).
- Sinaulan, J. (2018). *Perlindungan Hukum Terhadap Warga Masyarakat* , 4.
- Hadjon, P. M. (1978). *Perlindungan Hukum Bagi Masyarakat*. Surabaya.
- Raharjo, S. (2000). *Ilmu hukum*. Bandung: PT Aitya Bakti.
- Putra, L. R. (1993). *Hukum Sebagai Suatu Sistem*. Bandung: Remaja Rusdakarya.

- Hadjon, P. M. (1987). *perlindungan hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu.
- Philipus. (1994). *Perlindungan hukum terhadap tenaga kerja*.
- UUDNKRI. (2012). *Undang- Undang Dasar NKRI 1945 Pasal 28 D*.
- BNP2TKI. (2017). Retrieved from BERITA NEGARA REPUBLIK INDONESIA: <http://ditjenpp.kemenkumham.go.id/arsip/bn/2017/bn261-2017.pdf>
- Asyhadie. (2007). *Hukum ketenagakerjaan bidang hubungan kerja*. Jakarta: Raja grafindo persada.
- Gurry, F. (2005). *Report of The Director General (Vol. 2)*.
- J, G. (1999). *Migrant Female Domestic Workers: Debating the Economic, Social and Political Impacts International Migration Review* , 3, 189.
- geflone, G. (2014). *Migrant Workers NTT*.
- Putri, F. A. (2018). *PENEMPATAN DAN PERLINDUNGAN TENAGA KERJA INDONESIA (BP3TKI)* .
- Peschke, K.-H. (2014).
- UURI. (2004). Retrieved from <https://jdih.kemenkeu.go.id/fullText/2004/32TAHUN2004UU.htm>
- Communication, M. o. (2011).
- KOMINFO. (2018, 08 13). Retrieved from Strategi Pemajuan Kebudayaan Jadi Modal Pembangunan Nasional: [https://kominfo.go.id/content/detail/13886/strategi-pemajuan-kebudayaan-jadi-modal-pembangunan-nasional/0/artikel\\_gpr](https://kominfo.go.id/content/detail/13886/strategi-pemajuan-kebudayaan-jadi-modal-pembangunan-nasional/0/artikel_gpr)
- Husni, L. (2011). *PENEMPATAN DAN PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA INDONESIA YANG BEKERJA DI LUAR NEGERI* .
- Nur, A. (2018, march). *Perlindungan pekerja migran indonesia*. (I. Aditya, Ed.)
- Rohanawati, A. N. (2018, March 22). *Surat Kabar Harian Kedaulatan Rakyat* .
- Faisal, S. (1990). *Penelitian Kualitatif: Dasar-dasar dan aplikasi*. Malang: Nusamedia.
- Sparke, M. (2014).
- Harahap, H. T. (1957). *Ensiklopedia Indonesia (Vol. 2)*. Bandung: N.V. Penerbitan W. Van Hoeve.
- Lee, E. S. (1978). *Teory of Migration*.
- Mohamad Taufik. (2013). *Asal Usul dan Sejarah TKI* . merdeka.com.
- Meir, G. M. (1995). *Leading Issues in Economic Development*. New York: Oxford University Press.
- Hania Zlotnik. (1992). *Empirical Identification of International Migration Systems*”. (L. L. Mary M. Kritz, Ed.) Oxford: Clarendon Press.
- Todaro, M. P. (2005). *Pembangunan Ekonomi Di Dunia Ketiga (Indonesia ed.)*. Jakarta: Erlangga.
- Praseto, B. (2012). *PERLINDUNGAN HUKUM TENAGA KERJA INDONESIA DI MALAYSIA DITINJAU DARI MEMORANDUM OF UNDERSTANDING ANTARA PEMERINTAH INDONESIA DENGAN MALAYSIA*. Sumatera.
- Arifin, S. (2014). *ANALISIS PERKEMBANGAN SISTEM MONETER INTERNASIONAL DAN KRISIS MONETER DI INDONESIA*.
- Arsyad. (1999). *Teori Migrasi Todaro*.

- Nasution, M. Arif. (2012, May). Proses Perjalanan Imigran Indonesia Ke Malaysia. *Kertas Kerja pada Seminar Peranan Tenaga Kerja Asing dalam Pembangunan*.
- pasetia, I. (2015). PENGIRIMAN TENAGA KERJA INDONESIA (TKI) KE MALAYSIA.
- UGM, P. K. (2006, January 26). Mobilitas Tenaga Kerja Indonesia (TKI) ke Malaysia.
- Bagja Waluya, S. (2016).
- Kemlu. (2017). Retrieved from HUBUNGAN BILATERAL DENGAN NEGARA-NEGARA ASIA TENGGARA: [https://www.kemlu.go.id / Buku /Buku%20Diplomasi%20Indonesia%202011.pdf](https://www.kemlu.go.id/Buku/Buku%20Diplomasi%20Indonesia%202011.pdf)
- Probosiswi, R. (2015). ANALISIS UNDANG-UNDANG PERLINDUNGAN TENAGA KERJA INDONESIA DI LUAR NEGERI . 5.
- BBC, n. (2018). *PM Mahathir Mohammad bertemu Presiden Jokowi, bahas TKI*.
- Naek Siregar, S. d. (2014). PERLINDUNGAN HAK PEKERJA MIGRAN DALAM HUKUM INTERNASIONAL DAN IMPLEMENTASINYA DI INDONESIA .
- Zlonik, K. d. (1992). Lohrman.
- Ellis, F. (2000). *Rural Livelihood and Diversity in Developing Countries*. (G. Britain, Ed.) Oxford University Press.
- Sjahriful, A. (1993). *Memperkenalkan hukum Keimigrasian*. Jakarta: Ghalia Indonesia.
- Indonesia, D. S. (2003). *Definisi tenaga kerja*. UU No. 13 tahun 2003 Bab I pasal 1 ayat 2.
- Ventyrina, I. (2015). Perlindungan Hukum terhadap Tenaga Kerja Indonesia (Sektor Pembantu Rumah Tangga) di Luar Negeri (Bagian II). *Dasar Yuridis Penempatan Tenaga Kerja Indonesia ke Luar Negeri*.
- Asyarifh. (2015, JUNE 26). Sejarah Penempatan TKI dari Masa ke Masa.
- BNP2TKI, D. S. (2011, February 27). Sejarah Penempatan TKI.
- Graeme, H. (2012). *Indonesia Labour Migration to Malaysia: Trends and Policy Implication* (Vol. 21). South Asian Jurnal of Social Science,.
- Hara, A. E. (2008). *Hubungan Malaysia dan Indonesia: dari Saudara Serumpun ke 'Smart Partnership'*. Yogyakarta: UGM.
- Liow, J. (2005). *The Politics of Indonesia-Malaysia Relations: One Kin, Two Nations*. London: Routledge Curzon.
- IOM, I. o. (2010). *Gambaran umum TKI di beberapa negara tujuan asia dan timur tengah*. Jakarta, Jl. Jend. Sudirman Kav. 45-46: Organisasi Internasional untuk Migrasi.
- RI, D. (2015, Januari). Bahan Rapat Dengar Pendapat Kepala BNP2TKI dengan Komite III.
- Tjiptoherijanto, P. (1998). *International Migration: Process, System and Policy Issues*”, dalam *Labour Migration in Indonesia: Policies and Practices*. Yogyakarta Population Studies Center Gadjah Mada University.
- Tjokrowinoto, M. (1997). Politik Pembangunan, Sebuah Analisis Konsep, Arah dan Strategi.
- Malaysia, L. P. (2016). Retrieved february 5, 2016, from [mida.gov.my: http://www.mida.gov.my/home/developed-infrastructure/posts/?lg=MAL#](http://www.mida.gov.my/home/developed-infrastructure/posts/?lg=MAL#)



- Ratnaningsih, E. (2017). PARADIGMA BARU PERLINDUNGAN PEKERJA MIGRAN INDONESIA.
- Ibrahim, J. (2007). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: umm press.
- Soetomo. (2005). *Masalah Sosial dan Pembangunan* . Jakarta: Pustaka Jaya.
- Tjiptoherijanto, P. (2017). *Migrasi Urbanisasi dan Pasar Kerja di Indonesia* . Jakarta: UI press.
- Roostiawati. (2010). *Perlindungan TKI di Luar Negeri, Perluasan Kesempatan Kerja dan Peningkatan Pelayanan Penempatan* . Surabaya: Lokakarya Nasional Perlindungan TKI .
- UUDRI. (2015). *Undang-undang Dasar 1945 Pasca Amandemen*.
- IOM. (2010). *Migrasi Tenaga Kerja Dari Indonesia*. Jakarta: International organization for migration.
- Winarno, B. (2011). *Isu-Isu Global Kontemporer*. Jakarta: PT. Buku Seru.
- Abdulsalam. (2014). Perjanjian Bilateral Indonesia dengan Malaysia terhadap Tenaga Kerja Indonesia. *11*.
- Syam, N. (2016). MASALAH PEKERJA MIGRAN YANG SULIT DIURAI.
- Pillai, P. (1995). *ASEAN Economic Bulletin: Malaysia* (2 ed., Vol. 12). LABOUR MIGRATION IN ASIA.
- Indonesia, L. N. (2013). Undang-undang nomor 13 tahun 2003 tentang Ketenagakerjaan.
- News, I. L. (2014). Penanganan Masalah TKI Ilegal oleh Pemerintah RI.
- Arista, Y. (2014). *PERAN MIGRANT CARE DALAM MENGADVOKASI KEPENTINGAN BURUH MIGRAN INDONESIA* .
- Gunawan, G. (2015). *PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA INDONESIA DI LUAR NEGERI*.
- Husni, L. (2011). *PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA INDONESIA DI LUAR NEGERI* .
- Mirza, P. P. (2014). *Derita pahlawan devisa*. ugm.
- Philipus M Hadjon, T. S. (2005). *Argumentasi Hukum*. UGM Press.
- Republik, B. K. (2015). *Nasib Buruh Migran*. 2.
- Nola, L. (2017). *UPAYA PELINDUNGAN HUKUM SECARA TERPADU BAGI TENAGA KERJA INDONESIA (TKI)(INTEGRATED LEGAL PROTECTION FOR MIGRANT WORKERS)*.
- Trimayuni, P. K. (2006). Seminar dan Lokakarya Perlindungan Sosial untuk Buruh Migran. (T. Naovalitha, Ed.)
- Wahyu Susilo, A. H. (2015). *Seluruh Kebijakan (Minus) Perlindungan Buruh Migran Indonesia*. Jakarta: Migrant CARE.
- Utomo, S. (2013). *SUATU TINJAUAN TENTANG TENAGA KERJA BURUH DI INDONESIA*. 6.
- Suparno, E. (2008, March 27). *Kebijakan dan Strategi Penempatan Tenaga Kerja Indonesia di Luar Negeri*.
- Prakoso, B. (2006). *Kebijakan Dinas Tenaga Kerja dan Transmigrasi dalam Perluasan Kesempatan Kerja*.
- Permatasari, A. N. (2016). *PERLINDUNGAN HUKUM TENAGA KERJA INDONESIA (TKI) PADA MASA PRA PENEMPATAN*.
- Dalle, R. (2016). *PERAN DAN TANGGUNGJAWAB KEMENTERIAN LUAR NEGERI MELINDUNGI WNI DAN TKI DI LUAR NEGERI*.

- Ali, A. (2012). *Undang-Undang Republik Indonesia Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang*. Jakarta: Kencana Prenada Media Group.
- Indonesia, M. K. (2014). PERATURAN MENTERI KETENAGAKERJAAN REPUBLIK INDONESIA.
- Maksum, A. (2017). Kebijakan Pemerintahan Jokowi terkait TKI di Malaysia. *the Journal of Islamic Studies and International Relations* , 2.
- Fachrudin, F. (2017, 03 20). *Tindak Lanjut Revisi UU Perlindungan TKI Pemerintah Bentuk Badan Pelaksana Kebijakan*. (kompas) Retrieved 12 31, 2018, from <https://nasional.kompas.com/read/2017/03/20/21284141/tindak.lanjuti.revisi.uu.perlindungan.tki.pemerintah.bentuk.badan.pelaksana.kebijakan>.
- Care, S. M. (2017, December 4). Undang-Undang Nomor 18 Tahun 2017 tentang Pelindungan Pekerja Migran Indonesia.
- N Siregar, A. S. (2014). PERLINDUNGAN HAK PEKERJA MIGRAN DALAM HUKUM INTERNASIONAL DAN IMPLEMENTASINYA DI INDONESIA.
- Sudarmanto, H. (2017, October 25).
- ILO. (2016). Opportunities and challenges for employers in the ASEAN Region.
- husni, L. (2003). *Pengantar Hukum ketenaga kerjaan Indonesia*. Jakarta: PR Raja Grafindo.
- Asyhadie, Z. (2007). *Hukum Kerja (Hukum Ketenagakerjaan Bidang Hubungan Kerja*. Jakarta: Raja Grafindo Persada.
- Widyawati, A. (2018). Legal Protection Model for Indonesian Migrant Workers.
- Arvin Tajari, N. A. (2015). ILLEGAL IMMIGRANT AND SECURITY CRISIS IN SABAH (MALAYSIA) .
- Dewi, E. (2013). Migrasi internasional dan politik luar negeri Indonesia.
- Bonasir, R. (2015). Pengiriman TKI ke Malaysia akan lewat satu pintu.
- Adianto, J. (2018). PENINGKATAN KUALITAS TENAGA KERJA DALAM MENGHADAPI ASEAN ECONOMY COMMUNITY.
- Sukwika, T. (2018). Peran Pembangunan Infrastruktur terhadap Ketimpangan Ekonomi Antarwilayah di Indonesia.
- menatap, I. (2015). *Tinjauan Kompas*.
- LPPM. (2016). *Lembaga pembangunan malaysia*. Retrieved from [http://www.mida.gov.my: http://www.mida.gov.my/home/developed-infrastructure/posts/?lg=MAL#](http://www.mida.gov.my/mida.gov.my: http://www.mida.gov.my/home/developed-infrastructure/posts/?lg=MAL#)
- Sherlock, D. S. (1998). *Crisis in Indonesia: Economy, Society and Politics* . Parliament of Australia.
- BNP2TKI. (2014). Data Penempatan dan Perlindungan TKI.
- BNP2TKI. (2010). Data Penempatan dan Perlindungan.
- Wisnuwardhani, S. (2016).
- Malaysia, A. (2011). *MOU INDONESIA AND MALAYSIA*.
- BNP2TKI. (2011, February). Sejarah Penempatan TKI Hingga BNP2TK.
- DPRI. (2014). PENEMPATAN DAN PERLINDUNGAN TENAGA KERJA INDONESIA DI LUAR NEGERI. *Undang-undang nomor 39 tahun 2004* .

Husni, Lalu. (2000). *Pengantar Hukum Ketenagakerjaan Indonesia*. Jakarta: Raja Grafindo Persada.

Nasution, M. Arif. (1996). *Proses Perjalanan Imigran Indonesia Ke Malaysia*. Medan: Seminar Peranan Tenaga Kerja Asing dalam Pembangunan.

DPRRI. (2004). UUDRI 39 2004.