

THE EXISTENCE OF INDONESIAN MIGRANT WORKER PLACEMENT AGENCIES IN THE CONSIGNMENT PROCESS OF INDONESIAN MIGRANT WORKERS

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ABSTRACT

The existence of the Indonesian Migrant Worker Placement Agency (known as *Perusahaan Penempatan Pekerja Migran Indonesia*) is regulated in Law Number 8 of 2017 regarding the protection of Indonesian Migrant Workers. In some cases, many Indonesian Migrant Workers still work abroad non-procedurally or illegally. This study needed to be conducted to investigate the factors that cause many Prospective Indonesian Migrant Workers not willing to join Indonesian Migrant Worker Placement Agency. Therefore, this study is expected to provide scientific benefits for readers and can be used as the material of thought by policymakers. This juridical-empirical research used the interview technique to collect the data as materials to obtain the answers to the research problems. The samples of this study were The Class I Immigration Checkpoint Bengkulu Office, known as *Kantor Imigrasi Kelas I TPI Bengkulu*, Indonesian Migrant Worker Placement Agency, and Prospective Indonesian Migrant Workers. Some questions were asked directly to the informants to get the descriptions of the existence of Indonesian Migrant Worker Placement Agencies in the consignment process of the Indonesian Migrant Workers. The existence of Indonesian Migrant Worker Placement Agencies in the consignment process of Indonesian Migrant Workers based on Law Number 18 of 2017 has not been actualized optimally due to some problems. The problems included many Indonesian Migrant Workers who worked abroad non-procedurally or illegally, the regulation still needed to be evaluated, and lack of socialization related to the recruitment process of Indonesian Migrant Workers.

Keywords: Migrant Workers'; Non-Procedural or Illegal.

A. INTRODUCTION

1. Background Research

The more advanced, faster, and growing mobility of a person's movement from one country to another causes various beneficial and detrimental impacts, which cause many problems. The problems are not only experienced by an individual or a group of people who travel in and out of one country to another but also faced by the destination country. The problems that arise are caused by travelers who sometimes enter a certain state illegally without using valid official documents. Consequently, many Foreign Citizens who enter or exit illegally are detained and further processed by immigration officers of a country. This action is an effort by the country in carrying out the immigration function as a form of law enforcement and security functions.

The increasing number of people working abroad cannot be separated from the number of jobs available in the country which are unable to accommodate the number of job seekers. Therefore, many Indonesian citizens try to make a fortune abroad to get better jobs. In addition, the number of Indonesian citizens who want to work abroad is also related to the lure of a higher salary when compared to domestic.

The consignment of Indonesian Migrant Workers abroad does not benefit the Indonesian Migrant Workers but also the Indonesian nation. The existence of Indonesian Migrant Workers is considered beneficial for the Indonesian nation because the consignment of Indonesian Migrant Workers abroad is an answer to the absence of the country providing employment opportunities. The difficulty of job opportunities in the country

and the increasing number of unemployed in Indonesia ultimately make Indonesia one of the largest exporters of migrant workers in Asia and the world¹.

The rise of Migrant Workers working abroad also has impacts on the problems that arise. Some information in the printed or electronic media has often informed the bad treatment experienced by Indonesian citizens abroad. Many cases often happened against Indonesian Migrant Workers in various countries such as unpaid salaries, heavy workloads, human trafficking, and death in destination countries.

Indonesian Migrant Worker Placement Agency is

the extended hand of the government that is expected to improve the ability of Indonesian Migrant Workers and to prepare for their needs when they work abroad in the future. To prepare for the needs of the workers, the Manpower Regional Office and Indonesian Migrant Worker Placement Agency are appointed to carry out training and education for them. It aims to improve Indonesian Migrant Workers' skills so that their skills can meet the needs of the service users where they work.

There are several Indonesian Migrant Workers' Placement Agencies in Bengkulu province. These agencies have 838 workers that have had passports in the 2017 to 2021 periods. However, many Bengkulu residents worked abroad without using the Indonesian Migrant Worker Placement Agency or known as non-Procedural or illegal

¹ Jafar M Sidik.2010. Indonesia Pengekspor Buruh Migran Terbesar Dunia. Retrieved on August 31st, 2010, from <https://www.antaranews.com/berita/218552/imdonesia-pengekspor-buruh-migran-terbesarDunia>, at 20:25 West Indonesian Time.

Indonesian Migrant Workers. As quoted from the news on rakyatbengkulu.com on January 27th, 2022, the head of the Manpower and Transmigration Office of North Bengkulu Regency, Fahrudin stated that most North Bengkulu Regency residents who work in the rubber farming sector in Malaysia do not work legally. They mostly come to Malaysia with a tourist visa but continue to work².

The rise of Indonesian Migrant Workers does not choose to join an Indonesian Migrant Worker Agency due to substantial deduction fees. The Prospective Indonesian Migrant Workers must deposit a certain amount of funds to carry out the recruitment process until the consignment process stage to the destination

² The Rakyat Bengkulu. 2022. TKI Asal BU di Malaysia Ilegal. Retrieved on Januari 27th, 2022, from <https://rakyatbengkulu.com/2022/01/27/tki-asal-bu-di-malaysia-ilegal/>

country. This is considered burdensome for Prospective Indonesian Migrant Workers. In addition, the long and seemingly convoluted bureaucratic process is also one of the factors that cause Prospective Indonesian Migrant Workers not willing to join the Indonesian Migrant Worker Company.

The practice applied by the Indonesian Migrant Worker Placement Agencies is considered burdensome for Prospective Indonesian Migrant Workers. Moreover, the long and seemingly convoluted bureaucratic process is also one of the factors that cause Prospective Indonesian Migrant Workers not willing to join the Indonesian Migrant Worker Company. They prefer to work non-procedurally rather than following all stages of the existing process.

Regarding the issue of this study, it is important to conduct a study regarding the reasons for the refusal of Indonesian Migrant Workers. Therefore, the researcher conducted a study on this issue entitled “**The Existence of Indonesian Migrant Workers’ Placement Agencies in the Consignment Process of Indonesian Migrant Workers**”

2. Identification of Problems

As aforementioned in the research backgrounds, the problems of this study are as follows:

- a. What factors cause Prospective Indonesian migrant workers not willing to join Indonesian Migrant Worker Placement Agencies?
- b. What are the solutions given to the Prospective Indonesian Migrant Workers who are not willing to join Indonesian

Migrant Worker
Placement Agencies?

A. RESEARCH

METHODOLOGY

1. Type of Research

The type of research used in this study was juridical empirical research. On the other hand, it is a sociological legal research type known as field research that examines the applicable legal provisions and problems that happen in society. In other words, this research type is research conducted on the actual situation or real conditions that occur in the community to know and find the facts and data needed. After the data needed are collected, the data were processed by identifying the problems and continuing to solve the problems³.

2. Research Setting

³ Bambang Waluyo, 2002. *Penelitian Hukum Dalam Praktek*. Jakarta : Sinar Grafika, p.15

The study of the existence of Indonesian Migrant Worker Placement Agencies in the consignment process of Indonesian Migrant Workers was conducted at Indonesian Migrant Worker Placement Agencies and the Class I Immigration Checkpoint Bengkulu Office.

3. Source of Data

a. Primary Data

The data used to answer the problems of this study were gathered through field research by conducting interviews with respondents based on the questions that had been prepared. These questions were developed during the interview by limiting the questions based on the aspects being studied.

b. Secondary Data

Secondary data were the data gathered through official documents, books that related to the objects of the study, and research

reports in the forms of reports, journals, articles, theses, dissertations, and legislations. The secondary data were all information on laws that were relevant to the legal issues.

4. Populations and Samples

a. Population

The populations of this study were the managements of Indonesian Migrant Worker Placement Agencies, Prospective Indonesian Migrant Workers, and the apparatuses of the Class I Immigration Checkpoint Bengkulu Office.

a. Sample of Respondents

The survey of respondents as samples of this study was done using the purposive sampling method. The samples of Respondents of this study included:

1. Branch Manager of PT. Mutiara Putra Utama (Zirwanto).
2. Branch Manager of PT. Pademangan (Dio).
3. Branch Manager of PT. Sriti Rukma Lestari (Yediwan).
4. Branch Manager of PT. Mekarjaya Wanayasa (Wawan Ismanto).
5. Head of the Travel Document, Visa, and Immigration Checkpoint Section of the Class I Immigration Checkpoint Bengkulu Office.
6. Head of the Travel Document Service and Verification Subsection of the Class I Immigration Checkpoint Bengkulu Office.
7. Head of the Immigration Enforcement Subsection of the Class I Immigration Checkpoint Bengkulu Office.
8. Three Prospective Indonesian Migrant Workers. They were the prospective workers who got refusal in the process of issuing the passports.

5. Data Collection Methods

The procedures used in collecting data for this study were interviews.

6. Data Analysis Methods

After the primary and secondary data were processed, the data were analyzed qualitatively through juridical interpretation based on legal principles in terms of immigration, legal theories, and experts' opinion.

B. RESULTS AND DISCUSSION

1. Factors Causing Prospective Indonesian Migrant Workers Not Willing to Join Indonesian Migrant Worker Placement Agencies

The existence of Indonesian Migrant Worker Placement Agencies does not run well due to the refusal from several parties who are not willing to join Indonesian Migrant Worker Placement Agencies. The refusal was caused by some factors. As stated by M. Zahraim, Head of the Travel Document and Immigration Checkpoint Subsection, many Prospective Indonesian Migrant Workers refused to join Indonesian Migrant Worker Placement Agencies because the deduction cost was too high so they felt aggrieved by the agreement⁴.

⁴ Interview with M. Zahraim (Head of the Travel Document, Visa, and Immigration Checkpoint Section of the Class I Immigration Checkpoint Bengkulu Office on August 18th, 2022).

The problem of high costs that sometimes arise cannot be separated from the actions of some unscrupulous Indonesian Migrant Worker Placement Agencies. In this case, unfair competition practices occurred with recruitment fees to third parties who assisted in the recruitment and became one of the causes of high costs in the placement of Indonesian Migrant Workers and eventually led to the imposition of costs for Prospective Indonesian Migrant Workers.

Moreover, there were still many Prospective Indonesian Migrant Workers who have not joined the Indonesian Migrant Worker Placement Agencies. This was also caused by Prospective Indonesian Migrant Workers who did not understand the rules or regulations, the bureaucracy seems convoluted, the use of middlemen, and not being willing to be banded to the company.

2. The Solution Given to the Prospective Indonesian Migrant Workers who Are Not Willing to Join Indonesian Migrant Worker Placement Agencies.

The placement of Indonesian Migrant Workers is an effort to realize the rights and provide equal opportunities for workers to obtain decent work and income, which the implementation must be accommodated and protected in its implementation. The state is obliged to fix the entire system for the protection of Indonesian Migrant Workers starting before work, during work, and after work. For this reason, the placement and protection of Indonesian migrant workers need to be carried out in an integrated manner between government agencies, both at the central and regional levels.

The existence of Indonesian Migrant Worker Placement Agencies is expected

to be able to accommodate all the needs of Indonesian migrant workers. However, in practice, there were still many Prospective Indonesian migrant workers who have not joined Indonesian Migrant Worker Placement Agencies due to various factors. To overcome this problem, it is necessary to find a solution to solve the problem because many of the Prospective Indonesian Migrant Workers who work non-procedurally live are neglected abroad.

Regulations that accommodate better the needs of Prospective Indonesian Migrant Workers need to be established by the state. As stated by M. Zahraim, the clear rules regarding this issue by confirming the costs that may be allocated by Indonesian Migrant Worker Placement Agencies in managing Indonesian Migrant Workers, both from the costs of education, training, meals, transportation, and other need to

be issued by the government. Indonesian Migrant Worker Placement Agencies are not allowed to make levies or deductions that are burdensome to Prospective Indonesian Migrant Workers.

Lack of information related to procedures and processes for the consignment of Indonesian migrant workers was also one of the factors that resulted in the number of non-procedural Indonesian Migrant Workers. For this reason, it is necessary to provide socialization to the wider community regarding the procedures that must be passed. Socialization can be carried out by relevant agencies in charge of labor issues.

Another effort that can be made in the context of preventing non-procedural Indonesian Migrant Workers is by strengthening the synergy of ministries/agencies related to this issue. The Ministry of

Manpower, the Ministry of Law and Human Rights, the Police, the Indonesian National Army, the Ministry of Foreign Affairs, the Ministry of Religion, and the Indonesian Migrant Worker Management Agency (BP2MI - *Badan Penanggulangan Pekerja Migran Indonesia*) work together to prevent the occurrence of non-procedural Indonesian Migrant Workers.

Based on the theory of state sovereignty regarding the existence of Indonesian Migrant Worker Placement Agencies in the consignment process of Indonesian Migrant Workers, the state has the right to make a legal rule that functions to maintain order in a country. The state should play an active role in regulating and maintaining people's lives. Regarding the consignment process of Indonesian Migrant Workers, a sovereign state has government institutions that are responsible and must synergize with each

other to create protection for Indonesian Migrant Workers.

C. CLOSING

1. Conclusion

a. The existence of Indonesian Migrant Worker Placement Agencies in the consignment process of Indonesian Migrant Workers is not optimal and is still facing problems. Many Indonesian Migrant Workers are not willing to join the Indonesian Migrant Worker Placement Agency or follow the work pattern of the company. This shows that the efforts made by the Indonesian Migrant Worker Placement Agencies are not optimal and weak to support the Indonesian government in the context of protecting

Indonesian Migrant Workers. This is caused by several contributing factors: too high deduction, the absence of certainty of departure guarantees, lack of understanding of Prospective Indonesian Migrant Workers regarding existing rules or regulations, not willing to be banded to the company, complicated procedures, salary deductions outside the contract, or cooperation agreement.

b. The existence of a placement company to overcome the problems of non-procedural Prospective Indonesian Migrant Workers is still not effective. To anticipate this, the steps that can be taken are to carry out periodic supervision of the

placement company itself. Supervision can be carried out from the recruitment stage to the consignment process. In addition, there is a need for regulations that explicitly explain the terms of salary deductions that will be received by Indonesian Migrant Workers.

2. Suggestion

As argued in the conclusions, to streamline the existence of Indonesian Migrant Worker Placement Agencies in the consignment process of Indonesian Migrant Workers, it can be conveyed that there is a need for an evaluation of the applicable rules and socialization related to the consignment process of Indonesian Migrant Workers. In addition, in the implementation of the protection of Indonesian

Migrant Workers, strict supervision and law enforcement are needed. The scope of supervision is not only during work but also includes before and after work. This administrative enforcement can be in the form of administrative sanctions as well as criminal sanctions.

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