

## Comparative Study of Protection of Migrant Workers between Desbumi's Wonosobo District and SbmI's Kendal District

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### Abstract

*The problems of female migrant workers cannot be separated from the discourse on gender inequality. Position and social construction regarding women affect the protection and treatment of migrant workers when working abroad. Likewise, when migrant workers return to their place of origin, they encounter problems from their own families. Moving on from this problem, the researcher wants to raise concerns about how the protection of migrant workers is carried out by DESBUMI in Wonosobo Regency and how the protection of migrant workers is carried out by SBMI in Kendal Regency. The purpose of this research is to find out the comparison of legal protection used to protect migrant workers in both Wonosobo and Kendal districts. The research methodology itself uses a qualitative approach to empirical juridical research. Where there are primary and secondary data. For data collection techniques using interviews, observation, and documentation. Meanwhile, for data analysis using comparative techniques (comparisons) related to the protection of migrants from two districts in Central Java between DESBUMI and SBMI. The results of the research show that protection through DESBUMI There are several services available at DESBUMI including information services, document services, economic empowerment, paralegals, Village Regulations, safe migration and data collection on migrant workers and their families. Meanwhile, SBMI focuses more on policy advocacy related to problems faced by PMI starting from pre-departure, placement and return of PMI to Indonesia.*

**Keywords:** Protection, Migrants, Central Java

### INTRODUCTION

The increasing number of Indonesian workers working abroad is one of the effects of the lack of jobs in the country. Therefore, being a worker abroad is one of the solutions taken by some citizens, as an effort to meet the needs of their family life. The state also benefits from the presence of Indonesian workers abroad who have become the second largest foreign exchange earner after the oil and gas sector (oil and gas). Based on data from Bank Indonesia, the state's foreign exchange generated through the placement of Indonesian workers abroad will be US\$9.71 billion in 2022.[1].

Every year the number of placements for Indonesian Migrant Workers has increased significantly when compared to the placements in June the previous two years. In June 2021, there were 6,661 placements for Indonesian migrant workers. This figure saw a sizeable increase in June 2022, reaching 15,700 placements, representing a 135% increase over the previous year. However, placement growth doesn't stop there. In June 2023, the number of placements jumped to 20,388, marking a remarkable 30% increase over the previous year.[2].

Sending Indonesian workers to other countries has not been accompanied by a strong and comprehensive placement and protection system that can answer the problems of prospective Indonesian workers abroad/Indonesian workers abroad, both during pre-placement, placement, and post-placement. The weak system for protecting Indonesian workers abroad opens opportunities for human trafficking to occur. The placement of Indonesian workers abroad has so far been one of the modes of human trafficking, which has made them victims of exploitation, both physically, sexually, and psychologically.

The weak system of protecting Indonesian workers abroad has also resulted in an increase in cases of violence. The issue of the case of migrant workers is a phenomenon that is widely discussed in the international community. As foreign exchange heroes are not equal to what they earn, various cases place women migrant workers in a difficult position because they are often victims of gender-based violence in which besides violence there are also threats such as feelings of insecurity and not being in an equal position.[3]

Data from the Ministry of Foreign Affairs of the Republic of Indonesia for 2020-2022 noted that there were 1,200 Indonesian migrant workers who were victims of TIP scamming in the ASEAN region and there was a significant increase in cases of up to 752 cases in 2022, most of which occurred in Southeast Asia (107 cases). Meanwhile, BP2MI noted that 5,848 PMI candidates for non-procedural TIP victims were rescued. The modes of TIP found were in the form of conventional, social media propaganda, and job training institute (LPK) propaganda. Not only experiencing exploitation, victims of TIP also experience physical and sexual violence, violations of contracts/work agreements and non-payment of wages.[4]

Overall, the weak protection provided by the Government to Prospective Indonesian Workers Abroad/Indonesian Workers Abroad, is basically due to, first, the ineffectiveness of the protection system created and implemented by the Government. Second, weak coordination between parties which still tends to be sectoral ego. Third, the protection of Indonesian Workers Abroad has not fully become the spirit that underlies the formulation and implementation of issued policies. Fourth, the role of Private Indonesian Employment Placement Companies is more dominant in Placement and Protection than the role of the Regional Government.

Therefore, a forum is needed to protect migrant workers from the basis (village or area of origin of workers) in the form of trade unions or migrant organizations. This is very important because migrants come from migrant villages/enclaves. According to the Central Java Statistics Agency, the number of placements for PMI (Indonesian Migrant Workers) from Kendal in 2023 is 3,351 people, while in Wonosobo from 2023 there are 845 people.[5] The reason for choosing these two districts is to compare the models of protection for migrant workers. Where Kendal is the second largest contributing district of migrants in Central Java. Meanwhile, Wonosobo is the eighth contributor of migrants in Central Java.

Of course, the protection of the two Regencies (Kendal and Wonosobo) has a different pattern. Where Kendal has the Indonesian Migrant Workers Union (SBMI) while

Wonosobo has the Migrant Workers Care Village (DESBUMI). It is from here that the researcher wants to explore how the protection model is carried out by SBMI and DESBUMI, which incidentally are both struggling to protect PMI. Later researchers can draw comparisons from the point of view of the Law on the Protection of Indonesian Migrant Workers.

## **METHOD**

The research uses qualitative research methods with an empirical juridical approach. The juridical-empirical approach to law is an approach by looking at a social reality and then matching it with the law.[6] This study will examine the comparative protection of migrant workers by DESBUMI Wonosobo District and SBMI in Kendal District. The locations in this study were carried out in the Wonosobo and Kendal regions, especially in migrant villages and labor unions. In taking the object of research using purposive sampling. Data collection techniques using a triangulation model in the form of interviews, observation and documentation. Meanwhile, the source of the research itself comes from primary and secondary data. The data analysis technique uses qualitative analysis by means of data collection, data reduction, data presentation and the last step is drawing conclusions and verification.

## **RESULTS AND DISCUSSION**

### **The Urgency of Protecting Indonesian Migrant Workers**

Legal protection is protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions of arbitrariness. So that one of the objectives of the State as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) is to protect the entire Indonesian nation and all of Indonesia's bloodshed. As a consequence of a rule of law, the state must provide protection for human rights (HAM).[7]

In Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it is regulated regarding the right to work and a decent living for every citizen which must be fulfilled by the State. Article 27 is the basis for the protection of Migrant Workers. Indonesian Migrant Worker (PMI) is a person with the status of a worker who is an Indonesian citizen who emigrates to another area (overseas) with the aim of doing the job. The International Labor Organization (ILO) defines a "migrant worker" as a person who migrates, or has migrated, from one country to another, with the intention of being employed by someone other than himself, including anyone regularly accepted, as a migrant, for work.[8]

- 1) How important PMI is for Indonesia, Indonesia has ratified the rights issued by the ILO. Several reasons Indonesia has an interest in ratifying an international convention and also for the sake of migrant workers, among others:[8]
- 2) Upholding the essential law in the national migration policy which provides regulations on labor migration and guarantees social cohesion.

- 3) Give the strength of the existing rule of law by incorporating guarantees on legal norms which are used as the basis for policies on labor migration, its monitoring, and its implementation.
- 4) Contribute to the guarantee that legal measures determine the treatment of a person within the territory of the state by determining levels and limits for migrant workers and their families.
- 5) Provide guidelines that the country is required to respect the Human Rights of its citizens (migrant workers and their families) who are outside their country of origin or abroad and the country of destination is also responsible according to the same standards, explicitly so that there is no commodification and abusive treatment that results in migrant workers and their families by legally affirming their human rights properly.
- 6) Reducing migrant workers who are carried out without complete documents by eliminating things that lead to exploitation of workers where migrant workers are abused, human trafficking is carried out, and migrant workers are smuggled.
- 7) Get clear instructions between bilateral or multilateral cooperation regarding migrant workers according to law that is legal, humane, and equal.
- 8) Obtain international guidelines in the form of certainty regarding the implementation of legal norms through submitting a report and review which is carried out periodically by an independent body.

In 2017, the House of Representatives officially passed the Indonesian Migrant Workers Protection Bill to replace Law No. 39/2004 on the Placement and Protection of Indonesian Workers Abroad into Law No. 18/2017 on the Protection of Indonesian Migrant Workers. The government took the initiative to revise Law No. 39/2004 on the Placement and Protection of Indonesian Workers Abroad as a form of commitment to protect migrant workers. It is said that a number of differences in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers compared to the previous law is one of them that the Regional Government is required to play a major role in managing and protecting Indonesian Migrant Workers since recruitment. This is realized by the development of one-stop services for Indonesian Migrant Workers in all districts and cities, especially in PMI enclaves.

### **Protection of Migrant Workers by Desbumi, Wonosobo Regency**

Wonosobo Regency is one of the areas that has PMI enclaves, so the mechanism for the departure of migrant workers abroad must be carried out in a safe and protected manner, thus breaking the chain of recruitment practices carried out by sponsors/brokers. The Village Government as a party that has the authority to provide protection, including through policies, must ensure that efforts made to protect migrant workers from pre-migrant to post-migrant work well. The program has objectives in terms of empowerment, Migrant services, and protection for Migrant Workers. At the village level, there is a forum for migrants originating from the Migrant Worker Care Village (DESBUMI). The Desbumi program was initiated by civil society which maximized collaboration with local

NGOs (Non-Government Organizations) for engagement with Village Governments, Local Government Organizations, Regional Governments, and groups of former migrants as beneficiaries. The formation and implementation of DESBUMI refers to the formation of Village Regulations and Decrees on the Formation of Groups in each Village. There are several services available at DESBUMI which are described in the following figure 2.1:



**Figure 2.1 DESBUMI Service**

Source : Migrant Care

The mechanism for protecting migrant workers in the DESBUMI Program was designed with the aim of collaboration between multiple parties, both the Village Government and civil society. The role of the Village Government in the protection of migrant workers is a form of commitment, that the Village is present in efforts to protect migrant workers and so are civil society groups who are consciously involved in efforts to protect migrant workers. This is in line with Law Number 6 of 2014 concerning Villages. Where this regulation provides space for the Village to increase the widest possible Village initiatives to protect and prosper the villagers.

- 1) The village chosen purposively in this study was Lipursari Village, Leksono District, Wonosobo Regency. It is felt that the implementation of the DESBUMI program in Lipursari Village has had a greater impact on the protection of migrant workers. Based on the results of interviews with DESBUMI Facilitators, there are several activities in the DESBUMI Desa Lipursari program as an effort to protect migrants. The program that is run by DESBUMI Lipursari is on the basics including The Village Government also forms PPIT (Integrated Information Service Center) which consists of Community Leaders, Religious Leaders, Village Government, and Paralegals. PPIT will function as a village-driven system in providing protection to Migrant Workers.

- 2) Service of documents related to permit requirements that must be known and signed by the family and village if one wants to become a Migrant Worker.
- 3) Economic empowerment for former migrant workers and families left behind working abroad.
- 4) Advocacy related to solving migrant cases that occur in destination countries.
- 5) Establish a Village Regulation concerning the Protection of Migrant Workers in Villages, namely Village Regulation (Perdes) Lipursari Number 7 of 2017 concerning Protection of Prospective Indonesian Migrant Workers, Indonesian Workers, and Their Family Members. With this Perdes, supervision and responsibility carried out by the village related to the protection of migrant workers can already be felt by prospective migrant workers. The Perdes is used as a guarantee for the protection of migrant workers. The Village Regulation also regulates important matters related to village budgeting for civil society groups concerned with the protection of migrant workers.
- 6) Assistance in ensuring safe migration starting from pre-migrants to placement. This activity was carried out by outreach to the villagers.
- 7) DESBUMI regularly collects data on its citizens who become migrants abroad, including those who have returned to the village.

In fact, these services at the village level are intended for migrant workers starting from pre-migrants, during placement, and after migration. The existence of DESBUMI can be a solution to the complex problems of migrant workers. Because in general, problems with migrant workers start from the initial recruitment at the village level. DESBUMI's role is considered important enough to prevent problems from arising before leaving for work. Thus, the DESBUMI service refers to Law no. 18 of 2017 concerning Protection of Indonesian Migrant Workers. DESBUMI's protection refers to Article 7, Article 8, Article 21 and Article 25 related to a) Pre-Work Protection; b) Protection During Work; and c) After Work Protection.[9]

### **Protection of Migrant Workers by SBMI Kendal Regency**

According to Article 1 paragraph (17) of Law No. 13 of 2013, the definition of a labor union or trade union is "an organization formed from, by and for workers or laborers, both in companies and outside companies that are free, open, independent, democratic and responsible for fighting for, defending and protecting the rights and interests of workers or laborers and improving the welfare of workers or laborers and their families". In this sense, democratic values form a very strong basis for the formation of labor unions and the protection of labor rights in Indonesia.

As for the principle of Labor Unions according to Article 2 of Law Number 21 of 2000 Concerning Trade Unions or Labor Unions, there are two. First, trade unions or trade union federations and confederations of trade unions or labor unions accept Pancasila as the basis of the State and the 1945 Constitution as the constitution of the Unitary State of the Republic of Indonesia. Second, trade unions or trade union

federations and confederations of trade unions or labor unions have principles that are not against Pancasila and the 1945 Constitution.

Meanwhile, the Indonesian Migrant Workers' Union (SBMI) is a mass organization of Indonesian migrant workers consisting of active PMI, former PMI, PMI candidates, and their family members and the public who care about PMI issues. The Indonesian Migrant Workers' Union receives complaints from Indonesian Migrant Workers who experience problems, SBMI helps hold relevant parties accountable to the Implementer of Private Indonesian Migrant Worker Placement (PPTKIS) and the Government through the Indonesian Embassy or other agencies.

The Indonesian Migrant Workers Union, Kendal Regency, Central Java Province, was established on 25-26 May 2013 and was held in Plososari Village, Patean District, Kendal Regency. The Kendal Regency Indonesian Migrant Workers Union was founded by former PMIs who had returned to their countries of origin. Most of the members are PMIs who experience problems when they work abroad as PMI. The real experience faced by PMI workers is that the existence of this organization is very helpful in fighting for normative rights as PMI, because forming this organization can help migrant workers and their families.

That the Migrant Workers' Union is fighting for the rights of PMI who are experiencing difficulties due to the lack of role from the government. The Indonesian Migrant Workers' Union was established in a free, open, independent, democratic manner and is responsible for PMI to fight for the interests of PMI and their families. Among the work programs carried out by SBMI Kendal are:

- 1) Organizing migrant workers and their family members.
- 2) Increasing the organizational capacity of SBMI through education and or training.
- 3) Handling cases of migrant workers, fishing crew, victims of mail-order brides.
- 4) Empowerment of migrant workers
- 5) Policy advocacy for 2020-2024 namely:
  - a. Oversee Derivative Regulations of Law No. 18 of 2017 Concerning the Protection of Indonesian Migrant Workers.
  - b. Supervise the issuance of PMI Protection Implementation Plan.
  - c. Supervise the issuance of the RPP for the Protection of Migrant Crew Seafarers.
  - d. Supervise the issuance of the Permenaker derivative of the PPMI Law.
  - e. Supervise the implementation of Perka BP2MI derived from the PPMI Law.
  - f. Advocating for the issuance of PMI Protection Service Regulations.
  - g. Advocating the issuance of PMI Protection Service Perdes.
  - h. Overseeing the Implementation of the ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers and Members of Their Families.
  - i. Supervise the publication of the Regional Plan of Action Asean Consensus
  - j. Promotion and Protection of the Rights of Migrant Workers and Members of Their Families

- k. Monitor the Global Compact on Migration (GCM) Convention for safe, orderly and regular migration,
- l. Oversee the ratification of the ILO Convention No. 188 Working Fishing, and the Capetown Agreement.
- m. Against the lawsuit for judicial review articles 54, 82, 85 of Law Number 18 of 2017 Concerning PMI Protection, filed by ASPATAKI.

In protecting the rights of PMI, the regulations used in Indonesia are Law no. 18 of 2017 concerning Protection of Indonesian Migrant Workers which was previously regulated in Law No. 39 of 2004 concerning Protection and Placement of Overseas Migrant Workers. In addition, the role of SBMI is based on Law No. 21 of 2000 concerning Workers' Unions in Article 27 paragraphs (1), (2) and (3) to protect the rights of PMI who are experiencing problems and to help PMI and improve the welfare of members and their families, and to be accountable for the activities of the organization to its members in accordance with the statutes and bylaws.

## CONCLUSION

From the results of research on the comparison of the protection of migrant workers between DESBUMI Wonosobo Regency and SBMI Kendal Regency, it is clear that the two districts have tried to protect PMI. Legal protection is defined as protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions of arbitrariness. So that one of the objectives of the State as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) is to protect the entire Indonesian nation and all of Indonesia's bloodshed. As a consequence of a rule of law, the state must provide protection for human rights (HAM).

In carrying out its protection DESBUMI Wonosobo emphasizes seven service programs. While SBMI Kendal has a more complex program in 2020-2024, SBMI has 5 programs and SBMI roles based on Law No. 21 of 2000. Both DESBUMI and SBMI are based on the Indonesian Migrant Worker Protection Act to replace Law no. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad to become Law no. 18 of 2017 concerning Protection of Indonesian Migrant Workers.

## DAFTAR PUSTAKA

- [1] Bank Indonesia, "Indonesian Economic and Financial Statistics," Jakarta, Indonesia: Bank Indonesia, 2022.
- [2] Pusat Data dan Informasi, *Data Penempatan dan Pelindungan Pekerja Migran Indonesia*, Juli. Jakarta, Indonesia: Badan Perlindungan Pekerja Migran Indonesia, 2023.
- [3] D. R. Wandayanti, "Perlindungan Hukum Perempuan Korban Pelecehan Seksual Dalam Sistem Peradilan Pidana Indonesia Ditinjau Dalam Prespektif Viktimologi," *J. Fem. Gend. Stud.*, vol. 2, no. 1, p. 54, Jan. 2022, doi: 10.19184/jfgs.v2i1.29473.



- [4] Komisi Nasional Hak Asasi Manusia RI, “KETERANGAN PERS Nomor: 29/HM.00/V/2023 Menyikapi Keketuan Indonesia di ASEAN 2023 Urgensi Penanganan TPPO secara Lebih Efektif di ASEAN,” Koordinator Sub Komisi Pemajuan HAM, Jakarta, Indonesia, 2023.
- [5] Badan Pusat Statistik, “Banyaknya TKI AKAN (Tenaga Kerja Indonesia Antar Kerja Antar Negara) Menurut Kabupaten/Kota di Jawa Tengah (Jiwa) 2020 - 2022,” Badan Pusat Statistik Jawa Tengah, Semarang, Dinas Tenaga Kerja, Transmigrasi dan Kependudukan Provinsi Jawa Tengah, 2022.
- [6] A. Afifuddin and B. A. Saebani, *Metodologi Penelitian Kualitatif*, 1st ed. Bandung: Pustaka Setia, 2008.
- [7] A. Wijayanti, *Sinkronisasi hukum perburuhan terhadap Konvensi ILO: analisis kebebasan berserikat dan penghapusan kerja paksa di Indonesia*, Cet. 1. Bandung: Karya Putra Darwati, 2012.
- [8] Organisasi Perburuhan Internasional, *Hak-Hak Pekerja Migran: Buku Pedoman Untuk Serikat Pekerja Indonesia*. Jakarta: Organisasi Perburuhan Internasional, 2006.
- [9] D. R. A. U. Khasanah, N. K. Khanifa, and R. E. Rizkiana, “Analisis Yuridis Undang-Undang Nomor 18 Tahun 2017 terhadap Pelaksanaan Desmigratif” *Integralistik*, vol. 34, no. 1, pp. 20–32, Feb. 2023, doi: 10.15294/integralistik.v34i1.40200.