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Legal Protection for Indonesian Migrant Workers in International Human Trafficking Syndicates

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Abstract: Human rights are inherent in human dignity and are essential for the protection of individuals and society. The Indonesian government has established human rights rules under the Universal Declaration of Human Rights, but human rights violations continue, particularly in the context of international human trafficking. The Indonesian Human Trafficking Crime Task Force has received 757 reports, with victims coerced into working as child laborers, commercial sex workers, illegal immigrants, and ship crew members. The Indonesian government regulates migrant workers through Law 18/2017, but many are mistreated and exploited by foreign employers. This research uses juridical-normative legal research to examine literature, ideas, and laws to propose solutions. It employs conceptual and statutory approaches. Through this research, it is found that to strengthen migrant worker protection, governments must collaborate, tighten regulations, offer guidance, and establish efficient channels for handling grievances. The International Convention on the Protection of the Rights of Migrant Workers and Their Families is crucial for ensuring the rights and protection of migrant workers, but its implementation faces challenges.

Keyword: Human Rights, Human Trafficking, Indonesian Migrant Workers.

INTRODUCTION

Humans have enjoyed basic rights since they were in the mother's womb. These basic rights are referred to be human rights. Human rights are natural and not a gift from other people or the government; rather, they are rights that are inherent in human dignity as creatures created by God (Arifin, 2019, p. 1). Nonetheless, the state is obligated in this instance to uphold, respect, and safeguard the existence of human rights (Aprita & Hasyim, 2020, pp. 76–79). The Universal Declaration of Human Rights prepared by the United Nations General Assembly states in several articles that Article 3 "Everyone has the right to life, liberty, and security as an individual", Article 4 "No one shall be enslaved or servitude; slavery and the slave trade in any form shall be prohibited" and Article 5 "No one shall be tortured or subjected to cruel, inhuman or humiliating treatment or punishment". The Law of the Republic of Indonesia

Number 39 of 1999 concerning Human Rights establishes human rights rules by the Indonesian government under the intent of the Universal Declaration of Human Rights. Human rights must therefore serve as the foundation and ultimate aim when structuring society, the country, and the state.

In actuality, human rights violations continue to happen often. One of them has to do with the illegal activity of trafficking in persons, which takes place internationally or across national borders. 11,000,000 (eleven million) of the 21,000,000 (twenty-one million) victims of forced labor worldwide are found in the Asia Pacific region, according to data gathered from the International Labour Organisation. 83% (eighty-three percent) of the victims of human trafficking in Southeast Asia are women, and 82% (eighty-two percent) of the victims are men, who are trafficked for forced labor (Sekretariat Kabinet Republik Indonesia, 2023). The Indonesian Human Trafficking Crime Task Force has received 757 (seven hundred and fifty-seven) reports in various formats between June 5, 2023, and August 14, 2023 (Muhamad, 2023). The victims are coerced into working as child laborers, commercial sex workers, illegal immigrants, and ship crew members. The most recent technique, which has become widespread on social media recently, involves coercing victims into taking part in illegal internet fraud schemes. For instance, fraudulent investment offers, phony amorous approaches, and even illicit gaming operations (VOA Indonesia, 2023). As cybercrime fraud has grown, it has become a significant issue in Asia, where a large number of workers are compelled to engage in online schemes that deceive people and are imprisoned in virtual slavery (VOA Indonesia, 2023).

When this issue arises in crisis zones where security considerations are uncertain, it becomes even more complex. Among them are a husband and wife from Jakarta, Indonesia, who fell prey to an international human trafficking syndicate and have been imprisoned for several months. The couple chose to accept a job offer at a Thai investment company, which is how the situation started. They each received promises of housing, health insurance, and salaries in the range of tens to tens of millions of Rupiah. After arriving at Suvarnabhumi Airport in Bangkok, Thailand, this couple and a group of Indonesians were driven to multiple sites by multiple people until they were forced to cross into Myanmar illegally. As their passports and telephones are being seized, these victims are left with little alternative but to comply with all of the company's instructions to continue working as online fraudsters for eighteen to twenty hours a day. If the victim disobeys directions, they frequently witness atrocities committed by these elements (Irham, 2023). These consist of being the victim of sexual assault, torture, and other crimes.

One of the objectives of the state is to safeguard the entire Indonesian nation and the entirety of Indonesian blood, as mentioned in the Preamble of the Republic of Indonesia's 1945 Constitution. The aforementioned makes it abundantly evident that the state has a duty to defend the whole country against threats, including those posed by lawful and unauthorised Indonesian migrants who become victims of international human trafficking (Mahardika & Wicaksono, 2020). The Indonesian government regulates migrant workers by enacting the Law of the Republic of Indonesia Number 18 of 2017 regarding the Protection of Migrant Workers (Law 18/2017). As per Article 1 Number 2 of Law 18/2017, the definition of Indonesian Migrant Workers is "every Indonesian citizen who will, is, or has done work for wages outside the territory of the Republic of Indonesia." Workers migrating overseas can lower Indonesia's unemployment rate by giving locals who want to work overseas job options. This is particularly true for workers whose abilities are in more demand overseas than they are domestically. However, these days, many migrant workers are mistreated and exploited by their foreign employers. Inadequate pay, long hours, dangerous working conditions, and even physical, sexual, or psychological abuse are examples of this.

In addition to difficulties adjusting to a new environment and mental stress, migrant workers may encounter difficulties getting access to adequate health services in their new

country. To strengthen migrant worker protection and guarantee that their rights are upheld, the governments of Indonesia and the destination nation must collaborate. This entails tightening the regulation of hiring firms, offering guidance and instruction before departing, and setting up efficient channels for handling grievances and safeguarding migrant laborers legally (Indonesian Ministry of Women's Empowerment and Child Protection, 2016).

In 2021, Natalia Sihotang and Channarong Wiriya carried out a study named "Human Trafficking in Thailand in Perspective of Human Rights Law" (Sihotang & Wiriya, 2021). In this study, they both explained that human trafficking is a significant issue in Thailand, causing severe human rights violations. Factors contributing to trafficking include economic weakness, poverty, low education, dissatisfaction with income, and lifestyle hedonism. The Thai government combats trafficking by providing assistance, enforcing human rights laws, and cooperating with international parties. However, human trafficking negatively impacts victims. Therefore, the Thai government must enforce human rights based on international law.

The following earlier study, "Juridical Overview of the International Convention on the Protection of the Rights of All Migrant Workers in an International Legal Perspective (Case Study of Crimes against Humanity of Indonesian Workers in Myanmar)," was carried out in 2023 by Danang Alvianto and Andri Sutrisno (Alvianto & Sutrisno, 2023). Throughout this study, they intended to convey the conclusion that The International Convention on the Protection of the Rights of Migrant Workers and Their Families is crucial for ensuring the rights and protection of migrant workers, including those involved in crimes against humanity. However, its implementation faces challenges like non-compliance by destination countries and lack of effective enforcement mechanisms. A case study on crimes against humanity involving Indonesian workers in Myanmar highlights the need for stronger actions and protective measures.

Therefore, in consideration of the foregoing background, this research aims to analyze the following issues: (1) What regulations pertain to the safeguarding of human rights and the rights of migrant workers? and (2) What legal protections are available to Indonesian migrant workers in global human trafficking syndicates?

METHOD

This study is categorised as juridical-normative legal research, which entails examining relevant literature, ideas, and legal laws in order to make a solution proposal. The problem is addressed by the research using both the conceptual and statutory approaches. While the conceptual approach takes into account the opinions of academics who have made contributions to the subject of law, the statute approach looks at pertinent legal regulations. (Marzuki, 2005, p. 35)

Primary legal materials are legal materials that involve the element of authority, which include but are not limited to laws and regulations, jurisprudence, and other legal materials that hold legally binding power. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, Law of Republic Indonesia Number 18 Year 2017 concerning Protection of Migrant Workers, Law of Republic of Indonesia Number 39 Year 2004 concerning Placement and Protection of Indonesian Workers Abroad, Law of Republic of Indonesia Number 6 Year of 2023 regarding Stipulation of Government Regulation in lieu of Law Number 2 Year 2022 Regarding Job Creation to become Law are just a few sources of the legal materials relevant to the issue that are used in the research. Secondary legal materials are legal materials that explain primary legal materials. Those include books, articles, journals, and academic research.

RESULT AND DISCUSSION

The Regulations Pertain to the Safeguarding of Human Rights and the Rights of Migrant Workers

Essential elements of national and international legal frameworks are regulations for the protection of human rights and the rights of migratory workers. The purpose of these regulations is to guarantee that everyone has access to fundamental human rights and protections, irrespective of their country or immigration status. The rights of migrant workers and human rights are covered by numerous international conventions and treaties. For example: (1) Principles of fundamental human rights that apply to every person are established by the Universal Declaration of Human Rights (UDHR), and (2) The rights of migrant workers and their families are particularly addressed in the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW). These rights include the right to social security, fair and comfortable working conditions, and protection from discrimination.

The principle of defending human rights, also known as the concept of protecting human rights, highlights that every person has inherent and fundamental rights and that they should be shielded from all types of discrimination, oppression, and abuse by other parties, including the government or organizations. Justice, equality, and compassionate treatment for all people, regardless of status, ethnicity, religion, or nationality (Rachmawati & Ika, 2019), are also necessary for the protection of human rights. Unofficial or lacking a legitimate work permit, irregular Indonesian migrant laborers have the following characteristics (Rosyidin, 2020):

- (1) Lack of a current work permit: The majority of irregular Indonesian migrant laborers reach their new country either illegally—by hiring brokers or smuggling agents, for example—or without a legitimate work permit.
- (2) Vulnerable to Exploitation: Owing to their unofficial status, migrant workers on an irregular basis are susceptible to being taken advantage of by employers or other parties. They might not have access to social assistance or legal defense, and they frequently receive unfair treatment or are used as cheap labor.
- (3) Lack of legal protection: Irregular migrant workers frequently lack sufficient legal protection since they lack proper work permits. They might not have access to the legal system to settle problems with their employers, health care, or labor rights.
- (4) Living in Uncertainty: Unregular migrant workers frequently struggle to meet their basic needs while living in an unpredictable environment. Authorities have the right to detain or arrest them at any time, and there is no assurance that they will stay in their intended homeland.
- (5) Vulnerable to Smuggling and Trafficking: Irregular migrant workers are susceptible to smuggling and human trafficking since they operate outside of the formal migration system. They may become the focus of human trafficking organizations that take advantage of their weaknesses and needs.

For irregular migrant workers to overcome these precarious and marginalized conditions, human rights protection is crucial. This entails actions taken to guarantee that they receive humane treatment, legal protection, and access to essential services, as well as making sure that they are not used as tools by others to exploit them (Suntono, 2020). Some forms of inappropriate treatment frequently reported by migrant workers include:

- (1) Low or Non-Payment of Wages: Employers may fail to pay migrant workers the statutory minimum wage or at all, infringing on their rights.
- (2) Excessive Working Hours: Without proper rest periods or supplementary remuneration, migrant workers are frequently obliged to work excessive hours.

- (3) Unhealthy Working Conditions: Some migrant laborers are compelled to labor in hazardous or unhygienic environments without proper access to sanitary facilities or protection from workplace dangers.
- (4) Physical or Sexual Abuse: Employers or family members may subject migrant workers to physical or sexual abuse.
- (5) Freedom constraints: Certain migrant laborers experience constraints on their freedom, such as prohibitions from departing their area of employment or residence, which are frequently associated with unclear

Destination countries must strengthen workplace oversight and enact legislation safeguarding migrant workers' rights. This entails routine inspections, severe penalties for employers who break the law, and the establishment of secure complaint channels for migrant workers who are subjected to mistreatment or exploitation (Amin, 2019). In addition, the Indonesian government is accountable for safeguarding its nationals employed overseas. This entails supplying sufficient information before departure, making consular services and legal aid more accessible, and pushing for international policy reforms that will enhance migrant workers' overall protection.

A region's economic prosperity can have a favourable impact on migration, among other factors. But the meaning of migration has changed over time, moving from merely being a permanent relocation to encompassing and intricate movements. The effects of migration are diverse and multifaceted, affecting communities in both the origin and destination regions as well as individuals. This includes adjustments to the social, cultural, economic, and demographic makeup of both places. In addition to posing obstacles, migration can also present possibilities, such as those related to social integration, public service accessibility, and human rights protection. Governments and associated institutions must be aware of these diverse migration patterns and prudently handle them to optimise advantages while mitigating risks and adverse effects. Other than that, civil society organizations and Non-Governmental Organizations (NGOs) frequently have a significant impact on the rights of migrant workers. To address infringement of the rights of migrant workers, they offer advocacy campaigns, legal aid, and support services.

A very concerning kind of modern slavery is human trafficking. This approach compromises each person's human rights and liberties in favour of treating people like commercial commodities. Sexual exploitation, labour exploitation, and other forms of exploitation are commonplace in human trafficking, because they all violate human rights and feed the cycles of injustice and poverty. One of the worst types of international crime is people trafficking, which is a grave violation of human rights (Ayunda et al., 2021). Collaboration amongst a range of entities, such as governments, non-governmental organisations, international organisations, and civil society, is required to combat human trafficking. In order to prevent human trafficking, this entails strengthening international collaboration to dismantle cross-border networks of human trafficking, empowering victims, and enforcing tough laws against those who commit human trafficking.

Workplace injustice and harmful work environments, including forced labour, can be brought about via labour exploitation. Workers who are subjected to labour exploitation frequently find themselves in precarious situations without fair compensation, sufficient job security, or unambiguous working conditions. These kinds of exploitative labour practices frequently violate human rights and have the potential to negatively impact an employee's social, mental, and physical health.

The Legal Protection of Indonesian Migrant Workers in Global Human Trafficking Syndicates

As cybercrime and fraud have proliferated, particularly in Asia, a concerning trend has emerged where a significant number of workers are coerced into participating in online

schemes that exploit and deceive people, effectively ensnaring them in virtual forms of slavery. This phenomenon represents a serious intersection between cybercrime, human trafficking, and labor exploitation. Criminal organizations or unscrupulous individuals set up various online schemes, such as phishing scams, fraudulent investment opportunities, or fake job offers. These schemes often target vulnerable individuals, including those seeking employment or economic opportunities. Workers are lured into these schemes through false promises of high wages, lucrative opportunities, or other benefits. They may be deceived into believing that they are engaging in legitimate work or investments. However, once involved, they find themselves trapped in exploitative situations where they have little control over their work and finances.

The term "virtual slavery" aptly describes the conditions faced by these exploited workers. Despite operating in the digital realm, the exploitation mirrors traditional forms of slavery or forced labor. Workers may be forced to work long hours, receive little to no compensation, and face threats or coercion to continue participating in the fraudulent activities. Victims of cybercrime fraud suffer various harms, including financial losses, psychological trauma, and loss of personal freedom. Many find themselves in situations of debt bondage, unable to escape the cycle of exploitation. Additionally, their participation in illegal activities may expose them to legal repercussions, further exacerbating their vulnerability. Combatting cybercrime fraud involving virtual slavery poses significant challenges. Perpetrators often operate across borders, making it difficult for law enforcement agencies to investigate and prosecute these crimes effectively. Moreover, victims may fear reporting due to threats, stigma, or lack of trust in authorities. Addressing this issue requires a multifaceted approach involving collaboration between governments, law enforcement agencies, international organizations, civil society, and the private sector. Efforts should focus on enhancing legal frameworks, improving law enforcement capacity, raising public awareness, providing support services for victims, and promoting ethical practices in the digital economy.

Indonesian migrant workers often face vulnerabilities such as poverty, lack of education, and limited employment opportunities in their home country. These factors make them susceptible to exploitation by human trafficking syndicates promising better jobs and higher wages abroad. Human trafficking syndicates recruit Indonesian migrant workers under false pretenses, promising legitimate employment opportunities. However, upon arrival in destination countries, many workers find themselves trapped in exploitative situations, including forced labor, debt bondage, and other forms of exploitation. Based on the latest data, between 2020-2023, Indonesia's Ministry of Foreign Affairs reported over 3,400 citizens being trafficked for online scamming, with women, particularly those with economic or family issues, being particularly vulnerable (Imelda, 2024).

Indonesia has implemented laws and regulations aimed at protecting the rights of its migrant workers, including measures to combat human trafficking. These laws include the Anti-Trafficking in Persons Law and regulations governing overseas employment agencies. However, enforcement and implementation remain challenging, particularly in cases involving transnational trafficking networks. Addressing the issue of human trafficking requires international cooperation between countries of origin, transit, and destination. Indonesia collaborates with other countries, international organizations, and law enforcement agencies to combat human trafficking, rescue victims, and prosecute perpetrators.

6 (six) Indonesian citizens who were victims of trafficking in Chiang Rai Province, Thailand, have been repatriated to Indonesia. The repatriation was facilitated by the Indonesian Embassy in Bangkok and financial assistance from the International Organisation for Migration (IOM). The six Indonesians were arrested in May 2022 for illegal entry, spreading COVID-19, and violating health protocols in Chiang Rai. They were transported by a human trafficking syndicate to other locations on the border of Myanmar and Thailand, resulting in their absence from court. The Thai authorities later determined them to be victims of human trafficking. They were eventually repatriated to Indonesia, where they were returned to their families (Ministry

of Foreign Affairs Republic of Indonesia, 2023b). On another chance, Indonesia has successfully repatriated 13 (thirteen) suspected victims of human trafficking, through the collaboration between the Embassy of the Republic of Indonesia, the Ministry of Foreign Affairs, the Indonesian Migrant Workers' Protection Agency, and the Social Rehabilitation and Protection Centre. The Indonesian citizens had worked at a company in Myawaddy, Myanmar, which was involved in online fraud practices. They managed to escape and cross over to Mae Sot, Thailand, where the Indonesian Embassy provided protection and accompanied them during the examination process. The repatriation process was carried out with the assistance of the Indonesian Embassy in Bangkok, and the Indonesian nationals were released and welcomed by the Deputy Permanent Secretary of the Ministry of Social Affairs of Thailand and representatives from the Indonesian Embassy in Bangkok. These 2 (two) example of repatriation demonstrates the Indonesian government's commitment to protecting its citizens abroad, despite the complex security situation in Myanmar (Ministry of Foreign Affairs Republic of Indonesia, 2023a).

Prevention is a key component of addressing human trafficking. Indonesia implements various measures to raise awareness among potential migrant workers about the risks of trafficking and the importance of safe migration practices. This includes pre-departure training, information campaigns, and the regulation of recruitment agencies. The absence of protection at the point of departure is one of the primary obstacles to the protection of Indonesian migrant workers. By strengthening monitoring and protection measures in the early phases of migration, the Indonesian government can better play its role. This includes educating, training, and evaluating recruiting agents and labour brokers to ensure they adhere to protection requirements. The rules and guidelines governing the protection of female migrant workers need to be strengthened by the government. This entails making certain that the laws now in place provide specific safeguards for women, such as bans on high-risk occupations and defence against abuse and exploitation (Morgan, 2023). The National Agency for the Placement and Protection of Indonesian Migrant Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia / BNP2TKI), the Ministry of Foreign Affairs, the Ministry of Manpower, and other pertinent government agencies must be strengthened in order to better protect Indonesian migrants.

To improve the efficacy of safeguarding Indonesian migrant workers, this entails enhancing agency cooperation, ability, and resources. To provide improved protection for Indonesian migrant workers, the Indonesian government might also step up collaboration with nations that host them. This involves monitoring migrant worker treatment and working conditions in destination nations, assisting law enforcement in cases of violence or exploitation, and granting access to social and health services (Neununy, 2021). The government must work to empower and inform prospective Indonesian women migrants about their rights, potential hazards when traveling, and safe and sustainable work alternatives available to them in the nation. To ensure that diverse labor-related issues may be managed in an integrated and effective manner, cooperation in the implementation of labor-related programs between the Ministry of Manpower, other ministries and organizations, and Village Governments is crucial.

The ASEAN Convention Against Trafficking in Persons Especially Women and Children was signed by the Indonesian government on November 21, 2015, in Kuala Lumpur, Malaysia, as part of the ASEAN regional framework. Specifically the Philippines, Singapore, Thailand, Vietnam, Malaysia, Myanmar, Cambodia, Indonesia, Laos, and Brunei Darussalam. The ASEAN Convention Against Trafficking in Persons Especially Women and Children, as stated in Article 1, aims to effectively prevent and combat trafficking in persons, particularly involving women and children, and ensure just and effective punishment for those involved. Additionally, it protects and assists victims of trafficking in persons by upholding human rights (Prayoga, 2017). By working together, different stakeholders may help each other accomplish the shared objective of enhancing the protection and welfare of Indonesian workers, especially

migrant workers. To ensure that different employment-related issues, such as migrant worker protection, may be handled holistically and successfully for the welfare of all Indonesian workers, close cooperation between diverse stakeholders is crucial. With the assistance of this Desmigrative programme, the Village Government, the smallest unit of the governmental structure, will be more actively involved in placement issues.

CONCLUSION

Policies that safeguard migrant workers will succeed if multiple stakeholders—including the government and civil society—take them seriously and actively. In order to increase law enforcement against violations of migrant workers' rights, the government can collaborate with civil society organizations on consultation, collaboration, empowerment, training, monitoring, collaborative advocacy, and access to information and services. This include helping indigent migrant workers access the legal system, monitoring the judicial system to guarantee impartiality, and offering legal support to those in need. The government and civil society can work together to better protect the rights and welfare of migrant workers by implementing policies that are more comprehensive and effective.

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