LEGAL PROTECTION AGAINST ACTS OF VIOLENCE: EVIDENCE FROM INDONESIAN MIGRANT WORKERS

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ABSTRACT

Objective: Everyone has the right to work and look for work according to their wishes. In reality, many workers, especially Indonesian migrant workers (abbreviated as PMI), receive deplorable treatment, especially migrant workers who work as household assistants. This research aims to analyze the legal protection of Indonesian migrant workers against the acts of violence they experience.

Method: The method used in this research is juridical-normative with data collection techniques through library research, while the data analysis technique is carried out in a qualitative descriptive juridical manner.

Conclusion: This research concludes that to improve governance and the process of overseas labor migration, the government has issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers as a refinement of Law Number 39 of 2004 concerning the Placement and Protection of Workers Indonesians Abroad. This law mandates that the implementer of the placement of Migrant Workers. Indonesia abroad consists of the government and the private sector. The protection provided by the government for migrant workers who experience violence can be carried out during pre-placement, placement, and post-placement, as well as the government's handling of migrant workers which must be carried out for Indonesian Migrant Workers both procedurally and non-procedurally because the state must fulfill the legal protection rights of every citizen.

Keywords: violence, legal protection, workers, justice, welfare.

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PROTEÇÃO LEGAL CONTRA ATOS DE VIOLÊNCIA: PROVAS DE TRABALHADORES MIGRANTES INDONÉSIOS

RESUMO

Objetivo: Todos têm o direito de trabalhar e procurar trabalho de acordo com seus desejos. Na realidade, muitos trabalhadores, especialmente os trabalhadores migrantes indonésios (abreviado como PMI), recebem tratamento deplorável, especialmente trabalhadores migrantes que trabalham como assistentes domésticos. Esta pesquisa tem como objetivo analisar a proteção legal dos trabalhadores migrantes indonésios contra os atos de violência que sofrem.

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**INTRODUCTION**

Every human being is a legal subject with rights and obligations, experiences legal events, and always carries out legal relations. Apart from that, humans can also be objects of law, so there is a correlation between existing legal facts and theory (Nasution et al., 2023). Facts and theory do not always agree. Therefore, various new ideas emerge, which give rise to opinions about arriving at conclusions objectively (Muthia, 2020).

Likewise, Indonesian Migrant Workers (abbreviated as PMI) are Indonesian citizens who work outside Indonesia. Many were successful in their work, but quite a few were subjected to violence, returned to Indonesia suffering, and, in some cases, even died. Working is a human right; therefore, the state is asked to actively protect its citizens. Every worker, wherever they are, has the right to receive protection from the state, a human right (Sepang et al., 2021). In general, migrant workers who experience much violence in the workplace are illegally employed, and quite a few are even victims of criminal acts of human trafficking.

Indonesia, the second largest country in Southeast Asia after the Philippines, is a sender of more than 25 migrant workers. It can be seen from data from the Indonesian Migrant Worker Protection Agency (abbreviated as BP2MI) that starting from early January to September 2022, there have been 122,870 people placed in various countries (Febrianti & Afifah, 2023). The data obtained differs significantly from previous years, especially during the COVID-19 pandemic, where sending migrant workers was very limited. The average number of people currently registering are graduates from Senior High Schools (SMA).
The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed and also help increase the amount of foreign exchange. Prospective migrant workers think working abroad is very profitable because they get much better wages than in Indonesia, but they don't consider the high risks they will experience (Jatiningsih et al., 2023). The hazards that will be encountered include violence, human trafficking, sexual exploitation, unpaid wages according to the work agreement, and very long working hours.

Based on the risks experienced by migrant workers, there have been complaints by BP2MI from PMI in various countries regarding the problems they encountered while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with the number of 18 complaints, the UAE as much as 7% with a total of 12 complaints, Poland as much as 6% with a total of 10 complaints, and other countries as much as 30.4% with a total of 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 people of human trafficking (Febrianti & Afifah, 2023). Of the many complaints received regarding illegal workers or what could be called non-procedural workers, this is closely related to PMI's departure until they arrive at the destination country, which has been trapped in the game between brokers.

Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses or victims. As part of community protection, legal protection for crime victims can be realized in various forms, such as through restitution, compensation, medical services, and legal aid. The regulation of PMI in Indonesia is regulated by statutory regulations, namely Law No. 18 of 2017, concerning the Protection of Indonesian Migrant Workers (Khairazi, 2021). The basic rules for the placement and protection of PMI abroad are: 1) Work is a human right that must be upheld, respected and its enforcement guaranteed; 2) The right of every citizen to obtain work and a decent living both at home and abroad in accordance with their expertise, skills, talents, interests and abilities; 3) The reality so far is that migrant workers who work abroad are often subjected to human trafficking, forced labor, victims of violence, abuse, crimes against human dignity and dignity, as well as other treatment that is
contrary to human rights; 4) The state is obliged to guarantee and protect the human rights of its citizens who work both at home and abroad based on the principles of equal rights, democracy, social justice, gender equality and anti-discrimination; 5) The placement of migrant workers abroad needs to be carried out in an integrated manner between government agencies, both central and regional, and community participation in an adequate legal product to provide maximum protection.

Law no. 18 of 2017 concerning the Protection of Indonesian Migrant Workers is a form of progress compared to Law no. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. This progress can be seen from the existence of specific chapters and articles regarding the Protection of Migrant Workers, the Rights of Migrant Workers, Social Security, Duties and Responsibilities of the Central Government and Regional Governments, as well as One-Stop Integrated Services for the Placement and Protection of Indonesian Migrant Workers (Juniansyah et al., 2023).

Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation. If they work for a company abroad and there is an inspection of the data collection of their citizens, non-procedural migrant workers can be arrested by the authorities (Subroto, 2022). The person is responsible for collecting citizen data. It should be remembered that non-procedural migrant workers do not have official documents, so it is challenging for those who experience violence or other risks abroad for the Indonesian government to provide legal protection to non-procedural migrant workers. This is different from legal or procedural migrant workers. If they experience violence or have their rights taken away by their employers, they will receive legal protection following Article 7 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. Based on these problems, this research aims to analyze the legal protection of Indonesian Migrant Workers against violence in the workplace.

2 THEORETICAL FRAMEWORK
2.1 STATE RESPONSIBILITY

The first theory of responsibility is regarding an obligation to atone for revenge from a person to whom a detrimental act (injury) has been committed, whether carried
out by the person mentioned in the first place or by something under their control. In other words, someone who has committed an action that harms another person must make up for the loss or suffer retaliation from the injured party (Rahman et al., 2023). Payment of ransom then becomes an obligation before a privilege for the sufferer.

About the issue of liability, there are at least related issues, namely claims based on Nationality of Claims, Exhaustion of Local Remedies, and the Clavo Clause. Here, the author only relates it to two issues, namely:

1. Atonality of Claims. In international law, all countries have the right to diplomatic protection for their citizens; this happens when their citizens experience inappropriate treatment by other countries. The country of his citizenship can make a claim. Meanwhile, in the case of the prosecution, the nationality of the victim is left to the national law that carries out the prosecution. In the Nottebhom case, it is explained that there is a necessity for the presence of a “real relationship” between the representing country and the individual it represents. Therefore, in the case of Liechtenstein, it is not recognized to be able to claim the name of Nottebhom, even though Nottebhom obtained Lichtenstein citizenship by naturalization. This is because the court considers that there is no real relationship between the victim and the state that represents him. From the illustration of the Nottebhom case, Martin Dixon concluded that what is meant by “real relationship” is a de facto relationship, a relationship that can be factually proven;

2. Exhaustion of Local Remedies. In article 22 of the ILC Draft Articles on State Responsibility, as follows, legal responsibility will apply if foreigners involved in the case have attempted to resolve it through local law “only if the aliens concerned exhausted the effective local remedies available to them”. From this understanding, we can conclude that to ask for accountability from a country, it must go through the national legal mechanisms available in the country that will be asked. This demand can be found in the Ambatielos Arbitration, where Turkey represents its citizens to hold Britain accountable. The UK refused because the Turkish citizen was using legal remedies provided by UK domestic law. Then, the court stated that a country that was held responsible felt that all its domestic legal remedies had not been used by the claimant and had the right to refuse (Muthia, 2020).
2.2 CEDAW CONVENTION

CEDAW or ICEDAW (International Convention on Elimination of All Forms of Discrimination Against Women) is an international human rights agreement that specifically regulates women's rights. This convention defines the principles of human rights, norms, standards of behavior, and obligations that states participating in the convention agree to fulfill. The considerations in this convention contain the rationale for why it is important to have a convention to eliminate all forms of discrimination against women (Subroto, 2022).

In its consideration, this convention invites to recall the recognition of basic rights contained in:

1. The UN Charter which affirms belief in fundamental human rights, which are based on the dignity and value of humanity and the equal rights of men and women;
2. A general declaration of human rights that emphasizes the principles of anti-discrimination and emphasizes that humans are born free and have equal dignity and rights; all people are entitled to all the rights and freedoms set out in the declaration without distinction, including differences in gender;
3. International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, which provide obligations for UN member states to guarantee the equal rights of men and women to enjoy all rights related to economic, social, cultural rights, civil and political;
4. Other conventions made by various bodies under the UN (such as the International Labor Organization Convention) regulate and promote the equal rights of men and women.

3 METHOD

This research is juridical-normative, namely research on favorable legal rules and legal principles regarding legal protection for migrant workers who experience violence, which is carried out by verifying and evaluating relevant legal regulations based on the theory of legal protection for migrant workers. The data collection technique was done through library research by searching for statutory regulations, scientific books, and documents related to the object under study. Data analysis was carried out in a qualitative descriptive juridical manner, namely by building legal arguments (reasoning) based on
legal philosophy, legal theory, and other legal principles. An interpretation of the juridical meaning outlined by the legislator is used to support the legal opinions in the analysis. This is done to answer the problems formulated in the research, the results of which are stated in a descriptive, qualitative, and prescriptive manner.

4 RESULTS AND DISCUSSIONS

4.1 ACTS OF VIOLENCE AGAINST INDONESIAN MIGRANT WORKERS

In Indonesia, the institution that handles Migrant Workers (PMI) is the Indonesian Migrant Worker Protection Agency (abbreviated as BP2MI), which is the body tasked with implementing policies in the integrated service and protection of Indonesian Migrant Workers. This agency is a mandate of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, followed by Presidential Regulation Number 90 of 2019 concerning the Agency for the Protection of Indonesian Migrant Workers (Rahayu & Ramdla, 2016). BP2MI is a policy-implementing agency, especially in integrated service and protection of Indonesian Migrant Workers (PMI). The direction of BP2MI policy is more towards protecting PMIs, especially sending PMIs non-procedurally or not following applicable procedures. The hope is that by establishing this institution, PMI can become more skilled, professional, and prosperous.

During the COVID-19 pandemic in 2021, BP2MI placed 72,000 (seventy-two thousand) PMIs abroad; in 2020, there were 113,000 (one hundred and thirteen thousand) PMIs. From this data, a significant increase in PMI placement abroad can be seen. In 2022, BP2MI targets 150,000 (one hundred and fifty thousand) PMI placements. This means that the placement target has been exceeded because this year's placement number is already 182,601 (one hundred eighty-two thousand one hundred and one) PMI (Febrianti & Afifah, 2023).

Based on this data, PMI shipments abroad are constantly increasing. One of the reasons is the lack of significant employment opportunities in the country, so the interest of Indonesian people in migrating and looking for work abroad is increasing. Another cause supporting the interest in working abroad is the lure of a higher income or salary compared to working domestically. However, PMI's desires and hopes are not accompanied by adequate education and skills. PMI considers working abroad much more promising than working domestically, especially compared to the low wages and lack of guarantees for workers' welfare.
The high public interest in migrating to work as migrant workers abroad has resulted in Indonesia becoming one of the countries that participate in sending the most migrant workers abroad. This condition triggered the government to implement a program to place Indonesian Migrant Workers (PMI) abroad to reduce the unemployment problem in Indonesia (Tribowo et al., 2022).

The problems that occur with PMI, especially those in the informal sector such as domestic servants (abbreviated as PRT), are caused by many external and internal factors, such as the lack of training and information provided to PMI candidates, which results in a lack of readiness in terms of mental, skills/ skills and language. Apart from that, there is a lack of government supervision of illegal Indonesian Employment Service Companies (abbreviated as PJTKI) and Private Indonesian Migrant Worker Placement Companies (abbreviated as PPTKIS) (Sepang et al., 2021).

In several cases, PMI experienced violence in the workplace, both physical and psychological violence. Some even changed employers so that the hope of working to gain economic prosperity turned out to be the opposite. A PMI from West Java experienced this case at the end of 2020 while working in Erbil, Iraq. During one year of work, he changed employers three times (Subroto, 2022). The violence experienced was physical violence from the employer's wife, salaries not paid according to the agreement, and even sexual violence by the employer. This case is just one example; there are still many forms of violence experienced by PMI, some even resulting in death. This situation occurred because PMI was sent illegally when leaving for work, so the government had difficulty providing assistance and protection.

Based on data from the Indonesian Migrant Worker Protection Agency (BP2MI), there were several complaints from PMI, including 29.5% from Saudi Arabia with 50 complaints, 16.5% from Malaysia with 28 complaints from Taiwan, and 10.6%. With a total of 18 complaints from the UAE, as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and other countries as much as 30.4% with 51 complaints (Febrianti & Afifah, 2023). Complaint data obtained by BP2MI includes, among others:

1. Violence. Until now, Indonesian Migrant Workers still experience violence in both ways. Physical, non-physical violence, and mental violence from employers. It is regulated in Article 10 and Article 11 of the International Convention on the Protection of the Rights of All Migrant Workers and Members
of their Families that no one should treat migrant workers as targets of oppression or inhuman punishment, and migrant workers are not allowed to be enslaved;

2. Human trafficking. Human trafficking is often found in non-procedural PMI, who are vulnerable to deception by irresponsible private migrant worker placement companies. Human trafficking between countries is often forced to involve sexual exploitation, prostitution, drug trafficking, and even selling body organs. It is regulated in Law Number 21 of 2007 article 4, which states that a person who brings Indonesian people to exploit them abroad will be imprisoned for a minimum of three years, a maximum of fifteen years, and a fine of up to a little Rp. 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah) (Febrianti & Afifah, 2023);

3. Wages that are not paid following the work agreement. Before leaving for work, PMI knows the salary they will receive each month, which has been mutually agreed upon and signed. However, some experienced PMIs did not receive wages or only received much smaller salaries, so they did not follow the agreement before employment. It can be seen from BP2MI data that complaints about wages not being paid were as many as 83 people. PMI, whose salaries are not following the work agreement, were previously unaware of their rights stated in the work agreement, so the employer will not fulfill them in the future. It has been regulated regarding employment, which has been included in Law Number 11 of 2020 article 6 letter (f), which states that to get a standard wage that follows regulations in the destination country or in accordance with the employment agreement;

4. Death of migrant workers in the destination country. There will be 93 people in 2022 who will die at their destination. The causes of death of migrant workers in destination countries include accidents, the death penalty, and the result of violence received by employers or authorities who handle non-procedural worker cases. This is also related to the recruitment of illegal workers, where if they are caught in the act because they do not have particular documents, they will be taken by the authorities and placed in a detention cell;

5. Recruitment of undocumented workers or illegal workers. The increasing interest in migrant workers means that the government often experiences
obstacles in providing legal protection, especially for illegal workers. Unlawful workers are caused by departures from Private Indonesian Worker Placement Implementers (PPTKIS) or deliveries made by illegitimate companies. Releasing illicit workers is the same as being involved in a game between brokers. Brokers already have cross-border networks that make accepting someone into their country very easy (Tan & Shahrullah, 2017). So, prospective illegal migrant workers are very easily tempted by the tricks made by brokers who promise to get better salaries and more promising jobs. People register themselves as illegal workers because the departure process is complicated and departure costs are too expensive, even though Law Number 18 of 2017, article 30 paragraph (1) explains that they do not charge placement fees but burden migrant workers for departure to the destination country. The government will assist prospective migrant workers who cannot pay for their release, but in the future, the migrant workers will have to pay back what the government gave them when they sent themselves abroad (Subroto, 2022). This is the same as migrant workers paying debts to the state related to their departure abroad.

4.2 LEGAL PROTECTION FOR MIGRANT WORKERS AT WORK

One of the reasons for the low number of reports of workplace violence by PMI, whether they are victims or witnesses, is closely related to their job security and source of income. This situation makes victims and witnesses reluctant and even afraid to report cases of violence and harassment they have experienced. Data from the Online Information System for the Protection of Women and Children (abbreviated as SIMFONI PPA) in 2020 shows that there were 173 (one hundred and seventy-three) victims reporting cases of violence in the workplace. This low level of reporting has also prompted the Ministry of Women Empowerment and Child Protection (MoWEC) to encourage a commitment to ratify the International Labor Organization Convention (ILO) 190 concerning eliminating violence and harassment in the world of work. The International Agreement ILO Convention 190 can be a preventive effort to prevent and deal with problems of violence and harassment in the world of work (Subroto, 2022). This is because the convention can provide a clear framework for action for the future of women in the world of work. ILO Convention 190 can protect all formal and informal workers, such as domestic servants. The government can defend PMI, starting from their
journey to and from work. Apart from that, there is a need to ratify ILO Convention 190, considering that during the COVID-19 pandemic, many workers work from home (WFH). This is because ILO Convention 190 regulates violence and harassment against workers online (Tribowo et al., 2022). During the Covid-19 pandemic, this also happened to many female workers.

Not all PMIs who work abroad work according to their hopes and wishes because several PMIs die due to illness or workplace violence/torture. The number of Indonesian migrant workers (PMI) who died from January 2020 to July 2021, accompanied by the COVID-19 pandemic, reached 841 (eight hundred and forty-one) people. Secretary General of the All Indonesian Workers' Organization (abbreviated as OPSI) Timboel Siregar said that data on the number of PMI who died was obtained from the Ministry of Manpower. Meanwhile, the number of PMI who returned to Indonesia in sick condition was 1,105 (one thousand one hundred and five) people, 35,501 (thirty-five five hundred one) PMI who had problems, and 661 (six hundred and sixty one) people who returned with still as a PMI candidate (Febrianti & Afifah, 2023).

Referring to Law Number 18 of 2017 concerning the Protection of PMI, the government should be able to protect PMI who work abroad when the COVID-19 pandemic is still sweeping the world. The reality throughout 2020 to 2021 was that there were still many cases of people returning home already dead bodies, whose status as returning home was still as a PMI candidate. This means that overseas PMI does not work but has problems. Therefore, the government is expected to be able to enforce the mandate of the law to protect PMI abroad (Tribowo et al., 2022). In principle, all PMIs must be covered by the government because, apart from problems in the form of violence, PMIs can also be considered foreign exchange heroes. This is because PMI can bring in foreign exchange in economic traffic, which can become income for the country.

Referring to data from the Ministry of Manpower, Indonesia will send 88,973 (eighty-eight thousand nine hundred and seventy-three) Indonesian Migrant Workers to 22 (twenty-two) countries. Referring to World Bank calculations, 88,973 (eighty-eight thousand nine hundred and seventy-three) PMI candidates have the potential to earn foreign exchange of around IDR 1.5 trillion. This is certainly not a small amount of value, significantly since the world's financial condition has been dramatically affected by the post-treatment of Covid 19 and the world economic situation. Apart from that, according to the Secretary General of the Ministry of Manpower, who said that by the end of August
2021, the number of PMI placements had reached 46,043 (forty-six thousand and forty-three) people. However, this achievement is still relatively small compared to the realization of stations going 260,000 (two hundred and sixty thousand) people yearly. However, many favorite countries for PMI are still closed to the entry of PMI into the country, such as Malaysia, Taiwan, South Korea, Brunei Darussalam, and Japan (Febrianti & Afifah, 2023).

Based on information from the Director General's Decree Number 3/2748/PK.02.02/VIII/2021, 56 (fifty-six) placement countries have opened entry doors for PMI to their country. However, most of these countries are not favorite choices for PMI. However, the resulting remittance potential is quite significant. It is hoped that the PMI candidates can become a lever for accelerating economic recovery in their respective regions of origin. From the number of prospective Indonesian Migrant Workers, the potential for remittance generated is quite significant and is expected to be a lever for accelerating economic recovery, especially at the village or regional level of origin of Indonesian Migrant Workers. Based on data from Bank Indonesia, the amount of remittances in 2019 was IDR 160 trillion. The results of a World Bank survey in collaboration with the World Bank Central Statistics Agency estimated that there are around 9,000,000 (nine million) Indonesian Migrant Workers abroad. Thus, referring to these two data, 88,973 (eighty-eight thousand nine hundred and seventy-three) prospective Indonesian migrant workers have the potential to earn foreign exchange of around IDR 1.5 trillion (Febrianti & Afifah, 2023).

Looking at the amount of foreign exchange that will result from PMI working abroad, of course, this is a substantial foreign exchange income, so it is appropriate for PMI, a foreign exchange earner, to receive legal protection from the government. Legal protection for PMIs will not only be limited to the regulations that have been made but will prioritize the implementation of the regulations so that every PMI who works feels calm and protected.

The Indonesian state protects every citizen at home or abroad. A form of protection from the government is the issuance of Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad in conjunction with Government Regulation Number 10 of 2020 and Law No. 18 of 2017 concerning the Protection of Migrant Workers. However, the weakness of this law is that the protection in question is still broad. Then, the issuance of Minister of Manpower and Transmigration
Regulation No. 14 of 2010 concerning the Implementation of the Placement and Protection of Indonesian Workers (abbreviated as TKI) (Wiryawan, 2023). However, in the Minister of Manpower and Transmigration Regulation, the form of protection for migrant workers is still only in the regional domain where the security is handed over. Provincial services coordinate with the Indonesian Migrant Worker Placement and Protection Services Agency (abbreviated as BP3TKI), district/city services, and related government agencies in providing TKI placement and protection services according to their respective duties.

In line with efforts to protect Indonesian citizens as stated in the Preamble to the 1945 Constitution, Paragraph IV and the Foreign Relations Law Number 37 of 1999, protection and legal assistance for Indonesian citizens and legal entities (abbreviated as BHI) abroad, the Minister of Foreign Affairs, through a decision Minister of Foreign Affairs Number 053/OT/II/2002/01 concerning the Organization and Work Procedures of the Department of Foreign Affairs Part IV article 943, has established a Directorate for the Protection of Indonesian Citizens and BHI, which has the task of managing policy issues and technical standardization in the field of protection and legal assistance to Indonesian Citizens and BHI (Khalid & Savirah, 2022).

Establishing the Directorate for the Protection of Indonesian Citizens and BHI at the Department of Foreign Affairs is an implementation of the wishes of all Indonesian citizens. Apart from this hardware, the Department of Foreign Affairs has carried out several portraits of the state's role. It can only be seen from the form of regulations and legislation issued in response to the needs of Indonesian Workers. Indicators of the protection conditions for Indonesian Workers can be seen from at least three aspects: pre-placement, placement, and post-placement (Sepang et al., 2021). These three aspects also reflect how Indonesian workers are protected.

The placement and protection of Indonesian migrant workers are closely related matters. There is no placement if it is not accompanied by security; this protection is part of the placement. The Indonesian government must provide training and supervise government officials so that they implement and enforce protective regulations for Indonesian workers (Febrianti & Afifah, 2023). In this case, the role of the government must be to take more severe steps to eliminate document falsification by workers, including monitoring and ensuring proper implementation of regulations by immigration
officials and coordinating with other countries to understand the problems being faced (Arohmi & Nasrullah, 2021).

The government has issued various laws and regulations and ratified multiple conventions, such as the convention on eliminating all forms of discrimination and others, but has not been supported by a strong joint commitment to implement these instruments. Therefore, special regulations or laws are needed to protect against acts of violence in the sense of formulating criminal acts as crimes, including legal remedies for victims and sanctions (Soepadmo, 2020). In this case, it not only regulates the provision of sanctions to the perpetrators but also regulates the legal prosecution process as well as compensation, recovery, and personal protection for victims to protect Indonesian workers (abbreviated as TKI) not only after they are abroad, but also while the prospective TKI are still in Indonesia.

Protection of Indonesian Migrant Workers aims to: a) Ensure the fulfillment and uphold human rights as citizens and Indonesian Migrant Workers; and b. Guarantee legal, economic, and social protection for Indonesian Migrant Workers and their families. Meanwhile, in Article 21, security while working as referred to in Article 7 letter b includes: a) Data collection and registration by employment officials or appointed foreign service officials; b) Monitoring and evaluation of employers, jobs, and working conditions; c) Facilitate the fulfillment of the rights of Indonesian migrant workers; d) Facilitate the resolution of employment cases; e) Providing consular services; f) Assistance, mediation, advocacy and provision of legal assistance in the form of facilitating advocate services by the central government or representatives of the Republic of Indonesia as well as guardianship following local state law; g) Guidance for Indonesian migrant workers; and h) Facilitation of repatriation (Sepang et al., 2021).

Protection of Indonesian Migrant Workers while working, as referred to in paragraph (1), is carried out by taking over the criminal or civil responsibility of Indonesian migrant workers. It is carried out following the provisions of statutory regulations, the laws of the destination country of placement, and international laws and customs. TKI is a weak party, so they need to get more excellent protection because, in reality, there are economic, social, and psychological differences in the employment relationship between TKI and employers.

In Law no. 18 of 2017, Article 21 Paragraph (2) states that the protection of Indonesian Migrant Workers while working, as referred to in paragraph (1), is carried out
by not taking over the criminal or civil responsibilities of Indonesian Migrant Workers and is carried out following the provisions of statutory regulations, laws destination country of placement, as well as international laws and customs.

The article above illustrates that the Indonesian government cannot penetrate the laws and regulations that apply in the country where the TKI is located. What the government can do is only protect TKI through consular officials who are accredited or recognized by the receiving country. Following Presidential Regulation no. 81 of 2006 concerning the National Agency for the Placement and Protection of Indonesian Workers (abbreviated as BNP2TKI), Article 3 (a) states that BNP2TKI is tasked with carrying out placements based on a written agreement between the government and the government of the country using TKI or legal entity users in the destination country of the station (Kemala & Kusdarini, 2020). Thus, BNP2TKI is an institution that the government has established to implement policies in the field of Indonesian labor in a coordinated and integrated manner. About legal regulations, namely regarding the process and authority for its formation, both administrative (executive) and legislative. Second, legal behavior enforced by law enforcers in the judicial process and outside the judiciary, as well as improvements in state administration and bureaucracy regarding services to the community. Third, the environment in which the enforcement process occurs depends on the will and ability of the community to obtain correct and fair legal treatment (Widyawati, 2018).

Law of the Republic of Indonesia Number 13 of 2006 concerning Protection of Witnesses and Victims, Indonesian workers abroad who experience problems up to the judicial level must be protected. Therefore, in Article 2, it is stated that this law protects Witnesses and Victims in all stages of the criminal justice process in the judicial environment. Witness and Victim Protection aims to provide security to Witnesses or Victims in delivering information in any criminal justice process.

Article 5 states that a witness and victim have the right: a) to obtain protection for the security of their person, family, and property, and to be free from threats relating to the testimony they will, are giving, or have given; b) participate in the process of selecting and determining forms of security protection and support; c) provide information without pressure; d) get a translator; e) free from ensnaring questions; f) obtain information regarding case developments; g) obtain information regarding court decisions; h) know if the convict is released; i) get a new identity; j) get a new place of residence; k) obtain
reimbursement for transportation costs according to needs; l) obtain legal advice; and m) obtain temporary living expenses assistance until the protection period ends (Indiantoro et al., 2020).

Apart from that, victims of serious human rights violations also have the right to receive medical assistance and psycho-social rehabilitation assistance. To provide protection and other rights to Witnesses or Victims, an independent institution is responsible to the President, the Witness and Victim Protection Agency, abbreviated as LPSK. Article 7 states that victims through LPSK have the right to apply to the court for a) the right to compensation in serious human rights violations and b) the right to restitution or compensation for losses that are the perpetrator's responsibility of the criminal act.

Law Number 39 of 1999 concerning Human Rights Article 1 number 1 of Law Number 39 of 1999 concerning Human Rights states that Human Rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty and are His gift, which must be respected, upheld and protected by the State, law, government and every person for the sake of honor and protection of human dignity. Related to the right to protection, Article 3 paragraph (2) states that everyone has the right to recognition, guarantees, security, fair legal treatment, and legal certainty in the spirit of the law. Then Article 3, paragraph (3) states that everyone has the right to the protection of human rights and human freedoms, without discrimination.

Furthermore, Article 5 stipulates that "every person is recognized as an individual human being who has the right to demand and obtain equal treatment and protection following their human dignity before the law, and every person has the right to receive fair assistance and protection from an objective and impartial court (paragraph (1) and (2)). Meanwhile, paragraph (3) states, "Every person belonging to a vulnerable group has the right to receive more treatment and protection concerning their specific characteristics."

Article 8 explains that protecting, promoting, enforcing, and fulfilling human rights is primarily the government's responsibility. Furthermore, the explanation states that what is meant by "protection" includes the defense of human rights regarding PMI protection, which has been provided since pre-placement, placement, and post-placement, which has been regulated following the regulations of Law Number 18 of 2017 and
Further provisions are held in Government Regulation Number 59 of 2021 (Parameshwara, 2023).

Based on the stages that have been regulated in the Laws and Government Regulations as follows:

a. Pre-placement. The first stage regarding PMI protection during pre-placement or pre-employment defense is regulated in Article 1 paragraph (6) of Law Number 18 of 2017, where pre-employment security constitutes the totality of activities that will protect registration to departure. Protection before employment consists of two parts, including administrative protection and technical protection;

b. Placement protection or protection during work. In this second stage, the government will continue to provide protection when PMI work in the destination country, including 1) Carrying out registration related to employment or appointing foreign service officials; 2) Making observations and providing assessments of employers, jobs and working conditions; 3) Providing facilities to fulfill PMI's rights; 4) Providing facilities for resolving employment cases; 5) Providing consular services if a problem occurs in a job; 6) Providing assistance, mediation, advocacy and legal assistance such as advocacy by the government or Indonesian representatives and guardianship following local state law; 7) Coaching at PMI; 8) Repatriation facilities. In protection while working, the government cannot take over responsibility regarding criminal or civil issues that are PMI issues, and the implementation of punishment enforcement must follow law enforcement in the destination country and international customary law;

c. Post placement. In the final stage, regarding post-placement or after work, the migrant worker placement company must provide a report regarding return data or extension data related to the PMI work agreement to report it to the Indonesian representative in the country of destination, and the representative from Indonesia must confirm the report. If the placement company does not report it, the company will be subject to administrative sanctions (Febrianti & Afifah, 2023).

The government has implemented various methods to protect PMI, both in terms of statutory regulations and policies established by the government. However, this is different from non-procedural PMI, which still occurs very often even though there are
statutory regulations. Also, related to cases involving non-procedural PMI, it is challenging to provide legal protection to those in the placement country because they do not have documents relating to the identity of PMI victims (Anggit Utami et al., 2022). In the face of difficulties in giving legal protection related to non-procedural PMI, it is necessary to increase immigration commitment to preventing non-procedural PMI. The efforts to avoid non-procedural PMI carried out by the immigration office include preventing non-procedural PMI when issuing passports and preventing non-procedural PMI at immigration checkpoints.

An action that has been carried out by a company sending migrant worker placements that sends PMI non-procedurally will be subject to sanctions like "Ultimum Remedium", which requires criminal sanctions to be applied as a form of last resort after administrative sanctions or revocation of company permits and sanctions unsuccessful compensation data. This has also been regulated in article 87 of Law Number 18 of 2017 regarding the main punishment a company can impose is only a fine, which has been determined to be a maximum penalty plus 1/3 of each fine threatened. In addition to the introductory sentence, the company sending the PMI will be subject to additional penalties for revoking the study company's permit.

Bearing in mind that the limited legal regulations used to protect PMIs abroad cannot fully protect them because of the problems that occur with PMIs abroad, they must follow the rules following the placement of the country they are going to. With these limitations, the government can provide legal protection by using the laws of the International Convention on the Rights of All Migrant Workers and Members of Their Families. This convention has four rules that must be observed, such as:

1. Starting from providing a measure of guaranteed protection to all migrant workers and their families at several stages of migration, whether before work, during work, or after work. Various regions that migrate have the position to migrate, which means that every migrant worker and their family will be given protection for every stage of migration, not only when working abroad but also before and after work. Problems that occur when working abroad are also related to non-compliance with procedures before departure;
2. Make a start to create several forms of legislation and a series for managing migrant workers well and respectfully, starting from the national and regional
level to making bilateral and multilateral agreements, which can be linked to labor migration parties;
3. All participating countries are mutually bound, both from the countries of origin, transit, and destination of migrant workers, to prepare related implementation and services to provide legal protection and fulfill the rights of migrant workers and their family members;
4. Anticipate migrant workers from human trafficking. Every migrant worker with a procedure will be bound by the law, giving them more rights than non-procedure workers. If the state is consistent in this convention, then citizens who wish to register themselves as migrant workers will be guided to work comfortably and honorably because a sound system for becoming a migrant worker has been provided safely by the government of both the country of origin and the country of placement have collaborated (Khairazi, 2021).

4.3 THE IMPACT OF VIOLENCE AGAINST INDONESIAN MIGRANT WORKERS

Violence in the workplace (workplace bullying) is a problem that continues to occur today. Based on information from the Indonesian Migrant Worker Protection Agency (abbreviated as BP2MI), as many as 5,300,000 (five million three hundred) PMI people work illegally and are not registered. Only around 3,700,000 (three million seven hundred) PMI people work officially. This problem must be a common concern because over 50% of PMIs work abroad illegally (Febrianti & Afifah, 2023). This is certainly detrimental, both for the workers themselves and also for the state. It is also difficult for the state to monitor or provide protection to PMIs who are not officially registered. This illegal status is the root of many of PMI's frequently heard problems. Some were tortured, including crew members on foreign ships who worked overtime; some even died, and their bodies were thrown at sea.

Apart from that, many PMI experience physical impacts that result in workers becoming disabled, chronically ill, and losing their lives, and also experience economic implications due to the loss of a source of livelihood. Based on its form, acts of violence can be grouped as Physical Violence, and this violence can affect a person's physical and mental health. Violence is not non-physical. Physical violence can be divided into psychological and verbal violence, which are in the form of Psychological and Verbal Violence (Parameshwara, 2023).
The violence suffered by PMI in the workplace will undoubtedly impact their families personally and personally. Workplace violence is acts of violence or threats intended to intimidate or cause injury or death to another person. Such actions can range from threats and verbal abuse to physical attacks and murder. Harassment and intimidation are also considered forms of workplace violence by many companies, and even domestic violence from outside parties related to employees can also be a threat in the workplace.

In Indonesia itself, the issue of violence in the workplace has been discussed by the Trade Union Rights Center (TURC), which is a Non-Governmental Organization (NGO) that has taken the role of a Center for Labor Studies and Advocacy to support the role of trade unions in fighting for workers' rights, as well as welfare for workers and their families. The various impacts suffered by PMI include: a) Can cause a person to experience trauma that is difficult to remove; b) Fear of confronting the perpetrator of violence or even other people; c) Can damage mental conditions or depression; d) Can leave physical scars that are difficult to remove; e) Makes emotions unstable (Ramdhani, 2023).

Violence is an act that does not reflect human rights. Therefore, perpetrators of violence must immediately be given legal sanctions already in force. Apart from that, every member of society must protect each other to avoid violence. The violence experienced by PMI has a psychological impact. The psychological impact cannot be seen directly. However, it can extend not only to the physical, but the victim can experience psychological disorders in the form of emotional disorders, behavioral disorders, or cognitive disorders. The emotional disturbance in question is unstable emotions and impacts worsening mood. Then behavioral disorders tend to be seen in changes in the victim's behavior to something more damaging, such as excessive laziness. Finally, cognitive disorders affect the victim's thinking pattern, making concentrating difficult, often daydreaming, and having blank thoughts or other similar things (Rizkianty et al., 2021).

The psychological impact of acts of violence is not as simple as the general public thinks. Once the victim's psychology is affected, the victim's mindset changes and influences various things. They are starting from the way of thinking about things, vulnerable emotional stability, and even depression. This psychological impact can be said to be a type of post-incident trauma. This trauma has quite an effect on the victim,
especially causing excessive fear and anxiety as a result of the brain accidentally having flashbacks of the violent events that have been experienced. Some people who have experienced trauma will feel anxious and even terrified when they encounter an incident similar to an act of violence they have experienced (Agustina, 2021). The victim also experienced depression as a result of what happened to him. Depression certainly cannot be underestimated because the worst thing a depressed person can do is decide to end their own life (Herawati, 2018). The smallest and lightest possibility of someone being depressed is an act of self-harm or self-harm. Whether it's slicing up body parts with cutters, scissors, etc., which can injure yourself.

5 CONCLUSION

A migrant worker is someone who looks for work outside the country intending to earn income for daily life within a time limit that has been determined following the work agreement. Every year, interest in PMI increases, both procedurally and non-procedurally, resulting in growing problems PMI faces, such as violence, human trafficking, and deaths of migrant workers. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers mandates that implementers of the placement of Indonesian Migrant Workers abroad consist of the government and the private sector. Order of Indonesian Migrant Workers carried out by the government can only be carried out based on a written agreement between the government and the government of the country that employs Indonesian Migrant Workers or between the government and the Employer with a legal entity in the destination country of placement, the implementation of which is carried out by BP2MI. The purpose of this Government Regulation is as a legal basis for the order of Indonesian Migrant Workers, which the government carries out in a coordinated and integrated manner to create accessible, cheap, fast, and safe services. Apart from that, PMI also gets protection from pre-deployment, during placement, and post-deployment. So that the acts of violence experienced by PMI do not happen again, the government must monitor PJTKI and PJTKIS more closely who distribute PMI and carry out law enforcement against perpetrators who commit violence against PMI in the workplace, including taking action against the companies that send them.
REFERENCES


