

Legal Perspectives on the Placement of Indonesian Migrant Workers as a Strategy to Prevent Human Trafficking

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Abstract : *The placement of Indonesian Migrant Workers (PMI) is a strategic issue that not only impacts the national economy but is also closely linked to legal protection and the prevention of human trafficking (TPPO). The prevalence of non-procedural placement practices indicates persisting gaps within the national legal system, leaving PMI vulnerable to exploitation. This study aims to analyze the implementation of PMI placement policies as a legal instrument in preventing TPPO. The research adopts a positivist paradigm with a normative juridical approach, examining statutory regulations, jurisprudence, legal literature, and relevant international documents, complemented by interviews as supporting data. The data were analyzed qualitatively using a descriptive-analytical method to formulate appropriate legal concepts. The findings show that Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers provides a strong legal foundation by regulating protection during pre-placement, placement, and post-placement stages. Furthermore, Law No. 21 of 2007 on the Eradication of Human Trafficking serves as a key instrument in prosecuting illegal recruitment networks. However, the implementation of these regulations still faces challenges, including weak supervision, low legal literacy among prospective PMI, and limited inter-agency coordination. Therefore, TPPO prevention strategies must be carried out comprehensively through strengthening national regulations, optimizing the supervisory role of institutions, improving public legal literacy, and harmonizing with international legal instruments. With such an approach, PMI placement policies can function effectively not only as a mechanism for labor mobility but also as a safeguard against human trafficking practices.*

Keywords: *Indonesian migrant workers, human trafficking, legal protection*

I. INTRODUCTION

Law functions as an instrument to guide society toward a just, prosperous, and dignified life (Rahardjo, 2009). The Indonesian Constitution affirms that the state is founded upon the rule of law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution. Within the concept of a rule of law, the recognition and protection of human rights as well as equality before the law constitute its fundamental pillars (Shaleh & Wisnaeni, 2019). The right to work is even enshrined as a constitutional right, as provided in Article 27 paragraph (2) of the 1945 Constitution. Accordingly, the fulfillment of citizens' rights to decent work cannot be separated from the responsibilities of the state. This underscores that policies on migrant worker placement must be viewed as part of the state's obligation to its people.

Indonesian Migrant Workers (PMI) play a dual role: as drivers of household economies and as contributors of national foreign exchange (Aziz & Sudiarawan, 2022). Many are employed in domestic sectors such as household assistants, elderly caregivers, or drivers, which are generally categorized as part of the informal sector. However, these sectors carry high risks of exploitation due to limited contractual protections and weak supervision (Yusro et al., 2020). In such circumstances, the implementation of safe, legal, and procedural placement policies becomes urgent. The regulation governing PMI protection is reflected in Law No. 18 of 2017, which emphasizes protection during pre-placement, placement, and post-placement stages.

Although the legal framework exists, in practice the protection of PMI remains far from optimal. Cases of exploitation and human trafficking (TPPO) are still widespread, particularly arising from non-procedural migration. In 2020, for instance, BP2MI and the Indonesian National Police handled the case of deceased crew members who were thrown into the sea by foreign vessels. This illustrates the weakness of the protection system for migrant workers, both during recruitment, while employed abroad, and upon their return to Indonesia. Yet constitutionally, Article 27 paragraph (2) of the 1945 Constitution guarantees the right to decent work. Thus, protecting migrant workers must be considered a comprehensive constitutional obligation of the state.

Globally, human trafficking is recognized as a serious transnational crime. The 2000 Palermo Protocol, ratified by Indonesia through Law No. 21 of 2007, defines trafficking in persons as the recruitment, transportation, or harboring of individuals for the purpose of exploitation (Nuraeny, 2011). This crime often arises through illegal recruitment of migrant workers, involving falsified documents or non-procedural processes (Sylwester, 2014). The driving factors include high demand for cheap labor in the informal sector and weak monitoring by countries of origin. Consequently, migrants are vulnerable to labor and sexual exploitation. Therefore, migrant worker placement policies must be aligned with human trafficking prevention policies.

In the modern context, TPPO modes have evolved alongside technological advances. Social media and online platforms are frequently used as recruitment tools that are difficult for authorities to detect (Yusitarani & Sa'adah, 2020). Perpetrators employ various strategies, from online job scams to fraudulent investment schemes that trap prospective workers. In Subang Regency, reported cases reveal that young female high school graduates are among the most vulnerable groups. This phenomenon necessitates the strengthening of digital literacy among prospective PMI to prevent illegal recruitment. It also highlights the urgent need for technology-based monitoring systems to anticipate emerging patterns of trafficking.

Subang Regency, one of the migrant-sending centers in West Java, faces complex challenges in implementing placement policies. Data show that the number of PMI departing from Subang is relatively high, with destinations dominated by East Asian and Middle Eastern countries (BP2MI, 2024). This condition requires the local government to strengthen pre-placement orientation, document verification, and supervision of training institutions. However, the limited number of labor inspectors and low levels of legal literacy among the community remain serious obstacles (BRIN, 2023). Therefore, this study is significant in examining how the implementation of PMI placement policies in Subang Regency contributes to preventing TPPO. It is expected to provide both academic and practical contributions to strengthening migrant worker protection.

II. RESEARCH METHOD

The paradigm employed in this study is positivism, chosen because it views reality as something objective, concrete, and governed by universal legal principles. The primary focus of this research is on criminal law issues concerning the implementation of migrant worker

placement policies to prevent human trafficking. This is crucial given that migrant workers often constitute a vulnerable group highly susceptible to exploitation in transnational trafficking practices. By analyzing policies under Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, this research seeks to formulate normative frameworks that strengthen law enforcement. The positivist paradigm also ensures that the findings can serve as normative foundations in the criminal justice system (Soekanto & Mamudji, 1990).

The research adopts a normative juridical approach or doctrinal legal research, often referred to as library or document study. This approach relies primarily on legal sources such as statutes, court decisions, legal literature, and other relevant written materials. To complement the normative analysis, structured interviews were conducted with relevant stakeholders in order to provide supporting data and enrich the findings. The collected data were then analyzed using qualitative methods to reach conclusions regarding the research problems. This enables the researcher to interpret the implementation of migrant worker placement policies within a normative legal perspective (Pangaribuan, 2024).

The type of research conducted is doctrinal research, which focuses on examining positive legal norms, including statutory regulations, jurisprudence, and scholarly opinions. Doctrinal research is inherently qualitative, emphasizing legal interpretation rather than quantitative calculation. However, where necessary, it may be supplemented with empirical data obtained through interviews or field observations. In this way, the study not only explores normative aspects but also contextualizes them with empirical realities to strengthen the validity of the analysis. Therefore, doctrinal research is considered the most appropriate method to examine the issue of legal protection for Indonesian migrant workers (Fajar & Achmad, 2010, p. 34).

The research data consist of primary and secondary data. Primary data include binding legal sources such as the 1945 Constitution, Law No. 14 of 2003 on Manpower, Law No. 21 of 2007 on the Eradication of Human Trafficking, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, and Law No. 1 of 2023 on the Criminal Code (KUHP). In addition, Government Regulation No. 59 of 2021 provides technical guidelines for the protection of migrant workers. Secondary data consist of legal publications such as books, journals, theses, and dissertations that discuss similar issues. Data collection techniques included library research, structured interviews with relevant stakeholders, and analysis of official documents. These methods collectively support a comprehensive examination of the legal issues under study (Sunggono, 2015, p. 37).

Data analysis was carried out qualitatively using a descriptive-analytical method. This means that the data collected were systematically organized, classified, and interpreted based on existing literature and applicable legal provisions. The systematization of legal materials was an essential step in facilitating analysis. Conclusions were drawn deductively by linking legal facts with existing theories and norms. Through this process, the study provides an overview of the implementation of migrant worker placement policies and their legal protection against human trafficking. This method of reasoning is expected to yield valid findings and contribute to the development of positive law in Indonesia (Moleong, 2015).

III. GENERAL OVERVIEW

Indonesian Migrant Workers (PMI), as defined in Article 1 paragraph (2) of Law No. 18 of 2017, are Indonesian citizens who are about to work, are working, or have worked abroad for wages. This definition aligns with the concept introduced by the International Labour Organization (ILO), which defines a migrant worker as an individual who migrates across countries and is employed by another party (ILO, 2022). The term PMI replaced the term Tenaga Kerja Indonesia (TKI) previously used in Law No. 39 of 2004, in order to harmonize with international labor migration standards. This terminological change is not merely

administrative; it also reflects a new paradigm of the state in providing protection for its citizens working overseas. It affirms that migrant workers hold a clear legal status as subjects of law entitled to guaranteed protection (Ayu, 2023).

Law No. 18 of 2017 was enacted as a response to the growing number of migrant worker rights violations, which caused social, economic, and even psychological harm. The law's primary objective is to guarantee rights, equal opportunities, and fair protection for every citizen to access decent work both domestically and abroad. Protection includes the right to fair wages, accurate information, training access, and guarantees of safety and repatriation. Thus, the state is required to play an active role not only at the recruitment stage but throughout the entire migration cycle—pre-placement, placement, and post-placement (Widiyanto, 2021). This law further demonstrates Indonesia's commitment to the principle of non-discrimination as enshrined in international human rights instruments.

Categorically, PMI are divided into three main groups: those employed by legal entities, those employed by individuals or households, and seafarers in commercial or fishing vessels. Migrant workers employed in the formal sector typically work in manufacturing, services, and hospitality, whereas those employed by individuals are often domestic workers. Meanwhile, seafarers face higher occupational risks, particularly concerning maritime safety. This categorization is crucial, as each sector requires distinct legal protections. Hence, responsive legal instruments are necessary to safeguard migrant workers according to their occupational sector.

The rights and obligations of PMI are comprehensively regulated in Law No. 18 of 2017. Article 6 guarantees that PMI are entitled to employment in line with their competencies, training opportunities, professional services, freedom of religion, fair wages, legal protection, and the right to communication and travel documents. Conversely, their obligations include complying with the laws of the host country, respecting local customs, performing work as stipulated in their employment contracts, and reporting their presence to Indonesian representatives. This balance between rights and obligations is intended to ensure fair labor relations between PMI and their employers in accordance with legal norms. Nevertheless, in practice, widespread violations of migrant workers' rights persist due to weak supervision and illegal recruitment practices (Nurwahidah, 2021).

Legally, the placement of migrant workers is defined as a series of activities connecting workers with employers abroad, as stated in Article 1 paragraph (10) of Law No. 18 of 2017. Placement is not merely an administrative procedure but a form of public service that must uphold the principles of good governance, including legal certainty, transparency, and accountability (Effendi, 2017). The law also provides five placement schemes: Government to Government (G to G), Government to Private (G to P), Private to Private (P to P), placement for company-specific needs (UKPS), and independent placement. These schemes reflect the state's flexibility in accommodating diverse forms of labor migration while maintaining strict oversight to prevent abuse.

From an international legal perspective, Indonesia is bound by several global instruments on migrant worker protection and the prevention of human trafficking. Among them are the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 2000 Palermo Protocol, and ILO conventions on forced labor. These instruments underscore the principles of safe, orderly, and dignified migration that must be upheld by both sending and receiving countries. In the Indonesian context, harmonizing national law with international law is essential to ensure comprehensive protection for PMI. It also represents the state's responsibility to fulfill its international obligations to protect its citizens abroad (United Nations, 2000).

IV. FINDINGS RESEARCH

The implementation of Indonesian Migrant Worker (PMI) placement policies in Subang Regency must be understood within the framework of international migration, which carries both economic impacts and legal risks (SBMI, 2024). PMI placement is regulated under Law No. 18 of 2017, which emphasizes protection from the pre-departure stage through to post-placement. However, in practice, non-procedural migration still frequently occurs, particularly through illegal sponsors. Such cases place PMI in a vulnerable position, exposing them to exploitation and human trafficking (TPPO). Therefore, placement cannot be viewed merely as labor mobility, but must also be understood as a form of social protection policy. This context is particularly relevant as Subang is recognized as one of the key migrant-sending regions with a high number of departures each year.

Data from the Ministry of Foreign Affairs recorded at least 2,758 Indonesian citizens as victims of human trafficking abroad during the period 2020–2024, with the majority originating from non-procedural migration routes (Kemlu RI, 2024). More than 75% of TPPO victims were recruited outside official mechanisms, either through falsified documents or illegal agents (BP2MI, 2024). This fact reveals gaps in the monitoring system and the low level of public legal literacy. For this reason, policy implementation in Subang must prioritize the prevention of illegal recruitment. By strengthening awareness programs at the village level, prospective migrant workers (CPMI) are expected to be better prepared to recognize risks from the outset. This condition demonstrates that current policy implementation has not yet fully addressed the root causes of migration.

Normatively, legal PMI possess complete supporting documents, whereas illegal PMI often depart without following proper legal procedures (Nuraeny, 2016). In Subang, this distinction is particularly evident among domestic workers, who tend to be recruited through unofficial channels. As a result, many lose access to legal protection in destination countries. This condition aligns with research findings that non-procedural PMI are highly vulnerable to forced labor or violence (Utami, 2022). Therefore, policy implementation in Subang must focus on strengthening administrative procedures. Only through legal mechanisms can the risks of exploitation be significantly reduced.

Historically, human trafficking practices have existed since the era of kingdoms in the form of slavery, but they have now evolved into more organized patterns (Monita, 2013). In Subang, such practices are evident through recruitment by individual sponsors who exploit the community's socioeconomic conditions. Globalization has reinforced these patterns, with social media providing perpetrators with easier access to potential victims. This phenomenon underscores the importance of regulations that are responsive to changing crime modalities. Therefore, Law No. 21 of 2007 serves as a crucial instrument to prosecute cross-border human trafficking offenders. However, its implementation still faces challenges at the regional level, including in Subang.

Law No. 21 of 2007 provides the legal basis for the establishment of the Anti-Trafficking Task Force, one of whose functions is to facilitate inter-agency coordination. In Subang Regency, this task force plays a role in conducting awareness campaigns and reporting cases. However, limited resources have hindered its effectiveness. Many victims still struggle to report cases due to fear or pressure from sponsors. This indicates that PMI placement policies have not yet fully functioned as a safeguard against human trafficking (TPPO). Therefore, stronger collaborative strategies between local government and civil society are urgently needed.

The implementation of placement policies must also take into account international standards. The 2000 Palermo Protocol emphasizes the principle of due diligence, namely the obligation of states to prevent, protect, and provide remedies for victims of human trafficking

(United Nations, 2000). As a major migrant-sending area, Subang should internalize this principle within its pre-departure orientation programs. Data from BP2MI (2023) indicate that out of 200,761 PMI officially deployed, only 0.9% experienced rights violations, a figure significantly lower than the 21% recorded among non-procedural migrants. These statistics highlight the importance of regulated migration rooted in protection. Therefore, Pre-Departure Orientation (OPP) serves as a vital instrument in the implementation of placement policies.

The implementation of Pre-Departure Orientation (OPP) in Subang has already been carried out, typically lasting 1–2 days and covering topics such as PMI rights, destination country culture, and the risks of human trafficking (Wahyuningrum, 2019). The program is designed to enhance the readiness of prospective migrant workers (CPMI) mentally, socially, and legally. Interviews with officials from BP3TKI Subang revealed that CPMI who participated in OPP demonstrated a better understanding of employment contracts and official migration channels. Thus, OPP is not merely an administrative activity but forms part of a preventive protection strategy. Nevertheless, its coverage remains limited, as not all CPMI are able to fully participate in the training. Therefore, its scope needs to be expanded to reach all prospective workers.

In addition to legal aspects, the implementation of placement policies also involves cultural and language preparedness. Cultural adaptation training helps PMI reduce conflicts in destination countries and strengthens their resilience against exploitation (Rahayu, 2021). In Subang, this material has already been incorporated into OPP, but its intensity remains low. This condition may lead to cultural shock, which increases worker vulnerability. Therefore, training should place greater emphasis on cross-cultural communication skills. Such efforts align with the objectives of Law No. 18 of 2017, which underscores comprehensive protection beginning at the pre-departure stage.

The implementation of policies in Subang also demonstrates cross-institutional collaboration. BP2MI plays a coordinating role at the national level, while the Subang Department of Manpower is responsible for verification and supervision (BP2MI, 2022). This collaboration is crucial since migration is not only a national issue but also a local one. However, interviews revealed that some training institutions (LPK) continue to operate without licenses. This situation creates loopholes for illegal recruitment practices. Therefore, stricter supervision of LPK is necessary to ensure that training complies with legal standards.

A major problem faced by Subang is the limited number of labor inspectors. BRIN (2023) notes that in many regions, the number of inspectors is highly disproportionate to the volume of migration. This condition leaves many violations undetected at an early stage. As a result, PMI are often dispatched without adequate preparation. These weaknesses in oversight directly contribute to the high incidence of non-procedural migration. Hence, strengthening the capacity of labor inspectors is an essential requirement in the implementation of policies.

The strategy for preventing human trafficking (TPPO) in Subang is carried out through preventive, repressive, and educational approaches (IOM Indonesia, 2022). Primary prevention is conducted through awareness programs in migrant-sending villages. However, the greatest challenge lies in the low level of public legal literacy. Many prospective migrants place more trust in information provided by sponsors than by official institutions. This highlights the need for villages to serve as the frontline of migration education. Through community-based approaches, society can become more critical of illegal recruitment practices.

From the repressive perspective, law enforcement authorities cooperate with BP3MI West Java to dismantle illegal recruitment networks. The 2024 BP3MI report documented enforcement actions against unlicensed training institutions (LPK) in Subang. Nevertheless, effectiveness remains limited, as victims are often reluctant to report due to cultural stigma and

fear (Komnas Perempuan, 2023). Therefore, repressive strategies must be accompanied by safe reporting mechanisms. This is essential to encourage victims to be more willing to seek justice.

Conceptually, the prevention of Human Trafficking (TPPO) must be integrated with international policies. The ratification of the 2000 Palermo Protocol through Law No. 14 of 2009 demonstrates Indonesia's commitment to preventing cross-border human trafficking (ACWC, 2022). Subang, as a region of origin for prospective Indonesian Migrant Workers (PMI), needs to implement this commitment through local policies, such as strengthening Productive Migrant Villages (Desmigratif), which provide economic alternatives for the community. This strategy allows the control of non-procedural migration from the outset, positioning TPPO prevention as part of regional development rather than merely a legal issue.

A major challenge in Subang is the strong culture of choosing quick, albeit illegal, routes. The bounded rationality theory explains that individuals tend to make suboptimal decisions when information is limited and economic pressure is high. This phenomenon is reflected in the community's habit of using sponsors despite high risks. Moreover, religious factors are often used to justify working abroad through non-procedural channels. This indicates that prevention strategies cannot rely solely on formal regulations; social transformation through community-based legal education is required.

Overall, the strategy of the Subang Regency Government should focus on integrating preventive, repressive, and rehabilitative approaches. Legal education through Government and Participatory Organizations (OPP), oversight of Workforce Training Institutions (LPK), and collaboration with civil society organizations are key components (Nurhaeni & Rachmawati, 2020). However, the effectiveness of this strategy is still limited due to inadequate local technical regulations and minimal digitalized supervision. Therefore, the development of online reporting systems and the involvement of villages as legal information agents are essential steps moving forward. With this approach, TPPO prevention in Subang can be more comprehensive while improving the governance of safe and equitable migration for the community.

V. CONCLUSION

The implementation of Indonesian Migrant Worker (PMI) placement policies in Subang Regency is carried out based on Law No. 18 of 2017 and Government Regulation No. 59 of 2021, through collaboration among the Department of Manpower, BP2MI, and local government authorities. Pre-departure orientation programs, legal counseling, administrative assistance, and supervision of training institutions serve as the main instruments to prevent non-procedural migration practices. These efforts contribute to the prevention of human trafficking (TPPO) through educational, administrative, and collaborative mechanisms. However, their effectiveness is still constrained by limited oversight, low legal literacy among the community, and the continued prevalence of illegal recruitment. Therefore, the success of PMI placement policy implementation in Subang heavily depends on the optimization of inter-agency collaboration and the enhancement of local-level supervisory capacity.

To strengthen the implementation of PMI placement policies in Subang as a TPPO prevention instrument, concrete measures are required, including improving inter-agency coordination, enforcing stricter labor supervision, and optimizing the use of digital systems such as SISKOP2MI. The local government needs to tighten accreditation and guidance for Workforce Training Institutions (LPK) so that training programs cover technical skills, legal knowledge, the culture of the destination country, and international work ethics. Preventive efforts should also be expanded through community legal literacy programs in migrant source villages, involving LPK as outreach agents. In addition, strengthening the role of the TPPO Task Force, developing easily accessible reporting channels, and collaborating with civil

society organizations are key elements in building a sustainable, rights-based TPPO prevention system.

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