



Accountability of The Government of The Republic of Indonesia For Illegal Migrant Workers

Amilatul Khoiriyah¹, Didiek Wahyu Indarta²

Universitas Bojonegoro

Email: khoiriyah.mila04@gmail.com¹, dwahjuindarta@gmail.com²

Abstract - The accountability of the Indonesian government towards illegal migrant workers. This study examines how the government is accountable to illegal Indonesian migrant workers. This study aims to find out the causes, obstacles, and legal protection of illegal Indonesia migrant workers. This study uses a normative approach used to examine the protection of migrant workers in the context of government accountability for illegal migrant workers. The data sources used are primary data and secondary data and data analysis using qualitative descriptive analysis. The results of the study can be concluded that illegal Indonesian migrant workers do not receive strong legal protection and accountability from the government like legal migrant workers. This study recommends the need for stricter supervision of institutions that open service services to work abroad and for the public to be aware of false information about the rapid departure of Indonesia's migrant workers.

Keywords: Accountability, Government, Illegal Indonesian Migrant Workers.

I. INTRODUCTION

The unemployment rate in Indonesia has increased drastically, because employment in Indonesia is low so that many people are looking for more decent jobs to go abroad with higher salaries and enough to meet their daily needs in order to be free from poverty problems and debts and debts, besides that it is also difficult for Indonesia people to get a job because of low education. This results in a large number of unemployed people in Indonesia. The low wage level in the country itself with narrow job opportunities makes people prefer to work abroad, because it is easy to get a job and get a better salary. The placement of Indonesia migrant workers abroad has occurred since ancient times. The causes of illegal migration are economic factors (poverty and unemployment), family networking factors (often following one of the family members who are already abroad), and strict immigration policy factors (some people may be encouraged to find ways to enter a country illegally).

Work is a basic need for all mankind whose result is to meet the needs of daily life. There is one of the rights to get a job guaranteed by the constitution stipulated in article 27 paragraph 2 of the 1945 Constitution that "Every citizen has the right to work and a decent livelihood for humanity. Indonesia migrant workers are Indonesia citizens, both men and women, who work abroad for a certain period of time, based on employment agreements (Employment Contracts) through placement procedures according to their abilities. Meanwhile, an illegal migrant worker is a person or individual who decides to work in a foreign country without an official permit and through unauthorized channels (B.D.T.Simbolon, 2023). Illegal itself is an act or act that is not in accordance with the applicable laws and regulations or an act against the law. Most of Indonesia's prospective migrant workers do not have work experience, which happens to prospective migrant workers under the age of 25.

In 2017, Law Number 18 of 2017 concerning the Protection of Indonesia Migrant Workers (BP2MI) was formed. This BP2MI institution is responsible for the protection of

Indonesia migrant workers abroad, which is tasked with supervising, protecting, and ensuring the rights of Indonesia migrant workers during the placement process abroad. According to the law, it is explained that the government has an obligation to provide protection to Indonesia migrant workers, including illegal Indonesia migrant workers, this shows the government's commitment to protect its citizens who are in foreign countries, besides that the government also continues to provide protection to the families of Indonesia migrant workers before and after the end of their working period. The purpose of Law No. 18 of 2017 concerning the Protection of Indonesia Migrant Workers is that Indonesia Migrant Workers must be protected from human trafficking including slavery and forced labor, victims of violence and other treatment that violates human rights (HAM) (HAMID, 2018).

The problems faced by illegal Indonesia migrant workers are the same as those experienced by official Indonesia migrant workers, because there are various problems such as violence, excess time to work, expired contract periods, and salaries that are not in accordance with the previous agreement (D.A.Masyraf, 2021). Every year many people who are interested in becoming migrant workers are increasing both legally and illegally, so that the problems received by Indonesia's migrant workers themselves also increase due to violence, human trafficking, and other problems. Usually, these illegal Indonesia migrant workers have brokers or individuals who manage them, later the brokers or individuals come to the village officials and cooperate with the local authorities, or they can also go directly to the school by persuading their parents. If the broker or person still has a family relationship, he or she can easily be invited to leave by providing security deposit to his parents or with the illegal migrant worker. Most illegal migrant workers depart with intermediaries who will be hired first in one of the cities, then brought and departed directly to the destination country. From various information, it shows that many prospective Indonesia migrant workers take the illegal route because they do not need to bother to take care of documents, so that it will speed up the stages of procedures that must be passed by prospective Indonesia migrant workers to be able to work abroad in a fairly short time compared to the official management of Indonesia migrant workers (Verawati Skaut, 2023).

Initial prevention for illegal migrant workers is carried out by supervising the legality of documents which in fact there are still obstacles that are often faced by officers, such as there are still many discrepancies between the documents brought by prospective migrant workers and the direct information by the prospective migrant workers. When individuals or brokers have provided information about departure, the Manpower Office to re-check the required documents, or also before that, prospective migrant workers must check their work with the Ministry of Manpower or the Manpower Office, so as not to become part of illegal migrant workers. In addition, prevention can be done so as not to be persuaded by the seduction of one person or broker, namely by increasing public awareness about the dangers and many risks of becoming illegal migrant workers, then eradicating institutions or practices of illegal migrant worker distribution services by reporting to the relevant agencies if some people know of an offer to work abroad that is not in accordance with laws and regulations or the conditions that have been determined by the government, after which the government can also create quality, productive domestic jobs, this can be through improving skills for workers, and the public must be aware of offers or information to work abroad.

One of the reasons why Indonesia migrant workers are illegal is Indonesia migrant workers who are looking for a job, however, there are several companies that stand up to open Indonesia labor service services, but one of these companies does not all meet the requirements that have been set by the government can be interpreted as violating the applicable laws and regulations, then in the end Indonesia migrant workers themselves are the victims of established companies. From that, Indonesian migrant workers lack the information they get and lack of knowing whether the company is in accordance with the conditions or regulations that have been set (Z. Asyhadie, 2019).

II. METHOD

In the preparation of this writing, the author uses a type of normative legal research, because it is in accordance with the problem and research objectives. Normative research is research that focuses on legal rules or principles that are conceptualized as norms or rules sourced from laws and regulations, as well as doctrines from prominent legal experts (Nasution, 2008). Then, the approach uses a statute approach in analyzing the protection of the government of the Republic of Indonesia against illegal migrant workers, and uses a conceptual approach in understanding the doctrine and views of legal experts to develop arguments in solving a problem.

The type of research used in this study is normative legal research by researching and understanding literature materials or from primary data materials which include Law Number 18 of 2017 concerning the Protection of Indonesia Migrant Workers, as well as using secondary data materials which include books, legal journals, legal norms, legal principles, legal systematics, and other legal materials related to the formulation of the research.

This research uses a collection method from literature research and the collection of legal materials from social media. To access websites and journals published online that are related to the issues or problems in this research. This research is descriptive analysis because by collecting data and then describing the data, to provide an overview of the existing problems. This method is a descriptive data analysis method that refers to a certain problem, then associated with legal experts or based on applicable laws and regulations (S. Soekanto, 1990).

III. RESULT AND DISCUSSION

1. Factors Causing Legal Migrant Workers to Become Illegal.

The lack of employment, especially for those who have limitations in terms of education and the lack of information obtained, makes it illegal. Some of the factors that cause migrant workers to become illegal in the matter of working abroad include:

a. Lack of jobs in Indonesia

In this case, the employment rate in Indonesia is very minimal for workers whose education is lacking because many people choose to become migrant workers where the salary is more attractive and is the best solution for a more established life. Without thinking about the long term, many migrant workers use the services of one of the companies that do not have conditions in accordance with the applicable laws and regulations. The comparison between the number of workers and the number of jobs in Indonesia is that according to the Central Statistics Agency, the number of workers in Indonesia will reach 142.18 million people in February 2024, while the number of jobs in Indonesia is around 4.4 million jobs according to Members of the House of Representatives of the Republic of Indonesia, jobs in 2024 will be opened as many as 4.4 million jobs. From this, it can be concluded that the comparison between workers and employment is very far, while the number of applicants to become Indonesia's migrant workers in 2024 is very soaring. It can be interpreted that Indonesia residents who do not have a job and find it difficult to find a job, they will look for a job abroad in any way that will be taken later, even though it has high risks and consequences. As well as using the services of individuals or brokers who are not necessarily the official company.

b. The poverty rate in Indonesia is still relatively high

According to the Central Statistics Agency (BPS) in March 2023, it was noted that the national poverty rate is still relatively high, namely 9.36 percent, which is one of the factors that causes people to prefer to become Indonesia Migrant Workers (PMI) in an illegal way, with poor economic conditions after the Covid-19 pandemic increasing poverty in Indonesia due to the large number of people losing their jobs or income. which worsens their financial condition. Not a few Indonesia people are thinking about working abroad who think that the salary offered is much more attractive than in Indonesia (K.E.Hamzah Fathullah, 2023). Meanwhile in Indonesia, people whose income is below Rp. 600,000 per capita per month have been confirmed to be in the poor category.

c. Relatively low level of education

In the factor that the low level of education in Indonesia society is always one of the main factors for the occurrence of jobs such as expensive education costs and lack of educational facilities in a remote area, which is prone to crime in terms of work for both perpetrators and victims. In the case of illegal Indonesia migrant workers, it is also caused by a low level of education, not having enough knowledge in that regard and being easily deceived by brokers or individuals to work abroad in a fast or illegal way in a short time. Sometimes one of the brokers or individuals conducts socialization to remote areas that are far from established and lack of education, where the surrounding community easily grasps the information conveyed and is tempted by a large salary. It turns out that education in Indonesia is low, because of economic limitations that make the younger generation prefer to look for established jobs and usually look for jobs by doing a quick way, one of which is from an institution or person who can hire someone abroad in an easy, fast and affordable way.

d. There is a perception that it is an easy way to work abroad in a fast time and at an affordable price.

This perception refers to the idea that there are programs or pathways that offer the opportunity to work abroad with easy requirements for prospective Indonesia migrant workers, who do not know whether the program is official or illegal. What they understand is a good opportunity to change their fate to be feasible, if the program is illegal then they will Indonesia prospective migrant workers will get a lot of risks that will occur later, and legal protection for them is more likely to be difficult because it is illegal or unofficial. To become a migrant worker, you must understand several official procedures that have been stipulated in laws and regulations. As stated in article 2 of the regulation of the Indonesia Migrant Workers Protection Agency (PERBAN) Number 7 of 2022 concerning the pre-work process for prospective Indonesia migrant workers, that:

“Every Prospective Indonesia Migrant Worker who will work abroad must meet the following requirements:

- a. be at least 18 (eighteen) years old;
- b. have competence;
- c. physical and spiritual health;
- d. registered and have a social security membership number;
- e. have complete required documents;

In the Bandage above, the letter e is interpreted for migrant workers must have the required documents. With that, if there is a mode, socialization under the guise of working abroad in an easy, fast, and affordable way is one of the tricks of illegal companies to find some workers to be made illegal Indonesia migrant workers without official requirements. With the provisions of laws and regulations that regulate Indonesia migrant workers, people who want to become migrant workers do not want to leave on terms or in a way that is in accordance with legal or legal regulations, because they think that the official or legal route is more difficult, it takes a long time, so they think of choosing the illegal or unofficial route in order to get a decent job there without thinking about the risks that will occur. and they have no legal protection if something happens in the country.

In the factors above, there are also other factors or reasons that become migrant workers are illegal, one of which is the smuggling network of vulnerable people making them illegal migrant workers, another thing is also because they do not have a passport and then they are desperate to leave with the aim of getting a job, usually this reason is people who are just leaving for the first time but are deceived by the seduction of individuals who will then not be responsible if there is one something happened to them there, Sometimes these individuals cut ties with them or disappear without leaving a trace, so as not to be caught if at any time there is a danger lurking the person. So, in this factor or reason, the prospective migrant workers themselves do not know that they are being deported illegally and accept their own risks if there is a problem in the country of placement, besides that it is difficult to get protection because they do not have official documents, and their names will be blacklisted or marked to no longer roam in their country.

2. Barriers for Illegal Indonesia Migrant Workers

An obstacle means something that prevents individuals or groups from achieving their goals, so an obstacle in the context of migrant workers themselves is a problem that will later prevent them from achieving their intended work goals but is illegal, or the problems that will be faced by illegal migrant workers vary greatly depending on the country and the situation. The Indonesia government has declared the departure of Indonesia migrant workers illegal, but it can be legal or legal depending on the destination country. But it can also be the other way around, they depart officially legally but can be illegal in the country of placement because they do not have official documents or they can pass through the rat road which can make their fate viable later, such as with the Indonesia-Malaysia border which is one of the main or easy routes for illegal migrant worker. Problems related to destination countries, especially countries such as Malaysia, Hong Kong, Taiwan, are one of the countries related to migrant workers with looser education standards when compared to countries that require high school graduates (SMA) with stricter language proficiency in the destination country and it is more difficult to become a migrant worker in that country where the process is also longer and choose the illegal route. The violations that have occurred a lot are in the pre-placement period, then the problems that also occur are in making passports, because the requirements for making passports are difficult if making work passports, while prospective migrant workers make general passports made by brokers or individuals from institutions that make them leave for the destination country.

In addition, there is a shortcoming that causes migrant workers to become illegal, namely not only the weak supervision of Immigration but also the lack of attention from the village head to the local residents, meaning that many of the village officials do not know that their citizens work abroad and know that they work in the country. From this, not only supervision from the Immigration but also from the village head must be seen so that no citizen works abroad in an illegal way. There are serious obstacles for illegal migrant workers including the loss of legal protection (often illegal migrant workers are not protected by local laws, so they are vulnerable to risks or dangers that will be faced by them), lack of access to proper healthcare, social exclusion or those who are illegal become difficult to access social assistance, and there is exploitation and poor working conditions (illegal migrant workers tend to work in who are unsafe or force them to work in irrational or inhumane conditions, then also often during excessive working hours, and with low wages). In overcoming these obstacles or problems, it is necessary to increase awareness of their rights so that they are safe and unwanted things do not happen. So, the government is obliged to increase stricter supervision and educate the public so that they do not seduce individuals from one of the companies or institutions related to working abroad in an illegal way.

3. Forms of Legal Protection of the Government of Indonesia Against Illegal Migrant Workers.

Indonesia is one of the countries as a country of law that has a legal protection for migrant workers has been regulated in article 1 point 1 of Law No. 18 of 2017 concerning the Protection of Migrant Workers which explains that "Prospective Indonesia migrant workers are every Indonesia worker who is qualified as a job seeker who will work abroad and is registered in a regency/city government agency responsible for the field of employment." Meanwhile, many companies or institutions that open Indonesia labor services are not able to protect or treat workers in a good way. The form of legal protection for legal and illegal migrant workers is contained in article 28 D paragraph (1) of the 1945 Constitution that "Everyone has the right to fair legal recognition, guarantee, protection, and certainty as well as equal treatment before the law". The meaning of the article is that the government will be responsible for every Indonesia citizen who is abroad regardless of legal and illegal status. But in other cases, illegal migrant workers do not get the strong legal protection that they should get like legal or official migrant workers, but also get legal aid, social protection, and health services like legal migrant workers to remain fair to the legal system in Indonesia. If illegal migrant workers are at risk or experience violence abroad, it is very difficult for the Indonesia government to provide the legal

protection they deserve, due to the absence of official documents from the immigration office or from the Ministry of Manpower.

IV. CONCLUSION

Indonesia migrant workers are Indonesia citizens, both men and women, who work abroad for a certain period of time, which is based on a work agreement (Employment Contract) through placement procedures according to their abilities. For this reason, the Indonesia government provides opportunities for people to work domestically, but also provides opportunities to work abroad with requirements in accordance with applicable laws and regulations. The problem is related to the large number of Indonesia people who prefer to work abroad, hoping to provide eligibility for their families. Prospective Indonesia migrant workers only think about salary and can provide for their family life, unlike those who go abroad by choosing illegal means. Illegal itself is an act or act that is against the law and is not in accordance with laws and regulations. Meanwhile, illegal Indonesia migrant workers are individuals or men or women who decide to work in a foreign country in a way that is not in accordance with applicable laws and regulations or unofficially. One of the causes of the existence of illegal Indonesia migrant workers is that employment in Indonesia is minimal for low graduates, then there is a perspective that working abroad can make daily life decent and satisfactory salaries in an unofficial or illegal way. In terms of law enforcement, the government is also responsible for enforcing the law against individuals or parties related to services that employ migrant workers illegally. From the above problems, it can be concluded that illegal migrant workers do not get strong legal protection, because it is very difficult and do not have official documents, but also provide access to illegal migrant workers to get legal assistance, social protection, and health services like legal migrant workers.

REFERENCES

- B.D.T.Simbolon, et. all. (2023). Dampak Pekerja Migran (TKI) Ilegal Indonesia Terhadap Hubungan Bilateral Antara Indonesia Dengan Malaysia. *Pendidikan Sosiologi dan Hukum*, 68.
- D.A.Masyraf, et. all. (2021). Peran kementrian Luar Negeri Dalam Perlindungan Hukum Terhadap Pekerja Migran Indonesia. *Pendidikan Kewarganegaraan Undiskha*, 756.
- Hamid, A. (2018). Menuju Kebijakan Yang Adil Bagi Pekerja Migran, FHUP Press, 4.
- K.E.Hamzah Fathullah, et. all. (2023). Modus Dan Faktor Penyebab Maraknya Kasus Pekerja Migran Indonesia (PMI) Ilegal di Kabupaten Lumajang. *Hukum Politik dan Agama*, 10.
- Kementerian Sekretariat Negara RI. (2024). Targetkan Penurunan Angka Kemiskinan 7,5% di 2024, Wapres Minta K/L Terkait Optimalkan Program dan Anggaran.
- Nasution, B. (2008). Metode Penelitian Hukum. *Mandar Maju*, 86.
- Peraturan Badan Perlindungan Pekerja Migran Indonesia Nomor 4 Tahun 2020
- S.Soekanto, dkk. (1990). Penelitian Hukum Normatif Suatu Tinjauan Singkat. *Rajawali Press*, 29.
- Undang-Undang Nomor 18 Tahun 2017 Tentang Perlindungan Pekerja Migran Indonesia
- Verawati Skaut, et. all. (2023). Pencegahan Pekerja Migran Indonesia (PMI) Ilegal. *Penelitian Multidisiplin*, 4.
- Z. Asyhadie, dkk. (2019). Hukum Ketenagakerjaan Dalam Teori dan Praktik di Indonesia. *Prenadamedia Group*, 28.