



Article History	Received: 9-05-2025	Reviewed:22-05-2025	Accepted: 30-05-2025	Published: 01-06-2025
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LAW ENFORCEMENT AGAINST PLACEMENT OF INDONESIAN MIGRANT WORKERS IN RIAU PROVINCE BASED ON LAW NUMBER 18 OF 2017 ON PROTECTION OF INDONESIAN MIGRANT WORKERS

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ABSTRACT

Article 81 of Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers regulates legal sanctions for individuals who engage in the placement of Indonesian Migrant Workers, with a maximum penalty of 10 years imprisonment and a fine of up to IDR 15,000,000,000. The research method employed is sociological legal research using statutory, case-based, and analytical approaches. The research location was the Riau Regional Police; the population and sample consisted of relevant resource persons. Data sources included primary, secondary, and tertiary data. Data collection techniques included observation, structured interviews, and document/library studies. Data analysis was conducted qualitatively, with conclusions drawn inductively. The research findings reveal that law enforcement as intended has not been effectively implemented. The conclusion is that law enforcement against individuals involved in the placement of Indonesian Migrant Workers in Riau Province based on the stated regulations has not been adequately carried out from 2021 to 2023, as several offenders have yet to be apprehended. The inhibiting factors include law enforcement/government personnel, inadequate infrastructure/facilities, and societal factors.

Keywords: Indonesian Migrant Workers, Riau

ABSTRAK

Pasal 81 Undang-Undang Nomor 18 Tahun 2017 tentang Perlindungan Pekerja Migran Indonesia, mengatur sanksi hukum bagi orang perseorangan yang melaksanakan penempatan Pekerja Migran Indonesia dengan pidana maksimal 10 tahun dan denda maksimal Rp. 15.000.000.000,00. Metode penelitian ialah penelitian hukum sosiologis dengan pendekatan perundang-undangan, kasus dan analitis lokasi penelitian: Kepolisian Daerah Riau; populasi dan sampel dari narasumber relevan; sumber data: primer, sekunder dan tersier; teknik pengumpulan data: observasi, wawancara terstruktur dan studi dokumen/kepuustakaan; analisis data: kualitatif dengan kesimpulan induktif. Hasil penelitian adalah penegakan hukum yang dimaksudkan belum terlaksana dengan baik. Kesimpulannya adalah Penegakan hukum terhadap pelaku penempatan Pekerja Migran Indonesia di Provinsi Riau berdasarkan regulasi tersebut belum terlaksana dengan baik tahun 2021 sampai 2023 karena beberapa pelaku belum tertangkap. faktor penghambatnya ialah faktor aparat penegak hukum/ pemerintah, faktor sarana/ fasilitas dan faktor masyarakat.

Kata Kunci : Pekerja Migran Indonesia, Riau

INTRODUCTION

Indonesian citizens have the right to work as regulated and are given legal protection guarantees in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) that: "Every citizen has the right to work and a decent living for humanity." This legal protection is provided by the state without discrimination as part of development in the employment sector.

Development in the field of employment is a part of the effort to develop the whole Indonesian people as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia. This development basically aims to improve the dignity and self-esteem of workers and as an effort to create a prosperous, just, prosperous and equitable society, both materially and spiritually.¹

Legal protection for Indonesian citizens as stated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia is essentially a form of guarantee of the implementation of human rights which must be upheld, respected and guaranteed to be enforced, without exception. This also applies to Indonesian migrant workers.

Legally, Article 1 number 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, provides a definition of Indonesian migrant workers as every Indonesian citizen who will, is, or has carried out work for wages outside the territory of the Republic of Indonesia, so as explained in the General Explanation Section of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, Indonesian migrant workers must be protected from human trafficking, including slavery and forced labor, victims of violence, arbitrariness, crimes against human dignity, and other treatment that violates human rights.

Placement of migrant workers to work abroad must meet the requirements and be in accordance with legal provisions. "Law is seen as a system of principles found philosophically and these principles reveal the nature of things that are guidelines for human behavior."² In other words, the law is made to regulate the lives of the community or the law is positioned as a tool to achieve the goals of the state, as well as regulations related to immigration and employment. This is in accordance with the opinion of Sunaryati Hartono, "Law as a tool so that in practice legal politics is also a tool or means and steps used by the government to achieve the national legal system in order to achieve the ideals of the state's goals."³

The concept of regulation in law includes orders, prohibitions and witnesses, this concept is also applied in the formation of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. So it can be said that: "basically the

¹ Suratman, *Pengantar Hukum Ketenagakerjaan Indonesia*, (Depok: RajawaliGrafindo Persada, 2019), hlm. 7.

² Roscoe Pound, *An Introduction to the Philosophy of Law*, (New Haven: Yale University Press, 1975), hlm. 25.

³ Moh. Mahfud MD, *Politik Hukum di Indonesia*, (Jakarta: Raja Grafindo Persada, 2017), hlm. 2.

law provides a limitation that is almost the same, namely that the law contains the substance of human behavioral regulations."⁴

One of the prohibitions contained in this regulation is the provision in Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which states that: "Individuals are prohibited from placing Indonesian Migrant Workers." The individual referred to is as defined in Article 1 number 20 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which states that: "A person is an individual and/or corporation." "A corporation is a group of people and/or assets that are organized, whether they are legal entities or not legal entities."⁵ The legal entity corporation in question is of course a corporation that does not meet the requirements for placing Indonesian migrant workers abroad as stipulated in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

Meanwhile, those permitted by law to place Indonesian migrant workers outside the jurisdiction of the Unitary State of the Republic of Indonesia are those mentioned in Article 49 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, namely:

1. Agency

According to Article 1 number 26 of this regulation, "The Agency is a non-ministerial government institution tasked with implementing policies in the integrated service and protection of Indonesian Migrant Workers. The agency is the Indonesian Migrant Worker Protection Agency, in accordance with the definition of the Indonesian Migrant Worker Protection Agency in Article 1 number 14 of Government Regulation Number 10 of 2020 concerning Procedures for the Placement of Indonesian Migrant Workers by the Indonesian Migrant Worker Protection Agency, "The Indonesian Migrant Worker Protection Agency, hereinafter referred to as BP2MI, is a non-ministerial government institution tasked with implementing policies in the integrated service and protection of Indonesian Migrant Workers."

2. Indonesian Migrant Worker Placement Company

According to Article 1 number 9 of this regulation, "Indonesian Migrant Worker Placement Company is a legal entity in the form of a limited liability company that has obtained written permission from the Minister to provide Indonesian Migrant Worker placement services." This means that corporations in the form of legal entities or Limited Liability Companies/PT that do not obtain written permission from the Minister to provide Indonesian Migrant Worker placement services are not permitted to place Indonesian migrant workers abroad.

⁴ Syamsul Arifin, *Pengantar Hukum Indonesia*, (Medan :Medan area University Press, 2012, hlm. 5-6

⁵ Rocky Marbun, Deni Bram, Yuliasara Isnaeni dan Nusya A, *Kamus Hukum Lengkap*, Cetakan Pertama, (Jakarta: Visimedia, 2012), hlm. 169.

3. Companies that place Indonesian Migrant Workers for the benefit of the company itself

Further regulated in Article 8 paragraph (1) of the Regulation of the Indonesian Migrant Workers Protection Agency Number 7 of 2022 concerning the Pre-Employment Process for Prospective Indonesian Migrant Workers, that: "Companies that place Indonesian Migrant Workers for the benefit of the company itself must obtain written permission from the Minister or an appointed official in accordance with the provisions of laws and regulations." This means that corporations in the form of legal entities or in the form of Limited Liability Companies/PTs that have branches or are established abroad that require Indonesian Migrant Workers to be placed in their own companies, if they do not obtain written permission from the Minister to provide Indonesian Migrant Worker placement services, are not permitted to place Indonesian migrant workers abroad.

The limited job opportunities and less attractive economic conditions in the country of origin, trigger people to look for work in other countries, so that the level of labor mobility is high.⁶ Such conditions also occur in Riau Province, so that in terms of implementation, the prohibition of Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers has not been effectively enforced in the region. Based on initial research conducted by the author through observation, it is known that in 2021 to 2023 there were still 16 perpetrators of illegal sending and placing of Indonesian migrant workers to Malaysia which were carried out individually by the people of Riau Province.

The legal sanctions against perpetrators of violations of Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers are as regulated in Article 81 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, that: "Any individual who carries out the placement of Indonesian Migrant Workers as referred to in Article 69 shall be punished with imprisonment for a maximum of 10 (ten) years and a maximum fine of IDR 15,000,000,000.00 (fifteen billion rupiah)."

Protection of Indonesian Migrant Workers needs to be carried out in an integrated system involving the central government, regional governments, and the community. Protection of Indonesian Migrant Workers includes institutional protection that regulates the duties and authorities of the ministry as a regulator/policy maker with the Agency as an operator/policy implementer. This is because the state through its government apparatus has a legal responsibility to provide legal protection for Indonesian citizens. Legal liability (*recht liability*) is "A legal obligation to pay compensation that will be received by the perpetrator from

⁶ Henny Natasha Rosalina dan Lazarus Tri Setyawanta, "Perlindungan Hukum Terhadap Pekerja Migran Sektor Informal dalam Perspektif Teori Bekerjanya Hukum di Masyarakat", *Jurnal Pembangunan Hukum Indonesia*, Vol. 2 No. 2 Tahun 2020, hlm. 175.

someone who has been harmed based on the angle of loss or suffering caused by the actions of the perpetrator concerned. While the concept of legal responsibility (liability law) is a person who is legally responsible for certain actions that he can be subject to sanctions in cases of his actions that are contrary to/against the law."⁷

So if there is a violation of the law, the state is also obliged to provide legal sanctions to the perpetrators of the violation of the law. In the concept of law enforcement and punishment. This is in line with the opinion of Sudikno Mertokusumo who stated that: "the law functions as a protection of human interests, so that the law must be implemented normally, peacefully, but violations of the law can also occur, so that the law must be enforced so that the law becomes a reality."⁸

Law enforcement against criminal acts can be implemented through the application of criminal sanctions, in this case the sanctions referred to are as regulated in laws and regulations. "Criminal sanctions are said to be punishment attached to conviction at crimes such as fines, probation and sentences, namely punishment imposed with the aim of punishing a perpetrator/criminal act."⁹

Basically, to enforce a law, a law needs to be made, but the making of a law is not a solution to the efforts to enforce legal problems. "With the end of the making of the law, the legal process has actually only finished one stage of a long journey of the existence of law regulating society. The stage of making the law must still be followed by its concrete implementation in society, this is what is then called law enforcement."¹⁰ Law enforcement against perpetrators of illegal sending and placing of Indonesian migrant workers to Malaysia carried out by individuals by the people of Riau Province has not been implemented properly in 2021 to 2023.

This is proven by initial research conducted by the author through observation where the implications for law enforcement are the number of cases of sending and placing illegal Indonesian migrant workers to Malaysia by individuals by the people of Riau Province in 2021 to 2023, namely 17 victims and 15 perpetrators, an increase from the previous 3 years which only numbered 3 victims and 5 perpetrators. Where in cases in 2021 to 2023 there were 9 perpetrators who were successfully arrested and 6 perpetrators who had not been successfully arrested, as the author presents in the table below:

⁷ Jamilah, "Pertanggungjawaban Hukum Dalam Pengembalian Aset Hasil Korupsi di Indonesia", *Jurnal Mercatoria*, Vol. 8, No. 2 Desember 2019, hlm. 170.

⁸ Sudikno Mertokusumo, *Mengenal Hukum*, (Yogyakarta: Liberty, 2005), hlm. 160.

⁹ Mahrus Ali, *Dasar-Dasar Hukum Pidana*, (Jakarta: Sinar Grafika, 2015), hlm. 193

¹⁰ Satjipto Rahardjo, *Ilmu Hukum*, (Bandung: PT. Citra Aditya Bakti, 2014), hlm. 191.

Table 1
Number of Cases of Illegal Indonesian Migrant Workers' Sending and Placement
to Malaysia by Individuals in Riau Province
In 2021 to 2023

No.	Year	City / Regency	Location of the Perpetrator's Arrest	Number of Victims (People)	Number of Perpetrators Successfully Arrested (People)	Number of perpetrators who have not been successfully arrested (People)
1.	2021	Meranti	Pelabuhan Tanjung Samak	3	1	1
		Dumai	Pelabuhan Dumai	2	1	-
		Bengkalis	Pelabuhan Bandar Sri Laksamena	1	1	-
2.	2022	Dumai	Pelabuhan Dumai	2	2	1
		Bengkalis	Pelabuhan Bandar Sri Laksamena	2	1	2
		Bengkalis	Pelabuhan Bandar Sri Laksamena	3	1	-
3.	2023	Bengkalis	Pelabuhan Bandar Sri Laksamena	3	2	1
		Dumai	Pelabuhan Dumai	1	-	1
Total				17	9	6

Source: Riau Regional Police, 2021 to 2023.

From the table above, as observed by the author, it is known that the perpetrator is an individual. Based on the legal facts and social facts underlying this problem, a gap has been found between the law (Das Sollen), namely Article 81 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and the implementation of the law (Das Seins), namely law enforcement that has not been implemented properly by perpetrators of sending Indonesian migrant workers in Riau Province from 2021 to 2023. This condition of course has an impact on legal

protection for victims which has not been fully accommodated so that a solution must be sought immediately. Therefore, legal research is needed. Legal research is "a scientific activity based on certain methods, systematics, and thoughts that aim to study something or several certain legal phenomena by analyzing them."¹¹

RESEARCH METHOD

This study uses sociological legal research. Sociological legal research is also often referred to as empirical research, namely: "A legal research method that functions to be able to see the law in a real sense and examine how the law works in a community environment. Because this study is studying people in social relations, the empirical legal research method can also be called sociological legal research."¹² "legal facts then seek solutions to the problems that arise in these social phenomena."¹³ Therefore, in this type of legal research, the requirement is that researchers basically have to know legal science and social sciences and have knowledge in social science research.

Sociological/empirical legal research prioritizes the existence of "field research" which is essentially a method to specifically find out the reality of what is happening in society, so conducting research on several current problems/hottest issues that are currently raging and expressed in the form of social symptoms or processes."¹⁴

RESULT AND DISCUSSION

Law Enforcement Against Perpetrators of Placement of Indonesian Migrant Workers in Riau Province Based on Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers

Humans cannot be separated from the demands of life that must be met in order to survive so that humans must work. "By working, humans will humanize themselves and work is the right of every adult human being in order to maintain the degree of humanity and fulfill their life needs. The state and society must guarantee the right of every human being/citizen to work and not differentiate between these rights between one and another."¹⁵

In relation to such conditions, it is necessary to develop manpower. "Manpower development in principle has many dimensions that are not only related to the interests of workers who will, are and have carried out employment relations, but also how to ensure that everyone gets work and a decent life for humanity, as mandated by Article 27 paragraph (2) and Article 28 D paragraph (2) of the 1945

¹¹ Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2014), hlm. 18.

¹² Soerjono Soekanto, *Sosiologi Suatu Pengantar*, (Jakarta: Rajawali Pers, 2012), hlm. 12.

¹³ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI-Pers, 1986), hlm. 43.

¹⁴ Hadari Nawawi, *Metode Penelitian Bidang Sosial*, (Yogyakarta: Gadjah Mada University Press, 1998), hlm. 63.

¹⁵ Suratman, *Pengantar Hukum...*, *Loc. Cit.*.

Constitution of the Republic of Indonesia, which in essence states that every citizen has the right to work and a decent life for humanity without any discrimination in the implementation of employment relations. The right to work and the rights in work are not only socio-economic rights, but are also fundamental human rights."¹⁶ "Protection of workers is intended to guarantee the basic rights of workers/laborers and guarantee equal opportunities and treatment without discrimination on any basis whatsoever to realize the welfare of workers/laborers and their families while still paying attention to developments in the progress of the business world."

The right to work under international law is protected and recognized in Article 23 paragraph (1) of the Universal Declaration of Human Rights, which states that: "Everyone has the right to obtain work, free choice of employment, just and favorable conditions of employment and protection from unemployment."

Protection for workers is provided by the Indonesian government without discrimination, including protection for Indonesian Migrant Workers. The protection provided by the government begins with the formation of a law that underlies the protection in question, which is often known as legal protection. According to Philipus M. Hadjon, legal protection is defined as: "Protection of dignity and honor, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness/is a collection of regulations or rules that will be able to protect one thing from another." Legal protection for Indonesian Migrant Workers is regulated based on Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

According to Article 1 number 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, "Indonesian Migrant Workers are every Indonesian citizen who will, is, or has carried out work for wages outside the territory of the Republic of Indonesia." According to Article 4 of the regulation, Indonesian Migrant Workers include:

1. Indonesian migrant workers who work for legal employers
2. Indonesian migrant workers who work for individual or household employers
3. Sailors, ship crews and fishing sailors

Regarding legal protection, based on document/literature studies through Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, it is known that the establishment of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, as stated in Article 3 of the regulation, has the following objectives:

1. Ensure the fulfillment and enforcement of human rights as citizens and Indonesian Migrant Workers; and

¹⁶ Nurul Chotidjah, "Perlindungan Hak Asasi Manusia Mengenai Hak-hak Ekonomi, Sosial dan Budaya Kaitannya dengan Lingkungan Hidup", *Jurnal Ilmu Hukum Litigasi*, Vol. 4 No. 3 Tahun 2033, hlm. 231.

2. Ensure legal, economic, and social protection for Indonesian Migrant Workers and their families

This is reinforced by the results of the author's interview with the Head of the Technical Implementation Unit (UPT) of the Indonesian Migrant Workers Protection Agency (BP2MI) for the Riau Region, that: "Indonesian Migrant Workers as workers who earn foreign exchange for the country need legal protection. With the establishment of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, it underlies the procedures for implementing legal protection for them. Where the purpose of the regulation is not only to protect Indonesian Migrant Workers but also to protect their families. In addition to legal protection, the capacity of the regulation also includes economic protection for Indonesian Migrant Workers and their families."¹⁷

However, based on a study of documents/literature conducted by the author through an article written in a journal, it is known that, "The sending of Indonesian workers through illegal/non-legal migration to Indonesia has been carried out in a chain and irresponsibly for quite a long time, not least to Malaysia, Singapore and Saudi Arabia."¹⁸ "The main driving factor for this activity is the desire of individuals or groups to maintain their economy."¹⁹ Such actions clearly violate Human Rights (HAM). "Human Rights are a dimension of the totality of human life. Examining the state of Human Rights is actually examining the totality of life, to what extent our lives give a reasonable place to humanity."²⁰

In addition, the substance of the human rights violation is considering that workers will definitely not get legal protection and will be treated arbitrarily in the destination country. "Several legal problems will arise if Indonesian migrant workers abroad are not given protection. Starting from before working, migrant workers must be given protection from registration to departure. Even protection is given after working, namely all activities to provide protection since Indonesian migrant workers and their family members arrive at the disembarkation in Indonesia until returning to their home area, including follow-up services to become productive workers."²¹

Placement and sending of migrant workers abroad also occurs in the jurisdiction of the Riau Police. Where this constitutes Human Trafficking, where according to Article 1 number 1 of Law Number 1 of 2007 concerning the Eradication

¹⁷ Wawancara Penulis dengan Bapak Fanny Wahyu Kurniawan, S. Kom, Selaku Kepala Unit Pelaksana Teknis (UPT) Badan Perlindungan Pekerja Migran Indonesia (BP2MI) Wilayah Riau, Pada Hari Selasa, Tanggal 12 November 2024, Pukul 08.40 WIB di Kantor UPT BP2MI Wilayah Riau.

¹⁸ M.Arif Nasution, *Globalisasi dan Migrasi Antar Negara*, (Bandung: Alumni, 1999), hlm. 11.

¹⁹ Abdul Haris, *Gelombang Migrasi dan Jaringan Perdagangan Manusia*, (Yogyakarta: Pustaka Pelajar, 2005), hlm. 119.

²⁰ Majda El Muhtaj, *Hak Asasi Manusia dalam Konstitusi Indonesia*, (Jakarta: Prenada Media Group, 2015), hlm. 43.

²¹ Bayu Dwi Anggono, *Perkembangan Pembentukan Undang-Undang di Indonesia*, (Jakarta: Konstitusi Press, 2014), hlm. 1.

of Criminal Acts of Human Trafficking, it provides a definition that: "Human Trafficking is the act of recruiting, transporting, sheltering, sending, transferring, or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt trapping or giving payment or benefits, so as to obtain the consent of the person who holds control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or resulting in people being exploited."

This statement is reinforced by the results of the author's interview with the Director of General Criminal Investigation of the Riau Police, in this case represented by the Head of the Supervision and Investigation Section of the Directorate of General Criminal Investigation of the Riau Police, who stated that: "The case of sending and placing Indonesian immigrant workers abroad illegally occurred in the jurisdiction of the Riau Police, looking at the elements, this is also included as a Criminal Act of Human Trafficking. Therefore, in the jurisdiction of the Riau Police, the perpetrators, in addition to being charged with Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, are also subject to articles in Law Number 1 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking."²²

Based on the results of observations carried out by the author, it is known that the violation of the law is a violation of the provisions of Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which states that: "Individuals are prohibited from placing Indonesian Migrant Workers."

Placement of Illegal Indonesian Migrant Workers to Malaysia by Individuals Based on the Total Number of Perpetrators and Victims in Riau Province. In 2021 to 2023, the above is based on the results of the author's interview with the author's interview with the Investigator of Subdit IV Dit Reskrimum Polda Riau who Handles Cases of Sending and Placement of Illegal Indonesian Migrant Workers to Malaysia, he explained as follows:²³

1. The total number of victims in 2021 to 2023 is 17 people, with the following details for each year:
 - a. In 2021, there were 6 people
 - b. In 2022, there were 7 people
 - c. In 2023, there were 4 people

²² Wawancara Penulis dengan Direktur Reserse dan Kriminal Umum Kepolisian Daerah Riau, Dalam Hal ini Diwakili Oleh Bapak AKBP Dr. Azwar, S. Sos., M. Si, SH., MH, CMC, CCD, CLA, Selaku Kabag Wassidik Dit Reskrimum Polda Riau, Pada HariKamis, Tanggal 14 November 2024, Pukul 10. 20 WIB, di Markas Kepolisian Daerah Riau.

²³ Wawancara Penulis dengan Bapak Ipda Apriadi, S.H, Selaku Penyidik Subdit IV Dit Reskrimum Polda Riau yang Menangani Perkara Pengiriman dan Penempatan Pekerja Migran Indonesia Ilegal ke Negara Malaysia, Wawancara Dilaksanakan Pada Hari Selasa, Tanggal 12 November 2024, Pukul 15.10 WIB, di Markas Kepolisian Daerah Riau.

2. The total number of perpetrators in 2021 to 2023 is 15 people, with the following details for each year:
 - a. In 2021, there were 4 people
 - b. In 2022, there were 7 people
 - c. In 2023, there were 4 people

Legally, individuals who are prohibited from sending and placing Indonesian Migrant Workers abroad are as intended by Article 1 number 20 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which states that: "A person is an individual and/or corporation."

A corporation is a group of people and/or assets that are organized, whether they are a legal entity or not.²⁴ The legal entity corporation in question is of course a corporation that does not meet the requirements for placing Indonesian migrant workers abroad as stipulated in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

For more details regarding who is allowed to send and place Indonesian Migrant Workers abroad based on the provisions of the laws and regulations, the author conducted an interview with the Head of the Technical Implementation Unit (UPT) of the Indonesian Migrant Workers Protection Agency (BP2MI) for the Riau Region. Based on the interview with him, it was obtained that those who are allowed to send and place Indonesian Migrant Workers abroad are as follows:²⁵

1. Indonesian Migrant Workers Protection Agency (BP2MI);
2. Corporations/companies with legal status in the form of Limited Liability Companies. Where the Corporation/company for the Placement of Indonesian Migrant Workers is required to have obtained written permission from the Minister to provide placement services for Indonesian Migrant Workers.
3. Limited Liability Companies Companies that already have branches abroad then place Indonesian Migrant Workers for the benefit of the company where they have obtained written permission from the Minister or appointed officials in accordance with the provisions of laws and regulations.

Based on observations made by the author, it is known that the sending and placement of Indonesian Migrant Workers to Malaysia, especially those from Riau Province, is already an organized network/syndicate. This is reinforced by the results of the author's interview with the Head of the Operations and Personnel Development Section of the Directorate of General Criminal Investigation of the Riau Regional Police, where in the interview he stated that "Human trafficking in Indonesia, especially in Riau Province to Malaysia in the scope of sending and

²⁴ Rocky Marbun, Deni Bram, Yuliasara Isnaeni dan Nusya A, *Kamus Hukum... Loc Cit..*

²⁵ Wawancara Penulis dengan Bapak Fanny Wahyu Kurniawan, S. Kom, Selaku Kepala Unit Pelaksana Teknis (UPT) Badan Perlindungan Pekerja Migran Indonesia (BP2MI) Wilayah Riau, Pada Hari Selasa, Tanggal 12 November 2024, Pukul 08.40 WIB di Kantor UPT BP2MI Wilayah Riau.

placing Indonesian Migrant Workers from Riau Province to Malaysia has formed a structured, systematic and organized crime network with a nature that has spread and almost massively occurred throughout the administrative area of Riau Province. Such actions are referred to as criminal acts of human trafficking.²⁶

Legally, the Crime of Human Trafficking according to Article 1 number 2 of Law Number 1 of 2007 concerning the Eradication of the Crime of Human Trafficking, is interpreted as: "The Crime of Human Trafficking is any action or series of actions that fulfill the elements of a crime as determined in this Law. While in the conceptual review Farhana defines it by orienting the Crime of Human Trafficking as an organized crime through the previous doctrine put forward by Donald Cressey, which states that: "The Crime of Human Trafficking is an organized crime, where what is meant by organized crime is a crime that gives trust to its executor in someone where the person who works is given a small share of the results, in this crime there are other elements consisting of an appraiser who is tasked with persuading, collecting and coercing."

According to Article 1 number 14 of Government Regulation Number 10 of 2020 concerning Procedures for Placement of Indonesian Migrant Workers by the Indonesian Migrant Workers Protection Agency, "The Indonesian Migrant Workers Protection Agency, hereinafter referred to as BP2MI, is a non-ministerial government institution tasked with implementing policies in the integrated service and protection of Indonesian Migrant Workers."

In relation to this, based on observations made by the author, it is known that in Riau Province, the implementer of policies in the service and protection of Indonesian migrant workers is at the Technical Implementation Unit (UPT) of the Indonesian Migrant Workers Protection Agency (BP2MI) for the Riau Region.

This is reinforced by the results of the author's interview with the Head of the Technical Implementation Unit (UPT) of the Indonesian Migrant Workers Protection Agency (BP2MI) for the Riau Region, who stated that: "Supervision, service and protection of Indonesian migrant workers and prospective Indonesian migrant workers in the Riau Province are the authority and responsibility of the UPT BP2MI for the Riau Region considering that the working area of this institution is the entire administrative area of Riau Province. These authorities and responsibilities include before work, during work and after work."²⁷

Review of criminal problems with reference to the theory of punishment is very necessary in the law enforcement process. "The theory of punishment is a

²⁶ Wawancara Penulis dengan Bapak AKBP Robinson Saragih, S. Sos, Kepala Bagian Pembinaan Operasi dan Personal Direktorat Reserse dan Kriminal Umum Kepolisian Daerah Riau, Pada Hari Jum'at Tanggal 15 November 2024. Pukul 11. 15 WIB di Markas Kepolisian Daerah Riau.

²⁷ Wawancara Penulis dengan Bapak Fanny Wahyu Kurniawan, S. Kom, Selaku Kepala Unit Pelaksana Teknis (UPT) Badan Perlindungan Pekerja Migran Indonesia (BP2MI) Wilayah Riau, Pada Hari Selasa, Tanggal 12 November 2024, Pukul 08.40 WIB di Kantor UPT BP2MI Wilayah Riau.

theory that analyzes expert opinions related to why the state imposes punishment on perpetrators who have committed crimes, whether because of the element of retaliation or to scare society and/or protect or improve society.”

Andi Hamzah defines "sanctions as punishments given against legal rules. Then criminal sanctions are defined as legal implications for violations of criminal law rules in the form of criminal penalties and/or actions." This can be interpreted that the prohibition in the law that is violated can result in sanctions. To implement the intended punishment, sanctions are needed, where sanctions against individuals who send and place Migrant Workers by individuals in violation of the law are regulated in Article 81 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, that: "Individuals who carry out the placement of Indonesian Migrant Workers as referred to in Article 69 shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 15,000,000,000.00 (fifteen billion rupiah)."

Based on observations made by the author, it is known that the law enforcement procedure against individuals who carry out the sending and placement of Migrant Workers by individuals in violation of the law in the jurisdiction of the Riau Regional Police in 2021 to 2023, is carried out with certain procedures. Based on the results of the author's interview with the Director of Criminal Investigation of the Riau Police, in this case represented by the Head of the Wassidik Division of the Riau Police Criminal Investigation Directorate, it can be explained as follows:²⁸

1. Investigation, carried out if: No suspects and/or evidence have been found; Case development; and Evidence has not been fulfilled.
2. Commencement of investigation, begins with administrative registration of investigation. Every development in case handling in criminal investigation activities must be issued with SP2HP. Investigation is carried out based on Police Report (LP) and Warrant. After the Investigation Warrant is issued, a Notification Letter of Commencement of Investigation (SPDP) is made.
3. Coercive measures, Coercive measures can be preceded by investigation. Coercive measures include:
 - a. Written summons by issuing a summons. If a suspect who has been summoned for examination for the purpose of investigating a case and his whereabouts are unclear, is recorded in the Wanted List (DPO) and a wanted person letter is made;
 - b. Arrest, where the arrest must be accompanied by an arrest warrant and a task order, except in the case of being caught red-handed;

²⁸ Wawancara Penulis dengan Direktur Reserse Kriminal Umum Kepolisian Daerah Riau, Dalam Hal ini Diwakili Oleh Bapak AKBP Dr. Azwar, S. Sos., M. Si, SH., MH, CMC, CCD, CLA, Selaku Kabag Wassidik Dit Reskrimum Polda Riau, Pada HariKamis, Tanggal 14 November 2024, Pukul 10. 20 WIB, di Markas Kepolisian Daerah Riau

- c. Detention, where Detention can only be carried out against suspects who are threatened with a sentence of 5 years or more. Detention is accompanied by a detention warrant;
 - d. Search, carried out accompanied by: Search warrant and Search permit from the court, except in very necessary and urgent circumstances;
 - e. Confiscation of objects/ goods related to the case being handled for the purposes of the investigation which must be accompanied by: Seizure warrant and Seizure permit from the chairman of the court, except in the case of being caught red-handed;
 - f. Examination of letters, carried out with special permission granted by the chairman of the district court, except in very necessary and urgent circumstances and/or provisions of other laws and regulations
4. Examination, the suspect can be accompanied by a legal advisor;
 5. Determination of the suspect based on at least 2 (two) pieces of evidence supported by evidence. Determination of the suspect is carried out through a case title mechanism, unless caught red-handed;
 6. Filing, carried out by making a resume;
 7. Submission of case files to the court;
 8. Submission of the suspect and evidence, where the detention of the suspect can only be carried out if the suspect is threatened with imprisonment of 5 years or more. In the case of a fast examination, the Investigator with the authority of the Public Prosecutor by law submits the case files, evidence, witnesses, and defendant to the court;
 9. Termination of Investigation, where the termination of the investigation is carried out through a Case Title. Termination of the investigation can be carried out to fulfill legal certainty, a sense of justice and legal benefits. Termination of the investigation is carried out in accordance with the provisions of laws and regulations.

The process of making efforts to enforce or function legal norms in real terms as guidelines for behavior in traffic or legal relations in community and state life." "Abstract laws can be classified as justice, legal certainty, and social benefits. Justice, legal certainty, and social benefits are elements that must be included in the framework of law enforcement. An effort to make abstract ideas a reality. The process of realizing abstract ideas is the core of law enforcement. However, the process of realizing abstract legal ideas into reality has not gone as it should in Riau Province.

This is because, as mentioned in the previous paragraph in this thesis research, law enforcement against perpetrators of the placement of Indonesian Migrant Workers in Riau Province based on Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers in 2021 to 2023 still experiences obstacles

related to the fact that several perpetrators have not been caught so that law enforcement also experiences obstacles with the consequence that criminalization cannot be carried out against several perpetrators who have not been caught.

This is reinforced by the results of the author's interview with the Head of the Operations and Personnel Development Section of the Directorate of General Criminal Investigation of the Riau Regional Police, who stated that: "In the case of sending and placing Indonesian Migrant Workers to Malaysia by individuals, this is a violation of the law against the provisions of Article 69 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which states that: Individuals are prohibited from placing Indonesian Migrant Workers, several perpetrators did themselves when they were about to be arrested by Sub-Directorate IV of General Criminal Investigation of the Riau Regional Police, so that criminal sanctions and fines cannot yet be applied to those who fled in 2021 to 2023. The legal sanctions referred to are as stated in Article 81 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, that: Individuals who place Indonesian Migrant Workers as referred to in Article 69 shall be subject to a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 15,000,000,000.00 (fifteen billion rupiah)."²⁹ Such conditions also show that legal protection has not been fully obtained for the victims of these crimes.

Comparison of the Number of Actors Sending and Placing Indonesian Migrant Workers to Malaysia by Individuals Who Have Been Successfully Arrested and Those Who Have Not Been Successfully Arrested by Sub-Directorate IV of General Criminal Investigation of the Riau Regional Police from 2021 to 2023, above is based on the results of the author's interview with Comparison of the Number of Actors Sending and Placing Indonesian Migrant Workers to Malaysia by Individuals Who Have Been Successfully Arrested and Those Who Have Not Been Successfully Arrested by Sub-Directorate IV of General Criminal Investigation of the Riau Regional Police from 2021 to 2023, he can explain as followst:³⁰

1. The total number of perpetrators from 2021 to 2023 who have been successfully arrested is 9 people, with the following annual breakdown:
 - a. 3 people in 2021
 - b. 4 people in 2022
 - c. 2 people in 2023
2. The total number of perpetrators from 2021 to 2023 who have been successfully arrested is 6 people, with the following annual breakdown:

²⁹ Wawancara Penulis dengan Bapak AKBP Robinson Saragih, S. Sos, Kepala Bagian Pembinaan Operasi dan Personal Direktorat Reserse Kriminal Umum Kepolisian Daerah Riau, Pada Hari Jum'at Tanggal 15 November 2024, Pukul 11. 15 WIB di Markas Kepolisian Daerah Riau

³⁰ Wawancara Penulis dengan Ibu Brigadir Tika Tiara Nurrisa, SH, Selaku Penyidik Subdit IV Dit Reskrim Polda Riau yang Menangani Perkara Pengiriman dan Penempatan Pekerja Migran Indonesia Ilegal ke Negara Malaysia, Wawancara Dilaksanakan Pada Hari Selasa, Tanggal 12 November 2024, Pukul 17.00 WIB, di Markas Kepolisian Daerah Riau.

- a. 1 person in 2021
 - b. 3 people in 2022
 - c. 2 people in 2023
3. The percentage comparison of the number of perpetrators who have been successfully arrested and have not been successfully arrested in 2021 to 2023 is 60%, with the following annual breakdown:
 - a. 33.40% in 2021
 - b. 75% in 2022
 - c. In 2023 as much as 60%

In order to find out the legality of the victims' departure plan, the author also conducted an interview with the Head of the Riau Region BP2MI UPT. In the interview, he stated that: "The names of the victims/prospective migrant workers who will be sent from Bengkalis to Malaysia are not recorded in the Sisko P2MI application as prospective Indonesian migrant workers who have passed the selection stage and are included in the BP2MI Riau Region departure list. SF as the perpetrator of TPPO and Protection of Indonesian Migrant Workers in the case is also not registered as the owner of a company/manager of a legal entity that supplies Indonesian workers, meaning that the perpetrators are individuals. The victims are also not included in the data of prospective Indonesian Migrant workers who have participated in the OPP. So it is clear that his party firmly stated that the victims' departure plan is illegal/without permission."³¹

The author conducted an interview with the perpetrator of the crime that occurred in 2023. In the interview, he stated that: "He admitted that he had often sent prospective Indonesian migrant workers to Malaysia illegally before finally being arrested by Riau Police officers in early June 2023. He admitted that he asked the victims for money for the victims' departure costs to Malaysia."³²

Based on this, it is clear that law enforcement against perpetrators of the placement of Indonesian Migrant Workers in Riau Province based on Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers has not been implemented properly from 2021 to 2023. The main obstacle is that several perpetrators have not been caught along with several other obstacles.

Inhibiting Factors in Law Enforcement Against Perpetrators of Placement of Indonesian Migrant Workers in Riau Province Based on Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers

³¹Wawancara Penulis dengan Bapak Fanny Wahyu Kurniawan, S. Kom, Selaku Kepala Unit Pelaksana Teknis (UPT) Badan Perlindungan Pekerja Migran Indonesia (BP2MI) Wilayah Riau, Pada Hari Selasa, Tanggal 12 November 2024, Pukul 08.40 WIB di Kantor UPT BP2MI Wilayah Riau.

³² Wawancara Penulis dengan SF, Selaku Pelaku Pengiriman dan Penempatan Pekerja Migran Indonesia Secara Ilegal ke Negara Malaysia di Kabupaten Bengkalis Pada Tahun 2023 yang Berhasil Ditangkap, Wawancara Dilaksanakan Pada Hari Kamis, Tanggal 14 November 2024, Pukul 15. 00. WIB.

Based on the research results, it is known that the factors that hinder law enforcement against perpetrators of the placement of Indonesian Migrant Workers in Riau Province based on Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, come from the following factors.:

1. Law enforcement/government factors, namely
 - a. Lack of coordination and internal cooperation of Subdit IV Dit Reskrimum Polda Riau, in arresting perpetrators of the placement of Indonesian Migrant Workers in Riau Province;
 - b. Lack of personnel from Polda Riau, especially in Subdit IV Dit Reskrimum Polda Riau;
 - c. Lack of ability of Subdit IV Dit Reskrimum Polda Riau Riau Regional Police in dealing with obstacles in the field so that several perpetrators have not been caught.
2. Facilities/facilities factors, namely
 - a. Difficult terrain/crime scene traveled/geographical conditions of the crime scene making it difficult for Riau Police officers to pass through and allowing the perpetrators to escape/hide as well as the unpreparedness of the Riau Police in pursuing, searching and arresting the perpetrators with inadequate vehicles related to the physical condition/engine of the vehicle (car), limited number of vehicles and vehicle departure times that are not always available every hour and sometimes even late in arriving and departing from the scheduled time (speed boat/cocoon, ferry);
 - b. Lack of budget for law enforcement considering the difficult terrain/crime scene which is quite far from the city and quite far from the Riau Police headquarters located in Pekanbaru City so that it requires quite high costs in reaching the crime scene;
 - c. the lack of budget owned by the Riau BP2MI UPT so that it rarely conducts socialization of the law Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, especially regarding the procedure for placing Indonesian migrant workers abroad, both for migrant worker distributors in Indonesia and prospective Indonesian migrant workers
3. Community factors, namely:
 - a. The people of Riau Province, especially those in Meranti Regency, Bengkalis Regency and Dumai Regency, are less cooperative in helping police officers to obtain information on the whereabouts of the perpetrators;
 - b. The escape of the perpetrators during the arrest;

- c. Lack of information from the perpetrators who were successfully arrested to uncover the TPPO network in the jurisdiction of the Riau Police and the TPPO network in the destination country;
- d. The condition of the victim and the victim's family as well as the perpetrator's family and the surrounding community who are economically disadvantaged, making it difficult to provide information related to the perpetrators because they still hope that if the perpetrator is not caught, the victim can still be sent to Malaysia to work in the future;
- e. Human trafficking network with the mode of sending and placing Indonesian Migrant Worker Protection to Malaysia which is quite neat and organized so that it is not easy to uncover;
- f. The procedure for establishing a company that distributes Indonesian migrant workers with a legal entity is quite complicated and has too many requirements, so that the people of Riau Province choose to send Indonesian Migrant Workers individually, accompanied by a fairly high demand from Malaysia for Indonesian migrant workers.

CONCLUSION

1. Law enforcement against perpetrators of the placement of Indonesian Migrant Workers in Riau Province based on Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers has not been implemented properly from 2021 to 2023. The main obstacle is that several perpetrators have not been caught along with several other obstacles.
2. Inhibiting factors are, First, the law enforcement/government factor, namely the lack of internal coordination and cooperation; Lack of police personnel; lack of police ability to deal with field obstacles. Second, the facility/facility factor, namely the geographical conditions of the crime scene are difficult to pass through, allowing the perpetrators to escape and the lack of readiness of officers regarding the condition of sea vehicles; Minimal budget for crime scene outreach; minimal budget for the Riau BP2MI UPT so that socialization is rare. Third, the community factor, namely the community is less cooperative in helping the police; The perpetrators escaped; The condition of the victim, the victim's family/perpetrator and the surrounding community are poor so that it is difficult to provide information because they hope to be sent off too; The TPPO network is neat and organized; The procedures and requirements for establishing a migrant worker distribution company are complicated

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