

Legal Ideas Related to Protecting The Rights of Indonesian Migrant Workers with Morality and Dignity

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Abstract

Indonesian migrant workers face various challenges related to the protection of their human rights, both in their countries of origin and destination. Protection of their rights is often ignored or violated, leading to inhumane and degrading treatment.

Through a normative research method with a statutory and conceptual approach, this article analyzes the applicable national and international legal framework, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Indonesian Migrant Workers Protection Act.

The results show that despite the existence of various legal instruments designed to protect migrant workers, their implementation is often hampered by various factors, such as a lack of inter-agency coordination, weak law enforcement, and migrant workers' limited access to justice.

This article proposes several recommendations, including the need for increased awareness and legal education for migrant workers, strengthening the role of the state in protecting their rights, as well as the establishment of a specialized institution responsible for ensuring that the protection of migrant workers' rights is implemented with morality and respect for their dignity as human beings.

I. Introduction

Humans are cultural beings who have desires. Humans need everything in order to live a great life. Economic, psychological, biological and occupational needs are some examples of basic human needs.¹ The workplace is a place where people can develop as human beings. Man can survive because of his work because of its results. But since man must work in order to survive, he cannot continue to stand idly by and do nothing (i.e. not work). Some argue that work, as an essential part of human existence, should be closely linked to human nature, the most fundamental of which is the pursuit of happiness.

According to Marx: "Work is the most fundamental human act, in working, man makes himself real", 'work is the means of human self-objectification'. The object of work becomes a vehicle for expressing one's skills and abilities. In the workplace, man can fully realize who he is. Therefore, people will subject themselves to abuse or humiliation when they fail to appreciate or belittle the work of others.

According to Marx, "the active and productive" is the essence of humanity. This distinguishes humans from other animals because, unlike bees, humans are able to consciously set the purpose of their existence and produce the meaning of livelihood. Humans are accustomed to working for a living². There is some truth in this, but Marx also prepared a number of judgments regarding this, including the requirement that the purpose of productive activities include the kind of life that humans deserve, as well as the development of many other facts about human nature.

The purpose of human existence is to make people happy by balancing the desires of mankind. Humans need to be willing and able to work hard, supported by science and human cooperation, in order to be happy. Humans are social beings who need relationships with other humans. Every human being in this relationship adheres to moral principles and standards as guidelines for behavior, The norms are then transformed into social norms, which in turn represent every social behavior known as customary law throughout the existence of a country.

Article 27(2) of the Fourth Amendment of the 1945 Constitution, which states that: "Every individual has the right to a livelihood worthy of humanity and the ability to work." Workers who are in an employment relationship and follow the instructions of their employer are considered part of the labor force (person, employer, legal entity) and are paid a salary or other remuneration for their services in the task in question. When a person performs work under the supervision of another person while earning a wage or other form of remuneration, he or she is called a worker. Workers who are not in an employment relationship, such as shoeshine boys or haircutters, but who work under the supervision of another

¹ Abdulkadir Muhammad, *Etika Profesi Hukum*, PT. Citra Aditya Bakti, Bandung, 2006.

² Abdul Rachmad Budiono, *Hukum Perburuhan di Indonesia*, Penerbit Raja Grafindo Persada, Jakarta, 1999,

person and who are not under the supervision of another person. receiving a salary or other type of compensation is not considered a worker. Workers are key players in the implementation of development, with a very important role and position. Improving the quality of Indonesian workers and their contribution to development, as well as upholding their human rights and interests, is essential.

A person who will do, is doing, or has done paid work in a country of which he or she is not a national is called a migrant worker³. This requires a number of conditions to be met, such as the right to a decent livelihood, fair treatment, and a fair division of labor. Therefore, laws must be clear and non-binding. Firm in its enforcement and transparent in its communication.

The pursuit of capital-based economic growth in Indonesia's economic development and investment strategy appears to have failed to address the issues of poverty, unemployment and employment prospects. This is partly due to the fact that Indonesia has a labor surplus economy, which means that economic expansion does not necessarily have a major impact in reducing unemployment and poverty. In line with the increase in the labor force, the Labor Force Participation Rate (TPAK) has also increased, as shown in the following table:

Table 1.1
Population 15 Years and Over by Type of Main Activity
August 2015-2019

Status Keadaan Ketenagakerjaan	Agustus 2015	Agustus 2016	Agustus 2017	Agustus 2018	Agustus 2019	Perubahan 1 Tahun (Ags 2018-Ags 2019)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	juta orang	juta orang	juta orang	juta orang	juta orang	juta orang	persen
Penduduk Usia Kerja	186,01	189,10	192,08	194,78	197,91	3,13	1,61
Angkatan Kerja	122,38	125,44	128,06	131,01	133,56	2,55	1,95
Bekerja	114,82	118,41	121,02	124,01	126,51	2,50	2,02
Pengangguran	7,56	7,03	7,04	7,00	7,05	0,05	0,71
Bukan Angkatan Kerja	63,73	63,66	64,02	63,77	64,35	0,58	0,91
	persen	persen	persen	persen	persen	persen poin	
Tingkat Pengangguran Terbuka (TPT)	6,18	5,61	5,50	5,34	5,28	-0,06	
Perkotaan	7,31	6,60	6,79	6,45	6,31	-0,14	
Perdesaan	4,93	4,51	4,01	4,04	3,99	-0,05	
Tingkat Partisipasi Angkatan Kerja (TPAK)	65,76	66,34	66,67	67,26	67,49	0,23	
Laki-laki	82,71	81,97	82,51	82,69	83,13	0,44	
Perempuan	48,87	50,77	50,89	51,88	51,89	0,01	

(Data source: Central Bureau of Statistics, 2019)

Table 1.1 above shows that the global labor force was 133.56 million in August 2019, an increase of 2.55 million from the same month last year. The labor force consists of employed people and unemployed people. As of August 2019, the unemployed population was 7.05 million and the employed population was 126.51 million. The number of employed people increased by 2.5 million over the previous year, and the number of unemployed people increased by 50,000.

Total population share (TPAK) increased by 0.23 percentage points from August

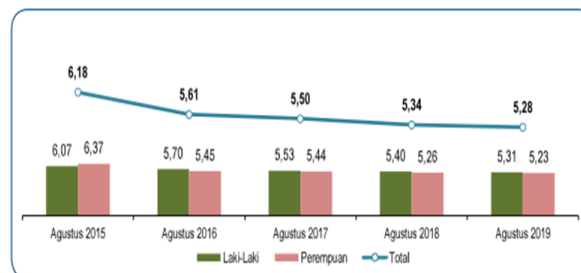
³ Abintoro Prakoso, Hukum Perlindungan Anak, Laksbang Pressindo, Yogyakarta, 2016

2018 to 67.49% in August 2019. An increase in TPAK indicates economic potential for an increase in labor supply. Between August 2015 and August 2019, TPAK increased by 1.73 percentage points. There is a gender difference in TPAK between men and women.

As of August 2019, the male TPAK was 83.13% and the female TPAK was 51.89%. Compared to the male TPAK (0.42 percentage points), the female TPAK increased by 3.02 percentage points between 2015 and 2019.

One indicator of labor that is not absorbed by the labor market is the Open Unemployment Rate (TPT)⁴. Between August 2015 and August 2019, there was a decrease in the TPT of 0.90 percentage points. In August 2018, the TPT was 5.34 percent; in August 2019 it fell to 5.28 percent. This shows that there are about 5 unemployed people for every 100 workers. The TPT for men in August 2019 was 5.31 percent compared to 5.23 percent for women. as shown below:

Figure 1.1
Open Unemployment Rate (TPT) by Gender (Percent)
August 2015-2019



(Data source: Central Bureau of Statistics, 2019)

Compared to 2018, the decline in TPT for men (0.09 percentage points) was greater than the decline in TPT for women (0.03 percentage points). TPT for all education levels declined by 0.3 to 2.4 percentage points between August 2015 and August 2019. In August 2019, primary schools had the lowest TPT (2.41%), while vocational high schools (SMK) still had the highest TPT of all education levels (10.42%).

Business environment creation, security and stability, policies, laws and regulations at the local and national levels are closely related to labor issues. These may include factors that support or hinder the production of goods and services, including distribution and supply chains, as well as investors' willingness to invest funds in Indonesia.

A "migrant worker", also known as "migrant worker", "migrant worker" or

⁴ Achmad Ali, *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*, Gunung Agung, Jakarta, 2002, hlm. 115. Lihat pula Sudikno Mertokusumo, *Mengenal Hukum*, Liberty, Yogyakarta, 1991

"commonly known as TKI (Tenaga Kerja Indonesia) or Indonesian Migrant Worker (PMI)" is any Indonesian citizen who meets the requirements of a job and goes abroad for wages. Article 1 of Law No. 39 of 2004 on the Protection and Placement of Indonesian Workers Abroad provides a legal definition of migrant workers and the placement of migrant workers abroad. Article 1 (3) of Law No. 39/2004 describes the service activities of matching migrant workers with foreign employers based on their skills, interests and talents. These activities include the entire process of recruitment, document processing, education and training, accommodation and preparation for departure, and the actual travel to and from the destination country. The law gives federal and local governments the power to control the placement of migrant workers. Legislators should consider several international treaties that Indonesia has ratified as a form of comprehensive protection for migrant workers, whose issues are fundamentally complex. The concerns of migrant workers should be linked to those of women, children, victims of trafficking, sociocultural issues, and others. Of course, passing laws to protect migrant workers from Indonesia is not the only way for the state to respond to calls for engagement in this area; however, legislation must be supported by proactive measures to quickly replace outdated policies and accelerate the transition to new labor migration management practices.

Research Method

This kind of research is called normative legal research, meaning that this research describes, examines, clarifies, and evaluates the protection received by Indonesian migrant workers abroad.

Normative legal research includes:

1. Research on legal principles
2. Research on legal systematics
3. Research on the level of legal synchronization
4. Research on legal history
5. Comparative legal research.

Finding the right principle or doctrine is the purpose of normative legal studies on legal principles, which focus on identifying and evaluating the constitutional rights of Indonesian migrant workers⁵. Identifying the primary / basic meaning of law, including legal society, legal subjects, rights and obligations, legal events, legal relations, and legal objects, is the purpose of normative legal studies on legal systematics. These meanings include:

1. To know and analyze the legal protection of the constitutional rights of Indonesian Migrant Workers (PMI) in ASEAN countries;

⁵ Hadi, Syamsul, *Sekuritisasi dan Upaya Peningkatan Perlindungan terhadap Tenaga Kerja Indonesia*, Jurnal Hukum Internasional Labour Law Volume 5 Nomor 4 Juli 2008, Lembaga Pengkajian Hukum Internasional, Jakarta: Fakultas Hukum Universitas Indonesia, 2008

2. To know and analyze the legal guarantees and practices of legal protection of the constitutional rights of Indonesian Migrant Workers (PMI);
3. To find and explain the correlation of the principle of “ASEAN Spirit” in an effort to realize protection for ASEAN Migrant Workers who are moral and dignified;
4. To find and develop legal ideas related to the protection of the rights of Indonesian migrant workers who are moral and dignified.

Jonny Ibrahim states that “Normative legal research is a scientific research procedure to seek truth based on the logic of legal science from its normative side” in his book *Theory and Methods of Normative Legal Research*⁶. The scientific rationale behind normative legal research is based on the vast disciplines and operations of normative legal science, ranging from private correspondence to official government publications.

3. Results and Discussion

Research Results

1. Legal protection of the constitutional rights of Indonesian Migrant Workers (PMI)

The scope of protection of workers according to Law Number 13 of 2003 concerning Manpower includes:

- a. Protection of occupational safety and health
- b. Protection of morals and decency
- c. Treatment in accordance with human dignity and religious values.

Meanwhile, every worker has the right to be treated equally by the employer without discrimination, in accordance with Article 6 of Law No. 13/2003 on Manpower. This labor protection covers a number of topics, including social security, working hours, minimum wage, freedom of organization and association, and most importantly safety. Discussions about legal protection cannot be separated from discussions about the rights that must be obtained and the obligations that must be fulfilled by legal subjects. Legal protection refers to the recognition and guarantee of human rights provided by law. The idea of recognizing and defending the rights of migrant workers comes from the recognition and defense of human rights. The existence of a claim is what constitutes a right. If a right is violated, a person can file a claim as a legal remedy. The legal protection provided to migrant workers is based on the concept of human rights.

Basic and non-human rights are included in the rights of workers/laborers.

⁶ Abrar Saleng, *Hukum Pertambangan*, UII Press, Yogyakarta 2004, hlm 9, dalam disertasi Aries Harianto, “Makna Tidak Bertentangan dengan Kesusilaan sebagai Syarat Sah Perjanjian Kerja”, PDIH Universitas Brawijaya, Malang, 2013

Human rights are rights that are innate in labor and workers themselves; if these rights are deprived from workers, then the dignity and worth of workers as human beings will deteriorate. On the other hand, non-human rules and regulations govern the rights of labor and workers, also known as non-human rights.

Human rights are not a moral idea that is universally accepted or instantaneous in a society or country⁷. Human rights emerged gradually over several eras of societal development as an ethical idea. Human social experience is the foundation on which human rights are built and developed. Perceptions of human rights are shaped by the experiences of various social groups in the country's society.

2. Legal Guarantees and Practices of legal protection of the constitutional rights of Indonesian Migrant Workers (PMI) abroad

The 1945 Constitution expressly and unequivocally establishes the concept of human rights in Indonesia, and since then the state has implemented it in society. Recognized as a constitutional right in the 1945 Constitution is the right of workers and laborers to work that is decent for humanity. This means that the state may not make laws or implement rules (bureaucratic policies) with the aim of undermining the core principles of the constitution. The state can guarantee the implementation of constitutional rights even in a contemporary legal state (welfare state).

Similar to human rights, non-human rights also go through a process determined by statutory restrictions and the progress of society. Every Indonesian citizen who will, is, or has done work and received remuneration outside the territory of the Unitary State of the Republic of Indonesia is considered an Indonesian migrant worker, in accordance with Article 1 Paragraph 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. . Meanwhile, as referred to in Article 1 paragraphs 3 and 4, the family of Indonesian Migrant Workers includes husband, wife, children, or parents, as well as all relationships that are related to them. arising from court decisions and/or orders, for both those domiciled in Indonesia and those living abroad with Indonesian Migrant Workers⁸. Indonesian migrant workers who work abroad without the assistance of a placement agency are called individual migrant workers.

As stated in Article 1 paragraph (1) of Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad, "Indonesian workers, hereinafter referred to as PMI, are every Indonesian citizen who has the right to

⁷ Devi Rahayu, *Tanggung Jawab Negara Dalam Perlindungan Hukum Bagi Tenaga Kerja Indonesia Wanita di Luar Negeri*, Universitas Airlangga, Surabaya, 2016

⁸ Fandarian Kusuma Dewata, *Disertasi yang berjudul "Perlindungan Hukum Buruh Migran Negara Indonesia di Taiwan Dikaji Dari Perspektif Hubungan Internasional (Berdasarkan Undang-Undang Nomor 39 Tahun 2004 Tentang Penempatan dan Perlindungan Tenaga Kerja Indonesia di Luar Negeri)"*, Universitas Gajah Mada, Yogyakarta

work abroad in a work relationship for a certain period of time and receive wages.” Therefore, migrant workers are referred to as PMI. The problem in Indonesia is that there is no definition of undocumented migrant workers in Law No. 39/2004, which is the highest regulation dealing with migrant worker issues.

3. Correlation of the principle of “ASEAN Spirit” in an effort to realize protection for Indonesian Migrant Workers (PMI) with morality and dignity.

This global framework addresses the vulnerabilities experienced by migrant workers globally,⁹ and continue to emerge to ensure labor migration processes are safe, orderly, and secure. These vulnerabilities are caused by unjust global systems that lead to discriminatory policies, exploitative migration management, patriarchal cultures that encourage gender-based violence, inequality, and the strengthening of anti-immigrant politics around the world, which make it difficult for migrant workers to migrate. . The vulnerability experienced by Indonesian migrant workers, especially women migrant workers, also persists after the government issued Law No. 18/2017 on the Protection of Indonesian Migrant Workers a year ago.

ASEAN will continue to serve as a platform for frequent communication among its member states. To implement the ASEAN-led mechanism, ASEAN must be able to maintain its unity and centrality through the ASEAN+1 conference, which is ASEAN with major powers (China and the US). To resolve the current PMI issues, it is done through “THE ASEAN SPIRIT” which does not cause hostility among the parties concerned. Indonesia's regional integration requires appropriate interventions to capitalize on newly created opportunities, improve the competence of the workforce, and improve the competence of the labor force, and improve competitiveness to collaborate within the AEC framework in the industrial sector as well as strengthen security for migrant workers seeking opportunities abroad.

Indonesia must take advantage of the opportunities presented by the formation of the ASEAN Economic Community to optimize its demographic bonus¹⁰. The Asian Development Bank (ADB) and the International Labor Organization (ILO) predict that as ASEAN integration increases, more job opportunities will be created in each member country than lost. All stakeholders must prioritize cooperation that makes the best use of human resources to advance towards a competitive economic region.

For Indonesia to be able to compete in the ASEAN region and globally, efforts to expand and improve skilled and ready-to-compete human resources must continue.

⁹ Hamid S. Attamimi, *Peranan Keputusan Presiden RI dalam Penyelenggaraan Pemerintahan Negara (Suatu Studi Analisis Mengenai Keputusan Presiden yang Berfungsi Pengaturan dalam Kurun Waktu Pelita I – IV)*, Disertasi, Universitas Indonesia, Badan Pembinaan Hukum Nasional dari Masa ke Masa, BPHN Departemen Kehakiman RI, Jakarta, 1995

¹⁰ Berita Resmi Statistik, *Keadaan Ketenagakerjaan Indonesia Agustus 2019*, Badan Pusat Statistik Indonesia, No. 91/11/Th. XXII, 05 November 2019

If done right, this will not only solve the labor problem but also boost the formal economy, maintain high growth rates, and absorb more labor force¹¹. In the ASEAN Community, well-managed integration and adaptation can reduce unemployment and increase export productivity. For Indonesia to benefit from the new opportunities created, upskill its workforce, enhance the competitiveness of cooperation in the AEC manufacturing framework, and improve protection for migrant workers seeking opportunities abroad, regional integration requires appropriate interventions.

4. Legal ideas related to legal protection of the rights of Indonesian Migrant Workers (PMI) with morality and dignity

The main purpose of worker protection laws is to uphold workers' rights. Article 27 paragraph (2) of the 1945 Constitution, which states that every citizen has the right to work and livelihood commensurate with humanity, is the basis for the protection of workers' rights.

In addition, the provisions of Article 28D paragraph (1), which states that everyone has the right to recognition, guarantees, protection, fair legal certainty, and equal treatment before the law, also contains guarantees of labor protection. Paragraph (2) of Article 28D states that everyone has the right to work and to fair and appropriate treatment in labor relations, and is entitled to a fair wage. These clauses show how the right to labor has become more respected in Indonesia is important and protected by the 1945 Constitution. Given the relatively low level of employers compared to workers, legal protection requires government involvement.

Philipus emphasized that power is always correlated with legal protection. Governmental power and economic power are two types power is always a cause for concern. The issue of legal protection of the people (the governed) and the government (the governor) in relation to the authority of the government ¹². Legal protection in the sense of economic power is the defense of the weak (economic) against the powerful (economic), such as the defense of workers against business owners.

However, as government involvement in the labor sector has proven increasingly necessary throughout labor history, this should not create new problems. As an illustration, consider the approach to (legal) protection for workers/laborers, which stems from the growth of the uncontrolled concept of

¹¹ ILO (International Labour Organization), Peringatan 100 tahun ILO:Memajukan Keadilan Sosial, Mempromosikan Pekerjaan yang Layak, ILO Kantor Jakarta, 2019

¹² Kaur, A., The Global Labour Market: International Labour Migration inSoutheast Asia since the 1980s. In: Wage Labour in Southeast Asia since 1840. A Modern Economic History of Southeast Asia. Palgrave Macmillan, London, 2004

Laissez Faire in the Middle Ages. This theory is based on the liberal capitalist ideology of economic liberalization, which prohibits government intervention in business or labor relations. The resulting adverse effects are abusive labor practices, unhealthy competitiveness in the industrial sector, and only the better-off businessmen are able to stop it.

Discussion

1. Legal protection of the constitutional rights of Indonesian Migrant Workers (PMI)

Legal protection is crucial to ensure the enforcement of the rights of legal subjects and to prevent the government from acting arbitrarily against the rights and interests of weaker (inferior) members of society.

Legal protection can also be provided through policies, regulations, and normative measures issued by the government that recognize the rights of legal subjects. The purpose of the law is essentially realized when every individual receives legal protection and their rights are respected. Gustav Radbruch defines the concept of "three foundations of law" as "justice, utility, and certainty." Achmad Ali then expanded this concept by including:

- a. Justice;
- b. Utility;
- c. Legal certainty.

According to Imam Soepomo, legal protection for workers means providing opportunities for workers to perform tasks that align with human dignity. Work norms are a form of legal protection for workers. These norms encompass aspects such as working hours, salary scales, break and leave policies, religious practices in accordance with recognized religions and beliefs, social obligations to the community, as well as maintaining the morale and spirit of employees, thereby ensuring high productivity and fair treatment. consistent, with morality and dignity. Workers and laborers increasingly need legal protection due to their precarious position. Prioritizing legal protection for workers is very important, especially for migrant workers¹³. Not only is legal clarity demanded, but protection in the form of health and safety guarantees for workers during their employment must also be developed. Employers are required by law to provide this guarantee as a form of protection for their employees in the event of unfavorable circumstances. This guarantee is based on the belief that workers' human rights must be legally protected.

¹³ Kinasih, S. E., & Dugis, V. M., Perlindungan Buruh Migran Indonesia melalui Deteksi Dini HIV/AIDS pada saat reintegrasi ke daerah asal. Jurnal Masyarakat, Kebudayaan dan Politik, 28(4), 2015

In summary, it is said that economic mobility is necessary for economic progress, and migrant workers ultimately play a number of important roles. Therefore, the state's responsibility in the early stages of migration is to assist ethnic communities in developing their character. Additionally, granting full rights and permanent social space to migrants is the best way to manage this migration and avoid marginalization and social conflict. According to international migration theory, this refers to the protection of migrant workers' rights on a global scale, particularly through the use of international legal frameworks. The legal basis for international migrant workers' rights is found in international agreements. After signing and ratification, a country is legally obligated to implement and make provisions for the realization of the rights of migrant workers within its territory. The protection of the rights of Indonesian migrant workers abroad can become more relevant by using international migration theory as a guideline for the enforcement of human rights ratified by the UN or other international organizations, or through international conferences such as the ASEAN Declaration that is often utilized to resolve disputes - human rights issues in global forums.

2. Legal Guarantees and Practices of Legal Protection for the Constitutional Rights of Indonesian Migrant Workers (PMI) Abroad

Various policies (both legislative and bureaucratic) have been undertaken by the government through its participation in the field of worker welfare. The policy is widely found in the legislation that is implemented, such as Law Number 13 of 2003 concerning Manpower and its implementing regulations. All legislation aims to protect workers and their families as the weaker party compared to employers; to improve the living standards of workers and their families; to halt the decline in income and purchasing power of the community; and to protect workers and their families from job loss or reduced income due to accidents or death resulting from work. (job security).

However, as previously mentioned, although the relationship laws. The industry is already in place, but both the government and labor movements have yet to see the expected results¹⁴. Legislation is applied based on various criteria. The realization of the rights of workers and employees can be effectively achieved if the following considerations are taken into account:

- a. Workers/laborers, as holders of rights, should be able to enjoy their rights without any obstacles or interference from any party.
- b. Workers/laborers, as the rightful owners, must have the ability to demand

¹⁴ Muhammad Syaifuddin. 2012, Nasionalisasi Perusahaan Modal Asing ; Ide Normatif Pengaturan Hukumnya dalam UU No.25 Tahun 2007 dan Relevansinya dengan Konsep Negara Hukum Kesejahteraan Pancasila dalam UUD NRI Tahun 1945, Simbur Cahaya ; Majalah Ilmiah Fakultas Hukum Universitas Sriwijaya, No.47 Tahun XVII

something through the legal processes that address these matters. In other words, workers and laborers can use the current legal processes to sue parties that interfere with, obstruct, or fail to uphold their rights.

The failure of almost all parties involved in defending and fulfilling the rights of migrant workers and their families is one of the reasons for the complexity of the issues they face. However, challenges also arise because migrant workers, whether intentionally or not, have a very poor understanding of legal issues and human rights, which is crucial for their protection when migrating. Those who are left behind in the family also exhibit this weakness. A decent livelihood, the freedom to practice one's beliefs, the right to accurate information, the freedom to socialize, the right to education, the right to health, the right to social security, and other rights are among those that are questioned, including the right to fair wages, decency, the freedom to work during regular hours, and other rights. The above conditions indicate that the various issues faced by migrant workers require careful handling and a broad perspective on law enforcement as well as legal protection and human rights. The state has the obligation and responsibility to uphold, promote, fulfill, and enforce the human rights of migrant workers as subjects of international law. This mandate is stated in agreements and international law.

3. The correlation of the principle of "ASEAN Spirit" in efforts to realize protection for Indonesian Migrant Workers (PMI) who are moral and dignified.

Likewise, after the Indonesian government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers a year ago, the difficulties and vulnerabilities faced by migrant workers in Indonesia, especially women, have not necessarily improved. Indonesian migrant workers are still far from access to justice.

Indonesia emphasized in the AMM Retreat that ASEAN must continue to ratify the SEANWFZ agreement. (South East Nuclear Weapons Free Zone). The formation of the ASEAN Community will open up more prospects for cooperation among countries.- ASEAN countries. Retno L.P. Marsudi, the Minister of Foreign Affairs of Indonesia, also emphasized at this AMM Retreat conference the importance of protecting migrant workers and how this is directly related to Laos' main priority—namely, the advancement of decent work. Indonesia highlights the importance of making the protection of migrant workers a top priority in the ASEAN negotiation agenda. Indonesia hopes that ASEAN member countries can soon reach an agreement on the ASEAN legislative framework to protect migrant workers.

The goal of the "ASEAN Spirit" principle in creating a shared commitment and responsibility that has legal force regarding the protection of ASEAN migrant workers' rights is thus in line with the connection of this principle in efforts to realize legal protection for the Indonesian community that is moral and dignified.

Indonesian migrant workers (PMI). This is done by using stronger and binding agreements to make the protection of migrant workers a mandatory law or consensus among ASEAN countries, although in practice it is not easy due to the various interests of each ASEAN country.

The main challenge is the lack of available workforce in all ASEAN member countries. Of course, this commitment is strong enough for the main labor-sending countries, such as the Philippines and Indonesia, as both countries will gain many benefits from this commitment. When Indonesia and the Philippines show their commitment, several other countries including Vietnam, Thailand, Cambodia, and possibly even Laos and Myanmar that also have a small number of workers abroad, will gradually do the same. However, it is still very difficult for Malaysia, Brunei Darussalam, and Singapore to view the issue of migrant workers as something absolutely important, as these countries are recipients of labor, including from other ASEAN countries¹⁵. Global peace can be achieved by using the "ASEAN Spirit" approach, which emphasizes consensus-building in decision-making and refraining from interfering in the internal affairs of other countries. This approach can bridge the differences in conditions among ASEAN countries. The goal of ASEAN is to provide legal guarantees for the protection of migrant workers' rights. By uniting and playing a key role in addressing various regional and global issues, ASEAN can effectively implement the ASEAN Vision 2025 and deliver tangible benefits for the ASEAN community, fostering a successful and peaceful ASEAN community, as well as a stable Southeast Asia. The Indonesian government, the country that sends the most migrant workers, is implementing the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers consistently and methodically.

4. Legal concepts related to the legal protection of Indonesian Migrant Workers. (PMI) moral and dignified

The purpose of this law is to protect human rights. The law needs to be applied competently to defend human interests. The law can be applied in a regular, calm, and organized manner. Law enforcement is necessary to uphold the laws that have been violated. Legal clarity is necessary for law enforcement because it provides a legitimate defense against fluctuating behavior.

Legal clarity is highly anticipated by the community as it will ensure order, security, and harmony in society. The community anticipates the benefits of law enforcement. Because laws are made for society, their implementation must be beneficial and advantageous for the community in order to avoid social dissatisfaction. Individuals who are treated fairly and justly will foster harmony in

¹⁵ Patrick Quinn, *Kebebasan Berserikat dan Perundingan Bersama: Sebuah Studi tentang Pengalaman Indonesia 1998 – 2003*, ILO, Jakarta, 2003

society. Indeed, the law can safeguard the rights and obligations of every individual. If these rights are well protected, then the overarching goals of law order, security, tranquility, prosperity, peace, truth, and justice will be achieved.

Legal certainty has two meanings: first, the existence of general rules that provide information to the public about what is permissible or prohibited; second, it offers the public legal protection against government arbitrariness because these general rules inform the public about everything that may be imposed or done by the state against them. The consistency of the law among judges' rulings for similar cases is as important as the provisions in the law in providing legal certainty.

This relates to labor law that regulates the employment relationship between employers and workers, thereby governing the interests of individuals. However, government intervention is necessary in the administration of labor relations for certain issues, so that when linked to mandatory legal protection, it makes legal protection absolute. This means that laws that are strictly adhered to must not be violated in any way that affects individual interests, especially when it concerns the constitutional rights of Indonesian migrant workers. Meanwhile, the law is facultative, or *regelendrecht/aanvullendrecht* (laws that regulate/supplement), which means it can be set aside in its implementation. The author claims that it cannot be practiced in the future, particularly in the context of defending the constitutional rights of Indonesian Migrant Workers, as it is expected to raise urgent issues related to legislation outside of Indonesia.

4. Conclusion

1. Legal protection of the constitutional rights of Indonesian Migrant Workers (PMI)
From an academic perspective, this research helps clarify the shortcomings in the 13 chapters and 87 articles that make up the Indonesian Migrant Workers Protection Law. (UU PPMI). Because the decision is primarily based on the Convention on the Protection of Migrant Workers, it is considered progressive. There are still several issues in the Indonesian Migrant Worker Protection Law that need to be resolved, even though the PPMI Law is essentially similar to Law Number 6 of 2012 on the Ratification of the Migrant Workers Convention.
2. Legal Guarantees and Practices for the Legal Protection of the Constitutional Rights of Indonesian Migrant Workers (PMI) Abroad
These regulations are not consistently adhered to. Although it is mentioned that there are three parties involved in the placement of Indonesian Migrant Workers (PMI), namely private companies, independent firms, and agencies, most of the focus is on the placement agreement for PMIs, which is one of the mandatory documents that prospective PMIs must have. What about placement operators who work independently and through institutions, given that the materials are only available through private companies? Although not specifically mentioned, there are many ways to interpret this, so it seems that only private companies can receive

Indonesian migrant workers. This law, which is regulated in different chapters, also provides space for the private sector to continue employing Indonesian migrant workers. Several articles still regulate in detail the implementation of the placement of Indonesian migrant workers. There are no specific rules regarding the actual implementation of migrant worker placement because the law focuses on the protection of migrant workers. (wilayah hukumnya).

3. The correlation of the "ASEAN Spirit" principle in efforts to realize protection for Indonesian Migrant Workers (PMI) who are moral and dignified.

The findings of the data analysis in this dissertation indirectly validate that the goals of protection and legal guarantees for Indonesian migrant workers facing legal issues, both in the formal and informal sectors, have not yet been realized in the legal protection initiatives for migrant workers that have been implemented thus far. By adhering to the principle of "ASEAN Spirit" in realizing peace among countries cooperating in the field of labor, with the idea of strict compliance to the principles of non-intervention and respect for sovereignty, the author contributes to the advancement of knowledge to provide a more practical approach in addressing the legal issues faced by migrant workers. First, as indicated by the development of political relations between countries, this serves as an important protection against the interference of major powers in their domestic and regional affairs. Second, the security of developing countries is closely linked to the concept of non-intervention. Therefore, ASEAN member states are very cautious when intervening in the internal affairs of other countries. As previously mentioned, the "ASEAN Spirit" can be applied as a regional diplomacy strategy in the future that emphasizes decision-making through consensus and refraining from interfering in the internal affairs of other governments.

4. Legal concepts related to the legal protection of Indonesian Migrant Workers (PMI) that are moral and dignified.

The findings of this research demonstrate how the principle of "ASEAN Spirit" can be applied to achieve peace among countries collaborating in the fields of labor, moral justice, and dignity, as well as legal protection concerning the obligations of work to be performed. developed. The author also strives to provide legal examples by seeking, creating, or constructing or reconstructing laws, as well as offering legal explanations sourced from philosophy or philosophies derived from within Indonesia itself, thereby eliminating the need for theories or concepts developed in other legal systems. This enables the actual application of legal protection for the constitutional rights of Indonesian migrant workers.

5. Suggestion

1. Law enforcement is expected to protect Indonesian migrant workers and ensure their safety and security, and they are expected to uphold the highest standards of integrity.
2. For legislators, in order to combat crimes against humanity such as violence, human trafficking, exploitation, capitalism, and the persecution of Indonesian migrant

workers abroad, lawmakers with the authority to create laws must possess high integrity and care about the legal protection of migrant workers.

3. For the academic community, it is hoped that they can conduct research and create more methodical alternative approaches in implementing new legal protections that involve many parties both domestically and internationally, with the aim of enhancing social justice for all Indonesian people based on the principles of fair and civilized humanitarian law. This research examines the legal protection of Indonesian migrant workers.

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