

Legal Protection Of Indonesian Migrant Workers In Malaysia From The International Labor Organization (ILO) Perspective

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ABSTRACT

Work is the need for everyone to meet the needs of life for themselves and their families. Indonesian migrant workers have high hopes for improving their lives to achieve the welfare of themselves and their families, one of which is by working in Malaysia. This study uses an empirical juridical method with direct interview and observation methods in Malaysia and related parties to obtain accurate data. Some conditions and problems occur for Indonesian migrant workers working in Malaysia. In working in Malaysia as an Indonesian Migrant Worker, you must go through stages according to the provisions of the Law, and if violated, there are strict sanctions. The UN agency that handles Manpower issues, or the ILO, must provide strict supervision and guidance for Legal Protection and Legal Certainty for everyone who works abroad. Good coordination between the Central and Regional Governments, especially in Indonesia, is essential so that cases against Indonesian Migrant Workers can be appropriately handled.

Keywords: ILO,
Indonesian Migrant
Workers, Legal
Protection

INTRODUCTION

As a developing country, Indonesia still faces various problems that must be solved. One of them is in the scope of employment. The main problem is the limited availability of jobs and the fact that they are not proportional to the population. This condition forces Indonesians to adapt in various ways, one of which is by migrating to other countries to try their luck and get a more decent life and finances (Sudarmanto, 2022).

Furthermore, regarding migrant workers, according to Article 1 number (2) of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers explains that "Indonesian Migrant Workers, hereinafter abbreviated as PMI are any Indonesian citizens who will, are, or have done work by receiving wages outside the territory of the Republic of Indonesia." Regarding migration, Indonesia is one of the countries that contributes many workers (Migrant Workers) to the world every year. (Damayanti, 2019). In this situation, Indonesian Migrant Workers received the title of foreign exchange hero (Praditya, 2014).

According to *World Bank data*, the foreign exchange generated from Indonesian Migrant Workers is significant and positively impacts the Indonesian economy. Indonesian migrant workers are supporters of the growth of the national economy and contribute concretely to state revenue and national economic productivity. This is reviewed from the high remittances or income sent domestically. In 2023, Bank Indonesia recorded remittances of Indonesian Migrant Workers reaching USD14.22M (fourteen point twenty-two billion dollars).

Based on data from the Indonesian Migrant Workers Protection Agency (BP2MI) in 2023, the number of PMI placements was recorded at 274,965, up 37% from 2022 and 176% from 2021 (Salahuddin, 2024). According to his country, Bank Indonesia (BI) stated that the most significant amount of remittances for Indonesian Migrant

Workers came from Malaysia, which was US\$4.59M (four point fifty-nine billion dollars) (Amalia & Pratiwi, 2024).

Although Indonesian Migrant Workers have the title of "Foreign Exchange Heroes," in reality, there are still many cases of violations or violence that befall Indonesian Migrant Workers, especially those in Malaysia (A. Tan, 2024). Even based on data, the number of cases continues to increase, which has become a very worrying phenomenon. The problems that occur or are experienced by Indonesian Migrant Workers are very diverse, such as violence, unpaid wages, sickness due to work such as accidents or caused by other things, and many more things that they experience that are not following Human Rights values.

The existence of Indonesian Migrant Workers in Malaysia is proof that Indonesia implements a free and active political system. Normatively, Indonesia protects all Indonesian citizens, including those in foreign countries such as Malaysia (Oktaviandono & Syahputra, 2021). This is in line with Indonesia's commitment to promoting and protecting human rights as stated in the *Universal Declaration of Human Rights* (UDHR) 1948, which has been ratified and implemented by Indonesia which is also in line with Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia that every citizen has the right to the feasibility of living so that the protection of Human Rights for every citizen is the responsibility of the State. Workers should be protected in working properly per Article 31 of the 1945 Constitution (W. S. Tan & Shahrullah, 2017).

Thus, the protection of Indonesian Migrant Workers in Malaysia is the responsibility of the State, both the sending country of the Migrant Workers and the country that receives it. This is because the feasibility of human life must be applied without violating human rights values. It applies worldwide so that wherever the feet are stepped on, the safety and protection of human rights must always be obtained (Irianto, 2020).

The actions experienced by Indonesian Migrant Workers in Malaysia, especially acts of violence by employers, can hurt the physical and psychological condition of the Indonesian Migrant Workers concerned. Meanwhile, complaints of Indonesian Migrant Workers in all placements for the 2022 to 2024 period recorded in BP2MI are as follows (Weiner, 2024):

Table 1. Complaints of Indonesian Migrant Workers for the Period 2022, 2023, 2024 (April)

Year (every April)	Sum	Trend
2022	180	-
2023	85	Down 53%
2024	138	Up 62%

(Source: BP2MI, 2024)

Complaint data from BP2MI in the last 3 years shows significant fluctuations. From 2022 to 2023, there was a decrease in the number of complaints from Indonesian Migrant Workers, which was quite good, decreasing by 53%. However, from 2023 to 2024, the number will increase by 62%. This shows that violations or legal problems occur among Indonesian Migrant Workers (Weiner, 2024).

With the problems that afflict migrant workers, the Government should take action to provide more protection to Indonesian migrant workers. This is strong enough to

be an urgency for the protection of Indonesian migrant workers. No matter how and wherever they are, their status remains that of Indonesian citizens whose rights are guaranteed and protected by the State.

Protecting migrant workers is one part of protecting Human Rights (HAM). Thus, the United Nations or the United Nations has a unique agency called the *International Labour Organization* (ILO), which explicitly discusses workers' rights or is one of the international organizations focusing on workers' rights.(Oktaviandono & Syahputra, 2021) In this regard, *migrants for employment* or migrant workers become one of the types or forms of workers' rights that the ILO seeks to promote and protect. Therefore, the ILO created several conventions related to the promotion and protection of the rights of migrant workers in the host country, two of which are C097 *Migration for Employment Convention (Revised) 1949* (Konvensi ILO No. 97) dan C143–*Migrant Workers (Supplementary Provisions) Convention 1975* (Konvensi ILO No. 143) (International Labour Organization, 2016b).

According to ILO data, more PMIs are in or working in Malaysia because Malaysia's demand for domestic workers is high. Also, Malaysia has a close relationship with Indonesia geographically, culturally, and linguistically, so PMI can efficiently work without worrying about cultural and language differences(International Labour Organization, 2016a). However, the desire of migrant workers in Malaysia to earn a decent livelihood through working in the informal sector is the opposite. This is because Malaysia is famous as a country that is not friendly to foreign migrant workers. This unfriendliness can be seen in several Malaysian laws on labor, such as the *Employment Act 1955*, *Malaysian Domestic Violence Act 1994*, and *Workmen's Compensation Act 1955*, which creates discrimination against migrant workers. One such discrimination leads to migrant domestic workers in Malaysia who are part of migrant workers where Malaysia does not recognize their employment status or protect their human rights in the eyes of Malaysian Law (Whelan et al., 2016).

In addition, the Malaysian community or citizens themselves are worried, anxious, and insecure about the arrival of migrant workers in Malaysia, so they vent to actions that violate or deprive the migrant workers of their human rights(Aziz et al., 2017). Malaysia is a member country of the ILO, bound by work programs and several conventions created by the ILO. This is due to the supranational nature of the ILO as one of the 'international organizations'. This nature implies that a country member of an international organization cannot obtain or have absolute sovereignty(Oktaviandono & Syahputra, 2021).

As an international labor organization, the ILO has an important role in overcoming the problem of unemployment that occurs, especially in cases of violence that befall Indonesian migrant workers in Malaysia, and is a provider and protection agency for migrant workers. The ILO is committed to encouraging the Indonesian Government to develop and strengthen regulations related to migrants and also plans to support migrant workers. Since its inception, the ILO has continued to support governments to ratify conventions on the protection of workers and the fulfillment of their rights, in addition to continuing to socialize governments, business groups, and the global community by campaigning on workers' rights, protection of workers, social security, working hours, and so on. The ILO seeks to maximize its objectives regarding social protection for all migrant workers.

This is the background of the researcher taking the theme "Legal Protection of

Indonesian Migrant Workers in Malaysia in the Perspective of the International Labour Organisation (ILO)" which aims to examine the role and participation of the ILO in handling and reducing various legal cases and contributing to solving problems that occur because the ILO focuses on studying linear issues with its direction of movement that maximizes justice in the world of work. especially the labor sector. This is accompanied by a phenomenon in the world of work where there is often an injury to human rights values, which is marked by the rise of issues related to violence against workers, workers' rights that are violated, unreasonable working hours, inappropriate wages, worker exploitation, and so on. This research also aims to formulate strategies to overcome the problems that are still experienced by PMI in these countries.

The novelty of this study is to reveal the steps that have been taken by the Government of Indonesia and what must be done in the future so that migrant workers get optimal protection from the placement country and from the Government of Indonesia as the sending country of migrant workers. This is in accordance with the mandate of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

RESULTS AND DISCUSSION

1. Process And Problems Of Indonesian Migrant Workers Entering Malaysia

Indonesian migrant workers in Malaysia are among the largest in number compared to other countries. This is motivated by the fact that Indonesia and Malaysia have socio-cultural and linguistic similarities so that it will be easier for Indonesian migrant workers to be able to work and adjust to Malaysia. Likewise with employers in Malaysia who will find it easier to communicate and understand each other with workers from Indonesia. In addition, other destinations are because the countries of Indonesia and Malaysia are close to each other, making it easier to reach in terms of finding a destination country for migrant workers (Lamry, 2000).

In carrying out their work in Malaysia, Indonesian Migrant Workers cannot simply carry out their work and when they have worked, it does not always go according to what is expected. There is a process that must be taken for them to be able to enter Malaysia and there are also problems that befall Indonesian Migrant Workers in Malaysia which in turn cause a lot of worrying conditions both physically and psychologically.

a. The Process of Entering Indonesian Migrant Workers into Malaysia

An Indonesian citizen who wants to work outside his country until he changes his status to become an Indonesian Migrant Worker certainly has a process in it. Regarding the process of entering Indonesian migrant workers into Malaysia, there are 2 (two) ways, namely through legal means or according to applicable legal procedures and there are also those who take the illegal route or without going through the applicable legal procedures.

a. Through Legal Channels

If prospective Indonesian Migrant Workers want to work in Malaysia, there is an official procedure regulated by the Government, both the Government of the country of origin, namely Indonesia, and the Government of the country receiving migrant workers, namely Malaysia. The procedure for becoming an Indonesian migrant worker or Indonesian worker is normatively regulated in Government

Regulation Number 4 of 2013 concerning Procedures for the Implementation of the Placement of Indonesian Workers Abroad by the Government.

Regarding the first step, namely prospective migrant workers are required to go through the stages as in Article 8 of Government Regulation Number 4 of 2013, including:

- a) Recruitment
- b) Psychological and health examination
- c) Placement agreement
- d) Passport management
- e) Insurance management
- f) Employment agreement
- g) Visa Management
- h) PAP
- i) Issuance of KTKLN
- j) Departure

These stages must be passed in order to obtain the status of a legal or legal migrant worker. Then regarding the registration of prospective migrant workers, it is necessary to fill out the registration form provided and complete the necessary documents. These documents and requirements include:

- a) Prospective migrant workers registered at the district or city office are evidenced by the possession of a Registration Identity Card as a job seeker (AK-1)
- b) Be at least 18 years old as evidenced by an Identity Card
- c) Last diploma
- d) Police Record Certificate
- e) Physical and Spiritual Health Certificate
- f) Permit from:
 - 1) Married couple
 - 2) Parents if they are not married
 - 3) Guardian
- g) Not being pregnant for prospective female migrant workers as evidenced by a doctor's certificate
- h) Other tentative requirements on the written agreement

These requirements must be met so that prospective migrant workers when they have been accepted at their place of work can have the status of legal or legal migrant workers because they have fulfilled the procedures and requirements. If the requirements are not met, prospective Indonesian migrant workers cannot register until departure to the destination country in order to become Indonesian migrant workers.

In short, after the process of completing the administration and other procedures has been fulfilled, prospective migrant workers will be placed by the Government. After that, they have the right to get protection as in Article 29 of Government Regulation Number 4 of 2013. This protection is obtained.

Then there is one very important thing, namely that prospective Indonesian migrant workers are required to take part in pre-employment training. Usually, the Government provides training institutions for prospective migrant workers to make it easier for them to take care of all procedures. The training is very important

because it aims to provide provisions to prospective migrant workers and to improve the quality of performance and skills of prospective migrant workers. As well as learning the language of the destination country to make it easier for them to communicate later. Then study the socio-cultural conditions that exist in the country where they work. This is so that in conducting socialization in the destination country, migrant workers do not violate social norms and customs and culture that apply in the country.

The quality of the workers' skills is directly proportional to the wages they will get (International Labour Organization, 2016b). When the quality of migrant workers' skills is very good, the wages that will be obtained will also be nominal, and vice versa. Therefore, it is important for prospective migrant workers to find the training and debriefing process.

b. Through Illegal Channels

It is undeniable that violations of the Law can occur anywhere and in any case as long as there is still a gap to be violated. Including in the process of entering Indonesian migrant workers into Malaysia where there are still violations. Violations of the procedures for the migration of migrant workers to Malaysia come in many forms. These illegal workers in Malaysia are referred to as Unauthorized Foreign Workers (PATI) (Hasnuddin et al., 2021). Based on the results of the researcher's observations and interviews with Indonesian migrant workers in Malaysia, the existence of PATI is caused by the following reasons:

a) Through the Way of the Rats

Illegal rat roads or entry points are usually taken because migrant workers cannot meet the requirements to enter and work in Malaysia. Another reason is that workers and employers in Malaysia avoid high recruitment costs if they go through the procedural route. In addition, this rat path is taken because workers who do not pass the health exam in entering Malaysia so they look for other ways even through illegal steps. In addition, there are also those who enter through this rat route because of their ignorance in taking care of work visa licensing.

The migrant workers who enter through the rat road are citizens of countries whose country is adjacent to Malaysia because of easier access. The closest country to Malaysia is Indonesia, so it makes sense that many Indonesian citizens who work in Malaysia even go through the rat road which is an illegal jaur. Workers from other countries who often take the illegal route of the rat road are from the Philippines and Thailand because of the geographical location of their countries which are quite close to Malaysia (Othman & Idris, 2015).

b) Through Misuse of Tourist Visa (*Tourist*)

As is known, each visa has a different purpose and function. Tourist visas are used for tourist destination needs for tourists, then work visas are used for work needs for immigrants from foreign countries. From each different visa, there is a different validity period.

For tourist or tourist visas in Bahasa Malaysia have a shorter validity period than visas for work. So that the costs incurred are less than for work visa licensing. The simple understanding is that it is impossible for tourists to visit their destination country by spending a very long time for months or even

years, in contrast to work visas that are intended for work and for a very long period of time up to many years.

However, the thinking of the violators and taking the opportunity is different. As long as they can set foot in their destination country, whatever method will be done. By using a tourist visa, they will definitely arrive in their destination country but with a very short visa validity period of 3 months. After the validity period expires, they should return to their home country or as a result will be deported by the authorities.

However, for migrant workers who use tourist visas, when their period of protection has expired, they will be silent and reluctant to return to their home countries to go home. Until then, their status in living in Malaysia becomes illegal. This is quite dangerous because migrant workers skip the existing legal procedures so that when legal problems happen to them, it will be difficult to get certainty, justice and legal protection (Sudarmanto, 2022).

c) Using official but fake requirements documents

What is meant by official but fake documents are documents provided by employers or entrepreneurs which are then sold to migrant workers as migrants. The document is sold at different prices depending on the type and how important the document is. By having these documents, the general public will not know that the documents used are fake.

This is quite dangerous because in 2013 there was a murder by an Indonesian security officer who used a fake Malaysian identity card. This can happen with various backgrounds of their respective problems. However, the conclusion is that by taking the illegal route, it is quite dangerous for both the migrant workers themselves, the employers, and the surrounding community.

d) Workers who are legal but do not renew or extend their work visas

Workers who come legally or legally to Malaysia are subject to tax collection every year. The tax nominal varies depending on the type of work sector being carried out. The tax ranges from the highest number of RM 1,850 OR AROUND Rp. 6,000,000.00 per year to the lowest is RM 410 or around Rp. 1,400,000.00 per year.

This situation is caused because the employer as the party obliged to pay the worker tax is reluctant to do the following things. The reason is deliberately to avoid expensive tax costs or because of the carelessness factor itself. The impact is for workers who initially had the status of legal migrant workers to become illegal migrant workers or can be categorized as undocumented foreign workers or PATI in Malay (Othman & Idris, 2015).

b. Data on Indonesian Migrant Workers in Malaysia

Data on Indonesian Migrant Workers in general in Malaysia was obtained through data from the Indonesian Migrant Workers Protection Agency (BP2MI) and data was directly obtained through empirical methods in the form of direct observation to Malaysia and direct interviews with Indonesian Migrant Workers in Malaysia. This is done to support objectivity and complexity, especially in research data. Then the data is processed and associated with the provisions or regulations that are in place so that it can be known to what extent the existing regulations and reality can go hand in hand. Thus, the results of the research obtained will be very authentic scientific and very descriptive of the actual conditions that occur (Marzuki, 2013).

The projected number of Indonesian migrant worker placements in Malaysia based on data from BP2MI can be illustrated in the following graph:

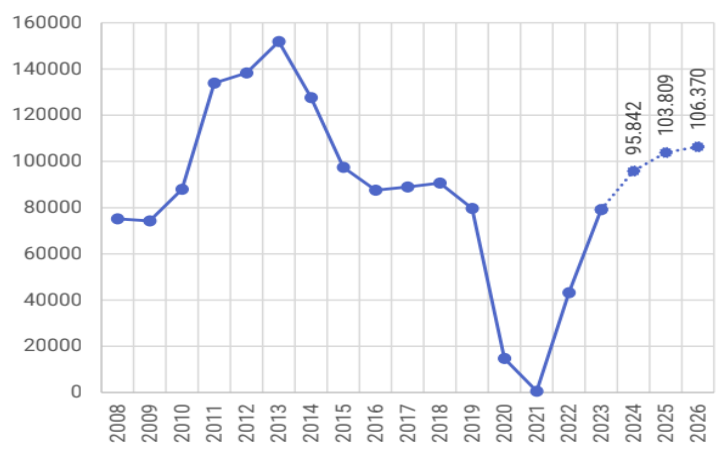


Figure 1. Projected Placement of Indonesian Migrant Workers in Malaysia for 2024-2024

(Source: BP2MI Year 2024)

The number of Indonesian migrant workers in Malaysia is quite large. BP2MI has projected the number of Indonesian migrant workers in Malaysia for 2024, 2025 and 2026. For 2024, it is projected to be 95,842 people (BP2MI, 2024). This number is quite large because this number is officially registered data for Indonesian migrant workers. Not to mention that there are still many Indonesian migrant workers who come to Malaysia through illegal routes, which are not a small number.

Then from the results of research that has been carried out directly through interviews and observations in Malaysia, there are important data that are the material for study in legal research, especially regarding labor law on Indonesian Migrant Workers in Malaysia. The data is classified based on the place of work, sector and wages of migrant workers each month, which are as follows:

Table 2. Data on Indonesian Migrant Workers in Malaysia

No.	Sector	Name of Agency/place of work	Contract Period	Wages/Month (RM)
1	Agriculture	Armah Cilly House	1 Year	1.500
2	Agriculture	Armah Cilly House	1 Year	1.500
3	Agriculture	Armah Cilly House	1 Year	1.500
4	Construction	Fifth SDN BHD Symbol	1 Year	1.800
5	Construction	Fifth SDN BHD Symbol	1 Year	1.800
6	Construction	Anggun C&S Enterprise	1 Year	1.500
7	Service	LMS Digital SDN BHD	1 Year	1.500
Average wage per month				1.585,714

(Source: Obtained through Observation and Interviews in Malaysia)

The data mentioned above is the latest data on the condition of Indonesian migrant workers. The data includes what field or sector they work in, the name of their place of work, how long they have worked in a contract or formal employment agreement to the monthly wage earned by Indonesian migrant workers. However, the names of migrant workers themselves are kept secret because they are in order to maintain and respect the interests of privacy in employment agreements. In the agreement, there are clauses that are quite complex, namely regarding the following:

- a. Information about the parties, namely workers and employers, including the name of their agency
- b. Workplace
- c. Validity period of the contract or employment agreement
- d. Age limit of workers
- e. Duties and responsibilities of workers
- f. Duties and responsibilities of the employer
- g. Salary or wages of workers
- h. Calculation of working time to overtime or *overtime*
- i. Annual leave
- j. Facilities obtained
- k. Dispute resolution
- l. Cancellation of work visa permits for workers
- m. Work equipment
- n. Termination of employment agreement
- o. Sending employees to their home country

The content of the employment agreement is generally the same as the employment agreement in general. However, because the scope and legal relationship involves two different nationalities, provisions regarding visas to the return of workers to their country of origin are also included. This needs to be included to ensure legal certainty and fairness for both workers and employers (Bahder Johan Nasution, 2014).

Then from the data, it can be seen that the average wage received by Indonesian migrant workers ranges from RM 1,585 (one thousand five hundred and eighty-five ringgit) or Rp. 5,716,159 (five million seven hundred and sixteen thousand one hundred and fifty-nine rupiah). This figure is indeed greater than the average salary or wage of workers in Indonesia in 2024, which is around Rp. 3,040,000 (three million and forty thousand rupiah) (Ahdiat, 2024).



Figure 2. Average Worker Wages in Indonesia in 2024
(Source: databoks.katadata.co.id)

The comparison between workers' wages in Indonesia and Malaysia shows that

Malaysia is superior. This is one of the driving factors for Indonesian migrant workers to migrate to seek a more decent income abroad. This condition is quite logical because by working in Malaysia, Indonesian migrant workers should be able to experience a more decent life and livelihood for both themselves and their families. Again, he did this for the sake of welfare and liveliness (Ahdiat, 2024).

d. Problems Regarding Indonesian Migrant Workers in Malaysia

The high number of Indonesian migrant workers in Malaysia is due to driving factors and pulling factors. One of the driving factors is because the value of workers' wages in Indonesia as a country itself for migrant workers is lower than the wages in Malaysia, making Indonesian migrant workers more interested in working in Malaysia to earn a greater income which aims to improve the viability of themselves and their families.

Then one of the pulling factors is due to the demand for the number of migrant workers by employers in Malaysia, including Indonesia. This is not only the case, but the reason behind it is that wages for migrant workers can be given cheaper than for workers who are natives of Malaysia (Hasnuddin et al., 2021). This fact was discovered by researchers during observations and interviews in Malaysia.

Due to the high demand of employers in Malaysia for foreign workers, this makes the potential or one of the loopholes for the smuggling of many Unauthorized Foreign Workers (PATI) in Malaysia. Employers do not want to wait long to bring in foreign workers and do not want to pay a high fee in processing work permits for foreign workers in Malaysia. Therefore, a reduction in procedures was carried out that resulted in the imported migrant workers becoming illegal because they did not meet the requirements and procedures in accordance with the Law.

At first glance, this is quite advantageous for employers and workers because both do not need to spend a lot of money and time for the permit process to be able to work in Malaysia. The goal is that the employer wants to have workers to get their work done and the worker wants to have income through work. Because the goal is such a thing, no matter how it is done, it will definitely be done as long as the goal can be achieved, especially if it is done through such a short process without caring about legality.

But on the other hand, the existence of foreign workers without permits can have a bad impact on both the employer and the worker himself. This is because in the process of entering migrant workers, they are carried out without meeting the requirements and procedures regulated in the provisions of the Law, such as not completing the necessary documents, passing through the training period whose purpose is to provide professional debriefing in work and adjustment of workers to the socio-cultural environment in the country where they work (Suhartini et al., 2023).

The Ministry of Manpower of the Republic of Indonesia has data on complaints of Indonesian migrant workers in various countries where they work. The data is calculated and grouped by the country where they work. The complaint means that there is a problem that occurs to Indonesian migrant workers or even they themselves who cause these problems, so a complaint is made to the Indonesian Migrant Workers Protection Agency (Fadillah & Hamzah, 2022).

The number of complaints of Indonesian migrant workers as of June 2024 based on the order of the number of complaints in each country is as follows:

Table 3. Complaints about Indonesian Migrant Worker Problems Based on

Placement Country for the Period January – June 2024 (5 most)

No.	Placement Country	Number of Complaints
1	Malaysia	283
2	Taiwan	119
3	Arab Saudi	102
4	South Korea	33
5	Hong Kong	30

(Source: Ministry of Manpower of the Republic of Indonesia)

The data shows that the 5 countries with the highest number of complaints about the problems of Indonesian migrant workers in 2024. The first country is Malaysia with 283 complaints, followed by Taiwan with 119 complaints, Saudi Arabia with 102 complaints, South Korea with 33 complaints and Hong Kong with 30 complaints (KEMNAKER RI, 2024). The data is only data from the top 5 countries. The total number of complaints from each placement country amounted to 764 countries with various types of problems experienced. Starting from social problems in the workplace to administration occur and are experienced by Indonesian migrant workers.

Similarly, based on the findings of the researcher's research through observations and interviews with employers and workers, there is a problem of Indonesian migrant workers in Malaysia which is indeed dominated by illegal migrant workers, both because they enter through unofficial channels and maladministration. However, because the interviewee did not want his identity to be mentioned, the researcher would not mention the identity of the party. The problems that the researcher found include the following:

1. Indonesian migrant workers who are not in harmony with their employers

This happens in the *service* sector where Indonesian migrant workers work as domestic assistants. The order referred to by the employer. This case occurred in the case of illegal migrant workers because the workers did not go through or undergo the training process held and required by the Indonesian Government. In fact, the purpose of the training is to equip prospective migrant workers to be able to understand what is instructed by employers in their workplaces.

This is important to do because the customs in the country of origin (Indonesia) and Malaysia as the destination country are different. Thus, it is very necessary for prospective Indonesian migrant workers to understand the socio-cultural environment that lives in Malaysia, starting from the language to customs.

Although the training is quite time-consuming in the process, it is very important to carry out this activity to avoid similar incidents or cases that befall Indonesian migrant workers which as a result can harm the workers themselves, employers as employers, local residents and the State because the workers are problematic and their status is illegal.

2. Migrant workers who experience stress/depression

This researcher found in migrant workers who are experiencing stress. When the cause was traced, it turned out that the worker missed his family in his home country and wanted to return to his home country, making him not feel comfortable and at home in carrying out his work. This happens to illegal migrant workers as well because they go through the training process.

If the worker has carried out skills training at work, this will not happen. This

is because in the training process, prospective migrant workers are equipped with professionalism in working to avoid problems that can arise as mentioned earlier.

3. *Overstay*

Overstay or overstaying also occurs in illegal migrant workers. The worker is only armed with a tourist visa which incidentally is only valid for a maximum of 3 months. Indeed, in the process and provisions that tourist visas are cheaper than work visas, but the designation of tourist visas is not for work as the researcher found in this case.

There are some migrant workers who hide themselves and are reluctant to return to their home countries even though they are using tourist visas that have expired. This case is quite risky because the State is not responsible if unwanted things happen because of their status as illegal workers and should be deported by the authorities in Malaysia.

4. Do not have any licensing documents

This case occurred to Indonesian migrant workers who entered Malaysia without any documents, including passports, visas and other relevant documents regulated in Government Regulation Number 4 of 2013. This case is a case of migrant workers who entered through the "rat road" which is an illegal route. This case occurred because prospective migrant workers who did not want to take care of permits which they thought were complicated. In addition, the way they enter Malaysia is also through a well-known party who is a party living in Malaysia, usually directly by the employer. Employers are also involved in the case because they need migrant workers as soon as possible and avoid existing procedures. The goal is to recruit illegal workers so that their work is completed faster because they do not go through the existing process, then the wages given do not need to be large because of the status of illegal migrant workers, and the most important thing is employers who avoid large tax levies both in the process of recruiting workers and in the process of running work projects.

2. The Role Of The International Labour Organization (ILO) In Protecting Indonesian Migrant Workers In Malaysia

Legal relations between each subject of Law are not limited to one country only, but can penetrate territories in various countries. Legal relations between each subject of Law between one country and another are international relations and the one who plays a role is the representative of each country, namely the Government (Goldstein, 2013).

It is the same as community life in the national or internal scope in a country. In the international scope, regulations are also needed that function to regulate the procedures for relations between subjects of international Law. Therefore, there is also international Law to regulate such matters (Parthiana, 1990).

Then the subjects of international Law also have the right to unite and gather in a forum in the form of an international organization. In this world, there are many international organizations formed with diverse backgrounds ranging from social, economic, cultural and other interests. One of the international organizations is the United Nations (UN) or *United Nations* which is an association between countries whose purpose is to encourage international cooperation and maintain peace and security between countries (Wikipedia, n.d.). The United Nations has 17 special organizations or bodies with diverse goals and functions, one of which is *International*

Labour Organization (ILO).

a. International Labour Organization (ILO)

International Labour Organization or ILO is an organization under the auspices of the United Nations whose purpose is to accommodate and handle issues related to labor in the international scope. The ILO was established in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can only be achieved if it is based on social justice. The constitution was drafted between January and April in 1919, by the Labour Commission formed by the Peace Conference, which met first in Paris then in Versailles (Valensy & Afrizal, 2018).

Indonesia is one of the countries that are members of the UN membership (Wikipedia, 2024) and also a member of the ILO (ILO, 2024). Therefore, Indonesia complies with all regulations in the form of international agreements or conventions issued by both the United Nations and the ILO. This is because international conventions are a source of international Law (Wullur, 2018). The convention is binding on countries that are bound or affiliated with certain international organizations. The binding nature of bilaterals is when in the organization there are only 2 countries that are members. Then it can also be multilateral if the membership in the organization is more than 2 countries. The international convention contains applicable principles and provisions that are general or universal.

Then about the main issue in this study, namely the urgency of protecting Indonesian migrant workers in Malaysia and the role of the ILO in dealing with this issue. Malaysia itself is one of the ILO member countries, just like Indonesia. Therefore, if it is associated with the provisions of the international convention which is binding for each member country, then Malaysia and Indonesia are bound and should be subject to the international conventions issued by the ILO which of course are related to labor issues on an international scale.

The ILO has a motto, namely "Advancing Social Justice, Promoting Decent Work". The motto is quite interesting because its meaning can reflect that the ILO does aim to prosper workers. This is relevant because in the world of labor there are many problems ranging from social, political, human rights and other problems that threaten the rights of workers, therefore the role of the ILO is very necessary to deal with these issues.

b. ILO's Engagement with Indonesia

Indonesia as one of the countries in Southeast Asia has collaborated with an organization under the auspices of the United Nations, namely the ILO. The cooperation has been established since Indonesia joined and became a member of the ILO on June 12, 1950 or about 5 years after Indonesia's independence (*International Labour Organization (ILO)*, 2022). Then the ILO assists its member countries in developing welfare for workers and employment through experience exchange activities, technical assistance, research and through employment books.

The form of cooperation between Indonesia and the ILO is carried out through 3 things, including:

- a) Application of International Employment Standards
- b) Meetings in forums held by the ILO

c) Technical cooperation through programmes held by the ILO

Then the ILO also has and publishes several international conventions related to and aims for the welfare of workers and to create a good employment climate. If you look at the legal relationship, in the concept of international Law, Indonesia must obey the ILO convention because it is one of its member countries (Wullur, 2018).

Indonesia has been a member of the ILO since 1950. Indonesia is a member of the ILO Deputy *Governing Body* for the 2011-2014, 2014-2017, and 2017-2021 periods. As a regular member of the ILO Governing Body 2021-2024, Indonesia has the right to vote in the election of the ILO Director General for the 2022-2027 period. This role is quite strategic for Indonesia and should be able to have a good impact on its output in the form of international conventions.

As long as Indonesia is still a member of the ILO, all conventions must be implemented in its country. The implementation of international conventions by the ILO is carried out by Indonesia by ratifying or adapting it into a law in Indonesia. The ratification is carried out based on what fields are regulated and agreed upon in certain conventions.

If the convention to be ratified is about employment, Indonesia needs to apply the principles contained in the international convention. Likewise with other more specific fields such as provisions for female workers, provisions for pregnant workers, overtime provisions, to provisions and principles that must be implemented and applied regarding Indonesian migrant workers. If the provisions of the international convention are not implemented, there are certain sanctions for countries that do not implement them.

c. ILO Efforts to Realize Protection for Indonesian Migrant Workers in Malaysia

In reviewing how the ILO implements the protection of Indonesian migrant workers in Malaysia, the first thing that needs to be reviewed is the legal relationship. This is very important because a country's attachment to an international organization needs to be known in advance about whether the country is a member of a certain international organization or not. If it is a member, the country must comply, implement and implement regulations on an international scale issued by the organization which are then referred to as international conventions or agreements (Parthiana, 1990).

Some of the ILO conventions regarding migrant workers are as follows:

a) Migration Convention for Work Number 97 of 1947

Convention No. 197 of 1947 was created with the aim of making it easier for people around the world (whose countries are members of the ILO) to make it easier when they want to become migrant workers. Therefore, through the convention, member states when they have ratified this convention are expected to be able to provide relevant information to other ILO member countries regarding the migration of migrant workers to facilitate the departure, travel, and reception of migrants (Valensy & Afrizal, 2018).

The Convention also instructs every country that receives migrant workers from various countries to treat them properly, as it treats local workers. This aims to protect migrant workers when they are in carrying out their duties and jobs. This protection is carried out to avoid discrimination based on and based

on nationality, ethnicity, race, religion and any background that threatens the physical and psychological safety of migrant workers.

Conventions and regulations implemented through ratification in a country are intended for migrant workers or prospective migrant workers who are official or legal. Because as is the reality, migrant workers in various countries do not all take the official route according to the procedures and provisions of the applicable laws and regulations because there are also illegal migrant workers and there are not a few of them.

b) Migrant Workers Convention No. 143 of 1975

This convention contains the condition of migrant workers in persecuted conditions and also about equal opportunities and treatment for migrant workers. This provision must be implemented through ratification in the respective country. However, countries that have ratified this convention are given the choice of being able to choose to accept the instrument in its entirety, or choose only one of the two parts (Rahayu et al., 2013).

The Convention stipulates that ratifying countries must respect the human rights of migrant workers. They must also prevent illegal migration and stop human trafficking. Furthermore, ratifying countries must establish and enact policies to guarantee equal protection in terms of employment and labour, social security, trade unions and cultural rights (Valensy & Afrizal, 2018).

c) UN Convention on the Protection of the Rights of All Persons Migrant Workers and Family Members in 1990

Because the ILO is a body or organization under the auspices of the United Nations, the UN convention also needs to be implemented and ratified in each of its member countries. This convention contains the protection of migrant workers in various countries that must be based on Human Rights. The State is also obliged to ratify the convention and implement it properly and wisely. The implementation aims to protect migrant workers in various countries from discriminatory treatment or human rights violations due to differences in race, ethnicity, language, religion, skin color and so on (Valensy & Afrizal, 2018).

The policy also discusses migration, the exchange of information with other countries, the provision to inform employers, workers and their organizations about policies, laws and regulations as well as assistance to migrant workers and their family members. This convention also stipulates a number of rules regarding the recruitment of migrant workers, departure, placement and return of migrant workers to their countries of origin.

Regarding these conventions, Malaysia as a member of the ILO must also apply them as explained in points 1, 2 and 3. Therefore, normatively and through existing policies, migrant workers, especially Indonesian migrant workers in Malaysia, can be guaranteed their rights and can be treated humanely (SUHARTINI et al., 2023). Thus, migrant workers both in their home countries and in their destination countries should not need to worry about injustice or other discrimination that threatens their safety. Including in the event of human rights violations or other discrimination, Malaysia as a country receiving Indonesian migrant workers who are also members of the ILO must

take firm action and enforce applicable regulations to protect the interests and rights of Indonesian migrant workers.

CONCLUSION

Based on the discussion in this study, there is a conclusion that in fact there are various conditions regarding Indonesian migrant workers in Malaysia. There are migrant workers who enter Malaysia through official channels and some who enter through illegal channels. Malaysia, as the country that receives the most Indonesian migrant workers in the world, has found problems regarding diverse Indonesian migrant workers. Starting from social problems to administration. However, the problems that occur are dominated by Indonesian migrant workers who enter Malaysia through illegal channels so that the potential problems that occur can be greater and this is in accordance with the existing facts.

Then the ILO as an international organization that handles labor problems and issues in the world also has a role in protecting Indonesian migrant workers, especially those in Malaysia. The ILO has international conventions that require countries to ratify them into a law that broadly aims to protect migrant workers from injustice and discrimination in the countries where they work. Malaysia as a member country of the ILO is also obliged to do this so that migrant workers in Malaysia, especially those from Indonesia, can be protected from departure to return to their home countries.

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