

RINGKASAN

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**Perlindungan Hukum Terhadap Pekerja Migran
Indonesia Non-Prosedural Dalam Perspektif Hak
Asasi Manusia (Prof. Dr. Malahayati, S.H., LL.M.,
Dan Dr. Muhammad Nasir, S.H., LL.M.,)**

UUD Tahun 1945 menjadi dasar konstitusional bagi jaminan HAM dan perlindungan hukum setiap warga negara, termasuk PMI, sedangkan UU Nomor 18 Tahun 2017 mengatur perlindungan PMI sebelum, selama, dan setelah bekerja di luar negeri. Kedua peraturan tersebut menjadi dasar penelitian terhadap perlindungan hukum PMI non-prosedural, yaitu PMI yang bekerja atau ditempatkan di luar negeri tanpa memenuhi prosedur dan persyaratan yang ditentukan peraturan perundang-undangan. Dalam praktiknya, perlindungan terhadap PMI non-prosedural belum optimal sehingga akses terhadap perlindungan hukum masih terbatas. Penelitian ini bertujuan menganalisis akibat hukum terhadap status PMI non-prosedural serta perlindungannya dalam perspektif HAM.

Penelitian ini Yuridis Normatif yaitu dengan suatu penelitian terhadap kajian perundang-undangan yang berkaitan dengan permasalahan yang diteliti. Sifat Penelitian ini adalah deskriptif analisis kemudian bahan hukum dianalisis secara deskriptif yang diharapkan memberikan kesimpulan atas permasalahan.

Berdasarkan hasil penelitian, akibat hukum terhadap status PMI non-prosedural tidak menghilangkan kedudukannya sebagai warga negara Indonesia, namun menyebabkan tidak terpenuhinya persyaratan administratif penempatan. Dalam perspektif hak asasi manusia, meskipun pengaturan mengenai PMI non-prosedural belum diatur secara tegas dalam UU PPMI, negara tetap berkewajiban memberikan perlindungan hukum berdasarkan prinsip hak asasi manusia sebagaimana dijamin dalam Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

Disarankan kepada pemerintah untuk memperkuat pengawasan dan penindakan terhadap perekrutan serta penempatan PMI non-prosedural, disertai edukasi mengenai prosedur keberangkatan yang sah dan tetap menjamin perlindungan HAM bagi PMI non-prosedural. Pemerintah perlu memperkuat regulasi dan mekanisme perlindungan PMI non-prosedural serta meningkatkan kerja sama dengan negara tujuan melalui perjanjian bilateral dan perlindungan konsuler guna menjamin pemenuhan hak-hak PMI.

Kata kunci : Perlindungan Hukum, Pekerja Migran Indonesia, Non-Prosedural, Hak Asasi Manusia, Perlindungan PMI

SUMMARY

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Legal Protection of Irregular Indonesian Migrant Workers from a Human Rights Perspective
(Prof. Dr. Malahayati, S.H., LL.M., Dan Dr. Muhammad Nasir, S.H., LL.M.)

The 1945 Constitution of the Republic of Indonesia serves as the constitutional foundation for guaranteeing human rights and legal protection for all citizens, including Indonesian Migrant Workers (PMI), while Law Number 18 of 2017 regulates the protection of PMI before, during, and after employment abroad. These two legal instruments provide the basis for this study in examining the legal protection of non-procedural PMI, namely PMI who work or are placed abroad without fulfilling the procedures and requirements prescribed by law. In practice, however, the protection of non-procedural PMI remains suboptimal, resulting in limited access to legal protection. This study aims to analyze the legal consequences of non-procedural PMI status and their protection from a human rights perspective.

This study employs a normative juridical approach, focusing on the examination of laws and regulations relevant to the issues under investigation. The study is descriptive-analytical in nature, whereby legal materials are analyzed descriptively in order to draw conclusions regarding the issues examined.

Based on the findings of this study, the legal consequences of the non-procedural status of Indonesian Migrant Workers (PMI) do not affect their status as Indonesian citizens; however, such status results in the failure to fulfill the administrative requirements for worker placement. From a human rights perspective, although the regulation concerning non-procedural PMI has not been expressly stipulated under Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, the State remains obligated to provide legal protection based on human rights principles as guaranteed under Law Number 39 of 1999 concerning Human Rights.

It is recommended that the Government strengthen supervision and enforcement measures against the recruitment and placement of non-procedural PMI, accompanied by education regarding lawful migration procedures, while ensuring the protection of the human rights of non-procedural PMI. The Government should also strengthen regulations and protection mechanisms for non-procedural PMI and enhance cooperation with destination countries through bilateral agreements and consular protection mechanisms to ensure the fulfillment of PMI's rights.

Keywords: *Legal Protection, Indonesian Migrant Workers, Non-Procedural, Human Rights, Protection of Indonesian Migrant Worker*