



## Protection Of Post-Placement Indonesian Migrant Workers In Sampang Regency

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### Abstract

Protection of Indonesian Migrant Workers is an obligation of the state and also of the Government were to fulfill the rights of citizens, this protection does not only include during pre-placement and during placement but also post-placement. Law No. 18 of 2017 concerning the protection of the migrant workers' placement is a legal umbrella that was formed to fulfill the rights of Indonesian Migrant Workers. As stated in Article 28 D paragraph 3, it reads that every citizen has the right to get a decent job. Where it is concluded that every citizen has the right to work abroad as well as its protection. The Covid-19 impact is very detrimental to PMIs, especially in terms of PMIs repatriation. The problem in this research is how to implement the protection of post-placement migrant workers. This research is an empirical research or approach research to society and the approach used is a fact approach. The results of this study examined the effectiveness of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers regarding the protection of Post-placement Migrant Workers.

**Keywords:** Indonesian Migrant Workers, Protection, Post-Placement.

### I. Introduction

Indonesia is a country that has a very dense population. This is because the population continues to grow every year. This is also one of the factors that increase economic needs and requires Indonesian Migrant Workers, commonly known as PMIs, to decide to look for work abroad. Apart from economic factors, the lack of job opportunities and the desire of people with low education but want more income to improve their standard of living have also caused PMIs to choose to work abroad rather than at home. It is explained in the 1945 Constitution Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "every citizen has right to have and get a job and a decent living".<sup>1</sup> In the explanation of this paragraph, it states that everyone has the right to get a decent job. Therefore, in 2017 the DPR-RI officially ratified the Bill on the protection of Indonesian Migrant Workers into Law Number 18 of 2017 replacing Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad. As for the legitimacy of this regulation, along with the many cases that befell PMIs, such as persecution, expulsion, sexual harassment, rape, and also about

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<sup>1</sup> See the 1945 Constitution of the Republic of Indonesia Article 27 Paragraph (2)

wages and even the death penalty.<sup>2</sup> Because up to now, the legal umbrella expected by PMIs is still not optimal in protecting PMIs. As for 2019, as many as 276,553 people with a percentage of 51.54% worked in the informal sector with 70% being dominated by female workers. East Java is one of the regions placing the most PMI, the destination countries such are Hong Kong, Malaysia, and Saudi Arabia are the highest destination countries for PMIs.<sup>3</sup> In addition to placements, data on the repatriation of East Java PMIs in May-June reached 8,913 people, where the problem of illegal PMIs is still very rampant in East Java, which is about 41% of PMI problems, while the contributors to illegal PMI are dominated from Madura Island, such as Bangkalan, Sampang, Pamekasan. and Sumenep as the areas that contribute to illegal PMIs. As discussed in this study, Sampang Regency is the area that contributes the most to PMIs in Madura Island, in addition to departure, PMIs' return is also a matter of great concern, this is because, in addition to the effects of the ongoing pandemic, the return of PMIs is also caused by several things, such as expiry of work contracts, unilateral layoffs, as a result of violence up to death. In Sampang Regency alone, it reached 4,000 people, this repatriation in addition to the above reasons was also due to the impact of the Covid-19 pandemic in which many companies where they worked went out of business so they decided to reduce employees by doing layoffs, PMIs There is no other choice but to decide to return to Indonesia to become a Retired Migrant Worker, apart from the absence of work, the cost of living is also very expensive. After returning to their area of origin, it also becomes a problem where Retired Migrant Workers do not have jobs, this is where the importance of protection following Law no. 18 of 2017 concerning Protection of Indonesian Migrant Workers, in addition to protection in terms of pre-placement and placement, protection of Retired PMIs. As for this study, we will discuss the protection of post-placement workers in Sampang Regency.

## II. Method

The research type is empirical research, namely socio-legal research, which means this research is related to individual or community behavior that is related to law. Problems

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<sup>2</sup> Tatik Mulyati, "Perlindungan Hukum Terhadap Tenaga Kerja Wanita ( Studi di Kabupaten Magetan)", Scientific Journal of Law Vol. 5 No.01, March 1 2019, P.16

<sup>3</sup> Nunuk Nuswardani Dkk, " Model Kebijakan Berbasis Kebutuhan Pada Pekerja Migran Indonesia Di Masa Pandemi", Research Proposal, 2020, p.3

regarding the effectiveness of the rule of law, compliance with a rule of law is a topic in socio-legal research, it can also be in the form of a diagnostic evaluative which makes the determining element is legal research and additional elements are various types of research in general.<sup>4</sup> The approach method used in this research is the Fact Approach, which means that this method examines the reactions and interactions that occur in the community. In this study, the facts that exist in Sampang Regency are conveyed by the Agency of Manpower and Transmigration of Sampang Regency and also the families of Migrant Workers who have been Post Placement. The research location is in Sampang Regency by conducting interviews at the Manpower and Transmigration Agency of Sampang Regency. For research data using Primary and Secondary Data. In data collection techniques, this study used interview techniques and literature study, for analysis of research data this research is more precisely using the Descriptive Research Method, namely a method to obtain in-depth data using direct questions submitted by respondents in writing or orally then the data obtained were collected. and processed using the descriptive method. The stages in data analysis using descriptive analysis methods, in general, are the first, namely by formulating problems, problem formulation itself is one of the activities by asking questions which will then become the basis of research where an answer will be sought in the field. As we know in terms of processing data, the first step to be taken is to define the problem, then the next step is to determine the type of information or data, make sure the data is relevant to the problem to be solved, then the third step is to determine effective data collection procedures and also data processing procedures in accordance with the data used. And the last step is to make decisions based on data that has been processed to answer some questions that have been formulated.

### III. Main Heading of the Analysis or Results

#### Protection of Post-Placement PMIs in Sampang Regency

Everyone has the right to get protection for security and also has the right to get protection for safety. According to WJS. Poerwodarminto, protection itself is a place for people to take refuge.<sup>5</sup> According to Soepomo, legal protection for workers is guarding

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<sup>4</sup> Soerjono Soekanto, “*Pengantar Penelitian Hukum*”, Jakarta, University of Jakarta Press, 2015, p. 51

<sup>5</sup> Aries Harianto, *Hukum Ketenagakerjaan* (Yogyakarta: LaksBang PRESSindo, 2016), p. 224.

so that workers can do decent work for humanity.<sup>6</sup> Before being popular with the term Indonesian Migrant Workers (PMI) or Migrant Workers, the term TKI was a nickname given to citizens who worked abroad. Migrant itself according to the Big Dictionary dictionary has the meaning of a person who migrates both seasonally and for life, thus the definition of a migrant worker is a person who migrates from his birth area to another place and then works in the new place for a relatively permanent time. On a macro level, the thing that often motivates parties to migrate is that the number of jobs available is very limited, this is inversely proportional to the number of available workers.<sup>7</sup> Regulations regarding the protection of post-placement migrant workers are regulated in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers. Starting from pre-placement protection, placement to post-placement. As described previously, in addition to the many placements and departures of PMIs.

The PMIs repatriation is also a problem on Madura Island, especially in Sampang Regency, considering that Sampang Regency itself is the largest contributor to PMIs to date. In terms of departure, PMI in Sampang Regency uses the services of brokers more than through the procedural route, this is also because these PMIs depart from villages that lack information and also the influence or lure from middlemen who offer their services. Some of the countries as the PMIs target are Malaysia, Hong Kong, and Saudi Arabia. Since the COVID-19 pandemic, many PMIs have been affected, the majority occurred because many companies in the country have closed down, causing these PMIs to be laid off. In addition, the contract expiration is also the reason these PMIs return to Indonesia. In addition to these two reasons, because the majority of PMIs from Sampang Regency departed using the brokers' services or non-procedurally, this also led to deportations, deportation itself is an action taken by the Government of the placement country against PMIs who do not have official documents such as passports and work permit documents, especially in Malaysia itself, for PMIs who are not fully documented

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<sup>6</sup> Joni Bambang, *Hukum Ketenagakerjaan*, Cet. 1 (Bandung: Bandung CV Pustaka Setia, 2013), p. 332

<sup>7</sup> Devi Rahayu, Misbahul Munir, & Azizah "Hukum Ketenagakerjaan" *Konsep dan Pengaturan Omnibus Law*". (Malang: Setara Press. 2021), p. 148.



MONTH	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER
SOUTH KOREA	0	0	0	0	0	0	0	0	1
SAUDI ARABIA	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	0	0	3	0	1	2	0	0	2

Based on the PMI Placement Recap Data of 2021 above, Italy is the most dominant placement destination country. The total number of destination countries in the table above is 5 countries including Hong Kong, Italy, Malaysia, South Korea, and Saudi Arabia. Where the 2021 PMI placements start from January to September, but the total placements in 2021 are somewhat less than 2020 placements, this is because in 2021 the government is more selective in sending workers due to the effects of the COVID-19 pandemic, there are various countries limiting access to workers. Migrant workers who will work in that country, following the data on the recap of the PMIs repatriation from Sampang;

Table 7. Recap Data on PMI Repatriation in 2021 from Sampang by Country of Placement by the Manpower and Transmigration Agency of Sampang Regency

SUB DISTRICT	TOTAL		
	TOTAL	MALE	FEMALE
SAMPANG SUB DISTRICT	19	9	10
TORJUN SUB DISTRICT	17	11	6
PANGERANGAN SUB DISTRICT	5	2	3
JRENGIK SUB DISTRICT	38	22	16
TAMBELANGAN SUB DISTRICT	49	27	22
KEDUNDUNG SUB DISTRICT	73	39	37
CAMPLONG SUB DISTRICT	14	9	5
OMBEN SUB DISTRICT	22	9	13
KARANGPENANG SUB DISTRICT	141	86	55
ROBATAL SUB DISTRICT	76	40	36

SUB DISTRICT	TOTAL		
	TOTAL	MALE	FEMALE
SRESEH SUB DISTRICT	23	10	13
KETAPANG SUB DISTRICT	209	125	84
BANYUATES SUB DISTRICT	126	64	62
SOKOBANAH SUB DISTRICT	271	158	113
ETC	0	0	0
<b>TOTAL</b>	<b>1083</b>	<b>608</b>	<b>475</b>

Based on the table above, it is explained that the repatriation of PMIs in 2021 totaled 1,083 PMIs from 14 sub-districts and consisted of 608 Male PMIs and 475 Female PMIs in Sampang Regency. As for many of these repatriations, this is also due to the COVID-19 pandemic which is still ongoing in several countries where PMI is working.

If it is observed from the table above, the total number of repatriations that have occurred the most is the first PMI from Sokabanah Subdistrict which totaled 271 PMI consisting of 158 Males and 113 Females, then the second-highest total PMI repatriation came from Ketapang District. which totaled 209 PMIs consisting of 125 men and 84 women, then the third-largest number of PMI repatriations came from Karang Penang Subdistrict with a total of 141 PMIs consisting of 86 men and 55 women. If examined from the three sub-districts with the highest total number of PMI repatriations in 2021, men are still the most dominant than women whereas in this case, the Agency of Manpower does not restrict men or women because they each have the same rights. the same as getting a job. The protection of Indonesian Migrant Workers when working abroad in particular and when Indonesian Migrant Workers return to Indonesia or what is commonly referred to as Post Placement is one of the government's responsibilities, in this case, the government is obliged to make every effort to protect the interests of Post Placement PMIs. The protection for post-placement PMI is regulated in Law No. 18 of 2017 contained in Article 24 Paragraph (1) covering

- a. Facilities for returning to the area of origin;
- b. Settlement of the rights of Indonesian migrant workers that have not been fulfilled;
- c. Facilities for managing sick and dead Indonesian migrant workers
- d. Social rehabilitation and social reintegration; and

e. Empowerment of Indonesian migrant workers and their families.

If the implementation in Sampang Regency has gone well, starting from the management of the return facility to the area of origin, then the settlement of the rights of the PMIs that have not been completed when the PMI returns to Indonesia, then the management of the sick and dead PMI, then the empowerment of Indonesian migrant workers and their families. but what has not been implemented is point (d ) namely "social rehabilitation and social reintegration". In Sampang Regency, the social rehabilitation and social reintegration program itself has not been implemented because the program is still under the auspices of the Indonesian Ministry of Social Affairs.<sup>8</sup> For point (e), namely the empowerment of Indonesian migrant workers and their families, in this case, there is a program from the Ministry of Manpower, which is stated in Permenaker Number 2 of 2019 concerning the Empowerment of Indonesian Migrant Worker Communities in Productive Migrant Villages. There are 4 main pillars of the Desmigratif program, the first as a migration service center where people or villagers want to go abroad and get services at the village hall through the role of village government, the information obtained includes job market information, job guidance, information about working abroad, etc. is also included in the processing of initial documents. Then the second, activities related to productive businesses, namely activities intended to help spouses of migrant workers working abroad so that they have the skills and willingness to build productive businesses. These activities include training for productive businesses, assistance in terms of productive businesses, assistance for production facilities to marketing them, then the third one, namely Community Parenting, namely activities to handle children of migrant workers or children of migrant workers who are cared for together. by the community in a teaching and learning center and in this context parents and couples who stay at home are given training on how to raise or how to take good care of children, the aim is that they continue to go to school to develop their creativity. In terms of implementation in the field related to protection, post-placement PMI in Sampang district, one of the forms of protection provided by the Manpower and Transmigration Service to Retired PMI is in the form of economic-based empowerment which is packaged in the form of training for PMI who have returned to Indonesia. . In

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<sup>8</sup> Extracted from the results of an interview with Mr. Agus Sumarso as PLT Head of the Manpower and Transmigration Agency of Sampang Regency.



the results of an interview with the Department of Manpower, it was stated that this training program was provided to help hone the skills of PMIs and the main goal was to help PMIs in terms of the economy to make a living. However, in its implementation, the Manpower Service only provides the protection contained in Article 24 Paragraph 1 Letter (e) namely the Empowerment of Indonesian Migrant Workers and Their Families whose implementation is packaged in the productive migrant village program (Desmigratif) based on the Minister of Manpower Regulation No. 2 of 2019 concerning Empowerment of the Indonesian Migrant Worker Community.

Table 5. Recap Data on Empowerment Program by the Manpower Agency in Sampang Regency

VILLAGE	YEAR	PROGRAM
KARANG PENANG ONJUR	2017	Cassava chips making tools Sewing tool
KARANG PENANG TLAMBER	2017	Cassava chips making tools Screen printing tool
BONTEN TIMUR		Sewing tool Marine product processing
BIRA TENGAH	2019	Screen printing tool Sewing tool

Based on the recap data above, in Sampang Regency itself, this empowerment was started in several enclaves of migrant workers whose empowerment program initiated in 2017 and started in Karang Penang Onjur Village, then in Karang Penang Tlamber village, the empowerment was given in the form of Cassava Chips Making Tools, for 2019 it was carried out in Bonten Timor Village by providing sewing tools, screen printing tools and training in managing marine products, then in Bira Tengah Village empowerment in the form of sewing tools, screen printing tools. In the results of the interview by the Head of Naker explained that the program as described above is a collaboration between the local government and the Ministry of Manpower because in its implementation the Sampang Regency Manpower Agency also pays attention to the wishes of the community. There are several objectives described by the Manpower and Transmigration Agency of Sampang in this empowerment program, namely so that former migrant workers get sustainable income and it is also hoped that after

participating in empowerment and training they can create job opportunities for the surrounding community,<sup>9</sup> the implementation of this program certainly has a very good impact on former migrant workers but unfortunately, it has not run optimally because there are several obstacles, namely the first lack of access to capital then the low knowledge of the human resources of former migrant workers, then there is still a lack of innovation and creativity and lack of access to marketing or relations in marketing the product.

#### **IV. Conclusion**

The implementation of the protection of Indonesian Migrant Workers carried out by the Local Government of Sampang Regency so far for Post-placement Indonesian Migrant Workers refers to Law No. 18 of 2017 concerning Legal Protection of Indonesian Migrant Workers, in this case, the form of protection starts from before work while working in the country of placement and after placement. At the time of before work, the protection they can provide in the form of providing information about working abroad and what fields are needed when working abroad. When working, local governments need good communication and cooperation with the central government as well as embassies in the country of placement to be able to guarantee legal protection for Indonesian Migrant Workers who come from Sampang Regency to ensure that the conditions of PMIs do not get problems in the country where they work. Meanwhile, in legal protection of post-placement, the local government has made various empowerment efforts in Sampang Regency, in this case, there is a desmigration program held by the Ministry of Manpower that aims to ensure that Retired PMIs get a continued income after returning to their area of origin. This empowerment can guarantee their life. Because in reality, these Retired PMIs are meritorious for the Indonesian state itself because they can increase foreign exchange, and therefore the Central Government and Local Governments provide legal protection and apply all the rules that have been enacted in the UUPMI to provide survival and empowerment by the state for the retired PMIs. However, in the implementation of the former migrant workers' empowerment in Sampang Regency, it has not run optimally, from 2017 to 2019 it was only carried out in 4 villages, considering that other migrant worker enclave villages desperately need the implementation of this

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<sup>9</sup> Extracted from the results of an interview with Mr. Agus Sumarso as PLT Head of the Manpower and Transmigration Agency of Sampang Regency.

empowerment. It is hoped that the local government, as well as the Manpower and Transmigration Agency of Sampang Regency, can increase and expand empowerment in Sampang Regency, especially for the Retired Migrant Workers.

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