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Strategies For Preventing Exploitation of Non-Procedural Indonesian Migrant Workers (PMI) Based On Routine Activity Theory

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Abstract: This research aims to explain the forms of exploitation of non-procedural Indonesian migrant workers and provide strategies to prevent exploitation of non-procedural Indonesian migrant workers. This research is a descriptive qualitative research by collecting data through interviews, observations, and literature studies. The data collected will be analyzed using routine activity theory to determine the phenomenon of exploitation through three essential elements including motivated actors, suitable targets, and the absence of capable guards. The results of the study are expected to provide new knowledge and understanding for readers related to exploitation that occurs in non-procedural migrant workers and can be used as a reference source for further research and is expected to contribute to the improvement and formulation of government policies related to non-procedural migrant workers.

Keyword: Migrant Workers, Nonprocedural Indonesian Migrant Workers, Routine Activity Theory.

INTRODUCTION

Along with the times, work is an important part of human life (Rahman & Rahman, 2021). Every individual needs a job as a source of income to support the creation of a better life. On the other hand, work is also a means of self-actualization both in the surrounding environment, family, and for the individual himself (Sugianto, Wijaya, & Artini, 2021). The importance of the meaning and significance of a job is even reflected in the 1945 Constitution Article 27 paragraph 2, which states that every citizen has the right to work and a decent livelihood (Adharinalti, 2012). This means that the government has an obligation to provide employment as an actualization of the guarantee of this right (Putri & Nugroho, 2020). However, in reality, the provision of employment opportunities in the country is still very limited, causing many Indonesians to choose to work abroad to fulfill their needs and become Indonesian migrant workers (Adharinalti, 2012).

In Article 1 Paragraph 2 of Law No. 18/2017 on the Protection of Indonesian Migrant Workers, Indonesian Migrant Workers are every Indonesian citizen who will, is, or has done work by receiving wages outside the territory of the Republic of Indonesia. Indonesian Migrant Workers are protected by the state. This protection is provided before work, during work, and after work (Belieu & Fina, 2023). According to Wright and Clibborn (in Rosalina & Setyawanta, 2020) the offer of a higher quality of life if working abroad encourages the mobility of Indonesian migrant workers. This is in line with the benefits that can be obtained by Indonesian migrant workers, including increased skills, high income generation and guaranteed welfare (Dewandaru, Rahmadi, & Sya'idah, 2019).

Data from the Central Statistics Agency (BPS) recorded that there were 278.8 million people in Indonesia in 2023. This number continues to grow and results in the availability of employment and the number of workers becoming unbalanced (Gibran & Khusairy, 2023). On the other hand, limited economic resources in a region cause population movements outside the region, including outside the country (Nuraeny, 2016). In the end, the large population and relatively low economic growth encourage the sending of labor abroad (Tjiptoherijanto in Prihatin, 2007). The problem formulation contains article questions that must be explained in the discussion and answered in the conclusion.

Table 1. PMI Placement Data throughout 2021 - 2023

| YEARS | AMOUNT | TREND |
|-------|---------|------------|
| 2021 | 72.624 | |
| 2022 | 200.761 | Up to 176% |
| 2023 | 274.964 | Up to 37% |

Source: Data and Information Center, 2023 (data reprocessed by researchers)

Throughout 2021, the Indonesian Migrant Workers Protection Agency (BP2MI) recorded the placement of Indonesian migrant workers totaling 72,624. The number of placements increased significantly in 2022 with a total of 200,761 placements or an increase of 176% from the previous year. The increase continued in the following year with 274,964 placements or an increase of 37% from 2022. In 2021 to 2023, the placement of Indonesian migrant workers is dominated by women, totaling 353,872 placements while men amount to 194,519 placements. The placement of Indonesian migrant workers is divided into two sectors, namely the formal sector and the informal sector. The formal placements from 2021 to 2023 amounted to 285,554 and informal placements amounted to 262,837 (BP2MI, 2023).

**Table 2. Data on the Total Number of PMI Placements 2021-2023
Period Based on Placement Country**

| No | Country | Amount |
|----|----------------------|---------|
| 1 | Taiwan | 144.488 |
| 2 | Malaysia | 115.986 |
| 3 | Hong Kong | 178.290 |
| 4 | South Korea | 24.325 |
| 5 | Japan | 15.864 |
| 6 | Singapore | 17.739 |
| 7 | Saudi Arabia | 11.733 |
| 8 | Italy | 10.326 |
| 9 | Brunei Darussalam | 2.872 |
| 10 | Turkey | 4.652 |
| 11 | Poland | 4.616 |
| 12 | United Arab Emirates | 1.961 |
| 13 | Papua New Guinea | 1.442 |
| 14 | Hungary | 737 |
| 15 | Kuwait | 1.153 |
| 16 | Slovakia | 431 |
| 17 | Maldives | 2.001 |

| | | |
|----|-----------------|-------|
| 18 | Solomon Islands | 794 |
| 19 | New Zealand | 519 |
| 20 | Maldives | 330 |
| 21 | Qatar | 1,374 |
| 22 | Zambia | 543 |
| 23 | Russia | 673 |
| 24 | Romania | 592 |
| 25 | Bulgaria | 207 |
| 26 | More | 4,743 |

Source: Data and Information Center, 2023 (data reprocessed by researchers)

When viewed based on the destination country of placement, there are three highest destination countries throughout 2021-2023, namely Hong Kong with 178,290, Taiwan with 144,488, and Malaysia with 115,986 placements. The provincial origin of Indonesian migrant workers in the range of 2020-2023 is dominated by three provinces, namely East Java with 148,231 placements, Central Java with 124,010 placements, and West Java with 98,430 placements. These three provinces dominate around 68% of the total placement of Indonesian Migrant Workers (BP2MI, 2023). The high interest of the Indonesian people to become migrant workers also provides benefits to the country such as reducing unemployment and helping to increase the amount of foreign exchange (Febrianti & Afifah, 2023). Bank Indonesia noted that the total foreign exchange contributed by Indonesian migrant workers amounted to US\$9.71 billion in 2022. When compared to the previous year which was around US\$9.16 billion, the amount of remittances in 2022 increased by a percentage of 6.01% (Mustajab, 2023). Thus, the movement of Indonesian migrant workers has a major influence on the national economy (Yuniarto, 2022).

Table 3. Indonesian Migrant Worker Complaint Data for the 2021-2023 Period

| YEARS | AMOUNT | TREND |
|-------|--------|-----------|
| 2021 | 1.700 | |
| 2022 | 1.987 | Up to 17% |
| 2023 | 1.999 | Up to 1% |

Source: Data and Information Center, 2023 (data reprocessed by the researchers)

Despite having a positive impact on the country, Indonesian migrant workers are also often faced with various risks (Situmorang, 2021). Based on table 3, the number of complaints originating from Indonesian migrant workers has continued to increase in the last two years. In 2021, there were 1,700 complaints. Then, in 2022 there were 1,987 complaints, which increased by 17% from the previous year. Meanwhile, in 2023 the complaints amounted to 1,999 complaints, an increase of 1%. The complaints in 2023 came from procedural Indonesian Migrant Workers as many as 381 complaints or with a proportion of 19% and non-procedural as many as 1,618 complaints or with a proportion of 81%. Procedural Indonesian Migrant Workers (PMI) are defined as individuals who work abroad with mechanisms and procedures in accordance with applicable laws and regulations (Inayati, Achmad, & Saputra, 2023). Non-procedural Indonesian Migrant Workers (PMI) are Indonesian citizens who work abroad without going through the correct PMI placement procedures (Hariani & Rijal, 2023). The higher number of complaints coming from non-procedural Indonesian Migrant Workers illustrates that their security and labor rights are difficult to guarantee by the state (BP2MI, 2023).

Table 4. Categories of Complaints Based on Classification Non-procedural Year 2022

| CASE CATEGORY | NUMBER OF COMPLAINTS |
|---|----------------------|
| Indonesian migrant workers want to be repatriated | 497 |
| Migrant Workers Fail to Depart | 151 |
| Job opportunity scam | 124 |

| | |
|--|--------------|
| Illegal Recruitment of PMI Candidates | 114 |
| Unpaid Salary | 102 |
| Death in destination country | 102 |
| Illness | 70 |
| Trafficking | 60 |
| Communication Breakdown | 57 |
| Death | 52 |
| Withholding of passport or other documents | 39 |
| Overstay | 35 |
| PMI sick/hospitalized | 32 |
| Debt between CPMI and P3MI | 26 |
| PMI in detention/custody process | 24 |
| Accident | 20 |
| Placement Failure | 18 |
| Undocumented migrant workers | 18 |
| Unpaid overseas insurance | 17 |
| Workload too heavy | 16 |
| Violence from employer | 16 |
| Depression/Mental illness | 12 |
| Migrant worker has an accident | 11 |
| Other | 169 |
| TOTAL COMPLAINTS | 1.782 |

Source: Data and Information Center (data reprocessed by researchers)

Throughout 2022, BP2MI recorded a total of 1,782 complaints from non-procedural migrant workers, divided into 13 case categories, accounting for 81% of the total complaints. The highest case categories included 497 complaints of migrant workers wanting to be repatriated, 151 complaints of migrant workers failing to depart, and 124 complaints of job opportunity fraud. Meanwhile, the miscellaneous category consisted of 90 complaints from other categories with less than 10 complaints each and 79 complaints from other categories. Seeing the number of Indonesian migrant workers who work abroad through non-procedural channels and the high risk of non-procedural Indonesian migrant workers to experience exploitation in the destination country shows that special attention is needed to overcome these problems. Therefore, in this study, the researcher will discuss in depth the strategies to prevent exploitation of non-procedural Indonesian migrant workers.

METHOD

In this study using a qualitative approach with descriptive research type. According to Bogdan and Taylor (in Moleong, 1988) qualitative research is research with descriptive data results in the form of written or spoken words from people and observable behavior. Descriptive research aims to provide a description of a phenomenon and its characteristics (Fauzi, et al., 2022). This research wants to explain what forms of exploitation experienced by non-procedural migrant workers and how strategies to prevent exploitation of non-procedural migrant workers. In conducting the analysis, the researcher used routine activity theory. The data in this study were obtained through interviews with expert sources, namely FY as Plt. Director of Protection and Empowerment of the Asia and Africa Region, as well as two former non-procedural Indonesian migrant workers who have experienced exploitation while working abroad which is the main data in this study. In addition, the data in this study were also obtained by indirect observation through social media and literature study.

RESULTS AND DISCUSSION

According to World Bank data, there are 9 million migrant workers working abroad while the data recorded by the Indonesian Migrant Workers Protection Agency (BP2MI) only totals 4.6 million. This indicates that there are 4.4 million migrant workers who work non-

procedurally (Syahirah & Meiliana, 2023). The departure of non-procedural migrant workers itself can be detrimental to them because there is no employment protection, death insurance, and a mismatch between the work and the salary provided (Syamsiah, 2020). Over the past three years, at least 1,900 migrant workers have died abroad. In other words, every day BP2MI takes care of an average of two coffins of migrant workers. From the reports that came in, during their time as migrant workers, they were tortured or forced to work in a day for 20 hours or even more. The guarantee of health insurance protection is not given to these migrant workers because they work through non-procedural channels (CNN Indonesia, 2023). In other words, the non-procedural recruitment process of Indonesian migrant workers creates vulnerability to the risks and dangers of exploitation and can even become victims of hidden organizations or dishonest employers (ILO, 2022). According to the Trafficking in Persons Report 2022, workers in the domestic sector, factories, construction, manufacturing, oil palm plantations in Malaysia, as well as on fishing vessels throughout the Indian and Pacific Oceans often experience exploitation in the form of violence and debt bondage specifically in the regions of China, South Korea, Singapore and Saudi Arabia. Trafficking indicators including long working hours, lack of formal contracts, and lack of wages are common among migrant domestic workers in Hong Kong, Malaysia, Singapore, and the Middle East and are not protected by local labor laws (U.S. State Department, 2022). According to Article 2 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 7 of 2022 concerning the Pre-Employment Process for Prospective Indonesian Migrant Workers, there are several conditions that must be met by prospective migrant workers including: (a) at least 18 (eighteen) years old; (b) have competence; (c) physically and mentally healthy; (d) registered and have a social security membership number; (e) have complete required documents. Based on the statement from the expert resource person, FY as Plt. Director of Protection and Empowerment of the Asian and African Region, explained that if the migrant worker does not go through one of the existing requirements or procedures, the worker is categorized as non-procedural. In addition, they also have great potential to become victims of crime abroad. This is due to the use of fake documents or without official documents so that non-procedural Indonesian migrant workers do not have a legal umbrella that can protect them (Hilmy, Karunia, & Hidayat, 2023).

Forms of Exploitation in Non-procedural Indonesian Migrant Workers

Exploitation is defined as the act of taking advantage specifically the taking of unfair advantage of something or someone for one's own benefit (including sexual exploitation, forced labor or service, slavery or practices similar to slavery, or organ harvesting) (IOM, 2021). The understanding of exploitation is generally associated with a particular weakness or vulnerability, which becomes the object of exploitation in both politics and philosophy. (UNODC, 2015). Meanwhile, according to BP2MI, several forms of exploitation that migrant workers are vulnerable to include:

1. Working for one employer, but employed in more than one place;
2. Not being provided with adequate housing;
3. Not being provided with adequate food;
4. Being sexually harassed by the employer;
5. Being exploited as commercial sex workers;
6. Not getting work safety and security equipment;
7. Working 12-20 hours a day (overtime) without breaks and additional pay;
8. Working without pay or with low wages that are not in accordance with the employment contract.

Some of these forms of exploitation are shown through interviews with informants X and Y, who are former non-procedural migrant workers. Interviewee X is an ex-migrant

worker who works in an oil palm plantation in Malaysia. At the beginning of his employment, X admitted that he was not charged but he was hired with a salary deduction system. The work done by X was erratic, namely disposing of fertilizer, cutting and slashing, washing the oil palm trees and their surroundings. Furthermore, X explained that he did not get paid for approximately 6-7 months of work. Although he eventually received wages after protesting, the wages were in fact very low and far from the initial agreement. X then revealed that violence also often occurs between workers and foremen. While working, X mentioned that they slept on the floor but when the rainy season arrived, the house they lived in would be filled with water that was approximately waist high.

Meanwhile, Y is a former migrant worker who worked as a crew member of a Chinese ship in Singapore waters. Similar to informant X, Y admitted that he was not charged an initial fee but worked with a salary deduction system. While on the ship, Y explained that he was given food that was not suitable and had expired. Y further said that he was often asked to work overtime and even worked for 2 days and 2 nights without rest and additional salary. Y revealed that he had gone on strike along with other crew members. However, the ship did not give them food for one day so Y and other crew members were forced to work again. Y also mentioned that at that time the body of his colleague who died from illness while working on the ship was thrown into the middle of the sea. Y explained that when he was sick, the captain only gave permission not to work for 2 days while the medicines they had were fairly limited.

Based on interviews with the two informants, it is known that some forms of exploitation experienced by non-procedural migrant workers include providing inappropriate housing, providing inappropriate food, working overtime without rest and additional pay, working without pay and providing low wages. This is also supported by the statement of the expert informant, FY, who stated that non-procedural migrant workers are indeed very vulnerable to exploitative practices such as unpaid salaries, termination of employment contracts, and multiple workloads. In addition, there are similarities between the two informants X and Y, namely working with a salary deduction system under the pretext of financing the placement to eat.

Analysis of Routine Activity Theory on Exploitation of Indonesian Non-procedural Migrant Workers

Routine activity theory was first formulated by Lawrence E. Cohen and Marcus Felson in 1979 through their writing entitled *Social Change And Crime Rate Trends: A Routine Activity Approach* (Taufiq, 2020). Routine activity theory explains crime events through three essential elements that converge in space and time through routine activities, including potential offenders with the capacity to commit a crime, suitable targets or potential victims available, and the absence of a capable guardian to deter the offender (Miro, 2014).



Source: Encyclopedia of Criminological Theory, 2010
Figure 1. Crime Triangle Routine Activity Theory

Potential perpetrators are defined as anyone who has the motive and capacity to commit a crime. Meanwhile, the probability of a suitable target is influenced by four points of view of the perpetrator including value, inertia (size, weight, and shape, or physical aspects), visibility, and access. The guardian refers to a person or object whose presence prevents crime or does not cause crime (guards, property, police, etc.) (Miro, 2014). In relation to routine activity theory, exploitation of migrant workers is shown through the presence of motivated actors, including individuals or companies that benefit from the exploitation, such as employers or brokers. The consideration of low cost and high reward results in the perpetrators preferring to employ non-procedural migrant workers. For example, inexperienced non-procedural migrant workers can easily accept lower wages, which increases the employer's profit margin.

In terms of the right targets or victims in this case are migrant workers. Their position as non-procedural migrant workers results in a higher vulnerability to become targets of exploitation. The existence of immigration status or documents that are not in accordance with applicable regulations often causes victims to be reluctant to report to the authorities when problems occur at work. Based on statements from both interviewees X and Y, the perpetrators even withheld documents during their work. This makes it more difficult for migrant workers to report or even seek help for the exploitation they experience. On the other hand, the absence of a work agreement also worsens the situation of non-procedural migrant workers. This is supported by the statement of informant X who mentioned that the absence of a work contract and the salary deductions he experienced were unclear rules so that X could only accept whatever salary was given. According to the expert informant, FY, if non-procedural migrant workers do not have a work agreement, then what about their rights. From this statement, it can be seen that the rights of non-procedural migrant workers are difficult to fulfill when they work so that the perpetrators can easily exploit them.

FY further stated that the use of non-procedural channels causes migrant workers to be unrecorded in the government system. In other words, these migrant workers will find it difficult to get supervision from the government when working abroad. The lack of supervision refers to the absence of capable guards in preventing criminals. The difficulty of comprehensive protection from the government to non-procedural migrant workers allows various inhumane acts to occur to these migrant workers (Rustam, Sabilla, Rizki, & Estriani, 2022). In addition, Interviewee X also mentioned that he and other workers at that time managed to escape when arrested because there was a manager who paid law enforcement officials in the destination country. As a result, the placement of non-procedural migrant workers, which should be prevented through the presence of law enforcers, can continue to occur if there are still many people who abuse their power to benefit from the arrival process of non-procedural migrant workers. This encourages perpetrators who are motivated to carry out exploitation while non-procedural migrant workers will continue to experience exploitation in the placement country.

Strategies for Preventing Exploitation of Non-procedural Indonesian Migrant Workers

Based on the results of the interview with FY as Plt. Director of Protection and Empowerment of the Asia and Africa Region, to prevent exploitation of non-procedural Indonesian migrant workers, a national strategy is needed to improve the system of overcoming the issue by ensuring participation and commitment to comprehensive handling efforts. In addition, harmonization of principles, norms, as a handling of TPPO issues is still limited to the perceptions and approaches of each country and it is hoped that a special discussion will be held for the protection of migrant workers in the context of eradicating non-procedural placement of migrant workers with local governments, migrant worker companies, and NGOs concerned about the issue of migrant worker protection. Furthermore, FY explained that in terms of preparation, BP2MI implemented anticipatory measures before

the crime by conducting prevention at several airports. Then apply special rules that are used as an instrument to provide certificates for agents who channel migrant workers. Then strengthening the supervision and initial inspection of Indonesian migrant workers related to working conditions, maximizing efforts to assist pick-up, delivery, collection of information suspected of being victims of non-procedural placement of PMI. While from the aspect of developing legal norms, FY explained that it is necessary to mainstream the issue of handling TPPO in the community, strengthening efforts to assist the legal process including early identification of TPPO clues and facilitation of legal assistance, harmonizing regulations related to recruitment and protection of PMI, and increasing bilateral, regional and multilateral cooperation related to TPPO issues, specifically in several countries that are often indicated as areas of non-procedural placement.

CONCLUSION

Thus, it can be concluded that the presence of non-procedural migrant workers makes their position as migrant workers more vulnerable to exploitation. Some forms of exploitation that occurred to both informants X and Y as former non-procedural migrant workers include providing inadequate housing, providing inadequate food, working overtime without rest and additional pay, working without pay and providing low wages. Therefore, it is important for the government and institutions to synergize in protecting migrant workers as an effort to prevent exploitation of non-procedural migrant workers. In providing an understanding of the phenomenon of exploitation of non-procedural migrant workers, there are three essential elements of routine activity theory that converge in time and space through routine activities. These include the perpetrators who are motivated to commit crimes, namely individuals or companies that benefit from the exploitation through cost and reward considerations, then the right target or victim in this case is non-procedural migrant workers who are very vulnerable to becoming targets of exploitation, and the absence of qualified guards, which is shown through the difficulty of monitoring non-procedural migrant workers because they are not recorded by the government and there are still many elements of law enforcement officials who utilize their power to benefit from the arrival of non-procedural migrant workers.

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