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Legal Analysis of the Handling of Non-Procedural Migrant Workers Recruited from East Nusa Tenggara (NTT)

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Abstrak

Penelitian ini bertujuan untuk menganalisis kerangka hukum dan mekanisme penanganan rekrutmen nonprosedural TKI asal Nusa Tenggara Timur (NTT), Indonesia. Meskipun telah ada berbagai peraturan perundang-undangan nasional yang komprehensif—seperti Undang-Undang Nomor 18 Tahun 2017 tentang Perlindungan TKI dan Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Perdagangan Orang—implementasinya masih lemah di tingkat daerah. Dengan menggunakan pendekatan yuridis normatif, penelitian ini mengkaji berbagai peraturan perundang-undangan, peran kelembagaan, dan berbagai tantangan praktis terkait tata kelola migrasi tenaga kerja. Temuan penelitian menunjukkan bahwa perekrutan ilegal masih terjadi karena lemahnya penegakan hukum, kurangnya kesadaran masyarakat, keterbatasan alternatif ekonomi, dan fragmentasi kelembagaan. Selain itu, banyak korban perekrutan nonprosedural tidak memperoleh bantuan hukum atau dukungan reintegrasi yang memadai saat kembali ke tanah air. Penelitian ini menyimpulkan bahwa strategi terpadu yang menggabungkan penegakan hukum, pendidikan masyarakat, dan pemberdayaan ekonomi lokal sangat penting untuk mencegah dan menyelesaikan migrasi tenaga kerja nonprosedural. Penelitian ini berkontribusi pada wacana perlindungan migran dan menawarkan rekomendasi praktis untuk reformasi kebijakan dan penguatan kelembagaan.

Kata Kunci: *Pekerja Migran Non Prosedural, Hukum Ketenagakerjaan, Perdagangan Orang, Perlindungan Hukum, Nusa Tenggara Timur*

Abstract

This study aims to analyze the legal framework and mechanisms for handling non-procedural recruitment of migrant workers from East Nusa Tenggara (NTT), Indonesia. Despite the presence of comprehensive national laws—such as Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers and Law No. 21 of 2007 on the Eradication of Human Trafficking—the implementation remains weak at the local level. Using a normative juridical approach, this research examines statutory regulations, institutional roles, and practical challenges related to labor migration governance. The findings reveal that illegal recruitment persists due to poor law enforcement, lack of public awareness, limited economic alternatives, and institutional fragmentation. Moreover, many victims of non-procedural recruitment do not receive adequate legal aid or reintegration support upon return. This study concludes that an integrated strategy combining law enforcement, community education, and local economic empowerment is essential to prevent and resolve non-procedural labor migration. The research contributes to the discourse on migrant protection and offers practical recommendations for policy reform and institutional strengthening.

Keywords: *Non-Procedural Migrant Workers, Labor Law, Human Trafficking, Legal Protection, East Nusa Tenggara*

INTRODUCTION

Employment issues in Indonesia remain complex, particularly concerning migrant labor. One region that faces serious challenges is East Nusa Tenggara (NTT), where high poverty rates and limited access to education have driven many residents to seek employment abroad. Unfortunately, a significant number of them are recruited through non-procedural means, bypassing the formal mechanisms established by the government (Sari, 2021).

Non-procedural migrant workers are those sent abroad without legal documentation, without proper training, and without state-guaranteed legal protection. These conditions make them vulnerable to various forms of exploitation, including human trafficking, physical abuse, and unpaid wages (Pratama & Widodo, 2020). The unregistered status of such workers makes it difficult for the government to provide legal aid when issues arise overseas.

In NTT, illegal recruitment is often carried out by unlicensed brokers or agents. These actors exploit the public's lack of knowledge regarding legal procedures, making promises of high-paying jobs abroad. In reality, such promises often result in deceit and placements in exploitative working conditions (Halim, 2019).

Weak supervision by law enforcement agencies and a lack of public outreach on labor regulations worsen the situation. Many rural communities are unaware that overseas work

requires a legal process involving training, employment contracts, and legal safeguards (Susanto, 2021). These gaps are exploited by unlawful recruiters.

Normatively, Indonesia has established various legal instruments to regulate and protect migrant workers. Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers outlines the need for good governance in labor deployment. Moreover, Law No. 21 of 2007 on the Eradication of Human Trafficking provides legal grounds to prosecute illegal labor recruiters (Fauziah & Bakri, 2022).

However, the implementation of these regulations remains weak. In many cases, law enforcement against illegal recruitment is not carried out decisively. Victims who are already abroad and recruited through unofficial channels often find it difficult to access legal aid (Rahman, 2023).

This issue not only affects individual workers but also damages Indonesia's reputation in host countries. These countries may hesitate to establish labor cooperation with Indonesia due to concerns about the social and legal burdens created by undocumented workers (Mawardani, 2020).

Therefore, a thorough legal analysis is needed to assess the effectiveness of current regulations and propose more concrete legal and policy measures. The resolution of non-procedural labor issues requires a comprehensive approach that includes preventive, curative, and repressive strategies (Azhari & Nurfadilah, 2022).

Preventive measures may include public education, local economic empowerment, and skills training so that communities have viable livelihood alternatives without resorting to illegal migration. Local governments play a crucial role in disseminating information about legal migration procedures (Wahyudi, 2020).

From a curative standpoint, the government must strengthen legal aid mechanisms and repatriation processes for victims of non-procedural labor migration. The involvement of the Indonesian Migrant Workers Protection Agency (BP2MI) is essential to ensure the rehabilitation and protection of these workers' rights (BP2MI, 2022).

Meanwhile, repressive measures must be strictly enforced against illegal recruiters. Weak enforcement only allows such actors to continue operating. Therefore, the legal enforcement system must be strengthened through improved institutional capacity and cross-agency coordination (Wulandari & Putri, 2023).

In light of this background, this study aims to legally analyze the resolution mechanisms that can be applied to address the issue of non-procedural labor recruitment, particularly from the NTT region. The study is expected to contribute to the development

of more effective regulations and strengthen the legal protection system for Indonesian migrant workers (Sari, 2021; Halim, 2019).

RESEARCH METHOD

This study employs a normative juridical approach, which focuses on the examination of prevailing legal norms and principles within statutory regulations. This approach is utilized to analyze laws related to the protection of migrant workers, particularly those recruited through non-procedural channels from the East Nusa Tenggara (NTT) region. The research also examines the implementation of these legal norms in practice and evaluates the effectiveness of existing regulations in preventing and addressing the issue of non-procedural labor migration.

The study relies on secondary data, which consists of both primary and secondary legal materials. Primary legal materials include statutory laws such as Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking, and Law No. 13 of 2003 on Manpower (as amended by the Omnibus Law on Job Creation). Additionally, international instruments such as ILO Conventions No. 97 and No. 143, as well as the 1990 UN Convention on the Rights of Migrant Workers and Their Families, are included as core references.

Secondary legal materials involve legal literature such as textbooks, scholarly journal articles, government reports, and legal analyses issued by national institutions (e.g., BP2MI, Ministry of Manpower), non-governmental organizations (NGOs), and relevant international organizations.

Data collection was conducted through library research, which involved systematic examination of legal documents and academic publications to obtain a comprehensive understanding of the applicable laws and their interpretation. The collected data were analyzed using qualitative descriptive analysis, enabling the researcher to interpret the content of legal provisions and identify their practical implications, gaps, and areas for improvement.

Furthermore, the research includes comparative legal analysis, comparing national regulations with relevant international legal standards. This comparison aims to determine the extent to which Indonesia's legal framework aligns with global principles for the protection of migrant workers, especially those vulnerable to illegal recruitment practices.

Through this methodology, the study seeks to provide both theoretical and practical contributions to strengthening the legal framework for the protection of Indonesian migrant

workers, and to propose more effective strategies for addressing non-procedural recruitment, particularly in high-risk areas such as NTT.

RESULT AND DISCUSSION

The results of this study reveal a multidimensional and persistent challenge in addressing the issue of non-procedural migrant labor recruitment from East Nusa Tenggara (NTT). The normative juridical analysis underscores that although Indonesia has enacted various legal instruments both national and international to protect migrant workers, there remains a significant implementation gap, especially in rural and socioeconomically disadvantaged regions like NTT.

First, it was found that non-procedural recruitment practices remain widespread in several districts across NTT, particularly in areas with minimal access to formal employment opportunities and where poverty rates are high. Community members often seek work abroad without following legal procedures, driven by economic desperation, social expectations, and misinformation. This condition is further exacerbated by the presence of illegal recruiters—commonly referred to as “brokers” or “calo” who promise lucrative employment abroad while bypassing government oversight. These recruiters operate in informal and unregulated networks that are difficult to trace and prosecute.

Second, although legal regulations such as Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers and Law No. 21 of 2007 on the Eradication of the Crime of Human Trafficking offer a comprehensive framework for preventing and responding to illegal recruitment, the enforcement of these laws remains weak and inconsistent. Field evidence and stakeholder reports indicate that local governments and law enforcement bodies are often under-resourced, lack coordination, and are sometimes unaware of their legal obligations under these laws. This situation creates a protection vacuum, allowing illegal practices to flourish without meaningful deterrence.

Third, the research highlights a serious shortfall in victim protection and legal aid services. Many migrant workers who return to Indonesia after experiencing abuse or exploitation abroad do not receive adequate legal representation or psychological assistance. The lack of structured, trauma-informed repatriation mechanisms means that returnees often face reintegration challenges, unemployment, and stigmatization within their communities. Moreover, they are rarely involved in legal processes against their recruiters, either due to fear or procedural inaccessibility, which significantly hinders efforts to dismantle illegal recruitment syndicates.

Fourth, there is an evident lack of public awareness and education regarding legal migration procedures. Communities in rural NTT have limited access to reliable information about safe migration channels. Outreach programs from government agencies or civil society are often irregular, and their methods are not adapted to local languages or literacy levels. This knowledge gap leaves potential migrants vulnerable to manipulation and prevents them from making informed decisions regarding overseas employment.

Lastly, the findings reveal that preventive measures at the local level—particularly economic empowerment programs and skill development initiatives—are underdeveloped. Despite government efforts to establish vocational training and microfinance programs, their reach is limited, and they often lack continuity. As a result, many residents still view irregular migration as the only viable path to financial improvement. Without tangible economic alternatives, policies aimed at stopping illegal recruitment will struggle to achieve long-term impact.

The study demonstrates that the issue of non-procedural labor migration from NTT is not solely a legal problem but one that intersects with governance, public awareness, economic development, and institutional accountability. Strengthening the implementation of existing laws, building inter-agency coordination, expanding public education, and providing viable local livelihoods are all necessary to comprehensively address the root and structural causes of illegal labor migration in Indonesia.

1. Weak Law Enforcement Against Illegal Recruiters

The enforcement of legal sanctions against unauthorized recruiters in NTT is still inconsistent and often delayed. Law No. 18/2017 clearly outlines penalties for illegal recruitment, but local authorities face challenges in tracing and prosecuting agents due to the informal and mobile nature of these actors. In many cases, illegal recruiters operate in remote areas, where the presence of law enforcement is minimal (Rahman, 2023).

Moreover, there is a general reluctance among victims to report recruitment fraud or exploitation, largely due to fear, shame, or lack of awareness of their rights. This culture of silence hinders the legal process and perpetuates impunity. Law enforcement agencies must improve their outreach and victim-centered approaches to break this cycle.

Institutional coordination also remains weak. While BP2MI has the mandate to protect migrant workers, its collaboration with local governments in identifying and monitoring illegal recruiters is often sporadic or poorly executed. This disconnect weakens the efficacy of legal enforcement on the ground (Wulandari & Putri, 2023).

In addition, prosecutors and courts handling trafficking or illegal labor cases often lack specialization. Many cases are prosecuted under general criminal law rather than using the comprehensive framework of anti-trafficking or migrant protection laws, reducing the deterrent effect of the legal system (Fauziah & Bakri, 2022).

To improve enforcement, the government must enhance intelligence-gathering mechanisms, empower local task forces, and increase legal literacy among rural populations. Only with stronger legal presence and protection mechanisms can the tide of illegal recruitment be stemmed.

2. Legal and Institutional Fragmentation

Although Indonesia has robust legal frameworks for labor migration, their implementation is fragmented across various ministries and local agencies. This fragmentation results in unclear responsibilities, budget overlaps, and conflicting procedures. For example, while BP2MI handles migrant protection, local labor departments often lack the capacity or political will to support the agency's efforts (Azhari & Nurfadilah, 2022).

This lack of coordination is particularly evident in data collection. There is no integrated database that links local labor records with national systems. As a result, many non-procedural departures go unnoticed, and early detection is nearly impossible. It also hinders reintegration support for returning workers.

Additionally, policy overlaps occur between the Ministry of Manpower, BP2MI, and Ministry of Foreign Affairs, especially when migrant workers face abuse abroad. Such bureaucratic confusion slows down legal assistance and undermines accountability. A unified command structure or inter-agency coordination unit is urgently needed.

On the regional level, the implementation of provincial regulations supporting migrant worker protection varies. Some districts in NTT have issued detailed guidelines and action plans, while others remain passive due to lack of funding or leadership. This inconsistency leaves many high-risk areas exposed.

Reforming institutional arrangements by streamlining mandates, clarifying roles, and enforcing cross-sector coordination will enhance the legal response. A central task force involving national and local actors would strengthen the chain of protection for vulnerable migrant workers.

3. Inadequate Victim Protection and Repatriation Mechanisms

Victims of non-procedural recruitment often face systemic neglect, especially after encountering abuse abroad. While repatriation efforts exist, they are frequently slow, poorly coordinated, and do not address the trauma and economic hardship that returnees endure. Many are returned without receiving justice or compensation (BP2MI, 2022).

Legal aid for victims is also limited, particularly for those who remain undocumented. Access to legal representation, shelter, and psychosocial services is concentrated in major cities, leaving rural returnees in NTT with little support. NGOs play a critical role but lack resources to cover vast regions.

Furthermore, reintegration programs are underdeveloped. Many returnees face stigma from their communities and lack job prospects. The absence of economic support or reskilling opportunities forces some to consider migrating again, perpetuating the cycle of vulnerability (Susanto, 2021).

In terms of law enforcement, victim testimony is crucial for prosecuting traffickers or recruiters. However, the legal process is often inaccessible or traumatic for survivors. Ensuring trauma-informed practices and protecting the privacy and dignity of victims are vital in improving participation in justice mechanisms.

To ensure sustainable protection, the government must adopt a victim-centered approach. This includes allocating dedicated budgets for legal aid, building provincial-level safe houses, and integrating repatriation with economic empowerment programs.

4. Lack of Public Awareness on Legal Migration Procedures

One of the core causes of non-procedural migration in NTT is the lack of awareness about legal migration channels. Many residents are unfamiliar with the steps required for lawful overseas employment and fall prey to false promises made by illegal agents (Wahyudi, 2020).

Public information campaigns have been sporadic and often limited to printed materials or seminars that do not reach remote areas. This communication gap leads to widespread misconceptions and undermines trust in formal recruitment channels. Interactive and digital tools are underutilized.

Moreover, traditional norms and social pressure also contribute. In some communities, working abroad—regardless of legality—is seen as a status symbol. Families often encourage migration without fully understanding the legal risks, thereby perpetuating informal networks (Sari, 2021).

School curricula and community learning centers rarely incorporate labor migration education. Youth and women, who are often the main migration targets, do not receive tailored, preventive information. This leaves them unprepared for the complexities and risks of foreign employment.

A strategic, village-based education approach is essential. Collaborations with local religious leaders, schools, and youth groups can build trust and expand reach. Mobile apps, radio programs, and storytelling-based media could also be adapted to local dialects for maximum impact.

5. Preventive Measures and Local Economic Alternatives are Insufficient

Efforts to reduce illegal migration must also focus on the root causes—namely poverty, joblessness, and the absence of local economic alternatives. Many residents of NTT view overseas employment as their only viable economic option, even if it involves high risks (Mawardi, 2020).

Vocational training programs provided by the government are limited in scope and accessibility. Many are not aligned with actual job market demands or are conducted without follow-up support. This reduces their attractiveness compared to offers from informal recruiters.

Moreover, microcredit and entrepreneurship initiatives targeting returnees are often short-term and poorly monitored. Without sustained guidance and capital access, former migrant workers cannot build independent livelihoods and may re-enter the migration cycle.

The lack of local industry development, especially in rural NTT, also compounds the problem. Young people with limited education have few options beyond subsistence agriculture or temporary labor. This economic stagnation fuels desperation and migration aspirations.

Thus, effective migration governance must integrate local development planning. Providing decent work opportunities at home, ensuring education-to-employment pathways, and involving the private sector are key to reducing dependency on risky overseas employment.

CONCLUSION

This study concludes that the issue of non-procedural migrant labor recruitment from East Nusa Tenggara (NTT) remains a complex and systemic problem that cannot be resolved solely through the enactment of legal instruments. Although Indonesia has comprehensive regulations such as Law No. 18 of 2017 and Law No. 21 of 2007 weak implementation, limited institutional coordination, and poor enforcement have allowed illegal recruitment practices to continue, especially in economically vulnerable and geographically isolated areas. The legal protection system is in place, but it has not reached the grassroots level where the most vulnerable populations reside.

In addition to legal shortcomings, the findings highlight broader structural issues such as lack of public awareness, minimal access to legal migration education, and insufficient local economic opportunities. These factors push many individuals to seek overseas employment through informal and unregulated channels. Moreover, returnee protection and reintegration mechanisms remain inadequate, leaving many victims of non-procedural migration without justice, compensation, or sustainable livelihoods upon their return.

Therefore, resolving the non-procedural migrant labor issue requires a multi-sectoral and holistic approach. This includes strengthening the enforcement of existing laws, enhancing coordination among government agencies, expanding community-based education programs, and developing local economic alternatives. Only through an integrated legal, institutional, and socio-economic strategy can Indonesia effectively reduce illegal labor migration and ensure the dignity, safety, and rights of its migrant workforce, particularly those from NTT.

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