

PERANAN BADAN PELINDUNGAN PEKERJA MIGRAN INDONESIA (BP2MI) DALAM PELINDUNGAN HUKUM TERHADAP PEKERJA MIGRAN TIDAK BERDOKUMEN DI SABAH, MALAYSIA

Oleh: Maryamul Chumairo' Al Ma'shumiyyah¹ dan Dani Krisnawati²

INTISARI

Penelitian ini bertujuan untuk menganalisis dua permasalahan. Pertama, menganalisis dan mengkaji terkait implikasi status PMI tidak berdokumen di Sabah, Malaysia terhadap pemenuhan hak-hak sebagai pekerja migran. Kedua, menganalisis dan mengkaji upaya pelindungan hukum yang dilakukan oleh BP2MI terhadap PMI tidak berdokumen di Sabah, Malaysia.

Jenis penelitian yang digunakan adalah gabungan antara penelitian hukum normatif dan empiris. Lokasi penelitian berada di Kabupaten Nunukan, Kalimantan Utara sebagai wilayah transit sekaligus tempat yang disepakati kedua negara dalam melakukan deportasi. Data yang dibutuhkan dikumpulkan menggunakan metode dokumentasi, wawancara dan observasi.

Hasil dari penelitian ini menunjukkan dua kesimpulan. Pertama, status PMI tidak berdokumen berimplikasi pada tidak terpenuhinya hak-hak sebagai pekerja migran di Sabah, Malaysia. PMI tidak berdokumen juga mengalami kerentanan berlapis dalam setiap fase bekerja serta sering kali mengalami penangkapan, penahanan dan perlakuan tidak manusiawi di dalam Pusat Tahanan Imigrasi. Kedua, BP2MI telah melakukan upaya pelindungan hukum baik sebelum, selama maupun setelah bekerja. Upaya ini belum berjalan optimal karena beberapa faktor yakni kondisi daerah perbatasan yang memudahkan PMI menggunakan jalur ireguler, keberadaan sindikat yang sulit dihilangkan, peran pemerintah daerah dan desa yang belum maksimal, tidak adanya representatif BP2MI di negara tujuan penempatan serta perbedaan pendekatan yang digunakan Malaysia dan Indonesia dalam memandang isu migrasi. Malaysia menggunakan standar pisau bermata dua, di satu sisi Malaysia sangat disiplin dalam menegakkan aturan keimigrasian bagi pekerja asing tidak berdokumen dengan melakukan penangkapan, penahanan serta deportasi. Di sisi lain, sanksi terhadap perusahaan/korporasi/individu yang menggunakan pekerja tidak berdokumen masih sangat lemah.

Kata kunci: BP2MI, pelindungan, PMI tidak berdokumen

¹ Mahasiswa Magister Ilmu Hukum, Fakultas Hukum, Universitas Gadjah Mada

² Dosen Departemen Hukum Pidana, Fakultas Hukum, Universitas Gadjah Mada

THE ROLE OF THE INDONESIAN MIGRANT WORKER PROTECTION BOARD (BP2MI) IN THE LEGAL PROTECTION OF UNDOCUMENTED MIGRANT WORKERS IN SABAH, MALAYSIA

By: Maryamul Chumairo' Al Ma'shumiyyah¹ and Dani Krisnawati²

ABSTRACT

This research aims to analyze two conclusions. First, to know and examine the implications of the status of undocumented migrant workers in Sabah, Malaysia on the fulfillment of their rights as migrant workers. Second, to know and examine the legal protection efforts made by BP2MI against undocumented migrant workers in Sabah, Malaysia.

The type of research used is a combination of normative and empirical research. The research location is in Nunukan Regency, North Kalimantan as a transit area as well as a place agreed by both countries in conducting deportations. The required data was collected using documentation, interview and observation methods.

The results of this study show two main conclusions. First, the status of undocumented migrant workers has implications for the fulfillment of their rights as migrant workers in Sabah, Malaysia. Undocumented migrant workers also experience multiple vulnerabilities in every phase of their work. They also often experience arrest, detention and inhumane treatment in immigration detention centers. Second, BP2MI has made legal protection efforts both before, during and after work. However, this effort has not run optimally due to several factors, namely the conditions of border areas which make it easier for PMI to use irregular routes, the existence of syndicates which are difficult to eliminate, the role of regional and village governments which has not been maximized, the absence of BP2MI representatives in the destination country of placement and the different approaches used by Malaysia and Indonesia when looking at migration issues. Malaysia uses a double-edged sword standard. Malaysia is very disciplined in enforcing immigration regulations for undocumented foreign workers by arresting, detaining and deporting. On the other side, sanctions against companies/corporations/individuals who use undocumented workers are very weak.

Keywords: BP2MI, protection, undocumented migrant workers

¹ Master of Laws student, Faculty of Law, Universitas Gadjah Mada

² Lecturer at Faculty of Law, Universitas Gadjah Mada