



Legal Products of the Province of Bali in Strengthening the Protection of Indonesian Migrant Workers

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Abstract. The government has not been able to fully absorb and provide employment for citizens of working age. Every job market is opened, whether it is in government or private institutions, the demand for it or applicants is always booming. Competitive and limited job opportunities, not a few job seekers turn their attention to try their luck applying for jobs abroad. During the Covid-19 pandemic that hit the global world, it was only discovered that so many migrant workers had worked in various parts of the world. Various work professions have been carried out, such as; on cruise/commercial ships, restaurant ships, and other types of work. Not all migrant workers who arrive in Indonesia are not administratively recorded. So that the central and regional governments are frantic in their handling because so far administratively it has not been recorded properly. The existence of migrant workers so far has contributed to the implementation of development. They are workers, for every wage or service they get and receive, to then be sent to their families in Indonesia. Regulations on the protection of migrant workers as regulated in Law Number 18 of 2017. The existence of these regulations has not been able to provide comprehensive protection for workers. Bali which is a world tourist destination, the lives of its citizens cannot be separated from having human resources who already have the skills and expertise in the tourism sector. The skills and abilities possessed, of course, are very supportive to work as crew members abroad. Against the lack of protection for migrant workers, on the other hand, the contribution given to the regional economy is very high. Therefore, it is deemed necessary to issue regional legal products, to provide social security and protection for workers originating from Bali. Furthermore, the Bali Provincial Government issued Bali Governor Regulation Number 12 of 2021 concerning the Indonesian Migrant Worker Protection System for Krama Bali.

Keywords: Governor Regulation · Indonesian Migrant Workers · Krama Bali

1 Introduction

Since the country's independence, regional autonomy has existed in Indonesia, notably during the Dutch East Indies administration. The Republic of Indonesia's Constitutional Framers understood the importance of a system of decentralized power when they wrote

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the document in 1945. In imagining this scenario, we considered the geographical and social context of the Indonesian nation, which runs from Sabang to Merauke, and the archipelagic framework of ethnicity, religion, race, and class.

Since the passage of Law of the Republic of Indonesia No. 5 of 1974 and the enactment of Law No. 23 of 2014, the Regional Government has had the authority to determine the direction of regional development through the adoption of a Regional Regulation. Regional legal products require forethought, necessitating the expertise of professionals in legislative drafting. Regional law products provide the legal basis for the achievement of regional autonomy.

Existence of numerous regional regulatory or required elements (decisions). Regulations at the regional level go by a number of different names, including Regional Head Regulations, Joint Regional Head Regulations, and Regional House of Representatives Regulations (DPRD). Examples of decisions include decrees from regional heads, DPRD leadership decisions, and honorary DPRD body decisions. Perda's architecture, which is built on a tiered hierarchy, gives primacy to regional legal products.

Regional rules are typically regulatory instruments supplied to regional governments in every autonomous region for the administration of regional government. According to Jimly Asshiddiqie, regional regulations are a sort of Act establishing rules that serve as a more general statutory regulation. Regional regulations derive their legitimacy from the power vested in them by statute. However, regional regulations may also be made to regulate matters for which the regulating body is not specified by statute. This is permitted by Article 18 paragraphs 3 and 4 [1] of the Constitution of 1945.

In a similar spirit, the Minister of Interior's Regulation No. 1 of 2014 on the Establishment of Regional Legal Products states: "Provincial Regional Regulations or other names and Regency/City Regional Regulations or other names, hereinafter referred to as Regional Regulations, are laws and regulations established by the DPRD with the joint approval of the Regional Head [2]." As an explanation of regional regulations, province and district/city norms are not mentioned in Permendagri Number 1 of 2014 for the Establishment of Regional Legal Products. Regional Regulations are collaborated on by the Regional People's Representative Council (DPRD) and the Regional Head. This means that the Regional Head, if it is called the Governor at the province level and the Governor at the Regency/City level, approves the Regional Regulations that are drafted by the DPRD. The DPRD is known as the Provincial DPRD and the Regency/City DPRD, respectively. The Regent holds office at the district level, whereas the Mayor holds office at the city level.

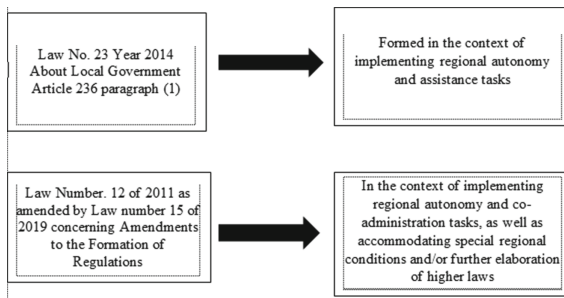
The drafting process for regional legal products must be in line with the requirements of Law No. 12 of 2011 as amended by Law No. 15 of 2019 concerning Amendments to the Law on the Establishment of Legislation and its derivative provisions, namely PerMendagri No. 120 of 2018 concerning Amendments to Minister of Home Affairs Regulation No. 80 of 2015 regarding the establishment of Regional L. The list of drafts is compiled according to the grounds or bases for the production of regional legal products, which include a) orders from higher laws and regulations, 2) regional development plans, 3) the implementation of regional autonomy and support tasks, and 4) the community aspirations area [3].

In addition to regional law, it is also the effect of politics [4]. As a constitutional democracy, the rules and regulations of the country limit the government’s authority to prevent arbitrary exercise. Consequently, the protection of citizens’ rights is strengthened [5]. This is also reflected in the composition of the Constitution in early 1945. At the time, the values of honesty, democracy, and unity and integrity were pervasive.

The regional government is implemented based on the present principles, which are a) the deconcentration principle, b) the co-administration principle, and c) the decentralization principle. Delegating power to subnational entities that enact rules and other central decisions not codified in statute [6] is an example of the deconcentration concept in action. Decentralization, as described by Marzuki, entails the transfer of authority for the execution of certain administrative tasks from the central state apparatus to subordinate agencies. Furthermore, Maddick argues that the delegation of authority is sufficient to enable workers positioned away from the department’s headquarters to carry out their stated obligations [7]. (giving those working for a central department but based elsewhere the power they need to get certain tasks done when they’re not in the main office).

Co-administration applies rules and regulations at a higher level. In the context of shared administrative duties, regional governments are responsible for enforcing laws and regulations, including those that have been issued or requested. The power and authority are both transferred during the process of decentralization. This has led to significant shifts in regional governments and a growth in decentralized power. When it comes to planning and decision-making, especially when it comes to matters of local community interest, decentralization theoretically and practically offers greater independence and autonomy to local communities.

In light of this argument, the legal element of regional legal products must be carefully evaluated. Regarding the legal aspect, authority might be characterized as follows:



As a developing nation undergoing development in a variety of sectors, the position of the work force is vital to the achievement of progress. Article 27 paragraph (2) of the Constitution of 1945 stipulates labor control by declaring that “every Indonesian citizen has the right to work and a suitable quality of living for humanity.”

Work is necessary for human survival since it is one of the means by which an individual and his or her family meet their fundamental needs. The right to work is a human right of the worker that the employer must respect and cannot violate.

The Manpower Development Law No. 13 of 2003 was passed in regards to the development of the work force. Manpower is an important part of national development,

which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia. It is done in the context of total human development and the development of Indonesian society as a whole to raise the dignity, worth, and self-esteem of the labor force and create a prosperous, just, prosperous, and equitable society that is both materially and spiritually fair [8].

Indonesia is the fourth-most populous country on earth. As a result of this, it employs a large number of people. Existing job opportunities are insufficient to absorb the existence of such a large labor force; hence, the labor force has a strong desire to work or transfer the willingness to have the opportunity to work overseas. The government has taken note of this issue by publishing Law No. 18 of 2017 for the Protection of Indonesian Migrant Work. The purpose of this legislation is to ensure that the rights of every citizen are protected and enforced. Legal, economic, and social protection is provided for every Indonesian Migrant Worker.

No one imagined that so many personnel from Bali would work as migrant laborers in a variety of businesses following the global Covid-19 outbreak. In order to complete the Covid-19 management, local governments, both provincial and district/city administrations, became frantic upon the arrival of these professionals. In this regard, the Governor of Bali Regulation Number 12 of 2021 concerning the Protection System for Indonesian Migrant Workers for Balinese Krama was adopted in readiness for addressing the protection of migrant workers from Bali.

2 Method

This study employs empirical legal research, a legal research method with a genuine meaning that analyzes how law functions in society; hence, the empirical legal research method can be classified as sociological legal research. It is possible to assert that legal study is based on existing facts within a community, legal organization, or government agency. Secondary data are collected by researchers through library research and documents, which are the results of the research and processing of others and are already accessible in the form of books or documents often offered by libraries or private property.

3 Result and Discussion

3.1 Employment Arrangements in Legislation

As was previously said, the regulation of manpower development in Indonesia is based on Law No. 13 of 2003 pertaining to Manpower. The expansion of technology and the rapid growth of the global economy have generated numerous changes in numerous sectors, including the employment of workers and wage structure. By paying attention to how important and strategic the position of the workforce or workers is, the government presents the idea of the Omnibus Law concept. This concept aims to target major issues that allow for several changes to several laws at once (cross-sectoral) to then be simplified in their arrangements so that it is hoped that there will be no concurrency/dispute and/or resistance between one norm and another. It is frequently observed that overlapping rules have a negative influence on the investment climate. Due to the fact that the treatments

he's performed all this time have been time-consuming and expensive. Not to add that the process of formulating and drafting laws and regulations frequently results in impasses or conflicts of interest [9].

The field of employment and tourism is part of the regulated in the Omnibus Law concept. Subsequently, Law Number 11 of 2020 concerning Job Creation was issued. However, along the way, the Constitutional Court carried out a Judicial Review and produced Decision Number 91/PPU-XVIII/2020. In the end, it was stated that the Cipta Work Law had a formal defect. There are 11 (eleven) clusters contained in the Copyright Act, namely:

1. Simplification of land permits.
2. Investment requirements.
3. Employment.
4. Ease and protection of MSMEs.
5. Ease of doing business.
6. Research and innovation support.
7. Government administration.
8. Imposition of sanctions.
9. Land control.
10. Ease of government projects.
11. Special Economic Zones (SEZs).

Of the 11 clusters in the Copyright Act, one of them regulates employment. Within the cluster, there is a harmonization of 4 (four) laws, including:

1. Law Number 13 of 2003 concerning Manpower.
2. Law Number 40 of 2004 concerning the National Social Security System.
3. Law Number 24 of 2011 concerning the Social Security Administration.
4. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI).

The scope of the protection arrangements for workers/labourers is as follows:

- a. Protection of workers' basic rights. The objects of this protection include:
 - 1) Protection of female workers/labor.
 - 2) Protection of child workers/laborers, and
 - 3) Protection for people with disabilities.
- b. Protection for Occupational Safety and Health
- c. Protection for Workers' Social Security, and
- d. Wage Protection.

Regarding the regulation of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, in its formulation, based on state considerations, it ensures the right to opportunity and protection for every citizen, without discrimination, to acquire respectable job at home and abroad.

The placement of Indonesian migrant workers is an effort to ensure that all workers enjoy comparable rights and wage opportunities. Implementation takes into account human dignity and worth, human rights and legal protection, as well as the availability of labor and the distribution of work opportunities.

3.2 Enforcement of Indonesian Migrant Worker Regulations for Balinese Krama

Indonesian Migrant Workers originating from Bali significantly contribute to implementing national and regional development. The number of Indonesian migrant workers based on data from the Indonesian Migrant Workers Protection Agency (BP2MI) noted that in 2021 the number was 72,624 people, consisting of 16,809 formal workers (PMI) and 55,815 non-formal workers (PMI). According to BP2MI records, the country with the most PMI placements in 2021 is Hong Kong, which is 52,278. Previously in 2019, there were 71,779 people, and in 2020 there were 53,178 people [10]. The following are the countries to be addressed, among others; Taiwan, Italy, Saudi Arabia, Malaysia, and Singapore.

Bali is an area that contributes to the placement of migrant workers. Especially those who work in the tourism sector, such as; cruise ships, merchant ships, and restaurant servers. According to data released by the Center for the Placement and Protection of Indonesian Migrant Workers (BP3TKI) Denpasar. In 2020 BP3TKI has recorded 3,984 workers from Bali who work abroad. A total of 1,634 of them work on cruise ships [11].

According to Ida Bagus Ngurah Arda, the Head of the Manpower, Energy, and Mineral Resources Office of the Bali Province, the Regional Organization Unit (Organisasi Perangkat Daerah/OPD) in charge of the labor force lacks direct authority. This is because, up until now, the Indonesian Migrant Worker Placement Company has been responsible for this (P3MI). Nonetheless, the Bali Provincial Government is carrying out PMI data collection operations via coordination channels. He further noted that two regulations govern the employment of foreign workers, particularly on cruise ships. The regulation of the Ministry of Manpower for Indonesian Migrant Workers (PMI) by the Indonesian Migrant Worker Placement Company (P3MI) is governed by Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers and its derivatives, including Ministerial Regulation No. 10 of 2019 on Migrant Workers Placement Companies. In addition, Regulation No. 84 of 2013 of the Ministry of Transportation controlling the Recruitment and Placement of Crew applies to the placement of crew members and seafarers through manning agencies. The Directorate General of Sea Transportation under the Ministry of Transportation of the Republic of Indonesia collects data on the departure of the Crew without providing a copy to the Provincial Government or Regency/City Government.

For the orderly gathering of data on the departure of Crew/Seafarers, however, the Bali Provincial Government has enacted Bali Provincial Regulation Number 10 of 2019 about Employment Implementation. Article 50 states, "Before shipping seafarers, every agency of the crew is required to report to the Service in charge of Manpower."

In addition, the Bali Provincial Government has collaborated with the Manning Agency, which is situated in Bali, in order to acquire information on ship crews/sailors who have gone. The Manpower Office and the ESDM Province of Bali reported 11,452 crew members from Bali as a result of this coordination. However, this figure does not

accurately represent the number of crew members from Bali, as many are dispatched by agencies outside of Bali.

Many PMIs have returned to Indonesia as a result of the Covid-19 outbreak that has afflicted areas of the world. The provincial government of Bali was astonished by the return of the PMIs because to their surprisingly huge number. This condition is difficult to manage because of the requirement of post-arrival isolation. Thus, the existence of PMI from Bali has not been definitively documented.

The Bali Provincial Government is present as a type of state responsibility by releasing regional legal products that give legal protection and provide social security via Bali Governor Regulation No. 12 of 2021. This law is part of a series of initiatives by the Provincial Government to safeguard Indonesian Migrant Workers Krama Bali and their families and to assure the fulfillment of their rights in all pre-, during-, and post-work activities from a legal, economic, and social standpoint.

This Governor Regulation's objectives include a) ensuring the safety of PMI Krama Bali employees and their families before, during, and after work; b) enhancing PMI Krama Bali's work competence; c) regulating PMI Krama Bali's data collection; d) establishing PMI Krama Bali's existence; and e) facilitating access to communication and services between PMI Krama Bali and the Provincial Government and Regency/City Governments throughout Bali.

4 Conclusion

Based on the results of the exposure above, the following conclusions can be drawn:

- 1) Labor Force Requirements Law 13 of 2018 has been passed and is now in effect. Law Number 18 of 2017 about Indonesian Migrant Workers (PMI) was issued for the regulation of Indonesian nationals working overseas as PMI.
- 2) The Provincial Government of Bali should safeguard Bali-born workers, train them to be more effective in their jobs, keep tabs on the information they collect, and open lines of communication and service provision between them and their local governments. Governor Regulation Number 12 of 2021 concerning the Indonesian Migrant Worker Protection System for the Balinese Krama is a regional legal document that has been issued and is in effect. Implementation of this regional legal product has the potential to improve the lives of Indonesia's migrant workforce (PMI).

Legislation

Law No. 13 of 2003 concerning Manpower.

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI).

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