

THE IMPLEMENTATION OF INDONESIAN EMPLOYMENT LAW IN PROTECTING THE WELFARE RIGHTS OF INDONESIAN MIGRANT WORKERS ACCORDING TO ISLAMIC LAW

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Abstract: This paper elaborates on implementing Indonesian employment law in protecting the welfare rights of Indonesian Migrant Workers according to Islamic law. This type of research was field research of descriptive qualitative with a case study design. The primary data sources of this study were the Ministry of Employment and The National Agency of Placement and Protection of Indonesian Migrant Workers. The data collection techniques include observation, purposive interview, snowball sampling, documentation, and literature review. The approaches used were juridical, sociological, and normative theological approaches. The data obtained were then analyzed by data reduction techniques, presentation, concluding, and data verification.

The study results indicate the implementation of Indonesia's employment law through the instruments of Constitution Number 13 of 2003 about Employment and Constitution Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPIMWA). The revision of Constitution Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PIMW) has empowered and employed Indonesian migrant workers optimally and humanely. The theory of Maqāṣid al-Syar'ī'ah takes the employment into the category of the essential five human elements (al-Ḍarūriyyāt al-Khamsu). It refers to religion, soul, lineage, property, and mind at the primary level (al-Ḍarūriyyāt), then the legal protection of Indonesian migrant worker who is komprador in maintaining and preserving human rights must also be embodied.

Keywords: *Indonesian Employment Law; Right of Welfare; Islamic Law.*

I. BACKGROUND

The right to work is a human right that must be maintained because it is a medium to the welfare of human life, which implies self-esteem and dignity.

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Thus, it is no wonder that through its Constitution, Indonesia places the right to work and a decent living as citizens' rights that must be maintained.¹

The development of the employment sector is integral to human development. Indonesian society development intends to increase self-esteem and dignity and create a prosperous society and righteousness both materially and spiritually.

As a developing country with the third largest population in the world, Indonesia has significant problems with poverty and unemployment, so it is not easy to provide adequate job opportunities. It causes a higher unemployment rate in Indonesia than the progress of national economic development, especially since the monetary crisis hit Indonesia in 1997. Various calculations and enormous costs are needed to create employment opportunities that conform to national interests.

Similar to other developing countries, the aspects such as low levels of education, limited job opportunities, and an ever-increasing population are the main interrelated factors in increasing unemployment and poverty in Indonesia. Suppose this thing is not handled quickly and thoughtfully. In that case, the gaps between the two getting may widen, and then it can affect various complicated issues, such as crime, prostitution, and the movement of anti-government. It could even trigger the emergence of separatism in several provinces in Indonesia.

Therefore, the Government of Indonesia takes the initiative to expand the provision of employment opportunities to tackle unemployment and poverty in the country. The government embodies it through the placement program for Indonesian Migrant Workers (IMW) abroad, which also benefits foreign exchange in national development.

Beneficial to initiate the smooth running of the program, the Government of Indonesia published Government Regulation Number 4 of 1970 concerning the deployment of inter-regional and inter-country work, which technically does not contain detailed legal protection for Indonesian migrant workers. Through the Ministerial Regulation, the government officially mobilizes Indonesian migrant workers abroad by involving the private sector in the technical placement. In 1979, the Indonesian government directly involved itself as a mobilizer for the placement of Indonesian migrant workers abroad through a cooperative relationship scheme between countries known as Government to Government (G to G).²

The placement of Indonesian migrant workers abroad runs smoothly and successfully from the beginning. However, as time marches on, Indonesian migrant workers experience various human rights violations problems, so the hope of getting a better living faded. These human rights violations later became

¹The Republic of Indonesia, "Constitution of 1945 concerning Right to Work and a Decent Livelihood", Article 27 paragraph (2)

²Prijono Tjptoherijanto, *Migrasi Intrnasional: Proses Sistem Dan Masalah Kebijakan Dalam Ed M. Arif Nasution, Globalisasi Dan Migrasi Antar Negara*, Kerjasama Yayasan Adikarya IKAPI Dengan The Ford Foundation (Bandung: The Ford Foundation, 1999), p. 129.

the cause of assorted conflicts in various circles, both individuals and groups, as well as nations and countries.

One case that could illustrate the human violation; Isnaini is an Indonesian migrant worker from Semarang Regency who works in Saudi Arabia. Isnaini was kidnapped and mistreated by her butler for ±14 (fourteen) years from 2002 to 2016. Isnaini's family has repeatedly reported the case to PT. Avida Avia Duta; the company that sent her to work in Saudi Arabia. The National Agency for the Placement and Protection of Indonesian Migrant Workers (PPIMW) is the responsible government for their protection. However, the progress of the settlement did not run well. The representative of the Provincial Legislative Council of Semarang Regency handled the case, and finally, it was solved.³

The incident above is one of the seen cases out of various cases of Indonesian migrant workers. However, it does preclude that there is a bounty of violation cases of the human rights of Indonesian migrant workers that are not visible or even exposed to the surface due to various reasons, including limitations and interests.

Considering Indonesian migrant workers as citizens and national assets that generate much foreign exchange, the Government must increase its role in protecting them by implementing the constitutional mandate that must be enforced. The fourth paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia reveals that: "The State form an Indonesian State Government which protects the entire Indonesian nation and to promote the general welfare."⁴

On this basis, the Government, in its legal protection program, is obligated to resolve various problems and cases of Indonesian migrant workers on the basis related to the legislation on the management system for the placement and protection of Indonesian migrant workers. It gets down to the downstream concerns of various cases of violations of the human rights of Indonesian migrant workers that have not been resolved, both at homeland and abroad.

II. THEORETICAL REVIEW

The definition of Indonesian Migrant Workers (IMW) according to Constitution Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad is: "Every Indonesian citizen who meets the requirements to work abroad in an employment relationship, for a certain period by receiving wages."

³Kontributor Ungaran dan Syahrul Munir, "*TKI Asal Semarang Disandera Majikan di Arab Saudi Selama 14 Tahun*", Regional Kompas Com. 4/03/2016, [Http://regional.kompas.com/read/2016/03/04/19252421/TKI.Asal.Semarang.Disandera.Majikan.di.Arab.Saudi.Selama.14.Tahun.?utm_source=RD&utm_medium=inart&utm_campaign=khiprd.\(04/06/2016\)](http://regional.kompas.com/read/2016/03/04/19252421/TKI.Asal.Semarang.Disandera.Majikan.di.Arab.Saudi.Selama.14.Tahun.?utm_source=RD&utm_medium=inart&utm_campaign=khiprd.(04/06/2016)).

⁴The Republic of Indonesia, "Preamble to the 1945 Constitution", parahrph 4.

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However, since the Constitution was amended by Constitution Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PIMW), they use the term Indonesian Migrant Workers. It is defined as: "Every Indonesian citizen who has intention, is currently working, or has done work by receiving wages outside the territory of the Republic of Indonesia."⁵

In this paper, Indonesian Migrant Workers (IMW) include formal and informal workers. Formal workers are professional workers with educational backgrounds and special skills. They tend to occupy various government and private companies with legal entities, such as hotels, restaurants, hospitals, and construction companies. Meanwhile, informal workers are workers with no educational background and special skills. They tend to occupy for individuals in household work, such as Household Assistants or Household Organizers (HO).

The term Islamic law originally came from orientalist, and then its use was popularized in Indonesia. In the context of Islam (Arabic literature), Islamic law known as Shari'a (الشريعة), is etymologically defined as:

الْمَوَاضِعُ الَّتِي يَنْحَدِرُ إِلَى الْمَاءِ مِنْهَا. قَالَ أَلَيْثُ: وَهِيَ سُمِّيَ مَا شَرَعَ اللَّهُ لِلْعِبَادِ شَرِيعَةً مِنْ الصَّوْمِ وَالصَّلَاةِ وَالْحَجِّ وَالنِّكَاحِ وَغَيْرِهِ.⁶

Meaning:

“Place to the water. Al Lais’ said: With (the word *al-Syarī‘ah*), then everything prescribed by Allah the Almighty, for each of his servants such as fasting, prayer, pilgrimage, marriage, and others.”

Meanwhile, in *syarī‘ah* terminology, it is defined as:

الْتُّنْظُمُ الَّتِي شَرَعَهَا اللَّهُ أَوْ شَرَعَ الْوَلَهَا لِيَأْخُذَ الْإِنْسَانُ بِهَا نَفْسَهُ فِي عِلَاقَتِهِ بِرَبِّهِ، وَعِلَاقَتِهِ بِأَخِيهِ الْمُسْلِمِ، وَعِلَاقَتِهِ بِأَخِيهِ الْإِنْسَانِ، وَعِلَاقَتِهِ بِالْكَوْنِ، وَعِلَاقَتِهِ بِالْحَيَاةِ.⁷

Meaning:

“The rules from Allah the Almighty, or establish the basics (regulations) so that they can guide human beings in dealing with their God, their religious brothers, their fellow human beings, nature, and life.”

Based on the interpretation, Shari'a has immense meaning. It includes all religious norms consisting of faith, morals, and human deed, and the provisions are sourced directly from the Qur'an and Sunnah. Then, it aimed at a special meaning, namely the deed of *mukalaf*; the provisions are sourced directly from

⁵ The Republic of Indonesia, “Constitution Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers”, Article 1

⁶Abū al-Faḍl Jamāl Muḥammad bin Mukrim al-Anṣārī “Ibn Manẓūr”, *Lisān al-‘Arab*, Juz. 8 (Cet. I; Bairūt: Dār Ṣādir, 1990 M), p. 175.

⁷Maḥmūd Syaltūt, *al-Islām Aqīdah wa Syarī‘ah* (8th ed; Bairūt: Dār al-Syurūq, 2001 M/1421 H), p. 10.

the Qur'an and Sunnah or indirectly from the results of the human thought process (ijtihad), which includes fiqh, fiqh rules, and ushul fiqh.

The focus of this paper leads to Islamic law in terms of fiqh as a scientific discipline. Etymologically, fiqh means understanding (أَلْفَهُمْ), both deep and superficial understanding. It is based on the hadith of the Prophet Muhammad.

III. RESEARCH METHODOLOGY

This type of research was field research of descriptive qualitative with a case study design. The primary data sources of this study were the Ministry of Employment and The National Agency of Placement and Protection of Indonesian Migrant Workers. The data collection techniques include observation, purposive interview, snowball sampling, documentation, and literature review. The approaches used were juridical, sociological, and normative theological approaches. The data obtained were then analyzed by data reduction techniques, presentation, concluding, and data verification.

IV. RESULTS AND DISCUSSION

The right of the welfare of Indonesian migrant workers is a prosperous, safe, peaceful condition for Indonesian migrant workers with the fulfillment of basic needs as a medium to absolute prosperity. Welfare refers to wages; according to Article 1 of Constitution Number 13 of 2003 concerning Employment, wages refer to:

“Rights of the workers/laborers are accepted and avowed in the form of money as compensation from employers to workers/laborers. It is determined and paid according to a work agreement or laws and regulations, including allowances for workers/laborers and their families for a job or service they will do or have done.”

Wage in Arabic is "*al-ajru*" and its plural form is "*al-ujūr*" which generally means; *al-jazā'* '*ala al-'amal* that refers to reward for a job, and *al-'iwaḍu* refers to compensation.⁸ Based on this interpretation, wages are a form of employers' appreciation and the compensation for the workers' endeavors based on their field of expertise.

Wages in Islam have 2 (two) aspects of meaning, namely, the world aspect in the form of wages for work and the divine aspect (afterlife) in the form of reward. The workers will get both aspects of the wages if they sincerely want Allah the Almighty (good deeds) in their endeavor. The word of Allah the Almighty QS al-Nahl/16: 97 reflects the statement.

مَنْ عَمِلَ بِالْحَيَاةِ مِنْ دَعْوَىٰ أَوْ أَنْتَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهٗ حَيَاةً طَيِّبَةً وَلَنَجْزِيَنَّهُمْ أَجْرَهُمْ بِأَحْسَنِ مَا كَانُوا يَعْمَلُونَ.

⁸Abū al-Faḍl Jamāl Muḥammad bin Mukrim Al Anṣārī “Ibn Manẓūr”, *Lisān al-'Arab*, Juz. 4 (1st ed; Bairūt: Dār Ṣādir, 1990), p. 10.

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Meaning:

“Whoever does the good deeds, whether male or female, with faith, We will surely give him/her a good life, and We will give them a better reward than what they did.”⁹

The role of wage is crucial, and even it becomes a characteristic in labor relations. It happens because wages are workers’ primary goal in carrying out their functions. Therefore, the government’s role through various policies in managing wage issues is urgently needed, including the wage system according to the legislation.

Imam Soepomo emphasized that the welfare of workers embodied in the wage component must be met, because workers are a status. It is a free individual in juridical, but it is bound in socio-logical because workers do not have the provision of life other than their energy. They oblige to peddle their energy to other people who do not have work conditions. Wherefore, the workers are always close to unfair conditions and discrimination. They must have protection from the state through laws and regulations.¹⁰

The remuneration system for Indonesian migrant workers must be according to two things, namely; 1) justice and 2) physical suitability for humanity in working relationships. As stated in the 1945 Constitution of the Republic of Indonesia Article 28 paragraph D paragraph 2: "Everyone has the right to work, get remuneration and fair and proper treatment in the working relationship.”

It is reflected in the hadith of the Prophet Muhammad

عَنْ الْمَعْرُورِ بْنِ سُوَيْدٍ رَضِيَ اللَّهُ عَنْهُ قَالَ، قَالَ النَّبِيُّ ﷺ: ... إِنَّ إِخْوَانَكُمْ حَوْلَكُمْ جَعَلَهُمُ اللَّهُ تَحْتَ أَيْدِيكُمْ، فَمَنْ كَانَ أَحْوَهُ تَحْتَ يَدِهِ فَلْيُطْعِمْهُ مِمَّا يَأْكُلُ وَيُلْبِسْهُ مِمَّا -

يَلْبَسُ، وَلَا تَكْلِفُوهُمْ مَا يَغْلِبُهُمْ، فَإِنْ كَلَّفْتُمُوهُمْ فَأَعِينُوهُمْ. (رَوَاهُ الْبُخَارِيُّ)¹¹

Meaning:

“al-Ma’rūr bin Suwaīd r.a narrates that Prophet Muhammad said: Truly, your brothers are your servants. Allah has made them under your domination. Whoever has his brother under his domination, let him feed his friend from what he eats and give him a drink from what he drinks. Do

⁹Kementerian Agama RI., *al-Qur’an dan Terjemahnya* (Madīnah al-Munawwarah: Yayasan Penyelenggara Penterjemah al-Qur’an, Mujamma’ Khādim al-Ḥaramain al-Syarīfain, al-Malik Fahd li Ṭibā’ah al-Muṣḥaf al-Syarīf, 1418 H), p. 417.

¹⁰Imam Soepomo, *Pengantar Hukum Ketenagakerjaan*, edisi revisi (8th ed, Jakarta: Djambatan, 2003), p. 8-9.

¹¹Abū ‘Abdillāh Muḥammad bin Ismā’īl bin Ibrāhīm bin Al Muḡīrah Al Bukhārī, *Ṣaḥīḥ Al Bukhārī*, No. Hadis 2545 (1st ed; Bairūt: Dār Ibn Kaṣīr, 2002 M/1423 H), p. 616.

not burden them with the thing they are unable to do. If you burden them, then help them.” (Hadith Bukhari)

The hadith interprets the sense of food intake fulfillment and good treatment as the welfare of the workers with guaranteed wages based on feasibility and justice.

Indonesian legislation also considers these two principles of physical and spiritual welfare. It can also be called physically and spiritually as contained in Article 1 paragraph 31 of Constitution Number 13 of 2003 concerning Employment. It says that; "Worker/labor welfare is a fulfillment of physical and spiritual needs, both inside and outside the working relationship, which can directly or indirectly enhance the work productivity in a safe and healthy work environment."

a. Eligibility principle

Four parameters can measure the principle of eligibility for wages, such as; 1) the parties who are involved in the work agreement, 2) the integrity of the workers, 3) the adequacy of three basic needs, namely food, shelter, and clothing, and 4) suitable with the market.

- 1) Eligibility from the side of the parties assigned to the work agreement is based on:
 - a) the agreement of two parties assigned into the work agreement,
 - b) the professionalism of the employer's remuneration,
 - c) the integrity of workers at work, and
 - d) the clarity and benefits of the wages obtained.
- 2) Eligibility of the employment integrity is based on the amount of employment with moral and physical health criteria and the level of class, position, tenure, education, and work competence.
- 3) Eligibility in terms of adequacy of three basic needs such as; food, shelter, and clothing are, based on the number of wages/ income obtained from work.
- 4) Eligibility from a market perspective is based on the minimum wage standards in general applications in the work area/country. As stated in Article 8 point (e) of Constitution Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPIMWA):
"Every candidate of Indonesian migrant workers has the same rights and opportunities to:... obtain wages under the standard wage implemented in the destination country."¹²

¹²According to the revised legislation, namely Constitution Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PIMW), Article 6 paragraph 1 point (f). It mentions that: "Every Prospective Indonesian Migrant Worker or Indonesian Migrant Worker has the right to:... f) obtain wages under the standard wage implemented in the destination country of placement or an agreement between the two countries or an employment agreement."

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The current minimum standard of wage in Indonesia is Rp. 3,600,000 (three million six hundred thousand Rupiah). It is lower than the minimum standard of wage in Saudi Arabia.¹³

The minimum wage standard of Saudi Arabia for migrant workers in the informal sector in 2016 ranges from SR. 1,000-RS1,200 (one thousand to one thousand two hundred Saudi Riyals) or ± equivalent to Rp. 3.500.000-4.200.000 (three million five hundred thousand to four million two hundred thousand Rupiah if the crucible per one Riyal = Rp. 3.500) depending on the worker's work experience. Meanwhile, the minimum wage standard for migrant workers in the formal sector ranges from RS. 1.500-RS.8.000 (one thousand five hundred to eight thousand Saudi Riyals) or equivalent to Rp. 5,250,000-28,000,000 (five million two hundred and fifty thousand Rupiah up to twenty-eight million Rupiah if each Riyal = Rp. 3,500) depending on the field and position of the profession.¹⁴

Although the wages of formal migrant workers are higher than the informal workers, the employers bear the cost of living for informal workers, such as shelter, food intake, and toiletries. It is in contrast to formal Indonesian migrant workers. The migrant workers themselves bear the living needs.

According to Islam, the principle of appropriateness in the meaning of physical welfare in labor wages fulfills human life's most important physical needs, namely shelter, clothing, and food. As reflected in Allah's word, the Almighty QS Ṭāhā /20: 117-119.

فَقُلْنَا يَا آدَمُ إِنَّ هَذَا عَدُوٌّ لَّكَ وَلِزَوْجِكَ فَلَا يُخْرِجَنَّكَ مِنَ الْجَنَّةِ فَتَشْقَى * إِنَّ لَكَ أَلًا
تَجُوعَ فِيهَا وَلَا تَعْرِى * وَأَنَّكَ لَا تَظْمَأُ فِيهَا وَلَا تَصْحَى *

Meaning:

“Then We said: “Adam! He is an enemy to you and your wife. So let him not drive both of you out of Paradise and plunge you into affliction * (for in Paradise) neither are you hungry nor naked * and that you neither thirst therein, nor suffer the heat (of the sun).”¹⁵

With the fulfillment of spiritual/physical welfare, the physical of Indonesian migrant workers will be assured from all conditions so that they can have a healthy and good life. On the other hand, if the spiritual/physical welfare is not fulfilled properly, it will directly impact the Indonesian migrant workers physically by having illness, malnutrition, or even destruction.

b. Principle of justice

¹³Fikri Wildan Nugraha, “Daftar UMR UMK UMP 2018 Seluruh Indonesia”, <http://www.fikriwildannugraha.com/2017/11/daftar-umr-umk-ump-2018-seluruh.html?m=1>. (30/07/2018).

¹⁴Muhdar Abdun (57 years old), Director of PPTKIS PT. Alpindo Mas Buana, Interview in, Palu-Central Sulawesi, June 15th, 2018

¹⁵Kementerian Agama RI., *al-Qur'an dan Terjemahnya*, p. 490.

The issue of wages cannot be separated from the principle of justice, so justice in wages is accomplishing the main principle. The worker will always link their wages with the justice obtained without losing the possibility of justice for the employers in providing wages.

In wage protection, justice can only be understood if it is put as a condition embodied by law. The wage system is regulated to lay the foundation for human relations in a proper perspective, which not only benefits the workers and harms the employer but also could become a mutual benefit in establishing harmony between workers, employers, and the state.

The principle of justice in wages has several meanings, namely; 1) equality, 2) proportionality, and 3) transparency.

- 1) The principle of justice in wages means equality. It is equal treatment and rights in terms of the worker as a legal subject (person) with the same remuneration at the same job (equal pay for an equal job) based on gender, ethnicity, race, nation, religion, and language of each worker without discrimination.
- 2) The principle of justice in wages means proportionality; the wages are assessed in terms of the workers' responsibility and quality of work including accuracy, clarity, and work perfection.
- 3) The principle of remuneration fairness means transparency. The remuneration is assessed in terms of the written relationship/contract parameters in the work agreement. A witness from a neutral party notices the process as evidence and a reminder if one of the parties, especially the employer, is negligent or forgets to carry out their obligations by accomplishing and paying fair wages for workers.

According to Islam, the justice principle in the meaning of inner/spiritual welfare in the remuneration of workers is indicated as a peaceful and harmonious feeling of heart without discrimination.¹⁶ As reflected in the word of Allah swt. QS al-Wāqī'ah/56: 25-26

لَا يَسْمَعُونَ فِيهَا لَغْوًا وَلَا تَأْتِيهَا * إِلَّا قِيْلًا سَلَامًا سَلَامًا *

Meaning:

“They will hear no idle or sinful talk there * But only the saying of: Salam!, Salam! (greetings with peace)!”¹⁷

The soul of the Indonesian migrant worker will be joyful by the fulfillment of inner/spiritual well-being so that they can live their lives full of enthusiasm. Conversely, suppose the inner/spiritual well-being is not fulfilled. In that case, they will get gloomy thoughts, stress, and easily pessimistic, which leads to a decrease in the work productivity of Indonesian workers.

Based on the two wage principles above, determining of an inappropriate and unfair wage structure and scale can lead to conflicts between workers and

¹⁶Muhammad Quraish Shihab, *Wawasan Al-Quran; Tafsir Maudhului Atas Berbagai Persoalan Umat*, p. 127-128.

¹⁷Kementerian Agama RI., *al-Qur'an dan Terjemahnya*, p. 893.

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employers in industrial relations and work production. It is necessary to clarify the wage principle as the heart of law and direction of wage arrangements in Indonesia.

The wage system of Saudi Arabia generally uses a cash system for informal Indonesian migrant workers and non-cash through a bank account for formal Indonesian migrant workers, which are paid at the end of each month with a slip of receipt payment of wages.

Unpaid wages or wages that are not under the work agreement can be reported to the migrant worker complaint service center of the Ministry of Labor and Social Affairs of Saudi Arabia at the embarkation posts on the air and sea passage. This service center is an essential step in providing a mechanism for resolving cases of neglected migrant workers' rights.

In the settlement mechanism, the government of Saudi Arabia will take firm action against employers who are proven to ignore the rights of migrant workers by enforcing written or other reproof and then summoning them up to three times. If it is not attained or fulfilled within the stipulated duration, then an administrative penalty will be imposed by blocking access to their banking transactions.

However, several aspects evoke concerns in its implementation. Indonesian migrant workers often experience adverse wage or financial settlement conditions, and it requires them to wait for months and even years to be in overcrowded shelters with other problematic migrant workers without a clear timeline of when the case will be resolved.¹⁸

Although Indonesian migrant workers can achieve physical and mental/spiritual welfare through their income, they have an inner need to gather with their families (husband/wife and children) and need to neglect the channel of their biological needs.

Indonesian migrant workers will bear the risk of sacrifice from many unfulfilled inner/spiritual needs. Parents, as both father and mother, are central figures in the family. Physical absence, especially for an extended time, will weaken the strength of the family.

By nature, children need father and mother figures who love, care for, and protect them. Husbands and wives need a companion figure who is ready to accompany, serve, and become a medium to channel their physical and spiritual needs.

However, when there is no crucial figure, the children and husband/wife will find solace, which can violate moral and religious norms. Days without a partner and a medium for channeling their biological needs amid the rigors of life will make it easy for both of them to have an affair, depending on the extent of the religious and household commitments they have built.

¹⁸Najib Aslam Naser (46 years old), Indonesian migrant worker of Saudi Arabia in the Informal and Formal Sector (1996-2018), from Palu-Central Sulawesi, Interview in Palu, July 15th, 2018

Based on these provisions, it can be concluded that the protection of the welfare rights of Indonesian migrant workers intends to help the migrant workers to savor the income that can meet their needs and families properly and fairly.

Through the provisions of the employment that have aspects of the welfare rights of Indonesian migrant workers, so they are expected to be able to avoid some things, such as;

- a. Unpaid wages,
- b. The payment of wages that are not following the agreement in the work agreement,
- c. Wage uncertainty,
- d. Uncertainty about the number of wage cuts, and
- e. Uncertainty of health insurance, work accident compensation insurance, and death compensation for the families of migrant workers.¹⁹

Legal provisions that have been reliable and are under the values of Islamic law as legal standing in protecting the rights of migrant workers meet with the attitude of employers who use the services of Indonesian workers. Legal awareness of Indonesian migrant workers' service users must increase so that there is respect and appreciation for migrant workers in fulfilling their rights, especially welfare rights.

V. CONCLUSION

Based on the explanation above, the conclusion of this paper is the implementation of Indonesia's employment law through the instruments of Constitution Number 13 of 2003 about Employment and Constitution Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPIMWA). The revision of Constitution Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PIMW) has empowered and employed Indonesian migrant workers optimally and humanely. The theory of Maqāṣid al-Syar'ī'ah takes the employment into the category of the essential five human elements (*al-Ḍarūriyyāt al-Khamsu*). It refers to religion, soul, lineage, property, and mind at the primary level (*al-Ḍarūriyyāt*), then the legal protection of Indonesian migrant worker who is komprador in maintaining and preserving human rights must also be embodied.

¹⁹Lalu Husni, *Hukum Penempatan dan Perlindungan TKI*, p. 92.

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