

THE ROLE OF INDONESIAN LABOR PLACEMENT AND PROTECTION BOARD (BNP2TKI) ON INDONESIAN LABOR (TKI)

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Abstract

Establishment of the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) To optimize the protection of migrant workers abroad which is more integrated, the government forms a national body whose duty is to protect Indonesian migrant workers abroad. A Non-Departmental government agency that is responsible to the President who is domiciled in the national capital, namely the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), whose functions are coordinating and integrated placement and protection of migrant workers abroad, with several tasks as follows: 1. Placing on the basis of a written agreement between the government and the government of the country that uses TKI or legal entity users in the destination country; 2. Providing services, coordinating, and supervising: documents, final departure briefing (PAP), problem solving, sources of funding, departure until repatriation, improvement of the quality of prospective migrant workers, information, quality of implementing TKI placement, and improving TKI welfare and his family. In accordance with the principle of international law, legal protection for citizens ceases when the citizens of that country cross the borders of the state jurisdiction. Protection of Indonesian workers abroad or in recipient countries is carried out in accordance with international law and applicable laws in the country.

Keywords: National Agency for Placement and Protection of Indonesian Workers, Indonesian Workers (TKI), Legal Protection.

Abstrak

Pembentukan Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI) Untuk mengoptimalkan perlindungan TKI di luar negeri yang lebih terpadu, pemerintah membentuk suatu badan bersifat nasional yang bertugas untuk melindungi TKI di luar negeri. Sebuah lembaga pemerintah Non Departemen yang bertanggung jawab kepada Presiden yang berkedudukan di ibu

kota Negara yaitu Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI), yang berfungsi melaksanakan kebijakan penempatan dan perlindungan TKI di luar negeri secara terkoordinir dan terintegrasi, dengan beberapa tugas sebagai berikut : 1. Melakukan penempatan atas dasar perjanjian secara tertulis antara pemerintah dengan pemerintah negara pengguna TKI atau pengguna berbadan hukum di negara tujuan. 2. Memberikan pelayanan, mengkoordinasikan, dan melakukan pengawasan mengenai: dokumen, pembekalan akhir pemberangkatan (PAP), penyelesaian masalah, sumber- sumber pembiayaan, pemberangkatan sampai pemulangan, peningkatan kualitas calon TKI, informasi, kualitas pelaksana penempatan TKI, dan peningkatan kesejahteraan TKI dan keluarganya. Sesuai dengan asas hukum internasional perlindungan hukum terhadap warga negara berhenti pada saat warga negara tersebut melewati batas wilayah yurisdiksi negara. Perlindungan terhadap tenaga kerja Indonesia di luar negeri atau dinegara penerima dilakukan sesuai dengan hukum internasional dan hukum yang berlaku di negara tersebut.

Kata kunci : *Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia, Tenaga Kerja Indonesia (TKI), Perlindungan Hukum.*

Introduction

Indonesia is a country that is rich in human resources. Unfortunately, Indonesia's human resources are mostly not experts because of inadequate educational background. With the abundance of human resources available, this is inversely proportional to employment in Indonesia, so there is a lot of unemployment in every city. Whereas as is known, in the Constitution of the Republic of Indonesia (UUD NRI) 1945 in Article 27 paragraph (3) states that, each citizen has the right to work and livelihood that is appropriate for humanity. By referring to the law, every citizen should have the right to get a suitable job to have a decent life in accordance with their needs (Adharinal, 2012: 158).

Formally Indonesia since 1945 (the pre-amendment constitution) has declared itself to be a legal state and reaffirmed in the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) as a result of amendment in Article 1 paragraph 3 which stipulates: state law". Thus, by taking into account the formulation of the concept of the Indonesian legal state, Ismail Suny noted four formal legal state requirements that are the Government's obligation to implement, namely, Human Rights, Division of Power, Government based on the Law and Administrative Courts. As a legal state, every society has the same position with each other without equality before the law.

Working is a basic right possessed by humans to improve the quality and stability of their lives, by working humans will shape themselves so that they still exist in overcoming the problems of their lives which is a process of interaction between humans. Therefore, the state guarantees

these rights which are clearly and clearly regulated in the 1945 Constitution, as reflected in Article 27 paragraph (2) which says that "Indonesian citizens have the right to work and livelihoods that are appropriate for humanity". This means that indirectly, the state in this case the government guarantees every citizen to get a job according to their interests and abilities.

However, the current conditions that we face that the state in this case is that the government has not been able to provide employment as mandated in Article 27 paragraph (2) of the 1945 Constitution. Seeing these conditions, the sending of Indonesian Workers (TKI) abroad is one of the national solutions in order to overcome the scarcity of employment opportunities, and is considered as one of the national development policies in an effort to overcome unemployment due to the limited availability of employment in the country. Furthermore, the legal basis is reaffirmed in Article 28 D paragraph (2) "Every person has the right to work and get compensation and fair and proper treatment in work relations". As an embodiment of the constitutional mandate as referred to above, in Article 31 of Act Number 13 of 2003 concerning Labor states that "Every workforce has the same rights and opportunities to choose, obtain, or change jobs and earn a decent income in or in overseas". Even in Article 38 paragraph (2) of Law Number 39 of 1999 concerning Human Rights states that "Everyone has the right to freely choose a job he likes and has the right to fair employment conditions". Thus work is a right for everyone to improve their quality of life, and getting a job becomes very meaningful because work is a means to earn income to fulfill life both for themselves and their families.

Protection of workers / workers is an inseparable part of protecting citizens as a state obligation. Basic rights as human beings must be fulfilled by getting protection where they work to get their basic rights. Neither is the status of the citizen different or the same as the status of his country, so that they get a decent life as human beings in accordance with Article 28 D Paragraph 3 of the 1945 Constitution, that: "Every citizen has the right to work and receive fair and decent treatment in work relations. "

In today's world development, Indonesia is included as a developing country, so experiencing a problem regarding population. Every year, population growth in Indonesia experiences a significant increase, so that it greatly influences the addition of workers. Besides that what happened in Indonesia, economic growth is still weak and the prospects are unclear, which direction we want to carry out. Although the data shows economic growth of 5.8% per year, this is actually supported mainly by household consumption, which in the long run cannot be expected to grow higher especially the government budget cannot be expected due to the large debt burden of the government.

With the large number of unemployed people in Indonesia, it causes the job seekers to migrate, whether they migrate from one region to another or migrate to foreign countries. They migrate to foreign countries because

overseas remuneration systems are relatively large when compared to Indonesia, so they volunteered to work abroad. With the presence of migrant workers abroad, the Indonesian government has benefited greatly, because in addition to being able to reduce the number of unemployed people it can also bring in foreign exchange for Indonesia, even before being called a foreign exchange hero.

The biggest problem experienced by Indonesian workers abroad is in Saudi Arabia with 27,196 cases, United Arab Emirates 5,686 cases, Qatar 2,317 cases, Kuwait 2,254 cases, Oman 1,835 cases, Jordan 1,013 cases, Bahrain 601 cases. Of the tens of thousands of TKI cases in Saudi Arabia 2,114 in the form of cases of abuse, 1,709 cases of sexual abuse, 7,197 cases of workplace illness, 1,475 cases of unpaid wages, 8,581 cases of unilateral layoffs. In order to protect TKI not only after they have been abroad, but also includes when the prospective migrant worker is still in Indonesia. As Article 1 paragraph (4) states "the protection of migrant workers is all efforts to protect the interests of prospective migrant workers or migrant workers in realizing the guarantee of fulfillment of their rights in accordance with the laws and regulations, both before, during, and after work". So the protection of migrant workers starts from the initial process, namely from recruitment in the country until later returning home to Indonesia. Because so far there has also been undue treatment carried out by people associated with these migrant workers, such as many prospective migrant workers who were displaced before departing, even after returning home in Indonesia there were also frauds committed by people who did not to be responsible.

From the many cases of migrant workers abroad, there needs to be a protection that is able to overcome the problems or problems that have existed so far related to the placement and protection of migrant workers, both before leaving, during work and after returning to Indonesia. So here we need mutual coordination between related agencies starting from the Regional Government, the Ministry of Manpower and Transmigration, the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), the Ministry of Foreign Affairs so that there is no overlapping of authority and mutual tugging between institutions. Thus, we can monitor every step of the journey of the TKI, so that if there are problems related to TKIs, they can be traced to the mistakes, so that they can be known as the responsibility and there will not be mutual blame between the institutions.

Discussion

Overview of Legal Protection

Legal protection is giving guidance to human rights that are harmed by others and the protection is given to the community so that they can enjoy all the rights given by law or in other words legal protection is a

variety of legal efforts that must be given by law enforcement officials to provide security, both mind and physical from interference and various threats from any party.

Legal protection is the protection of dignity and dignity, as well as recognition of human rights possessed by legal subjects based on legal provisions of arbitrariness or as a collection of rules or rules that will protect something from other things. With regard to consumers, it means that the law provides protection for the rights of customers from something that results in not fulfilling these rights.

Legal protection is a narrowing of the meaning of protection, in this case only protection by law. Protection provided by law, is also related to the existence of rights and obligations, in this case that is owned by humans as legal subjects in their interactions with fellow humans and their environment. As subjects of human law have the rights and obligations to carry out a legal action.

According to Setiono, legal protection is an action or effort to protect the public from arbitrary acts by the authorities that are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as humans (Setiono; 2004; 3).

According to Philipus M. Hadjon, there are two kinds of legal protection facilities, namely:

1. Facilities for Preventive Legal Protection

In this preventive legal protection, legal subjects are given the opportunity to submit objections or opinions before a government decision gets a definitive form. The aim is to prevent disputes. Preventive legal protection is very meaningful for acts of government that are based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Indonesia there are no specific arrangements regarding preventive legal protection.

2. Repressive Legal Protection Facilities

Repressive legal protection aims to resolve disputes. Handling legal protection by the General and Administrative Courts in Indonesia is included in this category of legal protection. The principle of legal protection against government actions rests on and derives from the concept of the recognition and protection of human rights because according to history from the west, the birth of concepts about the recognition and protection of human rights is directed at restrictions and laying down the obligations of society and the government. The second principle that underlies legal protection against acts of government is the principle of the rule of law. Associated with the recognition and protection of human rights, recognition and protection of human rights has a central place and can be linked to the objectives of the rule of law.

Law functions as a protection for human interests, so that human

interests are protected, the law must be carried out professionally. Law enforcement can be normal, peaceful, and orderly. Laws that have been violated must be enforced through law enforcement. Law enforcement requires legal certainty, legal certainty is justifiable protection against arbitrary actions. The community hopes for legal certainty because with the legal certainty the community will be orderly, safe and peaceful. People expect benefits in implementing law enforcement. Law is for humans, the implementation of the law must provide benefits, the use of the community should not be carried out by the law causing unrest in the community. People who get good and right treatment will realize the conditions that govern the health of raharja. The law can protect the rights and obligations of each individual in reality, with strong legal protection will realize the objectives of law in general: order, security, peace, prosperity, peace, truth and justice.

The rule of law in the form of laws and unwritten law, thus, contains general rules that serve as guidelines for individuals behaving in living in a society, both in relations with others and in relations with society. These rules become a limitation for the community in overloading or taking action against individuals. The existence of such rules and the implementation of these rules creates legal certainty. Thus, legal certainty contains two senses, namely, first, the existence of general rules that make individuals know what they can or cannot do and two, in the form of legal security for individuals from government arbitrariness because of the general rules that individuals can know what the State may charge or do with individuals. Legal certainty is not only in the form of articles in the law, but also the consistency in the judge's decision between one judge's decision and the other judge's decision for a similar case that has been decided (Marzuki; 2008).

Satjipto Rahardjo (2000) says that the law present in society is to integrate and coordinate interests that can collide with each other. Coordinating these interests is carried out by limiting and protecting those interests. The law protects a person's interests by giving him the power to act in fulfilling his interests. The granting of power, or often referred to as this right, is carried out in a measurable manner, its breadth and depth.

According to Paton, an interest is a right target, not only because it is protected by law, but also because there is recognition of it. Rights do not only contain elements of protection and interest, but also will. Related to the legal function to provide protection, Lili Rasjidi and B. Arief Sidharta say that the law is grown and needed by humans precisely based on products of human judgment to create conditions that protect and promote human dignity and to enable humans to live a reasonable life in accordance with their dignity (Lili Rasjidi and B. Arief Sidharta, 1994).

Philipus M. Hadjon (1987) argues that: "The principle of legal protection for the people against acts of government rests on and comes

from the concept of recognition and protection of human rights because historically in the West, the concepts of recognition and protection of rights were born. "human rights are directed towards restrictions and laying down obligations on society and government." In line with that, AJ Milne in his article entitled the Idea of Human Rights said: "A regime that protects human rights is good, one that fails to protect them worse, does not acknowledge their existence is bad."

Legal protection in English is called legal protection, while in Dutch it is called rechtsbecherming. Harjono (1998) tries to provide an understanding of legal protection as protection by using legal means or protection provided by law, aimed at protecting certain interests, namely by making the interests that need to be protected in a legal right. It can be said that legal protection is protection provided based on law and legislation.

Legal protection for every Indonesian citizen without exception can be found in the 1945 Constitution of the Republic of Indonesia (UUDNRI 1945), therefore every product produced by the legislature must always be able to guarantee legal protection for all people, even must be able to capture legal and justice aspirations that develop in the community. This can be seen from the provisions governing the existence of equal legal standing for every citizen.

Law protection can also be interpreted as an action or effort to protect the public from arbitrary acts by the authorities that are not in accordance with the rule of law, to create order and tranquility so as to enable humans to enjoy their dignity as human beings. legal protection, which cannot be separated from the protection of human rights, is a concept of the rule of law which is a term as a translation of two terms rechtsstaat and rule of law. Thus, in the explanation of the 1945 Constitution of the Republic of Indonesia before the amendment was stated, "The Indonesian state is based on law, (rechtsstaat), not based on mere power (Machtsstaat)". The rule of law theory essentially means that law is supreme and the obligation for every state administrator or government to submit to the law (subject to the law), there is no power above the law, everything is under the law (under the rule of law), with this position, there should be no arbitrary power (misuse of power) (Hasrul, 2013).

Philosophical Review of Protecting the Rights of Indonesian Migrant Workers Abroad

Philosophical (philosophical) application of a rule of law if it reflects the legal ideals (Rechtidee) of the Indonesian nation as the highest positive value (uberpositivenwerte) namely Pancasila (Ali, 2002: 76). Pancasila is domiciled as a legal ideal (Rechtsidee) in the life of the community, nation and state. Legal status according to Rudolf Stammler is the construction of thought that directs the law to the ideals desired by society (Stammler, 1995:

129). Legal status functions as a guide star (Leitstern) to achieve what is aspired (Attamimi: 309). With enthusiasm, "Godhead the Almighty", the product of legislation concerning the placement of migrant workers abroad, both its legal institutions and enforcement and the implementation of placement of TKIs abroad must be based on noble moral values. Therefore, behavior that exploits Indonesian labor migrants since pre-placement, during placement and retirement under any pretext, both in the name of race and religion cannot be justified. The spirit, "Just and civilized humanity" in principle wants to place humans according to their dignity as the creatures of God Almighty. Humanity, derived from the word human being, is a mindful being, has the potential of thinking, feeling, intention and confidence with the potential he has to be a creature that has a high degree of dignity and dignity (Fauzi, 2005: 99).

The spirit of sila "Indonesian Unity", contains the principle of nationalism, love of the nation and the homeland; continue to unite the unity and unity of the Nation. Nationalism is an absolute requirement for the growth and survival of a nation in the modern age, because without a sense of nationalism a nation will be broken apart from within. Pancasila nationalism requires the Indonesian people to eliminate the prominence of ethnicity, ancestry or differences in skin color. Referring to the Pancasila's third philosophical framework of philosophical thinking, the entire process of placing Indonesian migrant workers through their laws and regulations, should still be able to foster the spirit of nationalism, without having to look down on other nations. In the principle of nationalism, it is also implied by the obligation of Indonesian migrant workers to maintain the good name of the nation and state by not carrying out activities that are contrary to the laws of the destination country.

The spirit of sila "Popularism led by wisdom in deliberation / representation" is nothing but democracy in the general sense, namely the government of the people, by the people, for the people. The wisdom of deliberation means that joint action is taken after a joint decision is made. Through the spirit of this fourth principle, the laws and regulations concerning the placement of migrant workers abroad are not permitted to reduce or even kill the political rights of Indonesian migrant workers as Indonesian citizens. Therefore the right to self-organize for Indonesian migrant workers abroad in order to strengthen basic rights for Indonesian migrant workers must absolutely obtain guarantees in the laws and regulations and in the MoU made with the placement country (Kaleka, Suara Merdeka, November 19, 2010).

The spirit of the "Precepts of Social Justice for the Whole Indonesian People", requires prosperity that is evenly distributed among all the people. Social justice means having to protect the weak, and this does not mean the weak then may not work and just demand protection, but on the contrary

it must work according to their abilities and fields. Protection provided is to prevent arbitrariness from the strong to guarantee justice and equity.

The Role of the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) Against Indonesian Workers (TKI) Abroad

The regulation regarding the placement of Indonesian workers abroad is Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. In consideration of weighing letters c, d and e, it is stated that Indonesian labor abroad is often used as the object of human trafficking, including slavery and forced labor, victims of violence, abuse, crimes for human dignity and other treatment that violates human rights human. Then the state must guarantee and protect the human rights of its citizens who work both at home and abroad based on the principle of equality, democracy, social justice, gender equality and justice, anti-discrimination and anti-trafficking in persons. In the case of the placement of Indonesian workers abroad it is an effort to realize equal rights and opportunities for workers to obtain decent work and income, the implementation of which is carried out while taking into account the dignity, dignity, human rights and legal protection and equal employment opportunities and the provision of labor in accordance with national needs (Husni, 2000: 54).

Based on the provisions of Article 27 paragraph (2) jo. Article 28 D Paragraph (2) of the 1945 Constitution of the Republic of Indonesia is clear that work is a human right that is the responsibility of the state to fulfill it. To carry out this constitutional mandate, the government has established various policies. One of them is to fill employment opportunities abroad. Indonesia is the sending country sending the second largest laborer in Southeast Asia after the Philippines (Naovalita, 2016: 64). Based on data available in 2009 the number of migrant workers working abroad reached 6.5 million, in macro terms the remittances by Indonesian migrant workers in 2009 amounted to U \$\$ 6.793 billion, and in 2010 it increased to U \$\$ 7.139 billion dollars (Husni, 2000: 65).

Overcoming the problem of Indonesian Workers (TKI) who have problems abroad, of course can not be separated from the diplomacy that must be done to the country concerned, to do so, in this case the state must first fulfill the rights of every Indonesian citizen to obtain work within country. There are things that need to be agreed upon in advance, where the most important thing is the issue of human rights. Human rights for Indonesian citizens who will work abroad which must first be fulfilled are the right to obtain employment in the country. Because the policy of stopping shipments of migrant workers abroad or the moratorium is often challenged for reasons of violating the human rights of citizens to work abroad. Even though there are conventions regarding free movement, we

still have to pay attention to the fulfillment of the rights of citizens in the country to get a job. The root of the problem of migrant workers is actually caused by private state managers. The regulation concerning TKI is a formulation and protection regulation, where it seems as if the protection of TKI is a sub-ordinate of the placement of TKI. Being a priority is the protection of migrant workers since prospective migrant workers are recruited, dispatched, placed, and returned to their families in the country. There must be a clear separation between the roles and responsibilities of sending countries, placement countries and TKI (Husni, 2000: 65).

According to the decision of the Constitutional Court No. 12 / PUU-XIV / 2016, where this case tells of an Indonesian workforce who requested their rights while working abroad. Because basically there are many cases where Indonesian workers experience cases of violence when they work abroad. This is what encourages workers to demand the Indonesian government to fulfill their rights.

One of the large areas of origin of Indonesian migrant workers in Indonesia is NTB, especially Lombok. As of the end of 2009, based on data from the NTB Provincial Manpower and Transmigration Office, there were 650,000 workers working abroad. Remittances sent by TKI as much as 2,000,000,000 (two billion rupiah) per day do not include those sent through friends who return or are taken directly by the TKI concerned (Burhanuddin, 2007). To protect Indonesian migrant workers who work in overseas, the government has established Law Number 39 of 2004 concerning the placement and protection of migrant workers abroad and its implementing regulations.

Protection of Indonesian Migrant Workers according to Article 1 point (4) of Law Number 39 Year 2004 which explains that the protection of Indonesian workers is all efforts to protect the interests of Indonesian Workers and Indonesian Workers in realizing the fulfillment of rights in accordance with laws and regulations, both before, during, and after work (Sukowati, 2004: 24). So legal protection is an act that is given to someone on the basis of the prevailing laws and regulations so that someone is guaranteed his rights, after a person has carried out his obligations, so that welfare and peace are realized in the community life (Sukowati, 2004: 24). In providing legal protection for Indonesian labor migrants it is regulated in Law Number 39 of 2004 Article 77 which states that: "Every prospective migrant worker or migrant worker has the right to obtain protection in accordance with the regulations on illegal logging.

Protection as referred to in paragraph (1) is carried out starting from placement, placement period, to after placement "(Sukowati, 2004: 24). From the above article, it shows that the government provides protection for TKI or prospective TKI if there are problems abroad, the presence of representatives abroad in providing protection for TKI is in accordance with Law Number 39 of 2004 Article 78 which states that: Republican

Representatives Indonesia provides protection for migrant workers abroad in accordance with laws and regulations as well as international law and practice; In the context of protecting Indonesian migrant workers abroad, the government can establish positions on employment at certain representatives of the Republic of Indonesia; Assignment of employment as referred to in paragraph (2) is carried out in accordance with the legislation regulations (Sukowati, 2004: 24-25).

The legal basis for the protection of Indonesian Workers abroad is carried out by representatives of the Republic of Indonesia. Meanwhile, overseas legal protection is given based on Law Number 39 of 2004 article 80 which states that:

1. Provision of legal assistance in accordance with the legal provisions of the laws of the destination country as well as international law and customs.
2. Defense for the fulfillment of rights in accordance with work agreements and legislation in the TKI country is determined (Sukowati, 2004: 25).

Based on Law Number 39 of 2004 Article 80 shows the protection of prospective migrant workers and migrant workers. Protection of prospective TKI and TKI in accordance with the following steps:

1. District or City Disnakertrans from the origin of prospective TKI make selections about age, education, health, both physical and administrative. Those who fulfill the requirements are determined as prospective TKI and will be sent through PPTKIS for the placement process;
2. Candidates for TKI sign a placement agreement with the PPTKIS addressed by the District Manpower Office in the city or town as appropriate;
3. Prospective migrant workers are ensured to be included in the insurance protection program for migrant workers, so that in the event of a disaster or accident prospective migrant workers or migrant workers get compensation in accordance with the provisions;
4. Prospective Indonesian Migrant Workers follow the Final Defendation of Departure (PAP) before departure abroad. So that TKI candidates are able to understand the ways that must be taken when facing problems abroad (Sukowati, 2004: 25-26).

Indonesia is one of the largest labor-sending countries abroad, estimated to be up to several years from now. Throughout 2016 the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) recorded the placement of Indonesian migrant workers to various countries in the world as many as 234,451 people. That number includes 125,176 people (53 percent) formal TKIs and 109,275 people (47 percent) informal TKIs (BP2TKI, 2016). There are many problems that arise in the field of labor,

especially Indonesian migrant workers abroad, one of them is illegal TKIs who have problems in the destination country.

The empirical reality is an indisputable fact, that the phenomenon of TKI is a picture of the poor condition of life and livelihood of the people from an economic perspective. And the rest is due to the low level of education possessed, the high population, resulting in an imbalance between the number of workers (labor force) which always increases with the availability of employment.

Placement of Indonesian migrant workers in the last four years has increased the percentage of formal TKI placements and a declining percentage of informal TKI placements. There are three causes (possible), the increase in the percentage of the percentage of formal migrant workers and a decrease in the percentage of informal TKI placement, namely (BNP2TKI, 2014):

First, the decline in informal TKIs due to revamping the placement of Indonesian migrant workers in several countries in the Middle East. The postponement of the placement (moratorium) of informal TKIs working in the Household Management sector (PLRT) in 6 (six) countries, namely; Kuwait, Jordan, Syria, Saudi Arabia, Qatar, and the United Arab Emirat (UAE). The enactment of the TKI PLRT moratorium in these countries is because the country does not guarantee protection.

Second, the implementation of measures to tighten the placement of Indonesian migrant workers by enforcing the duration of training is proven by the presence of a finger print system.

Third, the availability of unskilled labor in the regions has really decreased. The existence of TKI abroad has been sought to get protection from various parties involved, especially from the Government, as evidenced by the increased provision of information to the public, as well as the issuance of legislation instruments that directly and indirectly suppress cases of human rights violations against the migrant workers. Efforts to improve protection of migrant workers have several things that have been done by the government so far, including (Rahman, 2011):

1. Protection with a political approach

The political approach is carried out concretely by the Government to strive for the protection of migrant workers abroad by making cooperation agreements between the Government or G to Government from receiving countries and sending countries of TKIs, in collaboration with G to NGO (Government to Non Government Organization) , collaboration with religious organizations, and cooperation G to private or private to private. G to G cooperation (Government to Government) from the recipient country of TKI, carried out in the form of a Momentandum of Undertanding (MoU), bilateral arrangement or agreement. This was attempted because if the collaboration between G to G (Government to Government) and the

recipient country was not based on the MoU, it was limited to the 1963 Vienna convention which required every foreign country representative to respect the sovereignty of the host country authorities. This can certainly hinder the implementation of the protection of Indonesian migrant workers carried out by the Indonesian government in the relevant TKI recipient countries (Rosida; 2017).

1. Establishment of the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) To optimize the protection of migrant workers abroad which is more integrated, the government establishes a national body whose duty is to protect Indonesian migrant workers abroad. A Non-Departmental government agency that is responsible to the President who is domiciled in the national capital, namely the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), whose functions are coordinating and integrated placement and protection of migrant workers abroad, with several tasks as follows: (PPTKILN Law No. 39 of 2004, Article 95 paragraph 2): Placing on the basis of a written agreement between the government and the government of the country that uses TKI or legal entity users in the destination country. Providing services, coordinating, and supervising: documents, final departure briefing (PAP), problem solving, sources of funding, departure until repatriation, improvement of the quality of prospective migrant workers, information, quality of implementing TKI placement, and improving TKI welfare and his family.

2. Provision of Humanitarian Assistance

Protection in the form of humanitarian assistance is given to migrant workers who are undergoing a judicial process in a local country, due to allegations of committing a criminal act. This kind of protection is usually carried out in the form of periodic visits and monitoring and encouraging migrant workers who experience problems. Other assistance is the fulfillment of daily basic needs during the process of undergoing justice, providing spirituality and providing health / psycho-social services, as well as helping repatriate Indonesian migrant workers to their homeland. For example, making a policy to repatriate migrants, including undocumented migrant workers, the government allocates a budget to provide services to troubled TKI, especially migrant workers who use the amnesty period to return to Indonesia. Given that most migrant workers are amnesty able to finance their return and their families to their respective regions of origin, the use of these funds is only for things that are very dangerous related to humanitarian issues.

3. Provision of Legal Aid

So far the legal assistance provided to TKI is: Accompaniment; Consultation regarding applicable laws in the local country; Acting as moderator in resolving disputes between migrant workers and employers; Providing advocates both pro bono and free paying.

Conclusion

Establishment of the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) To optimize the protection of migrant workers abroad which is more integrated, the government forms a national body whose duty is to protect Indonesian migrant workers abroad. A Non-Departmental government agency that is responsible to the President who is domiciled in the national capital, namely the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), whose functions are coordinating and integrated placement and protection of migrant workers abroad, with several tasks as follows: 1. Placing on the basis of a written agreement between the government and the government of the country that uses TKI or legal entity users in the destination country. 2. Providing services, coordinating, and supervising: documents, final departure briefing (PAP), problem solving, sources of funding, departure until repatriation, improvement of the quality of prospective migrant workers, information, quality of implementing TKI placement, and improving TKI welfare and his family. In accordance with the principle of international law, legal protection for citizens ceases when the citizens of that country cross the borders of the state jurisdiction. Protection of Indonesian workers abroad or in recipient countries is carried out in accordance with international law and applicable laws in the country.

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