

POLICY CONCEPT FOR REPATRIATION OF PROBLEMATIC INDONESIAN MIGRANT WORKERS (TKIB)

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ABSTRACT

The policy for the repatriation of Indonesian workers in certain situations is regulated by Presidential Regulation of the Republic of Indonesia Number 45 of 2013 concerning the Coordination of the Repatriation of Indonesian Migrant Workers to overcome them, but in its implementation, there are still obstacles that occur, especially in the funding sector. Nevertheless, the Government must continue to ensure the presence of TKI starting from the pre-placement stage, during placement, and after placement. This conception of employment is used as a reference for reviewing the existing legal instruments, whether they already cover these fields or not.

Keywords: Policy, Return, Indonesian Workes



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INTRODUCTION

One of the complex problems faced by the government of the Republic of Indonesia is unemployment. The high unemployment rate will have an impact on society, namely poverty, crime, and other social problems. Unemployment is the number of workers in the economy who are actively looking for work but have not yet found one. (Sukirno, 2004) Not to mention that the available job opportunities cannot be filled by job seekers because the quality is not to the needs of the workforce. It triggers an imbalance in the growth of the workforce every year (Soepomo, 1995). Therefore, work has an important meaning in human life, so everyone needs work. Work can be interpreted as a source of income for a person to meet the needs of life for himself and his family.

It can also be interpreted as a means to actualize oneself so that a person feels that his life becomes more valuable both for himself, his family, and the environment. Therefore, the right to work is a human right inherent in a person that must be upheld and respected (Syamsuddin, 2004).

The government itself in response to the constitutional mandate mentioned above has set various policies, one of which is to fill job opportunities abroad. Indonesia is the second largest sending country for migrant workers in Southeast Asia after the Philippines (Syamsuddin, 2004), and the limited number of job

vacancies in the country has caused more and more Indonesian citizens to seek work abroad.

The government's role in this program is to emphasize the aspects of fostering and protecting and providing various facilities to related parties, especially TKI and Indonesian Migrant Worker Placement Service Companies (hereinafter abbreviated as PJTKI). The placement of TKI abroad is also a national program to improve the welfare of the workforce and their families as well as to develop the quality of human resources. The placement of Indonesian Migrant Workers in the Inter-Country Inter-Country Program (AKAN), is carried out by utilizing the international job market by improving the quality of workforce competencies with optimal protection from before departure while working abroad until arriving back in Indonesia (Soemitro, 1989).

Economic conditions that are less attractive in their own country and relatively large incomes that appear more attractive in destination countries are triggers for international labor mobility. Rising incomes in developing countries allow people in developing countries to travel across national borders, and globalized information and ease of transportation also play a role in increasing international labor mobility (Husni, 2011).

In the context of labor migration to other countries, the economic subsystem is an adaptation activity to the physical environment of the community. It is stated by Satjipto Rahardjo that the task of the Economy is to utilize resources for the survival of the community (Ananta, 1996).

However, the sustainability of Indonesian workers abroad does not always run smoothly, brutality and sexual harassment often occur, especially for female Indonesian workers. To protect TKI abroad, the government has enacted Law Number 39 of 2004 concerning the Placement and Protection of TKI Abroad and its implementing regulations.

In the preamble considering letters c, d, and e, it is stated that Indonesian workers abroad are often used as objects of human trafficking, including slavery and forced labor, victims of violence, arbitrariness, crimes against human dignity, and other treatments that violate human rights. man. Therefore, the state is obliged to guarantee and protect the human rights of its citizens who work both at home and abroad based on the principles of equal rights, democracy, social justice, gender equality, justice, anti-discrimination and anti-trafficking.

However, TKI has not been properly protected both at the pre-placement, during placement, and post-placement stages. (Syamsuddin, 2004) The concept of employment is used as a reference for reviewing the existing legal instruments, whether they already cover these fields or not.

In terms of the repatriation of Indonesian workers in certain situations, the government issued Presidential Regulation of the Republic of Indonesia Number 45 of 2013 concerning the Coordination of the Return of Indonesian Migrant Workers to overcome this, yet its implementations still have obstacles, especially in the funding sector.

Issue : The problem in this paper is the problem with the policy of handling the repatriation of problematic Indonesian workers abroad.

RESEARCH METHOD

The method used in writing this applied paper is the descriptive analytical method, namely by using data that clearly describes the problems directly in the field, then analyzing and concluding to reach a problem solution. The technique of collecting data is through observation and literature study to obtain problem-solving in the preparation of this paper.

Sociological juridical approach, namely the juridical approach method used to examine problems in terms of law and systematics, and as a guide to the rules that can be used as the basis for analyzing legal phenomena that arise (Panjaitan, n.d.). A sociological approach is used to examine a problem in society or the community environment with the intent and purpose of obtaining facts, which is followed by finding problems, identifying issues, and finding solutions to problems.

RESULT AND DISCUSSION

Government Policy for Indonesian Migrant Workers

The state's attention to its citizens who become migrant workers is regulated in several regulations, including:

1. The 1945 Constitution, Article 27 paragraph (2) states that every Indonesian citizen has the right to work and a decent living for humanity.
2. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, Article 30 which states that everyone has the right to a sense of security and peace and protection against the threat of fear to do or not do something.
3. Law No.39/2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad states that the state is obliged to guarantee and protect the human rights of its citizens who work both at home and abroad based on the principles of equal rights, democracy, social justice, gender equality and justice, anti-discrimination, and anti-trafficking; In addition, it is also stated that the protection of TKI is all efforts to protect the interests of prospective TKI/TKI in realizing the guaranteed fulfillment of their rights by the laws and regulations, both before, during and after work.
4. Law Number 11 of 2009 concerning Social Welfare, Article 14 paragraph (1) Article 14 (1) Social protection is intended to prevent and manage risks from shocks and social vulnerabilities of a person, family, group, and/or community, to survive, can be met following the minimum basic needs. Social protection for victims of violence and migrant workers is one of the pillars of social welfare services. The implementation of social welfare includes social rehabilitation, social security, social empowerment, and social protection.
5. Presidential Regulation Number 45 of 2013 concerning the Coordination of the Return of Indonesian Migrant Workers, Article 17 paragraph (1) which states that if the TKI who will be repatriated has a family, the repatriation includes his family to the area of origin. And paragraph (2) The family as referred to in paragraph (1) includes wife/husband and children.
6. Regulation of the Minister of Social Affairs of the Republic of Indonesia Number: 86/HUK/2010 concerning Organization and Work Procedure of the

Ministry of Social Affairs of the Republic of Indonesia, Article 281 states that the Sub-Directorate of Social Protection of Migrant Workers has the task of carrying out the preparation and implementation of policies, drafting norms, standards, procedures, and criteria, and providing technical guidance and evaluation in the field of social protection for migrant workers.

7. Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 22 of 2013 concerning the Return of Troubled Migrant Workers and Problematic Indonesian Workers to their Origin, Article 1 paragraph (7) which states that Social Protection for PMB and TKIB are all efforts directed at preventing and dealing with risks from social shocks and vulnerabilities which include social assistance, social advocacy, and legal assistance in repatriation to their areas of origin. This Permenos is made as norms, standards, procedures, and criteria that regulate the return of PMB and TKIB and their families as a reference for the Government, provincial governments, and district/city governments.

Troubled Indonesian Migrant Worker Repatriation Concept

The transfer/return of foreign residents to their country of origin can be said to be remigration, such as the example of TKI in Malaysia being repatriated back to Indonesia. The Coordination Team in completing its duties, namely by planning, compiling, and implementing the repatriation of TKI from the point of debarkation to the area of origin, cooperates by Article 11 of the Regulation of the President of the Republic of Indonesia Number 45 of 2013 namely the Coordination Team in carrying out its duties can cooperate with the Governor, Regent/Mayor and/or other related parties. The government is obligated to provide service posts at the port of departure and return of Indonesian workers who are equipped with facilities that meet the requirements that are protected in this article. The government guarantees TKI to continue to receive services at ports of departure and return.

By Presidential Regulation of the Republic of Indonesia Number 45 of 2013 concerning Coordination of the repatriation of Indonesian workers, Chapter V Reporting and Chapter VI Monitoring and Evaluation (Santosa, Khatarina, & Suwana, 2013). in Article 14 Chapter V that the Head of the Coordination Team reports the results of the implementation of tasks to the President periodically at least 1 (one) time in 1 (one) year or at any time if necessary. And Article 15 Chapter VI contains the contents of the Coordination Team to monitor and evaluate the implementation of the repatriation of TKI from the point of debarkation to the area of origin. and the results of monitoring and evaluation are used as input in policy-making for the return of Indonesian labor migrants. Coordination of BP3TKI with the Office of Social Workers and Transmigration as well as other agencies carried out in the evaluation and reporting of the repatriation of TKI from the point of debarkation to the area of origin must be carried out regularly.

The Coordination Team monitors and evaluates the implementation of the repatriation of Indonesian Migrant Workers from the point of debarkation to their area of origin. All costs required for the repatriation of TKI from the point of debarkation to the area of origin are sourced from the State Revenue and Expenditure Budget, and the Regional Revenue and Expenditure Budget. In the context of protecting the placement of TKI abroad until they are returned to their

area of origin. The importance of coordination in the preparation of planning for the return of TKI to their area of origin is the goal of the main task of the Social Service Agency and BP3TKI as well as other agencies because many TKI has problems that do not have legal documents. Like Fakri Gaffar's opinion, explaining planning is the process of making various decisions that will be carried out in the future to achieve predetermined goals (Kesuma, Triatna, & Permana, 2011). Planning must be structured on a determination of the sequence of actions, cost estimates, and the use of time for an activity based on data by considering reasonable priorities efficiently to achieve goals (Suherman, 2003).

The Coordination Team has the task of coordinating and synchronizing the planning, preparation, and implementation of the repatriation of TKI from the point of debarkation to the area of origin, coordinating the repatriation of TKI from the point of debarkation to the area of origin, coordinating the supervision and control of the repatriation of TKI from debarkation to the area of origin, and evaluate and report the repatriation of TKI from the point of debarkation to the area of origin.

The preparation of planning for the repatriation of Indonesian Migrant Workers is based on Presidential Regulation No. 45/2013 which establishes a Coordination Team for the Return of Indonesian Migrant Workers between the Social Service for Transmigration Workers and BP3TKI. The repatriation is based on the working period, age, health condition, and problematic TKI, the TKI concerned does not have a work permit or valid document to work. Recording at the port is the task of the BP3TKI, DINSOSNAKERTRANS, IMMIGRATION, KP3, and Port Health Offices in returning to the area of origin of the TKI.

The importance of coordination in evaluation and reporting is so that no more migrant workers are neglected. The opinion of Charles O. Jones (Aprilia 2009:94) reveals that reporting is the delivery of news, information, notification, or accountability both orally and in writing from subordinates to superiors per the relationship of authority and responsibility that exists between them. While evaluation is an activity that can contribute to a great understanding of the value and can also help improve the implementation of policies and their development.

This understanding explains that evaluation activities can find out whether the implementation of a program is under the main objectives, which in turn can be used as a benchmark for whether a policy or activity can be said to be worthy of continuing, needs to be improved, or stopped.

To provide protection for Indonesian citizens or TKI who are threatened with the death penalty abroad, the government based on Presidential Decree No. 17 of 2011 established a Task Force for Handling Cases of Indonesian Citizens/TKIs Abroad who are Threatened with the Death Penalty (hereinafter referred to as the Death Penalty Task Force). Presidential Decree No. 17 of 2011 states that the death penalty Task Force will serve for 6 months, and then this period is extended to a year, and report the results to the President.

The Task Force has the following duties:

1. Take an inventory of problems and cases of Indonesian citizens/TKI abroad who are threatened with the death penalty;
2. Conduct advocacy and legal assistance for Indonesian citizens/TKI abroad who are undergoing legal proceedings, especially those who are threatened with the death penalty;

3. Evaluate the handling of legal cases for Indonesian citizens/TKI, including detrimental cases to TKI in the countries of placement;
4. Provide recommendations to the President regarding steps to settle and handle legal cases for Indonesian citizens/TKI in the country of placement; The establishment of this Task Force is intended so that the handling of legal cases for Indonesian citizens/TKI who are threatened with the death penalty can be more focused, consistent and sustainable.

This task force is divided into divisions. The legal advocacy and litigation division has the task and function of determining the steps needed to avoid the death penalty, either formally, through forgiveness efforts, or an emotional cultural approach to related parties. In the context of protecting Indonesian citizens abroad, the Ministry of Foreign Affairs has established three policy measures, namely prevention, early detection, and fast and appropriate protection.

The repatriation plan is divided into 2 (two) stages. The first stage is the repatriation from embarkation (overseas) to debarkation (in Indonesia). The repatriation of Indonesian Troubled Migrant Workers from embarkation to debarkation is carried out or financed by the government of the country where the Troubled Indonesian Workers are located (overseas) and some are carried out or financed. It depends on the outcome of an agreement or negotiation between the Indonesian government and the governments of foreign countries where the Indonesian Troubled Workers are located.

The repatriation of troubled Indonesian workers from debarkation to their area of origin is carried out by the Ministry of Social Affairs and the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) with the following division of tasks: (Priyatno & Pranata, 2020)

1. The repatriation of Indonesian Workers with Problems is carried out by the Ministry of Social Affairs.
2. The repatriation of problematic Indonesian workers who are not handled by the Ministry of Social Affairs is carried out by BNP2TKI.
3. In the case of Indonesian Workers with Problems related to health and requiring further treatment at a referral hospital, the Ministry of Health facilitates in terms of lifesaving for further treatment and recovery as part of health services in the National Health Insurance benefit scheme.

For this reason, a mechanism is needed to ensure the validity of the participation of Indonesian Workers in the National Health Insurance when repatriation is carried out. In the case that the National Health Insurance does not apply, then health financing is the responsibility of the Ministry of Social Affairs and BNP2TKI with the coordination of the Regional Government for handling up to the Region of Origin. In the case of repatriation of Indonesian Workers with Problems who are abroad related to health and require assistance from the medical team, it is the responsibility of the Ministry of Foreign Affairs to support medical technical advice by the Ministry of Health.

CONCLUSION

The importance of coordination in evaluation and reporting is so that no more migrant workers are neglected. The opinion of Charles O. Jones (Aprilia 2009:94) reveals that reporting is the delivery of news, information, notification, or accountability both orally and in writing from subordinates to superiors per the relationship of authority and responsibility that exists between them. While evaluation is an activity that can contribute to a great understanding of the value and can also help improve the implementation of policies and their development.

REFERENCES

- Ananta, Aris. (1996). Liberalisasi ekspor dan impor Tenaga Kerja suatu pemikiran awal. *Liberalisation of the Export and Import of Labour: An Early Thought*, in A. Dwiyanto (Ed.), *Penduduk Dan Pembangunan*. [Google Scholar](#)
- Husni, Lalu. (2011). Perlindungan hukum terhadap tenaga kerja Indonesia di luar negeri. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 23(1), 150–167. [Google Scholar](#)
- Kesuma, Dharma, Triatna, Cepi, & Permana, Johar. (2011). *Pendidikan karakter: kajian teori dan praktik di sekolah*. [Google Scholar](#)
- Panjaitan, Meltalia. (n.d.). Analisis Yuridis Penegakan Hukum terhadap Penggunaan Barang yang Memakai Merek Tiruan (Tinjauan dari Aspek Budaya Hukum Masyarakat Pengguna). *Jurnal NESTOR Magister Hukum*, 3(3), 209840. [Google Scholar](#)
- Priyatno, Mas Budi, & Pranata, Surya. (2020). Immigration Supervision Of Refugees And Mandiri Suaka Searchers In The Eks Komando Building, Military District, West Jakarta. *Jurnal Ilmiah Kajian Keimigrasian*, 3(2), 25–35. [Google Scholar](#)
- Santosa, Mas Achmad, Khatarina, Josi, & Suwana, Aldilla Stephanie. (2013). The progress on governing REDD+ in Indonesia. *International Journal of Regional, Rural and Remote Law and Policy*, (1), 1–17. [Google Scholar](#)
- Soemitro, Ronny Hanitijo. (1989). *Perspektif Sosial Dalam Pemahaman Masalah-Masalah Hukum*. Semarang: CV Agung, 1. [Google Scholar](#)
- Soepomo, Iman. (1995). *Pengantar hukum perburuhan*. [Google Scholar](#)
- Suherman, Erman. (2003). *Strategi pembelajaran matematika kontemporer*. Bandung: Jica. [Google Scholar](#)
- Sukirno, Sadono. (2004). *Teori pengantar makro ekonomi*. PT. Raja Grafindo

Persada, Jakarta. [Google Scholar](#)

Syamsuddin, M. Syaufii. (2004). *Norma Perlindungan Dalam Hubungan Industrial.*
Jakarta: Sarana Bhakti Persada. [Google Scholar](#)