

Placement and Protection of Migrant Workers in Pamekasan

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Abstract—*Law No. 18 Year 2017 aims at protecting the rights of Inonesian Migrant Workers. In reality migrant workers get decent job, unpaid and an human condition. Pamekasan Regency is one of the regencies in Madura where many migrant workers have been deported. In this article we will focus on the implementation of PMI legal protection in Pamekasan. The research method used in this research is empirical juridical with sociological juridical approach and data analysis is done descriptively. The process of PMI first is submission, second signed the agreement employment agreement, final debriefing and issuance of an overseas labor card. Protection for migrant workers starts with pre, during anf past placement. Pamekasan regency is supposed to ensure the fulfillment of the rights of prospective PMI, both those who depart through the private sector, or those who were autonomous. And the Pamekasan regency government oversees the implementation of the placement of PMI candidates, forms and develops information systems for placement of PMI candidates abroad, makes diplomatic action to guarantee the PMI rights and give protection optimally. Protection in destination is done in coordination with relevant ministries and promote the role of associations Madurese.*

Keywords— *placement, protection, migrant workers;*

I. INTRODUCTION

PMI problems often occur to this day. These problems include starting from the initial placement process, when they are working abroad to the process of returning the PMI from the country where they work. The protection and placement of migrant workers regulated in Law Number 18 Year 2017 concerning the Protection of Indonesian Migrant Workers (here in after referred to as PPMI Law), this Law aims to protect the human rights of Indonesian citizens who work abroad based. And hope that Indonesian citizens get decent job and income, which is carried out by taking into account the dignity and the protection of the law in accordance with national law. Implementer of abroad employment is the Government and the private company, while individuals are prohibited from placing Citizen Indonesia to work abroad to work in the domestic sphere.

Migrant workers from 2010 to 2015 have increased. According to placement countries from 2010 to 2015 the number of Indonesian workers has reached 3,686 people spread across ASEAN and asia besides ASEAN (Hong

Kong, Taiwan etc).[1] The organization that responsibility for placement and protection migrant workers in national level (BNP2TKI) mentions that in the period from January to April 2018, as many as 87 thousand Indonesian Migrant Workers set out to try their fortune abroad. And as many as 61 percent of Migrant Workers are women.[2] Women work to fill domestic sector employment opportunities that do not require special experties.[3] In 2015 the number of migrant workers from east Java recorded at Juanda Airport was 3.572 people. This amount is economically potential because PMI return with money that can be beneficial for economic development at the local,national and internatioanal levels.[4]

Pamekasan Regency which located in Madura Island and included in the East Java Province is one of the areas which is the focus of research in the matter of sending PMI abroad. The number of non-procedural PMI from Pamekasan was 2,148, starting from 2013 to 2015. In 2013 there were 959 people, 2014 were 1,457 people, and in 2015 there were 2 people.[5] As result of the unofficial route, during the period of December 2015 to January 2016, 12 Indonesian Workers (PMI) from Pamekasan died in Malaysia.[6] Aside from that, as many as 32 PMI from Pamekasan Regency were also forcibly repatriated or deported from Malaysia for not having official work permits. Most PMI through unofficial channels are also unwilling to join skills training and language training given at the shelter before they are dispatched.

There are differences in the responsibilities for Indonesian workers between the regional Government and the Central Government. The responsibilities of regional governments both provincial and regency/ city in the context of carrying out their obligations towards protection for migrant workers. This namely regulating, fostering, implementing, and overseeing for migrant workers for placing and protecting abroad.[7] This paper will discuss the implementation and the procedure of migrant workers in Pamekasan

II. RESEARCH METHOD

This research uses empirical juridical legal research which in other words is sociological legal type research and can also be referred to as field research, which examines the applicable legal provisions and what happens in reality in

the community. As for the empirical problem to be studied is to find out the role of the Regional Government of Pamekasan Regency in protecting Indonesian Workers. This approach is intended to identify and conceptualize the law as real and functional social institution in real living system.[8] The sociological juridical approach emphasizes research aimed at obtaining legal knowledge empirically by direct plunge. Data obtained from interviews and observations in the field. Data analysis is done descriptively, which is an effort made by working with data, organizing data, managing data, systematized, search and find the design, find the significant and learned to find what can be told.[9]

III. RESULTS AND DISCUSSION

A. *Protection of Indonesian Migrant Workers*

All human beings are obliged to be given rights in terms of obtaining protection in accordance with regulations of the legislation. According to Satjipto Rahardjo what is meant by legal protection is an effort to protect one's interests by allocating a power to him to act in the framework of those interests.[10] Meanwhile, according to Philipus M. Hadjon, the State of Indonesia as a legal state based on Pancasila must provide legal protection to its people in accordance with Pancasila. Therefore, legal protection based on Pancasila means recognition and legal protection of human dignity based on the almighty divine value, humanity, unity, deliberation of social justice. These values give birth to the recognition and protection of human rights in the place of a unitary state that upholds the spirit of kinship in achieving mutual prosperity.[10]

With regard to workers and employers, given the position of workers is lower than the employer, it is necessary for government intervention to provide legal protection for workers. Legal protection for workers is always related to power. There are two powers that always become concern, namely the power of government and economic power. In relations with government power, the problem of legal protection for the people (governed), to the government (who governs). In relations with economic power, the problem of legal protection is protection for the weak (economic) against the strong (economy), for example protection of workers for employers, means protection for workers is legal protection of the rights of labor.[11]

Legal protection for workers is to give the normative rights of workers and ensure equal opportunity and non discrimination on any situation of the workforce and also their families while still taking into for develop the business world. Some aspects of legal protection for workers include:

- a. Occupational Health and Safety
- b. Workers social security program
- c. Working time
- d. Wages and
- e. Leave

Similarly, workers who are supposed to get protection. As foreign exchange heroes, the PMI who work abroad and faced the risks, must also get a protection by the government. Legal protection for Indonesian Workers according to Husni Lalu is divided into three protections, namely:

a. Social Protection

This social protection takes the form of health insurance at work, freedom of association, and organization. Through social protection it is expected that TKI will avoid:

1. Human trafficking transactions at the time of recruitment
2. Non procedural placement
3. Harassment and violence against migrant workers

b. Economic Protection

The economic protection is a protection that aims at migrant workers to be able to enjoy the income received to meet the needs of themselves and their families properly. For migrant workers this protection is expected to avoid:

1. Uncertainty about the amount of wages received
2. Payment of wages that are not in accordance with the employment agreement
3. Unpaid wages for migrant workers

c. Technical Protection

The technical protection is a protection that aims to maintain security and safety for migrant workers, through this protection it is expected that migrant workers avoid:

1. Uncertainty to get legal assistance
2. Uncertainty about the rights and obligations of migrant workers
3. Unsafe workplace conditions
4. High work risks that can result in work accidents.[12]

Pursuant to Law No. 18/2017 concerning PPMI, it contains the notion of PMI protection whereby all action for protecting the prospective PMI in realizing to fulfill their rights with laws for before and after work. In Law No. 18 Year 2017 in article 2 it explains the placing and protecting of prospective PMI based on integration, equal rights, democracy, social justice, gender equality and justice, anti-discrimination and anti-human trafficking.

The aim is to protect the PMI candidates as follows

1. Empower and utilize the workforce optimally and humanely
2. Guarantee and protect prospective migrant workers / migrant workers from within the country, in the country of work, until come back to Indonesia
3. Up grade the welfare of the family

In the placing and protecting of migrant workers abroad, the government has the duty to regulate, foster, carry out, and supervise the implementation of the placement and protection of migrant workers abroad, where in carrying out these tasks the government can delegate

some of its authority or assistance tasks to the Regional Government in accordance with statutory regulations - invitation.[13] This is intended as the responsibility of the government in increasing protection efforts for migrant workers abroad.

As consequence of this responsibility, in accordance with article 7 of Law Number 18 Year 2017, the government has the following obligations:

1. Guaranteeing the rights of PMI, both those concerned departing through PPTKIS or those departing independently
2. Oversee the implementation of TKI placement
3. Develop the information systems for placing of prospective PMI abroad
4. Making diplomatic efforts to fulfillment the rights and give protection of migrant workers optimally
5. Provide protection to migrant workers during the pre, during and post-placing period

Protection provided by the State for its citizens is a right for citizens guaranteed by law. In this case the protection of migrant workers starts from the pre-placement, placement period, until the placement. Overseas, the protection of Indonesian Migrant Workers is carried out by representatives of the Government of the Republic of Indonesia, where the protection is based on legal regulations and applicable laws.

B. The Role of the Regional Government of Pamekasan Regency in Protecting PMI

Difficulty of finding work in Indonesia, especially in Pamekasan regency forced many people to take the initiative to work abroad as Indonesian Migrant Workers. This is driving factor for the government both the central government and regional governments, especially Pamekasan Regency as the person in charge of the rights of its citizens who work as PMI abroad. The task of the government in the context of organizing PMI is to arrange, foster, implement and oversee the placement and protection of Indonesian Workers abroad.

Pamekasan regency government is supposed to guarantee the fulfillment of the rights of prospective PMI, both those who depart through the private sector, or those who independently. And the Pamekasan regency government oversees the implementation of the placement of PMI candidates, forms and develops information systems for placement of PMI candidates abroad, makes diplomatic efforts to ensure the fulfillment of PMI rights and protection optimally in the destination country. And provide protection to PMI during the period before departure, the placement period, and the post-placement period.

For the initial process in terms of protecting Indonesian Workers abroad the government appoints and imposes duties and responsibilities on the Department of Manpower and Transmigration to carry out this program. The Manpower and Transmigration Office is a government

agency that provides information about manpower. Information obtained regarding employment includes job vacancies, services or giving a yellow card, various kinds of complaints both by workers and companies, carrying out labor and company supervision and so on. Protection for PMI in Pamekasan regency carried out by the Department of Manpower and Transmigration in Pamekasan Regency starts from counseling which is the most important thing for prospective PMI considering that to become a PMI does not arbitrarily go and go home, they must be prepared both mentally and physically. The main contents of the counseling include:

- a. Job vacancy information
- b. Location conditions of the destination country
- c. Terms and conditions at work
- d. PMI rights and obligations
- e. Statutory regulations, situations and conditions in the destination country
- f. PMI placement procedure
- g. Requirements and completeness of PMI candidate documents.

This counseling is done to provide clarity and to prepare PMI candidates who wish to work abroad. Apart from counseling from DISNAKERTRANS. This counseling is done to provide clarity and to further strengthen job seekers whether they really want to work as PMI or not. Job seekers who have participated in counseling and then register as PMI must meet the required administrative file requirements. Next, a selection process is carried out to determine the ability or quality of each PMI Candidate whether it is in accordance with the position of the required job vacancy.

Pamekasan Regency Manpower and Transmigration Office also signed the Placement Agreement. After the PMI placement agreement is made, PPPMIS must take care of all the requirements needed by PMI while in the destination country, and provide an explanation regarding the work and conditions of the destination country. This debriefing is expected to help PMI while there. The Office of Manpower and Transmigration of Pamekasan Regency carries out the departure and placement of PMI abroad. Before leaving, PMI must prepare the documents required for placement abroad, as well as provide protection to PMI while working abroad and deal with PMI problems, whether sick, death or problems in the form of unfavorable and unfair treatment from the company or from employer.

In addition to the counseling process, and registration the DisnakertransPamekasan regency has conducted socialization to various sub-districts and villages that have large number of non-procedural PMIs in Pamekasan regency.

The socialization effort was also included in the initial protection for PMI candidates from Pamekasan regency, the socialization also brought a resource person to the head of the Pamekasan regency Manpower and Transmigration Office, AriefHandayani, the Immigration Class III

Pamekasan head, Usman, and DonyEydo as the P4PMI coordinator for the Madura district. The socialization was attended by PMI candidates, former PMI, PMI families, community leaders, and local village officials.

The aim of socialization is that prospective PMI can understand the importance of procedural PMI and how the mechanism works abroad properly. So PMI need not be haunted by insecurity anymore. And of course the main objective is to minimize the number of non-procedural PMIs, especially PMI from Pamekasan Regency. In addition to the socialization efforts of the Pamekasan Regency government also protected PMI who were sent home due to death, and illness from the country they worked for, by bearing all the costs of returning from Juanda airport to the funeral home.[13]

IV. CONCLUSIONS AND SUGGESTIONS

The conclusions that can be drawn from this research are: All human beings are obliged to be given rights in terms of obtaining protection in accordance with regulations of the legislation. Migrant workers' rights are provided by the sending country and destination countries. Therefore governments are responsible for provide and protect the rights of migrant workers.

Legal protection for workers is intended to guarantee the normative rights of workers and give an equal opportunity and non discrimination on any basis to realize the welfare of the workforce and their families while still taking into account the development of the business world. The protection of migrant workers given by the government on the process of pre placement, during placement and after placement

Pamekasan regency government is supposed to guarantee the fulfillment of the rights of prospective PMI, both those who depart through the private sector, or those who independently. And the Pamekasan regency government oversees the implementation of the placement of PMI candidates, forms and develops information systems for placement of PMI candidates abroad, makes diplomatic to protect the rights of PMI during working. Protection during placement is done in coordination with relevant ministries and promote the role of associations Madurese.

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